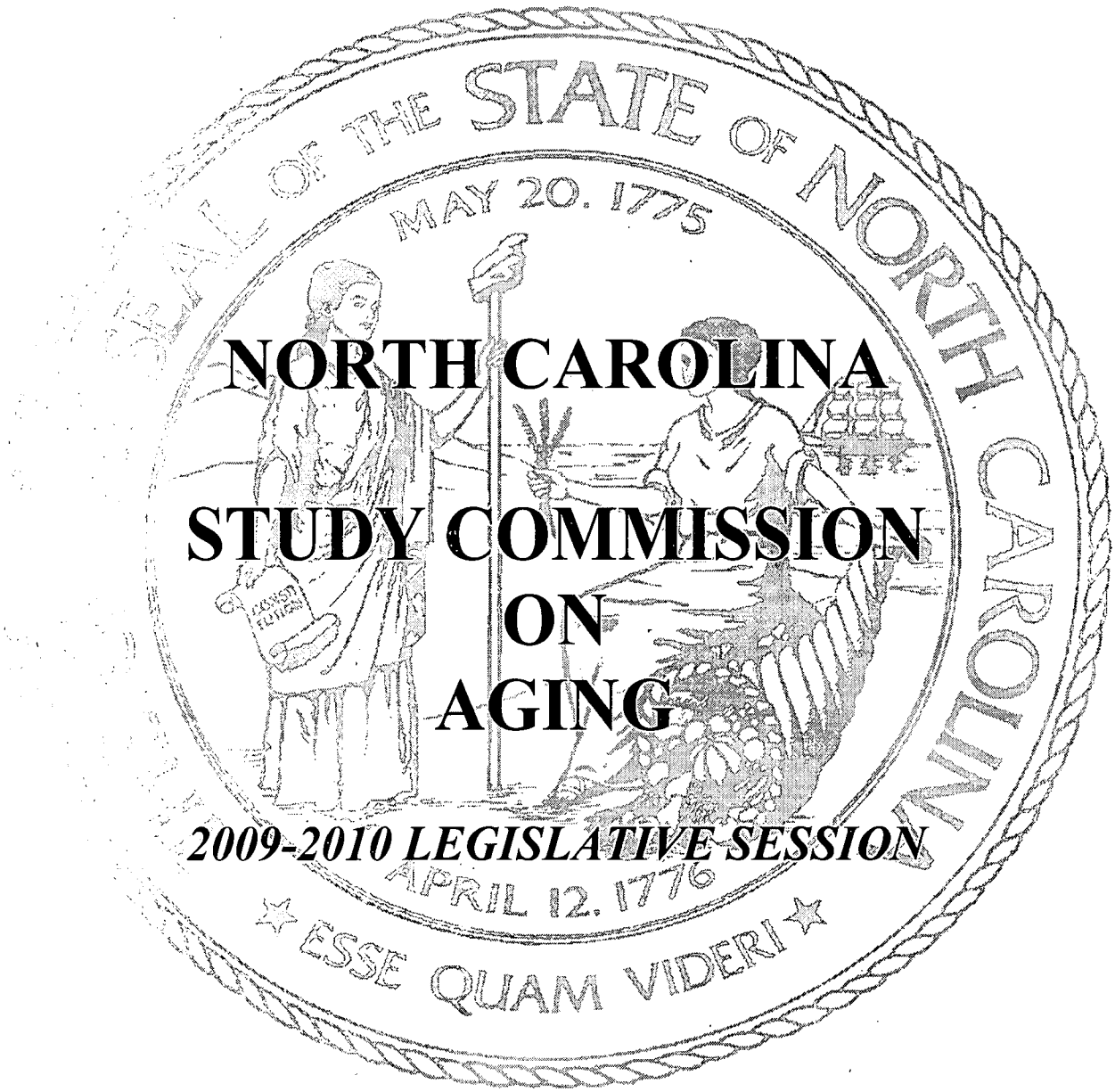
2010

AGING STUDY COMMISSION

MINUTES

NORTH CAROLINA GENERAL ASSEMBLY



NORTH CAROLINA STUDY COMMISSION ON AGING

2009-2010 LEGISLATIVE SESSION

North Carolina Study Commission on Aging

Membership List (2009-2010)

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MINUTES

NORTH CAROLINA STUDY COMMISSION ON AGING

Thursday, January 7, 2010
10:00 am
Legislative Office Building, Room 544

The North Carolina Study Commission on Aging met on Thursday, January 7, 2010, at 10:00 am in Room 544 of the Legislative Office Building. Members present were: Senators Bingham, Forrester, Swindell; Representatives England, Farmer-Butterfield, Pierce, Weiss; Ms. Mary Barker; Mr. Anthony Peace; Ms. Joan Pellettier; Ms. Maria Spaulding; and Ms. Patricia Sprigg. Staff also in attendance was: Susan Barham, Melanie Bush, Joyce Jones, Sara Kamprath Theresa Matula, Shawn Parker; and commission assistants Janice Mobley-Bennett and Delta Prince.

Senator A.B. Swindell, presiding chair, called the meeting order and began with introductions of members, staff (Bill Drafting, Fiscal Research, Research, Sgt. At Arms, Commission Assistants), and visitors from various organizations. Representative Farmer-Butterfield, co-chair, asked the commission members to speak with citizens in their area about issues that are important to them and report back to the Commission to ensure that they are moving forward on critical aging services needed in our State. Chairman Swindell prefaced this meeting stating his familiarity with living in an extended family environment. The meeting proceeded as follows:

- **Older Adults in NC: An Overview**, presented by Theresa Matula, Research Division, noted the who are they, how many are there, where do they live, and what programs and services are available to older adults in North Carolina. (Attachment I)
    - Representative Garland Pierce asked what part did the state play in funding a building for senior citizens' use. Ms. Matula responded that funding for a building was locally driven. Mr. Dennis Streets, Director, Division of Aging and Adult Services confirmed her answer.
    - Chairman Swindell wanted to know the difference between program participation and age participation. He noted that there were too many variances between program and age. Mr. Streets responded that the funding for some centers is based on the Old American Act, which applies to those persons age 60 and older. However, there are senior centers that will admit those under the age of 60 by using locally driven funding as well. Older workers are considered 45 and older and yes, we do need to come up with a common age group, stated Mr. Streets.
    - Senator Bingham asked what percentage of federal funding does North Carolina receive for older adult programs. Mr. Streets noted that he would have that information broken down into federal and state funding for the next Commission meeting.

- **Summary of Substantive 2009 Legislation Related to Aging**, presented by Shawn Parker, Research Division. (Attachment II)
  - *Older Adult Populations in Their Homes:*
    - Session Law 2009-462 (HB 456)
    - Session Law 2009-145 (HB 436)
    - Session Law 2009-451 (SB 202, Sec. 10.57)
    - Session Law 2009-220 (HB 994)
    - Session Law 2009-417 (HB 1058)
  - *Health and Wellness of Older Adults:*
    - Session Law 2009-100 (SB 188)
    - Session Law 2009-225 (SB 258)
    - Session Law 2009-502 (HB 1020)
  - *Studies:*
    - Session Law 2009-391 (HB 996)
      - Senator Bingham asked if this kind of study is done in other states, for which Ms. Matula replied that it is not done in North Carolina and that it is not currently known if it's done in other states. There may be similar models, but not exactly because North Carolina is not like other states. More information will be provided at an upcoming meeting.
    - Session Law 2009-574 (HB 945, Part XV)
    - Session Law 2009-574 (HB 945, Part XX)
  - *North Carolina Study Commission on Aging:*
    - Session Law 2009-142 (HB 358)
    - Session Law 2009-407 (SB 195)
    - Resolution 2009-26 (SJR 1106)
- **2009-10 Budget for Aging Services and Program**, presented by Melanie Bush, Fiscal Research Division. Senator Forrester asked if there are any decreases in the number of providers providing services with the decrease in payment to the providers. Ms. Bush said that there have been a number of providers that have determined that they will no longer serve Medicaid patients, but there are no solid numbers at this time. This information will be forthcoming during another Commission meeting. (Attachment III)
  - *Division of Aging and Adult Services:*
    - Eliminate Quality Improvement Consultation Plan - ($190,204) R
    - Eliminate Senior Center Outreach - ($100,000) R
    - Reduce and Replace Home and Community Care Block Funding - ($500,000) NR
    - Project CARE (Caregiver Alternatives to Running on Empty) - $500,000 NR
    - Senior Community Service Employment - $1,174,058 NR
  - *Division of Health Service Regulation:*
    - Increases in Annual Fees for License Renewals and Initial Facilities – ($1,122,990) R
  - *Division of Medical Assistance:*
    - Provider Rate Reductions – ($76,440,896) R in FY 2009-10 and ($82,261,586) R in FY 2010-11

        - Modify Personal Care Services Benefits – ($40,000,000) R in FY 2009-10 and ($60,000,000) in FY 2010-11
        - Reduce Nursing Home Cost Ceiling – ($2,298,778) R in FY 2009-10 and ($2,444,230) R in FY 2010-11
    - *Division of Public Health:*
        - Stroke Prevention - $450,000 NR
        - North Carolina Arthritis Patient Services - $50,000 NR
    - *Division of Social Services:*
        - Reduce State/County Special Assistance Rates – ($2,260,521) R in FY 2009-10 and ($3,286,281) R in FY 2010-11

- **Overview of Commission Responsibilities**, presented by Sara Kamprath, Research Division. Article 21 of Chapter 120 explains in detail the authority of this Commission. (Attachment IV)
    - *Creation and Purpose*
        - G.S. 120-180
    - *Membership*
        - G.S. 120-182
    - *Duties*
        - G.S. 120-181
    - *Meetings and Reimbursements*
        - G.S. 120-183 and G.S. 120-184
    - *Public Hearings*
        - G.S. 120-185
    - *Subcommittees*
        - G.S. 120-186.1
    - *Reports*
        - G.S. 120-187
    - *Staff and Meeting Place*
        - G.S. 120-188
- **2009 Study Commission Recommendation Status Report**, presented by Theresa Matula, Research Division. Senator Forrester noted that the Commission examines issues that do not require funding considering the fact that the state is in a budget shortfall. The Commission agreed. Senator Bingham needed Project CARE defined. Representative Weiss noted that this program provided respite care for caregivers of persons with Alzheimer's and dementia so that the patient can stay home longer; thereby, saving the state monies. All of the recommendations and results are in Attachment V.
    - ***Recommendation 1***: Strengthen Disaster Planning for Long-Term Care Facilities
    - ***Recommendation 2***: Additional HCCBG (Home and Community Care Block Grant) Funds
    - ***Recommendation 3***: Senior Center Funding
    - ***Recommendation 4***: Adult Protective Services Pilot Program
    - ***Recommendation 5***: Special Care Dentistry
        - 5(a): Support Division of Medical Assistance, DHHS efforts to increase dental care providers
        - 5(b): Special Care Dentistry Collaboration

        - 5(c): Dentistry Funds for Special Care Populations
    - ***Recommendation 6***: Adult Day Care Reimbursement Rate Increase
    - ***Recommendation 7***: Funds for Project CARE (Caregiver Alternatives to Running on Empty)
    - ***Recommendation 8***: Preparing for Increased Numbers of Older Adults
    - ***Recommendation 9***: Adult Care Home Mixed Population Workgroup
    - ***Recommendation 10***: Adult Care Home Quality Improvement Pilot Program on Medication Safety
    - ***Recommendation 11***: Support for Changes to Guardianship Laws
- **Tentative 2010 Meeting Schedule and Presentation of Commission Budget**, presented by Theresa Matula, Research Division. The dates of future meetings are attached and made a part of these minutes. A motion was made by Representative Weiss and seconded by Senator Bingham to accept the 2010 Estimated Commission Budget as provided. The Commission agreed unanimously. (Attachments VI and VII)

Senator Forrester asked that there be a presentation on the relationship between childhood obesity and Alzheimer's during an upcoming meeting.

Chairman Swindell thanked the representative of agencies or organizations that help participants in the older adult programs throughout the state.

The Visitor Registration Sheets are attached and made a part of these minutes.

This meeting adjourned at 11:45 am.

Senator A.B. Swindell
Presiding Co-Chair

Delta F. Prince
Commission Assistant

Agenda

North Carolina Study Commission on Aging

Thursday, January 7, 2010
10:00 a.m.
Legislative Office Building
Room 544

I. Welcome and Introduction of Members

Senator A.B. Swindell, Cochair
Representative Jean Farmer-Butterfield, Cochair

II. Older Adults in NC: An Overview

Theresa Matula, Commission Staff, Research Division, NCGA

III. Summary of Substantive 2009 Legislation Related to Aging

Shawn Parker, Commission Staff, Research Division, NCGA

2009-10 Budget for Aging Services and Programs

Melanie Bush, Commission Staff, Fiscal Research Division, NCGA

IV. Overview of Commission Responsibilities

Sara Kamprath, Commission Staff, Research Division, NCGA

2009 Study Commission Recommendation Status Report

Theresa Matula, Commission Staff, Research Division, NCGA

Tentative 2010 Meeting Schedule & Presentation of Commission Budget

Theresa Matula, Commission Staff, Research Division, NCGA

V. Next Meeting:

Thursday, January 21, 2010
10:00

NORTH CAROLINA GENERAL ASSEMBLY
COMMITTEE MEETING NOTICE
LEGISLATIVE OFFICE BUILDING
RALEIGH, NC 27603

December 21, 2009

MEMORANDUM

TO: Members of the North Carolina Study Commission on Aging

FROM: Senator A. B. Swindell, Co-Chair
Representative Jean Farmer-Butterfield, Co-Chair

SUBJECT: Meeting Notice

The North Carolina Study Commission on Aging will meet on the following date:

DAY:	Thursday
DATE:	January 7, 2009
TIME:	10:00 A.M.
LOCATION:	Legislative Office Building, Room 544

Parking for non-legislative members of the committee/commission is available in the visitor parking deck #75 located on Salisbury Street across from the Legislative Office Building. Parking is also available in the parking lot across Jones Street from the State Library/Archives (see attached map). The cost for visitor parking is $1.00 per hour or $8.00 per day and may be reimbursed with a parking receipt submitted with your travel reimbursement form.

If you have any questions concerning this meeting, please contact Janice O. Mobley-Bennett, Committee Assistant, at (919) 733-5780 or email mobleyla@ncleg.net.

Posted: December 21, 2009

cc: Committee Record x
Interested Parties x

ATTENDANCE

NORTH CAROLINA STUDY COMMISSION ON AGING

(Name of Committee)

DATES	Jan. 7, 2010	Jan. 21, 2010	Feb. 4, 2010	Feb. 25, 2010	March 4, 2010	April 1, 2010	May 11, 2010								
CO-CHAIRS															
Senator A. B. Swindell	✓														
Representative J. Farmer-Butterfield	✓														
SENATE MEBERS															
Senator Stan W. Bingham	✓														
Senator Katie G. Dorsett															
Senator James S. Forrester	✓														
Senator Joe Sam Queen															
SENATE PUBLIC MEMBERS															
Mr. Joe Eller															
Mr. Anthony Peace	✓														
Ms. Jean Reaves															
HOUSE MEMBERS															
Representative Alice L. Bordsen															
Representative Bob F. England, MD	✓														
Representative Garland E. Pierce	✓														
Representative Jennifer Weiss	✓														
HOUSE PUBLIC MEMBERS															
Ms. Mary P. Barker	✓														
Ms. Joan M. Pellettier	✓														
Ms. Patricia E. Sprigg	✓														
EX OFFICIO															
Ms. Maria Spaulding	✓														
STAFF															
Ms. Susan Barham	✓														
Ms. Melanie Bush	✓														
Ms. Joyce Jones	✓														
Ms. Sara Kamprath	✓														
Ms. Theresa Matula	✓														
Shawn Parker	✓														
COMMITTEE ASSISTANTS															
Delta Prince	✓														
Janice O. Mobley-Bennett	✓														

N.C. STUDY COMMISSION ON AGING

HOUSE PAGES

NAME OF COMMITTEE _____ DATE 01-07-2010

1. Name: _____
   County: _____
   Sponsor: _____
2. Name: _____
   County: _____
   Sponsor: _____
3. Name: _____
   County: _____
   Sponsor: _____
4. Name: _____
   County: _____
   Sponsor: _____
5. Name: _____
   County: _____
   Sponsor: _____

SGT-AT-ARM

HOUSE	SENATE
1. Name:	
2. Name: FRED HINES	STAN JOHNSON
3. Name: MARVIN LEE	JOHN FITCHET
4. Name: ROD FINGER	CURTIS DAWD
	WADE AYDERS

VISITOR REGISTRATION SHEET

North Carolina Study Commission on Aging — January 7, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Lu-Ann C Perryman	NCANPHA
Leslie Jarema	NCANPHA
Kristi Huff	NCHCFA
Abby Emanuelson	NMSS-NC
Erin McLaughlin	MHA NC
Julia Leggett	The Arc of NC
Paula Wolf	Friends of Residents in Long Term Care
Mitch Leonard	SEANC

VISITOR REGISTRATION SHEET

North Carolina Study Commission on Aging — January 7, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Laura W. Bone	Bone and Associates, LLC
Alice Watkins	formerly - Executive Director NC Chapter Alz. Assoc. Alzheimers North Carolina.
Tabatha Myatt	Division Medical Assistance
Jeff Mobley	Division of Services for Deaf and Hard of Hearing
Judy Ruenger	The Carolinas Center for Hospice and End of Life Care
Polly Williams	NC Justice Center / Triangle Older Women's League
Dennis Streets	NC Div. of Aging + Adult Services
DANIEL PRYFOGLE	THE SIGNAL HILL COMPANY, CARY
Peggy Smith	N.C. Assisted Living Association, Raleigh
Evelyn Hawthorne	BHGR
Tracey Gibson	Home Instead Sr. Care
Lm Wilson	LTC.

VISITOR REGISTRATION SHEET

North Carolina Study Commission on Aging — January 7, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Andy Lutz	PDA, Inc
Teresa G. Hatch	AARP
Dick Hatch	AARP, NCCOA, STHL
Teresa Johnson	NCADSA, FORLTC

VISITOR REGISTRATION SHEET

North Carolina Study Commission on Aging — **Name of Committee**

January 7, 2010 — **Date**

9-7-

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

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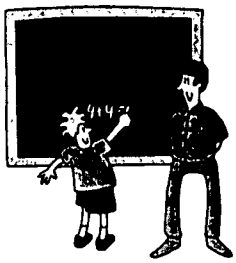
John Hammond	Sen. Tar Heel Leg.
Mary Bethel	AARP-NC
BRAD ALLEN	NC SENIOR GAMES
BLAIR BARTON-PERCIVAL	PTCOG AAA
Mary Edwards	DAAS
Roxane Bays-Lord	Frank Co Dept of Aging / Coalition on Aging
TRACY GOLVARD	AHHC
ANNA MARIE MASON	NCACC
JAMES KIRBY	OFFICE OF SEN QUEEN
Jeff Horton	DHHS-DHSR



Older Adults in North Carolina: An Overview

N.C.'s Older Adults

Who? How? Where? What?

- Who Are They?
- How Many Are There?
- Where Do They Live?
- What Types of Programs and Services are Available in NC?

Who Are They?




Older Adults Are…




Snapshot of Older Adults in NC

(Source: Division of Aging and Adult Services, DHHS, Year 2008)

27.7% of persons age 65+ live alone

60.2% of persons age 65+ living in community have 0 disabilities
17.2% of persons age 65+ living in community have 1 disability
22.7% of persons age 65+ living in community have 2 or more disabilities

16.2% of persons age 18-44 care for adult 60+
24.4% of persons age 45-64 care for adult 60+
18.9% of persons age 65+ care for adult 60+

42.2 per 1000 persons age 65+ are in a nursing home (2000 data)
36.5 per 1000 persons age 65+ are in an adult care home (2000 data)

$55,319 median household income for age group 45-64
$31,184 median household income for age group 65+

9.0% of persons age 65 -74 are below poverty
14.6% of persons age 75+ are below poverty

3.7% of the total labor force contains persons 65+

How Many Are There?

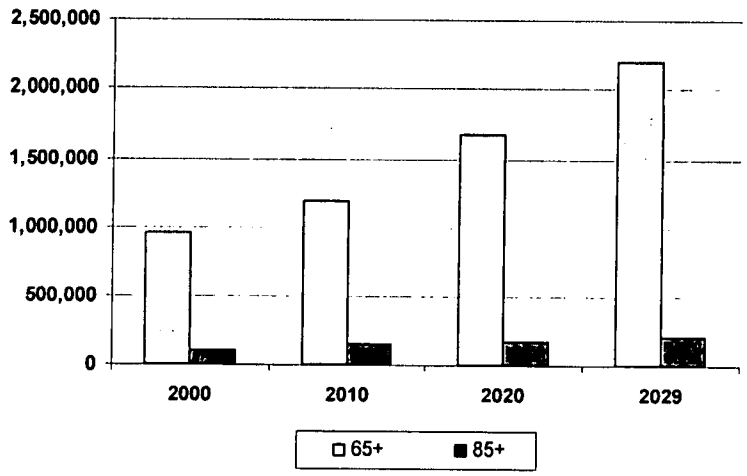
North Carolina's Older Adult Population Is Growing

Factors:

- **Baby Boomers (1946-1964)**
- **Migration – North Carolina is a popular retirement destination**
- **Increasing Life Expectancy**

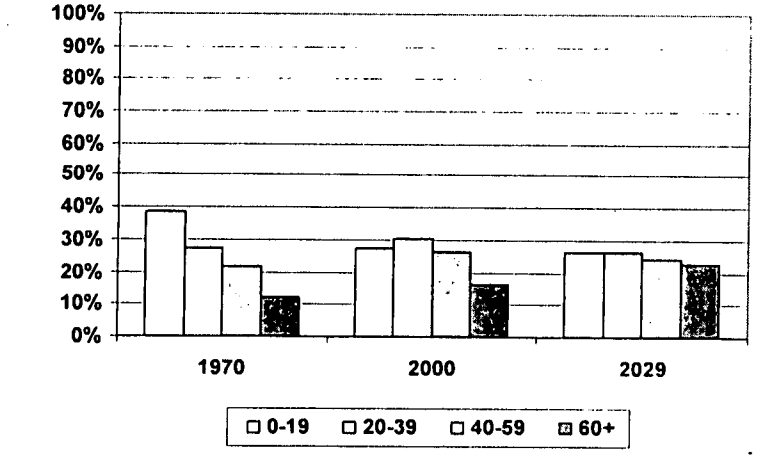
Projected Growth of Older North Carolinians 65+ and 85+

(Source: Division of Aging and Adult Services, DHHS)



NC Population by Age Group 1970 to 2029

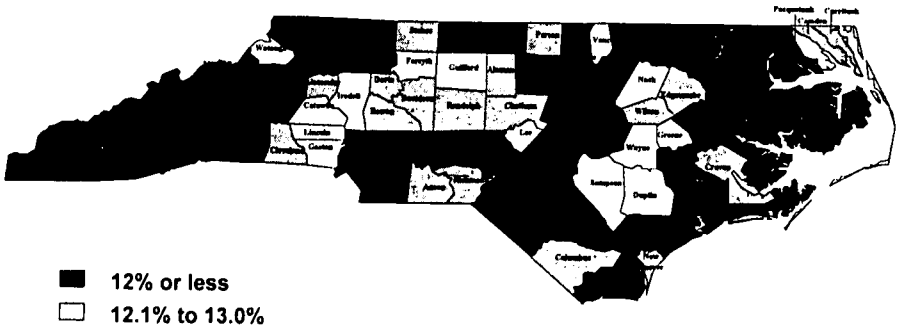
(Source: Division of Aging and Adult Services, DHHS)



Where Do They Live?

Percent of Population Age 65+ in North Carolina, Year 2008

(Source: Division of Aging and Adult Services, DHHS)

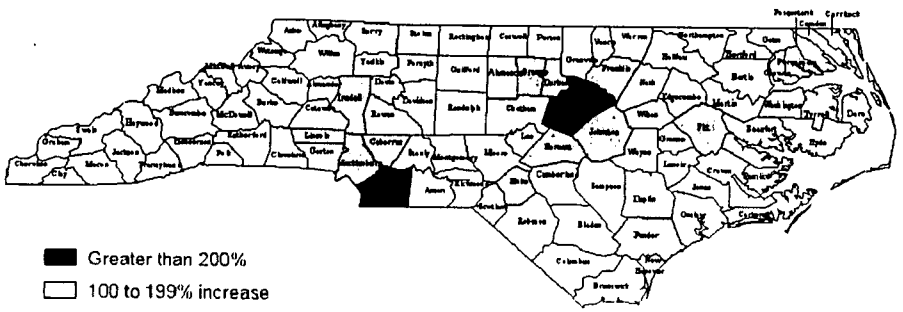


- 12% or less
- 12.1% to 13.0%
- 13.1% to 14.4%
- 14.5% to 15.9%
- More than 16%

The range is from 6.5% to 22.8%

The average per county is 12.3%

Projected Growth of 65+ Population from 2008 to 2029



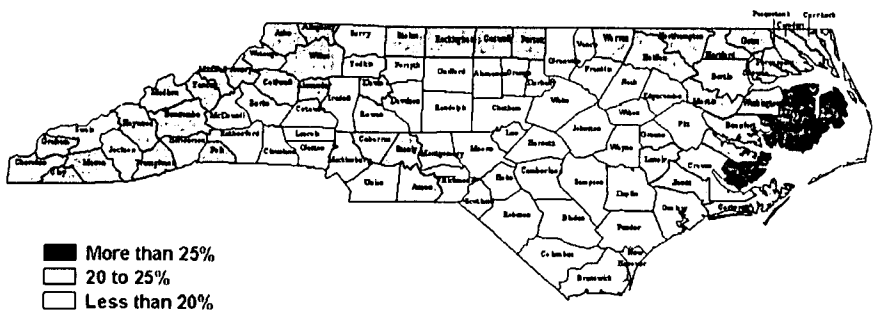
- Greater than 200%
- 100 to 199% increase
- 14 to 99% increase

The projected growth rate for NC is 92.6 %

The range is from 14% to 255%

Source: Based on 2008 and 2029 projections from Office of State Budget and Management, September 2009

Percent of County Population Projected to Be Age 65+ in 2029



More than 25%
20 to 25%
Less than 20%

The range is from 10% - 29%

The average per county is 17.2%

Source: Based on 2009 projections from Office of State Budget and Management, September 2010

What Types of Programs and Services are Available in NC?

Range of Services and Programs

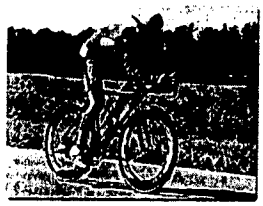
Healthy/ Active

End of Life Care

Overview of Types of Programs and Services

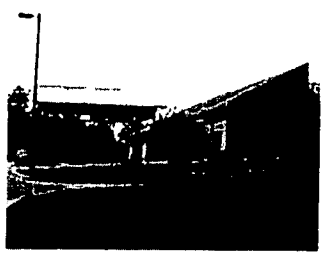
- There are **many programs and services that support older adults** whether they are active, live in their home with services, or live in a long-term care facility.
- This portion of the presentation is designed to just give you an **overview**, it does not cover all of the services and programs offered.

Senior Games



- Provides year-round health promotion and education for individuals 55 years of age and older.
- Serves all NC counties with over 500,000 participants.
- Local Senior Games in Spring.
- Spring Qualifiers participate Senior Games State Finals held in Raleigh in the Fall.
- Every 2 years, State Finals winners qualify to represent North Carolina at the National Senior Games.

Senior Centers



Locations in the community for older adults to:

- participate in recreational, educational, and health-promoting activities;
- obtain information & individual assistance with community programs and services;
- and interact with others.

- There are 163 recognized centers with two certification levels:
  - **Center of Merit** (65 Centers)
  - **Center of Excellence** (5 Centers)

Adult Day Care and Adult Day Health Care

- Models: Social & Health
  - 40 Adult Day Care
  - 57 Adult Day/Adult Day Health
  - 4 Adult Day Health only
  - **101 programs in 54 counties**
- Programs provide physically and mentally stimulating activities, nutritious meals and snacks.
- Often provide care while primary caregiver works.
- State provides some funding, but in most cases much of the funding is provided through fund-raising or the support of the sponsor (e.g. church, etc).

Support for Adults to Remain in their Homes/Community

- **State/County Special Assistance (In-Home Program)** - An alternative to placement in an **adult care home** for individuals who can live at home safely with additional support services and income. The standard monthly payment is up to 75% of the amount an individual would receive if the he/she resided in an adult care home. Recipients must be eligible for full Medicaid.

- **Community Alternatives Program for Disabled Adults (CAP/DA)**- A package of services allowing adults who qualify for **nursing facility care** to remain in their private residences. The program is available in all North Carolina counties and contributes to the quality of the participants and their families/caregivers, while providing care that is cost-effective in comparison to the Medicaid cost for nursing facility care.

Home and Community Care Block Grant Funding (HCCBG)

- **The focus of the HCCBG is to support persons 60+ with their desire to live in the community.**
- HCCBG is the **consolidation of several funding sources** (State, federal, local, and consumer contribution)
- **Counties have discretion, flexibility, and authority** to determine services, service levels, and service providers.
- **18 Eligible Services**:

  Adult Day Care, Adult Day Health Care, Care Management, Congregate Nutrition, Group Respite, Health Promotion and Disease Prevention, Health Screening, Home Delivered Meals, Housing and Home Improvement, Information and Assistance, In-Home Aide, Institutional Respite Care, Mental Health Counseling, Senior Center Operations, Senior Companion, Skilled Home (Health) Care, Transportation, and Volunteer Program Development.
- There are **many individuals on waiting lists for services**, primarily in-home aide and home-delivered meals.
- The **Commission historically supports HCCBG funding increases.**

Options For Care When an Individual Can no Longer Live in their Home or with Relatives

Assisted Living Residence

- Any group housing and services program for two or more unrelated adults, that makes available at a minimum, one meal a day and housekeeping services and provides personal care services directly or through a formal agreement with one or more licensed home care or hospice agencies. Services are delivered in self-contained apartment units, or single or shared room units with private or area baths.
- Licensed or Registered Assisted Living:
  - Adult Care Homes (including Family Care Homes)
  - Adult Care Homes That Serve Only Elderly Persons
  - Multiunit Assisted Housing with Services (MAHS)

Multiunit Assisted Housing with Services

- An assisted living residence in which hands-on personal care services and nursing services are arranged by housing management and provided by a licensed home care or hospice agency.
- Residents, or their agents, must be capable, through informed consent, of entering into a contract and must not be in need of 24-hour supervision.
- These are not licensed, but are required to register with the Division of Health Service Regulation.

Adult Care Homes

(Source: NC DHHS Division of Health Service Regulation)

- Adult Care Homes provide 24-hour scheduled services for aged or disabled persons whose principal need is a home with shelter or personal care. Medical care is usually occasional.
  - Family Care Homes (2-6 beds)
  - Adult Care Homes (7 beds and up)
- In 1997 a moratorium was placed on new adult care home beds. In 2001, they became regulated under the Certificate of Need Law.
- 41,461 adult care home beds in NC.
- Licensed by the Department of Health and Human Services, Division of Health Service Regulation. Rules are adopted by the Medical Care Commission.
- Approximately 70% of adult care home residents receive State/County Special Assistance.

Adult Care Homes

Additional Information

State/County Special Assistance

- A cash supplement to help low-income individuals pay for care in adult care homes.
- Individuals apply at Departments of Social Services.

Special Care Units

- A wing or hallway within an adult care home designated for residents with Alzheimer's disease or other dementias, a mental health disability, or other special needs disease.

Nursing Homes

- Nursing homes are for chronic or convalescent patients, who, on admission, are not as a rule acutely ill and who do not usually require special facilities (operating room, x-ray facilities, laboratory facilities, etc.) A nursing home provides medical and nursing care, but the patient is not sick enough to require general hospital care. Some patients are admitted for short-term rehabilitative or convalescent care following hospitalization, most patients are in need of long-term care.
- 42,328 licensed beds in nursing homes. (Quantity is regulated by the Certificate of Need Law.)
- Licensed by the Department of Health and Human Services, Division of Health Service Regulation. Rules are adopted by the Medical Care Commission.
- Nursing homes that receive Medicare or Medicaid must be certified in accordance with federal law.

Continuing Care Retirement Communities

- Continuing Care Retirement Communities (CCRC) furnish lodging together with nursing services, medical services, or other health related services, under an agreement effective for the life of the individual, or for a period longer than one year.
- Involves a contract or agreement and usually requires a large up front fee (entrance fee) and monthly fees.
- Currently 57 facilities.
- Typically provide 3 levels of care: independent living, assisted living, and skilled nursing care.
- Regulated by the Department of Insurance and the Division of Health Service Regulation, if the facility has licensed adult care or nursing home beds.

Medicare/Medicaid

Medicaid

- Medicaid is a state administered program available to certain low-income individuals and families who fit into an eligibility group recognized by federal and state law.
- Depending on medical status and level of care needs, Medicaid recipients over the age of 65 (and disabled recipients under age 65) may be eligible for NC Medicaid for:
  - Adult Care Home
  - Special Assistance in-Home

Medicare & Dually Eligible

Medicare – A health insurance program for people:

- Age 65 or older.
- Under age 65 with certain disabilities.
- All ages with End-Stage Renal Disease.

Medicare has Two Parts:

- Part A (Hospital Insurance)
- Part B (Medical Insurance)

Medicare Part D – Prescription Drug Coverage

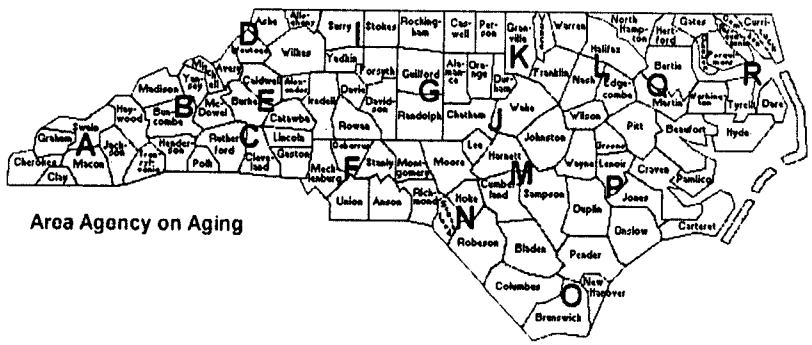
- **Dually Eligible** - describes those individuals who have Medicare as their primary medical insurance and Medicaid as their secondary coverage. (All may not be over 65.)
- According to most recent data:

180,869 Dually Eligible Recipients
2,283 Not Dual Recipients
183,152 Total Recipients over age 65 Served

Additional Information and Resources

Area Agencies on Aging

Located in the regional Councils of Government. AAAs have functions in five basic areas: (1) advocacy, (2) planning, (3) program and resource development, (4) information brokerage, and (5) funds administration and quality assurance.



Area Agency on Aging

County Departments of Social Services

- **Access to Services for Older Adults and Younger Adults with Disabilities:**
  - Adult Protective Services
  - Guardianship Services
  - Medicaid At-Risk Case Management Services
  - Personal and Family Counseling
  - Health Support Services
  - Special Assistance for adults in Adult Care Homes
  - Special Assistance In-Home Program
- **Additional Services, Programs & Positions located at the local DSS:**
  - Adult Care Home Specialists
  - Adult Care Home Case Management Services
  - Energy Assistance
  - Long-Term Care Information/Placement Services
  - Nutrition Programs

Local DSS Directory: http://www.dhhs.state.nc.us/dss/local/

Department of Health and Human Services

- **Office of Long-Term Services and Supports**
  Maria Spaulding, Deputy Secretary for Long-Term Care and Family Services
- **Division of Aging and Adult Services**
  Dennis Streets, Division Director
- **Division of Health Service Regulation**
  Jeff Horton, Acting Director
- **Division of Medical Assistance**
  Craigan Gray, MD, Director

Summary of Substantive Legislation Related to Aging
North Carolina General Assembly 2009 Session

Older Adult Populations in their Homes:

Session Law 2009-462 (HB 456) *reorganizes Chapter 131D of the General Statutes* by renaming Article 1. Adult Care Homes, and creating two Parts – Part 1. Licensing, and Part 2. Other Laws Pertaining to the Inspection and Operation of Adult Care Homes. The act incorporates within this new statutory construction, the content of S.L. 2008-166 pertaining to multiunit assisted housing with services (MAHS) fees.

Session Law 2009-145 (HB 436) *exempts certain capital expenditures* of more than $2 million for renovation, replacement, or expansion of nursing homes, adult care homes, or intermediate care facilities for the mentally retarded that do not change bed capacity or add new institutional health services or health service facilities to the existing facility *from certificate of need (CON) review*.

Session Law 2009-451, (SB 202, Sec. 10.57) adjusts the State-County Special Assistance maximum monthly rate for residents of adult care homes *by reducing the rate* from $1,231 per month per resident to $1,182 per resident, unless adjusted by the Department of Health and Human Services. The act authorizes the Department, subject to the approval of the Centers for Medicare and Medicaid Services, *to disregard a limited amount of income* for individuals whose countable income exceeds the adjusted State-County Special Assistance rate and directs the Department is required to recommend rates for State-County Special Assistance and for ACH-PCS.

Session Law 2009-220 (HB 994) directs the Department of Health and Human Services to advise the Housing Authority of the City of Wilson on the *requirements for registration* as a multiunit assisted housing with services program and on the *requirements for licensure* as a home care agency to assist the authority in its efforts to help individuals age in place.

Session Law 2009- 417 (HB 1058) increases the *Homestead exemption* for an unmarried debtor who is 65 years of age or older and meets other statutory requirements (property was owned by the debtor as a tenant by the entirety or as a joint tenant with rights of survivorship and the former co-owner is deceased) *from $37,000 to $60,000*.

Health and Wellness of Older Adults:

Session Law 2009-100 (SB 188) directs the Department of Health and Human Services, Division of Public Health, *to collaborate with a consortium of entities* including (1) the Divisions of Medical Assistance and Aging and Adult Services; (2) Schools of Dentistry at UNC and East Carolina University; (3) North Carolina Dental Society; (4) current providers of special care dentistry services on ways *to improve the availability of dental services* for special care populations and report findings and recommendations by February 1, 2010.

Session Law 2009-225 (SB 258) authorizes the Division of Emergency Management to establish a *voluntary model registry* for use by counties and municipalities in identifying the location of functionally and *medically fragile persons* in need of assistance during a disaster.

Session Law 2009-502 (HB 1020) directs the Department of Health and Human Services to establish a *cancer patient navigation pilot program* to provide education and assistance with the management of cancer. The program shall employ a multidisciplinary team to identify and *assist patients with access to health care, financial and legal assistance, transportation, and other supports.*

Studies:

Session Law 2009-391 (HB 996) repeals a provision of the 2008 Studies Act, which required the Department of Health and Human Services to study the feasibility of operating a licensed adult care home in a public housing facility and directs the University of North Carolina Center on Poverty, Work and Opportunity to perform the study and report its results by August 1, 2010.

Session Law 2009-574 (HB 945, Part XV) authorizes the Division of Health Service Regulation and the Division of Aging and Adult Services to study the feasibility of requiring long-term care facilities to require drug tests on applicants for employment and on employees. The Department may report its findings and recommendations to the North Carolina Study Commission on Aging on or before October 1, 2010.

Session Law 2009-574 (HB 945, Part XX) authorizes the University of North Carolina Institute on Aging (Institute on Aging) to review public guardianship services and consult with the agencies and organizations interested in public guardianship services The study also may address various issues pertaining to public guardianship services, such as funding concerns and potential sources of revenue, models of public guardianship, training of public guardians, conflicts of interest in the provision of public guardianship services, and the certification of public guardianship programs.

North Carolina Study Commission on Aging:

Session Law 2009-142 (H358) provides members of the North Carolina Study Commission on Aging may be appointed to serve a maximum of *three consecutive* terms.

Session Law 2009-407 (SB 195) directs the University of North Carolina Institute on Aging to assist the Division of Aging and Adult Services in its preparation for the projected population growth of older adults by (1) organizing and facilitating meetings to *identify and prioritize issues* for the State to address and by (2) *establishing a Web site* containing models of local planning efforts fostering retiree and volunteer involvement. The act directs the Institute and the Division *to provide a progress report on their activities* to the Governor and the Study Commission on Aging by March 1, 2010 and November 1, 2010.

Resolution 2009-26 (SJR 1106) Honors the life and memory of Vernon Malone, State Senator and Study Commission on Aging Co-chair.

FY 2009-11Aging-Related HHS Budget Highlights

North Carolina faced a $4 billion shortfall last year - and is experiencing its deepest recession since the Great Depression. Revenues simply aren't keeping up with expenditures and North Carolina is constitutionally required to pass a balanced budget. Since the Department of Health and Human Services is second only to Education in the amount of State dollars it requires, reductions unfortunately had to be made in the Department and no division of DHHS was spared. The intent was to pass a budget that preserved the system of health care and long-term care statewide.

Division of Aging and Adult Services

- **Eliminate Quality Improvement Consultation Plan**
  - ($190,204) R in both years eliminates funding for the Quality Improvement Program pilot for Adult Care Homes in four counties.

- **Eliminate Senior Center Outreach**
  - ($100,000) R in both years eliminates funding for the Senior Center Outreach Program, previously allocated to the 17 Area Agencies on Aging to promote the use of services available through senior centers.

- **Reduce and Replace Home and Community Care Block Funding**
  - ($500,0000) NR reduction in both years in Home and Community Care Block Grant (HCCBG) funding – the largest source of funding for services for seniors within the Division. Additionally, another ($1,384,392) NR reduction in HCCBG for FY 2009-10 was offset by one-time federal recovery funds for senior nutrition.
- **Project CARE**
  - $500,000 NR expansion in both years for Project C.A.R.E (Caregiver Alternatives to Running on Empty), a respite care program for caregivers of persons with Alzheimer's and dementia.

- **Senior Community Service Employment**
  - $1,174,058 NR in federal recovery funds for the Senior Community Service Employment Program (SCSEP), which places economically disadvantaged individuals 55 years of age and old with an income at or below 125% of the federal poverty level into part-time community service programs while transitioning clients into unsubsidized employment.

Division of Health Service Regulation

- **Increases in Annual Fees for License Renewals and Initial Facilities**
  - ($1,122,990) R for increased annual fees and an initial fee for new providers for adult care homes, hospitals, nursing facilities, mental health and other providers that serve seniors.

Division of Medical Assistance

- **Provider Rate Reductions**
  - ($76,440,896) R in FY 2009-10 and ($82,261,586) R in FY 2010-11 reduces provider rates across all Medicaid providers, except for federally qualified health centers, rural health centers, school-based and school-linked health centers, State institutions, hospital outpatient, pharmacy, and the non-inflationary components of the case-mix reimbursement system for skilled nursing facilities. Focus on protecting access to primary care (S.L. 2009-451, Sec. 10.68A(a)(8)).

- **Modify Personal Care Services Benefits**
  - ($40,000,000) R in FY 2009-10 and ($60,000,000) in FY 2010-11 reduces personal care services benefits to reduce overutilization of services. Requires independent assessment, physician attestation, and clarifies qualifying activities of daily living (S.L. 2009-451, Sec. 10.68A(a)(3)).

- **Reduce Nursing Home Cost Ceiling**
  - ($2,298,778) R in FY 2009-10 and ($2,444,230) R in FY 2010-11 in reductions due to reducing the reimbursement cost ceiling for nursing facilities from ~~10.35%~~ 103.5% of State median cost to 102.6% of State median cost.

Division of Public Health

- **Stroke Prevention**
  - $450,000 NR for the operation of the Stroke Advisory Council, the continued implementation of public awareness campaign, and identification of stroke rehabilitation services throughout the State.

- **North Carolina Arthritis Patient Services**
  - $50,000 NR for a grant-in-aid to North Carolina Arthritis Patient Services to support activities.

Division of Social Services

- **Reduce State/County Special Assistance Rates**
  - ($2,260,521) R in FY 2009-10 and ($3,286,281) R in FY 2010-11 reductions, the result of retracting 75% of the State/County Special Assistance rate increase made effective January 1, 2009, holding harmless disenfranchised recipients for the change in the standard of need. SA pays for room and board for low-income folks in adult care homes.

North Carolina Study Commission on Aging

Co-chairs:
Representative Jean Farmer-Butterfield
Senator A.B. Swindell

Creation and Purpose
G.S. 120-180

The North Carolina Study Commission on Aging is created to study and evaluate the existing system of delivery of State services to older adults and to recommend an improved system of delivery to meet the present and future needs of older adults.

Membership
G.S. 120-182

Senator A.B. Swindell	Representative Jean Farmer-Butterfield
Senator Stan Bingham	Representative Alice Bordsen
Senator Katie Dorsett	Representative Bob England
Senator James Forrester	Representative Garland Pierce
Senator Joe Sam Queen	Representative Jennifer Weiss
Mr. Anthony Peace	Ms. Mary Barker
Mr. John Eller	Ms. Joan Pellettier
Ms. Jean Reaves	Ms. Patricia Sprigg

Ms. Maria Spaulding – ex officio, non-voting

Duties
G.S. 120-181

- Study needs of older adults
- Assess adequacy & delivery of services
- Collect older adult population data
- Develop database to facilitate planning
- Review governmental legislative requests
- Evaluate long-term health care & non-institutional alternatives
- Propose a plan for comprehensive, cost-effective system of services
- Study gerontological concerns; Alzheimer's
- Other necessary evaluations

Meetings & Reimbursement

G.S. 120-183

The Commission shall meet upon the call of the cochairmen.

G.S. 120-184

The Commission members shall receive no salary but shall receive subsistence and travel expenses.

Public Hearings
G.S. 120-185

The Commission may hold public meetings across the State to solicit public input with respect to the issues of aging in North Carolina.

Subcommittees
G.S. 120-186.1

The Commission cochairs shall appoint subcommittees as needed to assist with the completion of the work of the Commission.

Reports
G.S. 120-187

The Commission shall report to the General Assembly and the Governor the results of its study and recommendations.

A written report shall be submitted to each biennial session of the General Assembly at its convening.

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2009 Recommendation Status Report

North Carolina Study Commission on Aging
Recommendations
to the
2009 Regular Session

Prepared by Staff for the
North Carolina Study Commission on Aging

January 7, 2010

Attachment V

2009 RECOMMENDATION STATUS REPORT

RECOMMENDATION	RESULT
<u>Recommendation 1</u>: Strengthen Disaster Planning for Long-Term Care Facilities In response to the Disability and Elderly Emergency Management (DEEM) Task Force recommendations, the Study Commission on Aging recommends that the General Assembly direct the Division of Health Service Regulation, Department of Health and Human Services, to review the DEEM recommendations, take appropriate action to strengthen disaster planning and disaster preparedness for long-term care facilities, and to report to the Study Commission on Aging and the Joint Select Committee on Emergency Preparedness and Disaster Management Recovery, on or before March 1, 2010.	In response to this recommendation, HB 143 and SB 193 and were introduced. HB 143 passed third reading in the House and was referred to Senate Health Care. SB 193 was referred to Senate Health Care. (Note: The Division of Health Service Regulation, DHHS, has determined they have statutory authority to address the issues of facility disaster planning in this recommendation. DHSR indicates that they are collaborating with the NC Division of Emergency Management to develop a universal disaster planning template that will include all regulated facilities, including long-term care.)
<u>Recommendation 2</u>: Additional HCCBG funds The Study Commission on Aging recommends that the General Assembly appropriate an additional $2,500,000 for both FY 2009-2010 and FY 2010-2011 to the Division of Aging and Adult Services, Department of Health and Human Services, for the Home and Community Care Block Grant (HCCBG).	In response to this recommendation, HB 142 and SB 185 were introduced. HB 142 received a favorable report from the House Aging Committee and was referred to House Appropriations. SB 185 was referred to Senate Appropriations. No additional funding was approved. (Note: The budget contains a $500,000 reduction in State appropriations for FY 2009-2010 and FY 2010-2011. The budget also contains a reduction in State appropriations of $1,384,392 for FY 2009-2010, which is anticipated to be offset by federal recovery funds for senior nutrition services.)

RECOMMENDATION	RESULT
Recommendation 3: Senior Center Funding The Study Commission on Aging recommends that the General Assembly appropriate an additional $750,000 for both FY 2009-2010 and FY 2010-2011 to the Division of Aging and Adult Services, Department of Health and Human Services for certified senior centers.	In response to this recommendation, HB 141 and SB 191 were introduced. HB 141 received a favorable report from the House Aging Committee and was referred to House Appropriations. SB 191 was referred to Senate Appropriations. No additional funding was approved. (On a related note, the budget contains the elimination of a $100,000 in funding for FY 2009-10 and FY 2010-11 for the Senior Center Outreach Program which was used to promote use of services through senior centers.)
Recommendation 4: Adult Protective Services Pilot Program The Study Commission on Aging recommends that the General Assembly appropriate $2,208,763 for FY 2009-2010 and $2,162,409 for FY 2010-2011 to the Division of Aging and Adult Services, Department of Health and Human Services, to fund a two-year pilot program to assess proposed changes to the adult protective services statutes, and require the Division to make an interim report in April 2010, and a final report on the evaluation of the pilot by October 1, 2011.	In response to this recommendation, HB 146 and SB 189 were introduced. HB 146 received a favorable report from the House Aging Committee and was referred to House Appropriations. SB 189 was referred to Senate Appropriations. No funding was approved.

RECOMMENDATION	RESULT
Recommendation 5: Special Care Dentistry **Recommendation 5(a): Support Division of Medical Assistance, DHHS efforts to increase dental care providers** The Study Commission on Aging supports continued efforts by the Division of Medical Assistance, Department of Health and Human Services, to increase the number of dental care providers serving special care populations.	No legislation was introduced in response to this recommendation.
Recommendation 5(b): Special Care Dentistry Collaboration The Study Commission on Aging recommends that the General Assembly direct the Division of Medical Assistance, Division of Public Health, and the Division of Aging and Adult Services, Department of Health and Human Services, to collaborate with the UNC and ECU Schools of Dentistry, the North Carolina Dental Society, and current special care providers to examine the limited dental care options for special care populations and to make recommendations for improvement to the Study Commission on Aging and the Public Health Study Commission on or before February 1, 2010.	In response to this recommendation, HB 144 and SB 188 were introduced. S.L. 2009-100 was enacted and directs the Division of Public Health, within the Department of Health and Human Services, to collaborate with the Division of Medical Assistance, the Division of Aging and Adult Services, the State's Schools of Dentistry, the North Carolina Dental Society, and special care dental providers to examine current dental care options for special care populations. The Department is required to report findings and recommendations to the North Carolina Study Commission on Aging and the Public Health Study Commission on or before February 1, 2010.
Recommendation 5(c): Dentistry Funds for Special Care Populations The Study Commission on Aging recommends that the General Assembly appropriate $200,000 for both FY 2009-2010 and FY 2010-2011, to the Division of Public Health, Department of Health and Human Services, to purchase an additional mobile dental unit in each fiscal year for a new or existing non-profit mobile dental care provider who must operate the mobile dental unit to serve special care populations, the frail elderly, and developmentally disabled, in geographic areas of the State that are not currently served by mobile dental units.	In response to this recommendation, HB 139 and SB 187 were introduced. HB 139 received a favorable report from the House Aging Committee and was referred to House Appropriations. SB 187 was referred to Senate Appropriations. No funding was approved.

RECOMMENDATION	RESULT
Recommendation 6: Adult Day Care Reimbursement Rate Increase The Study Commission on Aging recommends that the General Assembly appropriate an additional $1,059,561 for both FY 2009-2010 and FY 2010-2011, to the Division of Aging and Adult Services, Department of Health and Human Services to provide a $5.00 per day rate increase for adult day care and adult day health care.	In response to this recommendation, HB 138 and SB 194 were introduced. HB 138 received a favorable report from the House Aging Committee and was referred to House Appropriations. SB 187 was referred to Senate Appropriations. No additional funding was provided.
Recommendation 7: Funds for Project C.A.R.E The Study Commission on Aging recommends that the General Assembly appropriate $500,000 for both FY 2009-2010 and FY 2010-2011, to the Division of Aging and Adult Services, Department of Health and Human Services, to fund Project C.A.R.E. with the intent that this funding shall become part of the continuation budget.	In response to this recommendation, HB 145 and SB 190 were introduced. HB 145 received a favorable report from the House Aging Committee and was referred to House Appropriations. SB 190 was referred to Senate Appropriations. S.L. 2009-451 appropriated $500,000 for FY 2009-10 and for FY 2010-11 for Project C.A.R.E.
Recommendation 8: Preparing for Increased Numbers of Older Adults The Study Commission on Aging recommends that the UNC Institute on Aging and the Division of Aging and Adult Services, Department of Health and Human Services, take a leadership role in helping North Carolina prepare for increased numbers of older adults by: 1) organizing and facilitating meetings of gerontologists, researchers, county representatives, directors of Area Agencies on Aging, and providers of State services, to collectively identify and prioritize issues the State needs to address; and 2) working with the Association of County Commissioners, the UNC School of Government, higher education departments of municipal and regional planning and their partners, and Area Agencies on Aging to establish a website containing: a) information on fostering retiree and volunteer involvement, and b) models of local planning efforts, in order to assist municipalities in addressing accessibility and service delivery for increasing numbers of older adults. The Institute on Aging and the Division of Aging and Adult Services shall make progress reports to the Governor and the Study Commission on Aging on or before March 1, 2010, and on or before November 1, 2010.	In response to this recommendation, HB 273 and SB 195 were introduced. S.L. 2009-407 was enacted and directs the UNC Institute on Aging and the Division of Aging and Adult Services, Department of Health and Human Services, take a leadership role in helping North Carolina prepare for increased numbers of older adults. The Institute on Aging and the Division of Aging and Adult Services are required to make progress reports to the Governor and the Study Commission on Aging on or before March 1, 2010, and on or before November 1, 2010.

RECOMMENDATION	RESULT
Recommendation 9: Adult Care Home Mixed Population Workgroup The Study Commission on Aging recommends that the General Assembly direct the Division of Health Service Regulation, the Division of Medical Assistance, and the Division of Aging and Adult Services, Department of Health and Human Services, to assemble a workgroup of adult care home specialists and long-term care ombudsmen that work with adult care homes serving significant populations of both mentally ill residents and the frail elderly, to develop short-term and long-term strategies for improving the quality of care for all residents, and to make recommendations to the Study Commission on Aging and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services on or before August 1, 2010.	In response to this recommendation, HB 147 and SB 196 were introduced. HB 147 received a favorable report from the House Aging Committee and was referred to the House Health Committee. SB 196 was referred to the Senate Health Care Committee. S.L. 2009-451, Section 10.78(ff) 3, was enacted and directs the NC Institute of Medicine to develop short-term and long-term strategies to address issues within adult care homes that provide residence to persons who are frail and elderly and to persons suffering from mental illness.
Recommendation 10: Adult Care Home Quality Improvement Pilot Program on Medication Safety The Study Commission on Aging recommends that the General Assembly direct the Division of Aging and Adult Services, Department of Health and Human Services, for FY 2009-2010 and FY 2010-2011, to use the recurring funding associated with the Adult Care Home Quality Improvement Program to accomplish the following: 1) a post pilot analysis to determine whether medication safety is sustained after the initial phases of the medication safety pilot program and to develop findings on what fosters or prohibits sustained improvements; 2) utilization of the lessons learned from this medication safety pilot to deliver medication safety training sessions, train the trainer programs, or online training in adult care homes that did not participate in the pilot program; 3) evaluation of the effectiveness of this training; and 4) an interim report to the Study Commission on Aging on or before February 1, 2010, with a final report due on or before October 1, 2010.	In response to this recommendation, HB 140 and SB 192 were introduced. HB 140 was referred to the House Aging Committee and SB 192 was referred to the Senate Health Care Committee. This program was identified for elimination, so this bill was not actively pursued.

RECOMMENDATION	RESULT
<u>Recommendation 11:</u> Support for Changes to Guardianship Laws The Study Commission on Aging supports the seven remaining recommendations that have not yet been enacted from the report of the House Study Committee on State Guardianship Laws to the 2007 North Carolina House of Representatives.	No legislation was introduced in response to this recommendation.

NORTH CAROLINA STUDY COMMISSION ON AGING

2010 COMMISSION BUDGET ESTIMATE

1.	Legislative Members Subsistence $104 x 10 (*number of legislative members*) x 1 ½ (*Half of members using two days subsistence*) x 7 (*number of meetings*)	$10,920
2.	Non-Legislative Members Subsistence $102.75 x 6 (*number of non-legislative members*) x 1 ½ (*Half of members using two days subsistence*) x 7 (*number of meetings*)	$6,473
3.	Travel Expenses $58.00 * x 10 (*number of GA members*) x 7 (*number of meetings*) $66.00 ** x 6 (*number of public members*) x 7 (*number of meetings*) * Average 200 miles round trip x $.29 = $58.00 ** Average 200 miles round trip x $.33 = $66.00	$6,832
4.	Clerical Staff Average of $613 ** x 7 (*number of meetings*) ** $613 = average salary with benefits for 5 day work week	$4,291
5.	Professional Staff (To be used if other than legislative professional staff is employed)	$0
6.	Special Travel and Expenses	$500
7.	Postage and Telephone	$500
8.	Supplies	$250
9.	Copying and Printing	$1,500
10.	Reserve	$18,734
TOTAL		**$50,000**

Rev. 9/08

NORTH CAROLINA STUDY COMMISSION ON AGING

Tentative 2010 Meeting Dates

Thursday, January 7

Thursday, January 21

Thursday, February 4

Thursday, February 25

Thursday, March 4

Thursday, April 1

Tuesday, May 11

Dated: 1/7/10

MINUTES

NORTH CAROLINA STUDY COMMISSION ON AGING

Thursday, January 21, 2010
10:00 am
Legislative Office Building, Room 643

The North Carolina Study Commission on Aging met on Thursday, January 21, 2010, at 10:00 am in Room 643 of the Legislative Office Building. Members present were: Senators Bingham, Dorsett, Swindell; Representatives Farmer-Butterfield, Pierce, Weiss; Ms. Mary Barker; Mr. Anthony Peace; Ms. Joan Pellettier; Ms. Jean Reaves; Ms. Maria Spaulding; and Ms. Patricia Sprigg. Staff also in attendance was: Susan Barham, Melanie Bush, Joyce Jones, Sara Kamprath, Theresa Matula; and commission assistants Janice Mobley-Bennett and Delta Prince.

Co-chair Jean Farmer-Butterfield called the meeting order and began with introductions of members, staff (Bill Drafting, Fiscal Research, Research, Sgt. At Arms, Commission Assistants) and visitors from various organizations. A special recognition was also given to Jamarcus Underwood, intern for Representative Garland Pierce and a sophomore at North Carolina Central University. The meeting proceeded as follows:

Aging Services and Programs: Concerns, Opportunities, and Optimism, presented by Mr. Dennis Streets, Director, Division of Aging and Adult Services (Division), Department of Health and Human Services (DHHS).

Mr. Streets noted that the Division of Aging was established in 1977 and merged with Adult Services, formerly in the Division of Social Services, in 2003. The Division currently has 58 positions, of which 12 are field positions, but the staff size is no greater now than in the 1980s. The current (2007-2011) State Agency Service Plan has generally been given to the General Assembly in the past, but can now be found on the DHHS website and does describe the work of the various agencies, including Aging.

In the early 1990s the General Assembly instructed the Division to annually collect information from other state agencies about the public expenditures for the population age 60 and older. This information is available on the website and to county officials and county aging committees by February 15 of each year. The purpose of this is to work with area agencies on aging to help determine the best use of the Home and Community Care Block Grant (HCCBG) Funds. Information presented today is from the year ending June 30, 2009, and includes state and federal funds and the required local match. It does not include Medicare, Social Security, or retirement; but at a total amount of $3.1 billion, it is a major infusion of funds for our older population through our counties.

When the Division of Aging merged with Adult Services, the budget for Adult Services' programs remained within the Division of Social Services' budget. The Division of Aging and

Adult Services did not want to disrupt the way county departments of social services were able to report their services and requests for reimbursement. As a result, of the $215 million in total expenditures by the Division of Social Services, about $110 million are expenditures by the Division of Aging and Adult Services. The Division of Aging and Adult Services is responsible for a total of about $178 million in expenditures or about 5.7% rather than the 2.2% as outlined in **Attachment I.**

Senator Bingham asked about the percentage of federal funding that the State receives for older adult programs. Mr. Streets explained that of the $3.1 billion the State receives, about $1.8 billion is federal funds (~59%), less than $1.3 billion is state funds (~39%), and the required local match is about $52.5 million (< 2%). Additional information on total expenditures for other services is outlined in **Attachment I, Slides 4-8.**

Mr. Streets noted that Forsyth County celebrated its four millionth home delivered meal several months ago. Forsyth County has the third oldest home delivered meals program in the nation and is the oldest in the southeast. The average age of the participants in the program is over 80 years old and over half of them live alone. A copy of comments from three participants currently enrolled in the home delivered meals program is outlined in **Attachment I (a).**

According to Mr. Streets, federal laws require that the one meal delivered to participants must be one-third of their minimal daily nutritional requirement. The Division's research found that for half of the people served, this is half of their daily food intake.

Mr. Streets listed a few concerns the Division has in relation to service needs. They are:

- Increase in Adult Protective Services Reports **(Attachment I (b) and (c))**
- Growth of Wait List for Home and Community Services **(Attachment I (c))**
- Status of Home and Community Care Block Grant **(Attachment I (d))**
- Increase in Public Guardianship Cases **(Attachment I and Slide 13)**
- Uncertainty Within Alzheimer's Support Network **(Attachment I (e) and Slides 14-19)**
- The NC Roadmap **(Attachment I (f) and Slides, 20-32)**
- Other Noteworthy Statistics **(Attachment I (g) and Slides 33-37)**

To illustrate the importance of providing professional assistance to the caregivers of people with Alzheimer's and other dementia, Mr. Streets presented an article about a Florida man scheduled to stand trial for killing his father, a longtime Alzheimer's sufferer. The article can be read in full in **Attachment I (h).**

Mr. Streets then presented reasons to remain optimistic through examples of volunteers, workers, and individuals that provided extraordinary care to North Carolina's aging population:

- **Nancy Richardson and Mary Watson** – In 2007 there was a shooting in Rocky Mount that killed the Meals-on-Wheels director and severely injured the assistant director. Ms. Richardson and Ms. Watson came out of retirement to volunteer their services in order to

ensure that this particular program continued to serve the needs of its participants as usual.

- **Transylvania Retiree Resource Network** – A group of 70+ retirees made themselves available to Transylvania County to produce the county's most recent economic development strategic plan at a great cost savings to the county See **Attachment I (i)**.

- **Bill Magness** – Upon delivering a hot lunch to a disabled man in Forsyth County, Bill and Anne Magness encountered an intruder who had already killed the meal recipient, and in turn, shot both Bill and Anne, killing Anne and severely injuring Bill. After a long battle for his life, Bill recovered and is back volunteering on that same route. Senior Services, Inc., the charitable organization that operates Meals-on-Wheels, established the Anne and Bill Magness Meals-on-Wheels Fund at The Winston-Salem Foundation in an effort to honor the Magnesses for their many years of committee to the community. A copy of the news article is provided in **Attachment I (j)**.

- **Billy Butler and Van Pierce** (volunteers) – Mr. Butler was specifically recruited for his talents and skills as a piano player and music director. Since joining Columbus County RSVP, he has reported nearly 34,000 hours of service at the local nursing homes and rest homes. His volunteer service is not limited to music - he transports senior citizens who can no longer drive to medical appointments, the pharmacy, and grocery stores.

  Mr. Pierce has been a volunteer for the Ramps & Rails Program for more than six years. Over 125 ramps were built last year in all areas of Columbus County due to Mr. Pierce's commitment and leadership. See **Attachment I (k)**.

- **Evelyn Clay** – A strong advocate for the works of the Alzheimer's Association died on October 16, 2008. She had been a caregiver for a family member with Alzheimer's for many years and helped to open an adult day services center in Asheville, North Carolina. According to her family, as she was actively dying she asked the ICU nurses that were attending her for their assistance in using the phone. Ms. Clay wanted to find someone that would be willing to take her place as a facilitator for her group. See **Attachment I (l)**.

After Mr. Streets' presentation, Co-chair Farmer-Butterfield opened the floor for questions from members of the Commission. Senator Katie Dorsett wanted to know how the unsung heroes are publicly recognized. Mr. Streets stated that recognition is generally done at the North Carolina Conference on Aging, but due to lack of funding the conference was not held in 2009. He noted that the Division of Aging and Adult Services will announce its 2009 award recipients through a press release on Friday, January 22, 2010.

Ms. Jean Reaves, Commission member, stressed the importance of recognizing the care of caregivers. She gave an example of a wife caring for her husband and then becoming more ill herself from the stress of caring for him. Now, instead of needing to place one patient, there are two. Ms. Reaves also acknowledged the partnership of the Division with the veteran population and asked that they consider partnering with our school systems as well.

Senator Stan Bingham asked Mr. Streets to explain how Alzheimer's is the 6th leading cause of death. Mr. Streets stated that it is associated with the age of the older population and he would get more information on that issue from the Division of Public Health. Senator Bingham also wanted to know if there was something people could do to help prevent the seriousness of falls in older adults. Mr. Streets noted that several issues could address this problem: strengthening a person's ability, correcting vision, providing good nutrition, providing proper use of medical equipment and aids, etc. Co-chair Swindell noted that pride might be a reason for older adults falling and not having their homes equipped with handicap features in general.

Anthony Peace, Commission member, challenged the Commission to finds ways to change public perception of nursing homes and adult care facilities. Co-chair Farmer-Butterfield asked Mr. Streets to comments on the services the state provides for grandparents with needs that raise their grandchildren. Mr. Streets noted the Division's partnership with the North Carolina Cooperative Extension and AARP North Carolina to produce materials and guides for support of grandparents in need of assistance. He also noted that a number of grandparents today are younger than 60 years of age.

Adult Care Home Star Rating Program (S.L. 2007-544, Section 3(g)), presented by Megan Lamphere, Facility Survey Consultant, Adult Care Licensure Section, Division of Health Service Regulation, DHHS. This program was initiated by the Commission in response to citizens of North Carolina who voiced the need for increased availability of public information regarding the care provided in adult care facilities. The North Carolina Medical Care Commission developed rules for the rating program with input from residents and families in adult care homes, advocacy groups, providers and others. Additional information on this program is outlined in Attachment II.

Co-chair Swindell asked if there are a sufficient number of adult care inspectors compared to the number of facilities operating throughout the State. Mr. Jeff Horton, Acting Director, Division of Health Service Regulation (DHSR), stated that the numbers are not sufficient. He noted that out of 1,300 adult care homes, DHSR was only able to inspect about 1,000 facilities last year. Co-chair Swindell also had concerns about ratings staying with a home that has been purchased by another owner and the current owner having the opportunity to correct specific problems within a reasonable time during the same rating period. Ms. Lamphere noted that the home would begin again with 100 points on their next annual inspection.

Senator Dorsett wanted to know the minimum score a facility could have and continue to operate. According to Mr. Horton, a rating score is not directly related to facility's ability to keep its license or not. Mr. Horton also stated that the severity of the violations, in some cases, could dictate whether or not the license would be revoked. Senator Dorsett asked if training opportunities are available to owners in preparation for the new rating system and if facilities might have more Medicaid patients than paying patients. According to Ms. Lamphere, Medicaid and paying patients are generally evenly distributed. The North Carolina Long-Term Care Facilities Association has contracted with VieBridge, to create the ACHieve website that provides information on the requirements that the star rating is based on. It is free to all providers, all counties, and any interested parties concerned about being in compliance to get

better star ratings. In response to how much information is available on the website, Ms. Lamphere noted that all forms are readily available including the worksheet. Ms. Lamphere also noted that there are formal appeals that are handled through the Office of Administrative Hearings.

Expansion of the Star Rating Program (S.L. 2007-544, Section 3(f)), presented by Mr. Jeff Horton, Acting Director, Division of Health Service Regulation, DHHS. The Division, DHSR, and DHHS identified four categories of other facilities (non-adult care homes) and services licensed and certified by DHHS to be considered for inclusion in a rated certificate program. Additional information on this program is outlined in Attachment III.

Co-chair Farmer-Butterfield wanted to know the estimated cost of the Star Rating Program website. Mr. Horton noted it would cost about $100,000 for a webmaster and to enhance their current system to include mental health, developmental disabilities, and substance abuse services.

Co-chair Farmer-Butterfield announced requests public hearings. She mentioned Guilford, Mecklenburg, and Nash counties as possible locations. The Commission will hear recommendations at the next meeting.

The Visitor Registration Sheets are attached and made a part of these minutes.

The Commission will meet again on Thursday, February 4, 2010. This meeting adjourned at 12:20 pm.

Representative Jean Farmer-Butterfield
Presiding Co-Chair

Delta F. Prince
Commission Assistant

Agenda

North Carolina Study Commission on Aging

Thursday, January 21, 2010
10:00 a.m.
Legislative Office Building
Room 643

I. Welcome and Comments

Representative Jean Farmer-Butterfield, Cochair
Senator A.B. Swindell, Cochair

II. Aging Services and Programs: Concerns, Opportunities, and Optimism

Dennis Streets, Director, Aging and Adult Services, DHHS

III. Adult Care Home Star Rating Program (S.L. 2007-544, Section 3(g))

Megan Lamphere, Facility Survey Consultant, Adult Care Licensure Section, Division of Health Service Regulation, DHHS

Expansion of the Star Rating Program (S.L. 2007-544, Section 3(f))

Jeff Horton, Acting Director, Division of Health Service Regulation, DHHS

IV. Next Meeting:

Thursday, February 4, 2010
10:00

ATTENDANCE

NORTH CAROLINA STUDY COMMISSION ON AGING

DATES CO-CHAIRS	Jan. 7, 2010	Jan. 21, 2010	Feb. 4, 2010	Feb. 25, 2010	March 4, 2010	April 1, 2010	May 11, 2010								
Senator A. B. Swindell		✓													
Representative J. Farmer-Butterfield		✓													
SENATE MEBERS															
Senator Stan W. Bingham		✓													
Senator Katie G. Dorsett		✓													
Senator James S. Forrester															
Senator Joe Sam Queen															
SENATE PUBLIC MEMBERS															
Mr. Joe Eller															
Mr. Anthony Peace		✓													
Ms. Jean Reaves		✓													
HOUSE MEMBERS															
Representative Alice L. Bordsen															
Representative Bob F. England, MD															
Representative Garland E. Pierce		✓													
Representative Jennifer Weiss		✓													
HOUSE PUBLIC MEMBERS															
Ms. Mary P. Barker		✓													
Ms. Joan M. Pellettier		✓													
Ms. Patricia E. Sprigg		✓													
EX OFFICIO															
Ms. Maria Spaulding		✓													
STAFF															
Ms. Susan Barham		✓													
Ms. Melanie Bush		✓													
Ms. Joyce Jones		✓													
Ms. Sara Kamprath		✓													
Ms. Theresa Matula		✓													
Mr. Shawn Parker															
COMMITTEE ASSISTANTS															
Delta Prince		✓													
Janice O. Mobley-Bennett		✓													

HOUSE PAGES

NAME OF COMMITTEE Commission on Aging DATE 1/21/10

1. Name: Intern: Jamarcus Underwood

County: Sophmore - NCCU

Sponsor: Rep. Garland Pierce

2. Name: _____

County: _____

Sponsor: _____

3. Name: _____

County: _____

Sponsor: _____

4. Name: _____

County: _____

Sponsor: _____

5. Name: _____

County: _____

Sponsor: _____

SGT-AT-ARM

1. Name: Reggie Sills CHESTER WHITE
2. Name: John Brandon CHARLES HARPER
3. Name: Bob Rossi
4. Name: Martha Parrish

VISITOR REGISTRATION SHEET

North Carolina Study Commission on Aging — January 21, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
JaMarcus Underwood	Rep. Garland Pierce
Fred Bon	Bon : Asso.
Kristi Huff	NCHCFA
Lu-Ann	NCANPHA
Linda Jarema	NCANPHA
Howard Suber	Mecklenburg County Dept of Social Services
Mary Bethea	AARP - NC
Polly Williams	NC Justice Center / Triangle Older Women's League
Judy Brunger	The Carolinas Center for Hospice & End of Life Care
Jeff Mobley	NC Div. of Services for Deaf and Hard of Hearing

VISITOR REGISTRATION SHEET

North Carolina Study Commission on Aging — January 21, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Megan Lamphere	DHSR/ACLS
Barbara Ryan	DHSR/ALS
Jeff Horton	DHSR/
JAMES KIRBY	OFFICE OF SEN. QUEEN
Roxanne Ray-Cook	Franklin Co. Dept of Aging. NC Coalition on Aging
Jessie Goodman	DHSR
George E. Smith	STHL - Johnston Co. Delegate
Mary Edwards	DAAS
Randy Fraser	ALZNC
Alice Watkins	Alzheimers North Carolina

VISITOR REGISTRATION SHEET

North Carolina Study Commission on Aging — January 21, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Glenda Arts	DHHS - Division of Aging & Adult Services
Heather Carter	DHHS - Division of Aging & Adult Services
Steve Freedman	DAAS
Ann Eller	DHHS OLTS
Miki Alexander	NMSS - NC
Abby Emanuel	NMSS - NC
Teresa Johnson	NCADSA, FORLTC
Lisa McQueen	DAAS intern, UNC
Bill Lamb	UNC Institute on Aging

VISITOR REGISTRATION SHEET

North Carolina Study Commission on Aging — January 21, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Bob Jackson	AARP
Jamie D. Hatch	AARP
Dick Hatch	AARP, NCCOA & NCSTHL
John Hammond	Senior Tar Heel Legislature

VISITOR REGISTRATION SHEET

North Carolina Study Commission on Aging — January 21, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Evelyn Hawthorne	DTCR

Presentation to Aging Study Commission

Aging Services and Programs—Concerns, Opportunities and Optimism

Dennis W. Streets
Division of Aging and Adult Services,
N.C. Department of Health and Human Services
for the
NC Study Commission on Aging
January 21, 2010

State Resources for Older Adults

DHHS

Divisions
- Aging & Adult Services
- Health Service Regulation
- Medical Assistance
- MH/DD/SAS
- Public Health
- Services for the Blind
- Services for the Deaf & Hard of Hearing
- Social Services
- Vocational Rehabilitation

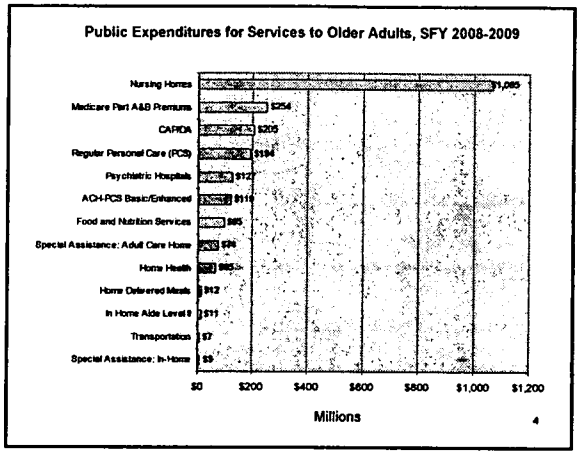
Offices
- Citizen Services
- Economic Opportunity
- Long Term Services & Supports
- Rural Health & Community Care

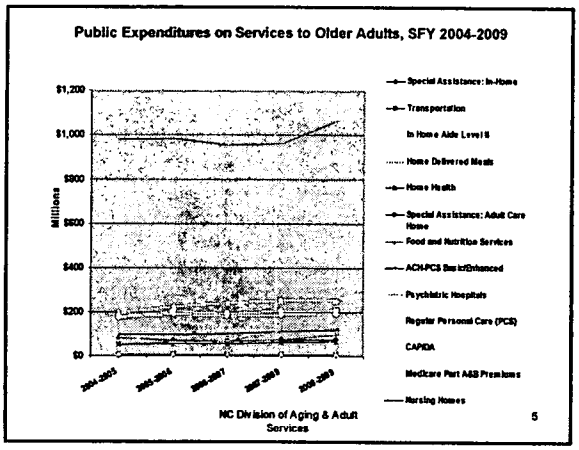
Other
- Department of Administration
- Department of Commerce
- Department of Community Colleges
- Department of Correction
- Department of Insurance [SHIIP]
- Department of Transportation [EDTAP]
- Office of the Governor
- Attorney General's Office
- NC Senior Games
- NC Colleges & Universities

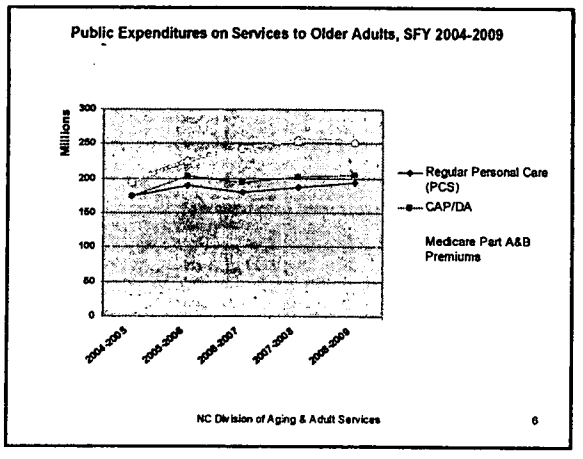
Reported Public Expenditures by Agency/Funding Source for Services to 60+, SFY 2008-09

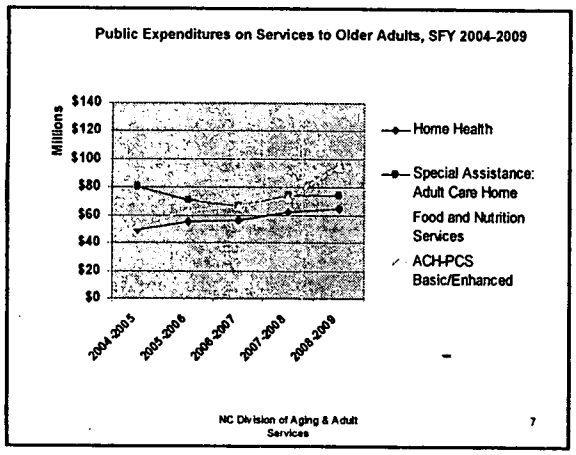
Agency/ Funding Source	Total Expenditures	Percent of Total
Medical Assistance	$2,617,890,123	83.7%
Social Services*	$ 215,112,525	6.9%
Mental Health	$208,711,996	6.7%
Aging and Adult Services*	$ 68,473,442	2.2%
Other Agencies	$ 17,965,500	0.5%
TOTAL	$3,128,153,586	100%

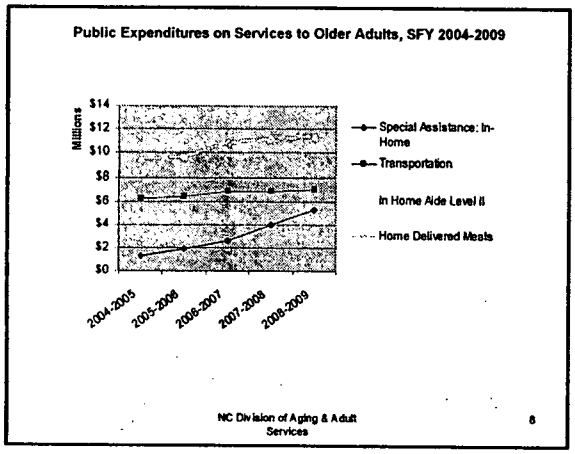
*DAAS administers $110,004,546 that is in the DSS budget; adjusted DAAS total is $178,477,988 or 5.7%; adjusted DSS total is $105,107,979 or 3.4%

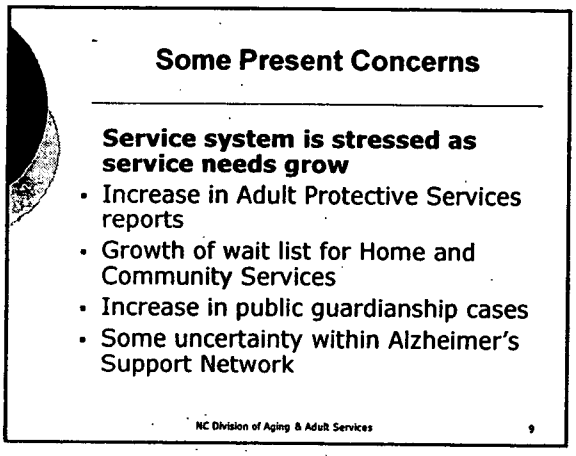

Public Expenditures for Services to Older Adults, SFY 2008-2009
Nursing Homes
Medicare Part A&B Premiums
CAP/DA
Regular Personal Care (PCS)
Psychiatric Hospitals
ACH-PCS Basic/Enhanced
Food and Nutrition Services
Special Assistance: Adult Care Home
Home Health
Home Delivered Meals
In Home Aide Level II
Transportation
Special Assistance: In-Home
$1,085
$254
$205
$194
$127
$119
$85
$26
$13
$12
$11
$7
$5
$0
$200
$400
$600
$800
$1,000
$1,200
Millions
4


Public Expenditures on Services to Older Adults, SFY 2004-2009
$1,200
$1,000
$800
$600
$400
$200
$0
Millions
Special Assistance: In-Home
Transportation
In Home Aide Level II
Home Delivered Meals
Home Health
Special Assistance: Adult Care Home
Food and Nutrition Services
ACH-PCS Basic/Enhanced
Psychiatric Hospitals
Regular Personal Care (PCS)
CAP/DA
Medicare Part A&B Premiums
Nursing Homes
NC Division of Aging & Adult Services
5


Public Expenditures on Services to Older Adults, SFY 2004-2009
300
250
200
150
100
50
0
Millions
Regular Personal Care (PCS)
CAP/DA
Medicare Part A&B Premiums
NC Division of Aging & Adult Services
6


Public Expenditures on Services to Older Adults, SFY 2004-2009
Millions
$140
$120
$100
$80
$60
$40
$20
$0
2004-2005
2005-2006
2006-2007
2007-2008
2008-2009
Home Health
Special Assistance: Adult Care Home
Food and Nutrition Services
ACH-PCS Basic/Enhanced
NC Division of Aging & Adult Services
7


Public Expenditures on Services to Older Adults, SFY 2004-2009
Millions
$14
$12
$10
$8
$6
$4
$2
$0
2004-2005
2005-2006
2006-2007
2007-2008
2008-2009
Special Assistance: In-Home
Transportation
In Home Aide Level II
Home Delivered Meals
NC Division of Aging & Adult Services
8


Some Present Concerns
Service system is stressed as service needs grow
• Increase in Adult Protective Services reports
• Growth of wait list for Home and Community Services
• Increase in public guardianship cases
• Some uncertainty within Alzheimer's Support Network
NC Division of Aging & Adult Services
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Adult Protective Services

- More than 20% increase in APS reports from 2007 to 2009
- Two-thirds of county DSSs are seeing increase in 1st-time reports
- More than half are seeing more repeat reports
- More than 1 in 5 have increased intake resources, reassigned staff, and utilized supervisors
- More than half are experiencing reduced funding for their own essential services and nearly half are finding fewer HCCBG services available

Home and Community Services

- Access to and intensity of services has weakened
- Service needs and wait lists are substantial
- Providers are frugal, stressed, conscientious and innovative
- Clients becoming more vulnerable

Status of Home and Community Care Block Grant

- Overall funding has increased about 20% over past 10 years—taking into account non-recurring reductions for SFY 2009-10
- Statewide utilization/expenditure rate remains very high—99.8% in SFY 2008-09
- Service unit costs have increased
- Decrease in clients served (6.9%) and total service units (14.1%) between July 1,2000-June 30, 2009; while NC population age 60+ and 75+ grew by 29% and 18%

Guardianship

- There was a 10% increase in the # of wards from 2008 to 2009.
- Nearly 7 in 10 wards are with the county DSSs; Mental Health has most of the rest
- The current # of wards is 3,532
- Most of the cases involve service as Guardianship of the Person

Alzheimer's and Other Dementia

- Within the next 10 years—the # of people affected by dementia will increase dramatically.
- Alzheimer's is the 6th leading cause of death for people of all ages and the 5th leading cause for those 65+.
- Over 170,000 older adults in NC currently have Alzheimer's or other dementia.
- By 2030, this # is projected to increase to more than 288,000.
- For 2009, nearly one-third of Adult Care Home residents reportedly had Alzheimer's or some type of dementia (about 12% of those in Family Care Homes).
- For 2009, 19% of Nursing Home residents had Alzheimer's diagnosis and 38% had dementia other than Alzheimer's.
- Most care for people with dementia is provided in the home by family members or friends.

Some Thoughts on What Is Essential to Future Aging Services and Supports System

- Easy and reliable access to information and assistance to facilitate personal responsibility
- Effective holistic and collaborative management of chronic conditions
- Timely protection and intervention for those who are most vulnerable
- An awareness that successful aging involves more than health and human services

Easy and reliable access to informat ion and assistance to facilitate person al responsibility — North Carolina's "No Wrong Door" (NWD)

- NWD to services means more than one entry point (or location) at the community level. The process of acce ss experienced by individuals is uniform across all entry points and consistent in content and quality.
- NWD access to pub lic programs ensures that individuals have the information they need to make informed decisions.

DHHS Office of Long Ter m Services & Supports

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Easy and reliable access to information and assistance to facilitate personal responsibility — Some Key 'NWD'Componen ts

- https://**nccarelink**.gov/
- Senior Centers
- Community Resource Connections for Aging and Disabilities (CRCs)

NC Division of Aging & Adult Services 17

CRCs—the Overarching Goal

To have Community Resource Connections for Aging and Disabilities function as highly visible and trusted places where people of all incomes and ages can get information on the full range of long-term support options and a uniform point of entry for access to public long-term support programs and benefits.

DHHS Office of Long Ter m Services & Supports

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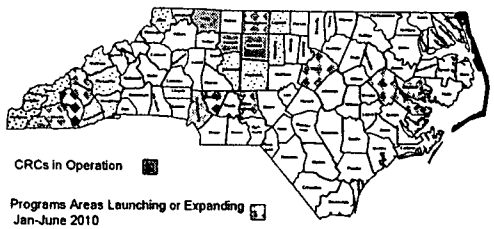
CRC Communities



CRCs in Operation

Programs Areas Launching or Expanding Jan-June 2010

Programs Areas Launching or Expanding July-Dec 2010

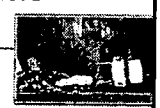
DHHS Office of Long Term Services & Supports 19

Effective management of chronic conditions—Some Other Exciting Initiatives

- Community Care Connections—Aging and Adult Service's contribution to the Medicare 646 Waiver
- Programs of All-inclusive Care for the Elderly (PACE)
- Person-Centered and Consumer-Directed Approaches to Chronic Care
- Pursuing stronger connection with VA
- NC Roadmap for Healthy Aging—*Living Healthy*

NC Division of Aging & Adult Services 20

The Health Picture for Boomers



By 2030

- **More than 6 of every 10 will be managing more than one chronic condition**
- **1 of 4 will be living with diabetes**
- **1 of 3 will be considered obese**
- **1 of 2 will have arthritis**

"When I'm 64: How Boomers Will Change Health Care ", American Hospital Association, May 2007 21

Falls in North Carolina

- **Falls are the leading cause of fatal injuries and the 2nd leading cause of nonfatal injuries for people over 65 (1999-2006)**
- **The death rate due to falls for people ≥65 was 2,000% higher than for those <65 (2006)**

NC IVP Branch

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The Cost of Chronic Disease

- Chronic diseases in 2001 accounted for 75% of the $1.4 trillion we spent on health care
- 95% of health care spending for older adults attributed to chronic conditions

Mensah: www.nga.org/Files/ppt/04.12academyMensah.pp_tif21
Heffler et al. *Health Affairs*, March/April 2002.

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The Price Tag Is Going Up

$245 billion
average of $1,066 per person

$1.4 trillion
average of $5,039 per person

$2.8 trillion
average of $9,216 per person

Mensah: www.nga.org/Files/ppt/04.12academyMensah.pp_tif21
Heffler et al. *Health Affairs*, March/April 2002.

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The Case for Prevention

	North Carolina	Per Employee	Per Resident
Tobacco Use	$4.75 billion	$1,051	$536
Nutrition, Overweight, and Obesity	$12[illegible] billion	$2,67[illegible]	$1,366
Physical Inactivity	$8.970 billion	$1,98[illegible]	$1,013
Total	$25.82 billion	$5,711	$2,915

Source: NC Prevention Report Card 2008

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The Aging and Public Health Partnership

- NC Healthy Aging Coalition
- NC Falls Prevention Coalition

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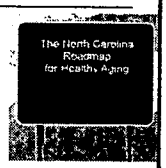
The NC Roadmap
http://ncroadmap.org

- County-by-county description of the health needs of the older adult population
- A dynamic user-friendly guide for community providers to deliver evidence-based health promotion (EBHP) programming
- A *statewide* inventory of health promotion programming & *county-by-county* listing of evidence-based health promotion programming and other types of programming



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Some of NC's Evidence-Based Health Promotion Programs

Health programs that have been scientifically proven to have positive impacts on participants:

- ***Living Healthy*** **(Chronic Disease Self-Management Program)**

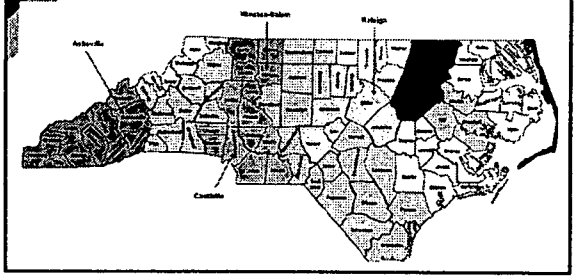
  http://patienteducation.stanford.edu/programs/cdsmp.html
  www.ncdhhs.gov/aging/livinghealthy/livinghealthy

- **A Matter of Balance**
  www.mainehealth.org/pfha

- **Arthritis Foundation Exercise Programs**
  http://www.arthritis.org/af-exercise-program.php

Living Healthy

- **July 2007, DAAS & DPH received a 3-year grant from AoA to implement CDSMP**
- **Began in 7 AAA Regions and recently added 7 more!**



Living Healthy Outcomes

Research shows, participants:

- **Increase their levels of physical activity**
- **Develop better coping strategies and symptom management**
- **Show better communication with their physicians**
- **Improve their self-rated health, disability, social and role activities, and health distress**
- **Have more energy and less fatigue**
- **Experience decreased disability**
- **Have lower numbers of physician visits and hospitalizations.**

Timely protection and intervention for those who are most vulnerable

- Adult Protective Services Reform—importance of the proposed federal *Elder Justice Act*
- Institute of Medicine Task Force on Co-Locating Different Populations in Adult Care Homes
- Relay for Extra Help
- Project C.A.R.E. (Caregiver Alternatives to Running on Empty)

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Project C.A.R.E.— Caregiver Alternatives to Running on Empty

- Primarily funded through non-recurring State funds and federal grant—with some private support
- DAAS started initiative in July 2001
- Basic eligibility requirements: confirmed Alzheimer's or other dementia; resident of one of 21 counties; no age restrictions; priority to low-income, rural and minority families
- Services include: access to Family Consultant, consumer-directed respite, training and educational resources, linkages to AAAs and Alzheimer's resources

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Some Other Noteworthy Statistics

- 30 counties have more persons aged 60+ than 17 and younger; 68 will in 2029
- Nearly 98,000 grandparents are responsible for more than 104,000 minor grandchildren, with more than 1 in 4 of these grandparents having a disability
- More than a quarter of NC's population today are aging boomers (46-64 years old)
- Nearly a quarter of persons 65+ are Veterans
- 1 in 10 of 65+ households do not have a car
- More than 4 in 10 of 75+ have income less than 200% of poverty level

NC Division of Aging & Adult Services 33

NC #6 in states w/ grandparents raising grandchildren

An Increased Awareness and Appreciation of Our Aging Population

- S.B. 195—Assessment of NC's Readiness
- Strengthening of the Governor's Advisory Council on Aging
- Aging video for US Careers
- NC Center for Public Policy Research
- NC Complete Count—2010 Census
- 2011 Reauthorization of the Older Americans Act

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2007-2011 State Aging Services Plan—Progress Report—Positive Steps in Hard Times

Physical & Accessible Environment	•Older driver safety •Housing Trust Fund
Healthy Aging	•Evidence-based health promotion •Education about Medicare Part D & related programs
Economic Security	•Long-Term Care Partnership Program •Highlighting issues affecting older workers
Technology	•NCCareLINK •Assistive Technology
Safety & Security	•Victims Assistance Program •Adult Protective Services Reform •Special Needs Registries
Social & Cultural Opportunity	•Senior Center certification •Reform of libraries for a maturing society
Access & Choice in Services & Supports	•Expansion of Project C.A.R.E. •Community Resource Connections for Aging & Disabilities
Public Accountability & Responsiveness	•Quality Improvement Initiative in Adult Care Homes •Increasing capacity for performance-based measurement

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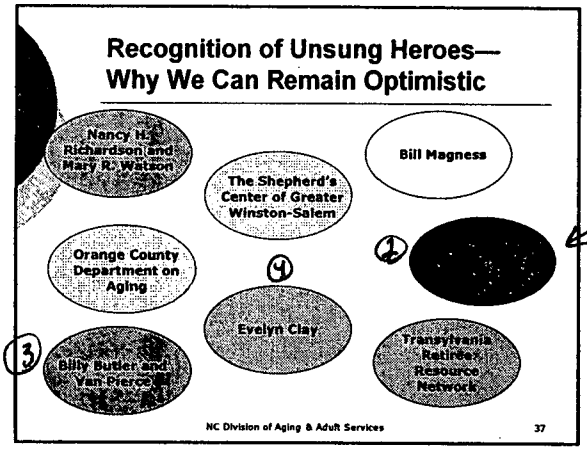
Legislative Priorities of Advocates for 2010

Priorities	GAC	STHL	AARP-NC	NC4A
Project C.A.R.E.	X	X	X	X
HCCBG	X	X	X	X
Senior Centers	X	X	X	

NC Division of Aging & Adult Services 36



2009 Awards

① AARP

② WAKE RESOURCES for Seniors

③

④

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 Attachment I (a)

How does the Meals-on-Wheels program help you?

A.) *I feel like it helps me to help myself. It helps keep me at home longer and out of a nursing home. It helps my daughter to know I have a meal each day while they have to do their jobs. It helps me to know there are still people who care enough to do this.*

B.) *It sustains me like nothing else can. I am able to stay in my old home where I live alone and still take care of most of my needs. The visits by Meals-on-Wheels volunteers break up the feeling of loneliness and monotony that pervades.*

80 year old → half do

C.) *I enjoy meeting the wonderful volunteers. I'm living alone but on a walker. At 101 years old, I'm handicapped and cannot prepare wholesome food, so your Meals-on-Wheels is appreciated very much.*

D.) *Meals-on-Wheels is a great help as I am unable to prepare meals on my own. Your volunteers sometimes go above and beyond, such as in an emergency when medical help is needed or just lending an ear for us shut-ins. Thank you all.*

E.) *It helps a lot because I can't always stand up long enough to cook a complete meal. This way I get a complete balanced meat and vegetable plate each day. Thank you with all my heart.*

F.) *My doctor has said that it helps my medical conditions because I get the right thing for good health. It is wonderful to have the caring, happy people stopping by. Some days they might be my only contact. Thank you.*

G.) *I started on February 23, 2009 and it has helped me stabilize from radical health problems. Also, the kindness of the staff and volunteers connects me in a positive way with the outside world!*

H.) *The program helps in many ways. I have a friend every day and I do not feel alone.*

Issue Brief

Impact of the Economic Crisis on Adult Protective Services

nc department of health and human services

In September 2009, the Division of Aging and Adult Services (DAAS) asked all county Departments of Social Services (DSSs) to participate in an online survey about Adult Protective Services (APS). DAAS is concerned about the impact of increased APS reports received and evaluated over the past three years—as evident in the chart below. While the effect of the current economic crisis cannot be determined with certainty, the comments of responding county DSSs—shared throughout this report—suggest wide-ranging implications. Other factors clearly include changes to the mental health system, the growing numbers of seniors, and the stresses on family caregivers and community services. The high level of concern among county DSSs is clear from their comments as well as the impressive response rate—77 of the 100 county DSSs participated.

	State Fiscal Year		
APS Statistics	**2007**	**2008**	**2009**
Reports Received	14,177	15,337	17,073
Reports Evaluated	6,786	8,117	9,252

"From a system perspective, it feels like there is little attention, financial support or education concerning the needs of older and disabled adults; including the resources needed for APS, so real outcomes can be achieved." —County DSS

Increased Service Needs and Weakened Service System Leading to APS Reports

- Two-thirds (67%) of county DSSs are seeing an increase in first-time APS reports, and another 21% expect this within the next 6 months. Nearly two-thirds of the DSSs are either seeing increased repeat reports now (51%) or expect to (12%).
- Within the DSSs themselves, nearly half (49%) report increased APS referrals from their Adult Medicaid and Special Assistance areas, and more than a third from their Energy Assistance Program (34%) and even their units serving Children and Families (38%).
- Two-thirds of DSSs are either experiencing reduced funding for their own essential services for APS cases (51%) or expect a reduction within the next 6 months (15%).
- As it affects their ability to provide APS, almost two-thirds of DSSs are either finding fewer Home and Community Care Block Grant (HCCBG) services available (44%) or expect this (18%). More than 8 in 10 either report fewer other (non-HCCBG) community services, public or private now (67%) or expect this (15%).

"A number of recent cases have been family members neglecting and financially exploiting a disabled adult due to their own lack of income; directly caused from our county's higher unemployment rate (13.5%). [Also] disabled and elderly persons are making choices not to take medication or go to the doctor due to increase in fees and services, utilities, rent, etc. which results in less income overall. And we continue to receive increased call volume with persons who have mental health disorders who are self-neglecting and at-risk. And now, we are at risk of losing our homeless housing program, which will increase our call volume more as we begin going into the fall/winter seasons."

"APS cases are more complex, with many more persons having complex medical and mental health needs. These cases take longer to find resources to assist in stabilizing the situation." —County DSS

Adult Protective Services (APS) in NC

Article 6, Chapter 108A of the NC General Statutes requires that county departments of social services (DSSs) perform certain activities for adults with disabilities who are alleged to be abused, neglected, or exploited and in need of protective services. The statute authorizes county DSSs to provide adult protective services (APS), which includes the evaluation of reports that adults with disabilities are in need of protective services and mobilization of essential services on their behalf.

APS is administered by the NC Division of Aging and Adult Services, under rules established by the Social Services Commission.

"Intensity of case management has increased due to lack of community resources. Clients are waiting longer to access services and this is escalating simple problems into APS cases."

"Just over the past few months, we have received more calls from disabled adults and aging adults requesting assistance from Adult Services. Some [met] the requirements and an APS evaluation was completed. Others met the service requirements for At-Risk Case Management or Individual and Family Adjustment services; however, we have recently started a waiting list for these services because staff are maxed in their caseloads. We are receiving a significant increase in Representative Payee requests due to exploitative situations which were determined by the Social Security Administration; we are the ONLY agency in the county that does Representative Payee services because [other] providers are refusing. We spend more time doing protective orders, and then later, guardianship hearings."

"[We] have had a great deal of discussion about the need for resources to provide immediate or emergency services to APS clients. Up to this point, we have had to primarily use local funds, which are very scarce, to meet essential needs for some people. Some providers have helped us by delaying billing or waiting extended periods for reimbursement while we evaluate and mobilize all available resources for these individuals."

Who Is Making Referrals to APS?

- Medical and mental health providers
- Home care and community service agencies
- Housing projects
- Homeless and domestic violence shelters
- Emergency assistance and crisis intervention workers
- Law enforcement and emergency medical services
- Long-term care providers
- Neighbors and friends

Many others . . .

Budget and Staffing Shortages and Stresses Increase Dire APS Situation

"We have requested additional staff in Adult Services for the past three years without success. All of our social workers must carry ongoing caseloads, including our main Social Worker for APS. We have ceased accepting new representative payee cases due to the lack of social work time available to allocate to this need."

"We would like to ask for a new position, but our local government officials will not approve any new positions."

"With limited budget funding, we are unable to increase staff in APS, which is greatly needed."

"APS workers feel very disheartened when there are financial and programmatic resources for Child Protective Services (CPS), but nothing for the care of older and disabled adults except the continued standard program resources."

"We are just trying to hold on and be as creative as possible with the existing staff due to the poor outlook for any additional help."

DSS Response to APS Affecting Other Areas

- To meet the challenges of providing APS, over 20% of DSSs have increased intake resources to manage a higher volume of calls, reassigned staff from other areas to handle evaluations, and utilized supervisors to carry a caseload and/or cover intake. Another 29% anticipate reassigning staff from other areas to handle APS evaluations in the next 6 months.

"We have our Adult Homes Specialist staff doing APS facility reports (not facilities assigned to them). [We] have done some workflow redesign to shift work off APS unit such as placement and rearranged combination caseloads that a back-up APS worker had so he can focus entirely on APS. This has created hardships on the other workers and is thus only a temporary fix."

"All Adult Services staff are on APS back-up, rotating APS calls that Service Intake workers cannot manage."

"We have cross-trained our CAP/DA unit to take APS intake calls. The Adult Services supervisor also is taking APS calls. We may have to cut back on other non-mandated services like wellness checks that help prevent APS calls if we continue to have a growth in APS reports."

"Insufficient staff has always been a problem for APS, especially as cases have become more complicated and too often lead to guardianship where we are very short handed."

—County DSS

What Else Are County DSSs Saying and Doing about APS?

"The general attitude of the public is that if they observe what they perceive as an APS situation, the only cure is placement. And since many of the facilities are facing a census crisis they are accepting inappropriate residents. This is giving rise to APS cases in facilities. On the other hand, families are considering removing appropriate residents from assisted living facilities / nursing homes to bring the extra income back into the home without realizing the impact of the burden of care they are taking on. Once the APS is accepted, evaluated and substantiated—there are few resources to address the problems. This is especially true in rural areas. Exploitation is also increasing and that is the hardest of all to case manage when you have a parent who will give their grocery money to an adult child so the child's family will not suffer. The reduction in the Medicaid rate for reimbursement of residential care and the break-down in the mental health system have added an extra burden to case management to substantiated APS cases."

"Our agency only has 2 social workers who provide all of adult services (APS, Guardianship, Adult Homes Specialist (8 facilities), certify and monitor 2 adult day care centers, [manage] the State Adult Day Care Fund, Special In-Home Program, and everything else. It is difficult to spend the time that needs to be spent with each client and in each area. Our county has one of the largest populations (percentage-wise) if not the largest of people who are [age] 65+ in North Carolina. Our caseloads have increased in the past 2 months in APS reports. The economy makes elderly more vulnerable when relatives, caregivers, etc. want money, medicine, or just plain steal from them. We have seen more exploitation cases recently. We expect the number of neglect, self-neglect, and abuse cases to go up as well."

"Over the last six years (since 2003), APS in our county has almost tripled; both reports received and those accepted for evaluation. While this is not entirely due to [the] economic climate, our inability to be able to secure additional staff due to limited county resources has hindered us and we're almost at a breaking point with regard to staffing resources. In the 07/08 [fiscal year] we had 100% turnover in APS staff (all 3 staff left) and we feel the high caseloads and reconfigured workloads greatly contributed."

Abuse, Neglect, and Exploitation on the Rise

- "[There is] greater intensity/demand on APS intake."
- "Mainly we have seen an increase in a certain type of mistreatment and that is exploitation of assets."
- "We are getting a few more calls from siblings who are bickering over the handling of their parents' money."
- "[We are seeing] less help available within families."
- "We have a 14% unemployment rate in [the] county. We are receiving more reports on intergenerational households."
- "[We are seeing] increased mental health referrals [and] reduced funding for assistance with winter utility bills."
- "We are receiving more exploitation and neglect cases as a result of the economy due to caretakers taking client's money or [being] unable to afford services. Personal Care, CAP, and other services to help our APS population stay at home have been cut and we are seeing the negative effects because of this."
- "Reduction in mental health services now, and the impact of community support going away, are beginning to directly [impact] our services, particularly increased calls for needed services, which come through APS."
- "More adult children are removing frail parents from facilities and attempting to care for them at home which increases the income of the family. However proper care is almost impossible without adequate services in the home. More adult children are moving their parents into their homes from other states. They are very surprised to find adequate services are not available. More adult children have lost jobs and are no longer able to assist parents. More churches are finding it impossible to provide for elderly or disabled members. Churches have fewer funds to assist their members. We never have sufficient funds to meet all demands for in-home aide services. The community is always hoping for an increase in funding in this area. We are

responding to the best of our ability to each situation. We offer guidance and supports as possible and make as many referrals as possible. Our community has never had sufficient services or supports, and we have never had sufficient staff to meet the demand for APS."

Additional Perspectives on Budget and Staffing Shortage and Stresses

- "We are trying to use [Medicaid] At Risk more to bring in more funds but the clients do not always qualify. Social Services Block Grant (SSBG) is our main resource for APS and with the cuts in it, it is going to be a problem. The county is just going to have to support us more."
- "It had been recommended to eliminate an APS position due to this being paid for with county funds. However, we were able to avoid this scenario for the time being. [We] are concerned that if future economic conditions worsen and revenues continue to be low or decrease, this could be an area where this may be re-introduced as a budget reduction item."
- "We will continue to provide APS to the best of our abilities. We are mandated. It may mean more county money to support APS worker salary and more comp[ensation] time provided to the 2 workers."
- "Overall caseload size has increased with no additional funding to hire more direct service staff."

Other Comments about APS and Needed Services and Supports

- "Transportation continues to plague this county, and low-income clients who do not qualify for Medicaid are left out. The Rural Operating Assistance Program (ROAP) and similar grants are questionable, and many of our disabled and aging clients have relied on those grants to go to work, school and other non-Medicaid activities."
- "Resources available to our clients have been drastically reduced to the point that some services are no longer accessible in this remote area (e.g., mental health).
- "With CAP-DA and CAP MR/DD slots being frozen, we are going to have to do more placements to Skilled Nursing Facilities due to the lack of available supports in the community. Furthermore, we are seeing a SIGNIFICANT increase in persons with moderate to advanced dementia, who need supportive care or a memory care unit, yet these units stay full and it is difficult to get the level of care for these persons in their own community. . . . Additionally, our guardianship caseload has increased because many of these persons either have no family or family lives out of state and there is no one to oversee their care or make decisions."
- Services through the Mental Health, CAP/DD and DA as well as personal care services through our Personal Care providers have decreased. The decrease in these programs has had a huge impact on the services many of our APS clients need to maintain in their community. As these services continue to decrease, this will continue to add to the repeat [APS] reports as well as an increase for placement. Many of these placements will be inappropriate due to the client's mental needs. The full effect of the economic decline will not be known until much later as these clients will decline over a period of time. DSS will not be able to meet the demand of services these clients need. This does not reflect DSS lack of capabilities but services beyond our area of expertise."
- "Our agency is taking it one [APS] evaluation at a time to stay afloat. My biggest concern is training needs for APS. APS training really needs to be mandatory. The intake worker should be required to take at least Module 1 because a good report is key to screening. Currently the supervisor trains the intake worker who is mainly intake for Children Services. I am concerned about the unavailability of training for APS. It really needs to be at least twice a year to give new staff an opportunity to attend. I am of course sensitive to the fact that there isn't funding for it and that the Division of Aging and Adult Services is sold on the necessity of training."

Searching for Solutions

- "[We are] working to develop community partnerships to develop more community awareness of APS issues."
- "[We] are planning to apply for [the] county's Maintenance of Effort funds for Mental Health Services to cover the cost of a Mental Health person on staff to assist with case services and recommendations for service."
- "[We] will utilize student interns to assist in other areas so some of our other social workers can assist with APS."
- "At this point the only thing that may need to happen is that our child care or work first worker may need to start and/or complete an APS evaluation."

Issue Brief – 6-month Update

Impact of the Economic Crisis on Home and Community Care Block Grant Services for Older Adults

nc department of health and human services

The statewide network of Home and Community Care Block Grant (HCCBG) service providers was surveyed in February 2009 to assess service needs and learn about providers' strategies and issues pertinent to meeting these needs. The network was resurveyed in September 2009 by the Division of Aging and Adult Services (DAAS) to learn more about the impact of the economic crisis on provision of services. Of the 304 HCCBG providers, 197 responded (64 percent), although rates vary by service. The timing of this second survey may well have affected the results in comparison with what was learned in February, as is suggested by the comments of these two providers.

"This survey is being conducted at the beginning of the fiscal year; therefore answers like number of folks on waiting lists will likely be lower now than later in the year."

"I feel the answers for congregate and home-delivered [meals] are a bit skewed due to the availability of [federal] stimulus funds."

Still, what remains abundantly clear from numerous comments of others is their determination to assist the most vulnerable and their anxiety about the future.

Access to and Intensity of Services Weakens

- Providers are more likely since February to have reduced the number of days that hot meals are delivered.
- As their predominant cost-saving strategy, nearly two-thirds of in-home aide providers (65%), many home-delivered meals providers (61%), and a quarter of congregate meal providers are prioritizing applicants according to their specific need for the service. More than half of in-home aide providers (58%) are reassessing clients to identify those whose services can be reduced or ended, and nearly half (48%) have had to cap the amount of service for individual clients.
- While fewer medical transportation providers (11%) are reducing the number of trips per rider as compared to February, significantly more (20%) anticipate doing this within the next 6 months.
- Nearly a third (29%) of home-delivered meals providers have had to freeze slots, and another 25% may have to do so within the next 6 months. While only 18% report having to discontinue providing holiday or emergency meals, another 33% anticipate doing this within the next 6 months.

"We are always getting requests from dialysis patients who need transportation 2-3 times a week. We try to accommodate these clients as soon as possible. For each dialysis client that we assist, we have to reduce the number of trips allowed per "non-dialysis" clients more and more."

"I have 140+ caregiver clients and have funding to serve about 15 with minimal respite services. We can always use more funding for respite."

"We have stopped serving meals on Fridays—so this reduced the number of staff and meals to stretch the money out to the end of the fiscal year."

"Either the services are important and funded, or not important and not funded. But if the services are not funded, elected officials need to understand the impacts."

—HCCBG Service Provider

About the Home and Community Care Block Grant (HCCBG)

Established in 1992 under NCGS 143B-181.1(a)(11), the HCCBG was devised to provide a "common funding stream" for a comprehensive and coordinated system of home and community-based services and opportunities for older adults. HCCBG services are available to people age 60 and older, although the "average" client is nearly 80 years old and the program targets individuals who are socially and economically needy.

HCCBG is administered through the NC Division of Aging and Adult Services and the Area Agencies on Aging. It combines federal and state funds with a local match, and it gives county commissioners discretion in budgeting and administering aging funds.

Providers Are Frugal, Stressed, Conscientious, and Innovative in the Face of Dwindling Resources

- More than 60% of providers receiving support from United Way and private and corporate donations have seen this reduced. For nearly 60%, consumer contributions are down, as is private foundation funding for half. Since February, more providers have had their funding reduced by municipal and county governments.
- Although the numbers are relatively small, significantly more providers since February have laid off service and administrative staff (9%) and reduced staff benefits (17%). Nearly 1 in 5 (18%) have either cut hours per day or days per week—at least 120 workers have had their full-time positions reduced to part time, and at least 80 have lost their jobs or may in the next 6 months.
- More than a third of providers (38%) expect to run out of HCCBG funds before the end of the fiscal year, starting as early as September—with two thirds projecting this to happen by the end of April.
- More than half of the providers using volunteers (56%), regardless of the service, report that volunteers are telling them that they are less able to afford the cost of gas without a mileage reimbursement.
- The majority (65%) of care management agencies are reportedly counseling families to do more for clients, and reassessing clients to identify those whose services can be reduced or cut.

"We are reviewing every program to make sure it is the most cost effective it can be. [For example,] we have revised our Certified Nursing Assistant assignments to cluster them to reduce the cost of drive time and mileage reimbursements."

"We are currently assessing budget, income, bills, salary, and other things on a week-to-week basis. We have not dipped into our reserves; however, it will not be long by the look of things."

Service Needs and Wait Lists Remain Substantial

7,049: Seniors waiting for HCCBG-funded services (as reported by 64% of HCCBG providers)—a decline from what was reported in February, possibly due to the tendency of some providers to add new clients at the beginning of the fiscal year, even if they are unable to sustain them

9,757: Total seniors waiting for services from any funding source (e.g., Family Caregiver Support funds or SSBG) through HCCBG providers (as reported by respondents)

14,000 [rounded]: Estimated number of seniors waiting for home and community services from any funding source through HCCBG providers (based on projecting responses to 100%)

As in February, **the largest wait lists are for HCCBG-funded in-home aide services** (3,207, based on 79% of providers) and **home-delivered meals** (2,084, based on 61% of providers reporting). These services are vital to helping vulnerable seniors remain at home

Two services—housing/home repair and congregate meals—showed an increase in their wait lists since February.

81%: **Senior centers** reporting increased demand for programs and services

74%: Providers of **information and assistance** reporting that requests have increased; **47%** reporting that community resources to which seniors can be referred have decreased

"Because our goal is to keep clients out of nursing homes, we tend to get [in-home aide] clients whose needs are long term; therefore our turnover rate is slower. Our waiting list will remain long if our funds are not increased."

"The [home-delivered meal] service needs continue to rise as the services continue to decline due to funding and availability of volunteers."

HCCBG Services at a Glance

- adult day care and day health care
- respite
- congregate and home-delivered meals
- health promotion and disease prevention activities
- housing and home repair
- care management
- in-home aide services
- general and medical transportation
- information & assistance
- senior centers
- volunteer coordination

Providers often use a variety of funding sources to support these programs.

What Else Are HCCBG Providers Saying?

Service Demand Going Up

- "Our program has increased services by 20% in three years and paid for those services with private donations. Our waiting list has tripled in the last 18 months. Neither HCCBG nor private donations has kept up with increased demand."
- "Need continues to grow, while resources continue to decrease. The need will continue to grow as Baby Boomers age into senior adulthood. Senior Centers and their programs and services assist in keeping the older adult population healthy and active, thereby reducing the strain on tax dollars for nursing homes and medical care."

Clients Becoming More Vulnerable

- "We are seeing a trend of people with more serious situations and diagnoses seeking this service."
- "Our waiting list grows on a daily basis. Clients do not have funds for private duty and must rely on government programs. Clients on our waiting list are very fragile and sick. Hospitals send them home. The Medicare benefit for home health agencies only lasts 2 months and many need ongoing care. Many are cared for by elderly spouses. Some are suffering neglect in their homes."
- "We have had a few [Medicaid] At-Risk Clients who were receiving an additional hour of In-Home Aide services to assure their safety and well being. However, we have had to reduce their hours back and have had to assure that their [family] caregivers followed up on additional care needed. We also do not add new clients when services end for existing clients. [All of this] seems to have increased the number of Adult Protective Services reports that we have received on some of our more vulnerable clients."
- "[We] just can't replace anyone who stops [home-delivered] services with someone from the waiting list which means that more people may need to be placed out of the home to assure their health and nutritional well being."

Ability to Respond Going Down

- "We are utilizing local resources such as fundraisers and partnering with churches for grants to expand or maintain services. We are trying to maintain a positive attitude. However, the cost of doing business continues to rise and we are expected to do more with less. This has an impact on the frail elderly we serve and impacts our ability to recruit and retain competent employees."
- "We have clients who have gotten laid off and are over 60 wanting to come and participate in Senior activities and meals but we can't afford to feed them."
- "In my county, the HCCBG funds have been flat for at least 6 or 7 years. With salaries, cost of food, and especially gas prices increasing, this has put quite a strain on our HCCBG budget. In my agency, we try to fill the gaps with congregate/home-delivered with profits from a thrift store; however, we have had 2 less than profitable years and the gap has become so wide that it is impossible."
- "Our budget for HCCBG addresses one third of the need. Over the last five years the increased cost of providing the service (hourly reimbursement for In-Home Aides) and our allocations have decreased resulting in our ability to serve only about half of the clients we served over five years ago."
- "We had access to some county discretionary money that is no long available to us. The faith based organization has had an increase in the number of requests for all populations and so less is available to help seniors (and all others)."
- "[Our] agency utilized other community resources (The Salvation Army, Catholic Charities, Red Cross, and local churches) in times past, but are unable to utilize them now, because of lack of resources within these establishments."
- "[We] anticipate less funding from all resources. Many services have been cut back already and will continue to be cut back."

- "We are not sure about our United Way funds this year. Things are looking very bad, and they give us $100,000 a year. So we are holding our breath."
- "We need to supplement the HCCBG funding with $825,000 in private donations just to serve the number of people we serve today [with home-delivered meals]. It will take approximately an additional $300,000 to eliminate the waiting list that we have today."
- "We hope the stimulus money will allow us to serve those on the waiting list. Unfortunately this is a one-time solution. Our local United Way discontinued all funding for the Congregate Nutrition program this year."
- "We have had 1½ positions lost in the last 9 months. We are down to one full-time position at the Senior Center.... running the center using volunteers and 2 half-time Urban League workers."

Tough Decisions Being Made

- "Each year we see more demand for the HCCBG funds. We have seen our funding stay flat when demand for services has increased dramatically. Due to funding limitations, we have had to reduce staff and may be forced to reduce staff further."
- "Hard times require hard decisions and we need to all be working together to find solutions to help as many seniors as possible with their most basic needs."
- "The foundation grant which helped our Senior Center get started last year cannot fund us this year. Other private grants we have researched say they are only funding crisis agencies this year. No one will provide operating costs. We are 3 months into the new year, and this is becoming a serious matter."
- "It is time to really assess the effectiveness of each program and cut or eliminate those that are not critical in order to shift funding to more critical priorities. There needs to be honest and open dialogue about this. We can no longer be everything to everybody, rather we should serve only the most critical needs in our communities. ...The question is, which one[s] do you cut?"
- "We have had to reduce respite hours across the board and reassess all of our clients to see if their needs can be met in other ways. We have 25 folks on our inquiry list who have requested services, but we are closed. We would have more, but we cap our list at 25."
- "We have replaced 2 hot meals with 2 frozen meals each week."
- "We are closing all sites every other Friday and limited the number of [congregate] meals served. We also are no longer ordering meals for those under 60 who otherwise qualify for meals due to disabilities and living arrangements."
- "[We have] combined staff positions so that fewer staff have multiple roles and areas of responsibility."
- "Both full-time [Senior Center] staff members have taken a 16% reduction in salary [this] fiscal year."
- "We have many people now bringing a sandwich or other lunch with them. They come to eat with others and enjoy the socializing. All participants are aware of the budgetary limitations and have made efforts to assure the meals are going to those with the greatest need."

Searching for Creative and Effective Solutions

- "[We are] develop[ing] a travel training program . . . to train those older adults who are physically and mentally capable of riding a fixed route to take advantage of that more cost-effective service."
- "Still just a concept . . . we may explore using bus passes for those eligible and able to use public transportation."
- "[We are] implementing new technology to improve efficiency allowing us to transport more people with the same amount of resources."
- "We are working with a Minister to develop a volunteer program with local churches where adults in need can utilize volunteers for errands and transportation. This could eventually help to reduce hours needed for In-Home Aide Service."

Presentation to NC Study Commission on Aging—An Overview of the Home and Community Care Block Grant (HCCBG)

January 21, 2010

- General Assembly established HCCBG in July 1992
- Combined federal Older Americans Act, Social Services Block Grant in support of respite, and relevant State appropriations
- Gave counties greater discretion and authority in determining services, service levels, and providers
- Counties choose from among 18 eligible services

Adult Day Care *	Health Screening	Mental Health Counseling
Adult Day Health Care *	Home Delivered Meals *	Senior Center Operations
Care Management *	Housing and Home Improvement *	Senior Companion *
Congregate Nutrition	Information and Assistance *	Skilled Home (Health) Care *
Group Respite *	In-Home Aide (levels I-IV) *	Transportation *
Health Promotion and Disease Prevention	Institutional Respite Care*	Volunteer Program Development

* core long-term care services

- Focus is on supporting frail elderly at home, improving physical and mental health, assisting with access to services & information, providing family caregiver relief, and helping seniors remain active.

Making a Difference—Who Was Served during SFY 2008-2009?

- 71% were women (as compared to 57% of population aged 60+)
- 35% were minority (as compared to 18%)
- 58% were age 75+ (as compared to 32%)
- 48% live alone (as compared to 28%)
- 66% were unable to manage on their own (as compared to 12%)
- 66% were at risk of malnutrition
- 44% reportedly low income (as compared to 13%)

Making a Difference—Are the funds used wisely?

- Of the 18 services, 12 are clearly 'core' long-term care services
- 93% of the funds over which counties have discretion go to 'core' LTC services
- The relationship between need and service is strong—the services profile is logical
- Providers are efficient and accountable
- Performance outcome measures are positive

Status of Funding, Utilization, Service Availability, and Need

- Some federal and state funding increase. Overall HCCBG funding has increased approximately 20% since 2000, taking into account non-recurring budget reductions for SFY 09-10.
- Statewide utilization/expenditure rate is very high; the SFY 08-09 expenditure rate was 99.80%.
- Service unit costs have increased.
- Decrease in clients served through major services (-6.89%) and decrease in total service units for major services (-14.10%) between July 1, 2000 and June 30, 2009. Comparatively, the populations age 60+ and age 75+ grew by 29% and 18%, respectively during this same period.
- 14,325 estimated unmet service needs, especially for home-delivered meals and in-home aide services as of December, 2009.

Intrastate Funding Formula

- Uses best available data (Annual State Data Center estimates and 2000 census based)
- Provides a $60,000 base amount to each county to support minimum capacity
- Uses the following factors and weights: population aged 60 and older (50%); population aged 60+ living in poverty (30%); population aged 60+ who are minority (10%); population aged 60+ who are in rural area (10%)
- Protects counties from substantial changes in funding with 5% cap on loss based on SFY 04-05 funding levels.

Forces Affecting Future of HCCBG

- Demographics—growth in # of seniors, State Data Center projects 37.6% growth in 60+ population and 25.1% growth in 75+ population by 2020; changing family structure
- Movement toward supporting people in least restrictive setting
- Difficult public budget circumstances
- Increasing service costs (e.g., fuel, food)
- Changes in other funding sources and services.

What It Will Take to Respond—What Happens If We Don't

- $28.5 million needed to address current waiting list
- Continued efforts to assure effective screening and targeting of resources and cost-sharing
- Could affect other services and funding sources
- Could undermine existing provider infrastructure in face of growing need.

Advocates' View

Aging proponents are recommending increases and/or supporting maintenance of HCCBG funds.

Profile of HCCBG Services

Below is a list of the services funded under the HCCBG for which clients are reported to the Division of Aging and Adult Services through its Aging Resources Management System (ARMS). The information that describes the "average client" is based on at least 50% of the older adults receiving the HCCBG service. Under the HCCBG, 'economically needy' is self-reported by clients based on whether their income is at or below the federal poverty level ($10,830 in SFY 09-10). Clients are also assessed using several functional criteria that include: activities of daily living (ADLs), which describe basic self-care tasks (e.g., bathing, dressing, grooming, moving around the house, and eating); and instrumental activities of daily living (IADLs), which describe basic tasks essential to living independently (e.g., cooking meals, housekeeping, laundry, paying bills, shopping, and using the telephone.)

Adult day care (ADC) provides an organized program of services during the day in a community group setting to support the personal independence of older adults and promote their social, physical, and emotional well-being. *The average client is 81 years old, female (70%), economically needy (65%), has limitations with 1+ ADLs (70%) and 3+ IADLs (71%), and is at risk of malnutrition (71%).* 34% are cognitively impaired. Among ADC clients, 59% report that the services they receive relieve their caregiver. 33 counties funded ADC under the HCCBG.

Adult day health (ADH) services add health care to the ADC service. *The average client is 80 years old, female (69%), economically needy (55%), has limitations with 2+ ADLs (65%) and 3+ IADLs (83%), is cognitively impaired (44%), and is at risk of malnutrition (80%).* Among ADH clients, 76% report that the services they receive relieve their caregiver. 34 counties funded ADH under the HCCBG.

Care management incorporates case finding, assessment, care planning, negotiation, care plan implementation, monitoring, and advocacy to assist clients and their families with complex needs in obtaining appropriate services. *The average client is 81 years old, female (72%), has limitations with 3+ ADLs (64%) and 3+ IADLs (93%), and is at risk of malnutrition (93%).* 7 counties funded care management under the HCCBG.

Congregate nutrition is a service where a meal (typically lunch), offering one-third of the recommended daily dietary allowance, is provided in a group setting. *The average client is 75 years old, female (70%), and does not have limitations in ADLs or IADLs.* Nearly half (46%) live alone and 47% are at risk of malnutrition. All 100 counties funded congregate meals under HCCBG.

Group respite is a service that trains volunteers to offer temporary, part-time relief to unpaid, primary caregivers of cognitively or physically impaired older adults and to provide meaningful social and recreational activities for those receiving care. *The average client is 80 years old, female (63%), has limitations with 1+ ADLs (64%) and 3+ IADLs (70%), and is cognitively impaired and at risk of malnutrition (74%), and is* economically needy (51%). 6 counties funded group respite.

Home-delivered meals is a service that provides a meal (typically lunch), with one-third of the recommended daily dietary allowance, to a home-bound older adult. *The average client is 80 years old, female (69%), has limitations with 1+ ADLs (59%) and 3+ IADLs(77%), is economically needy (56%), and is at high risk of malnutrition (65%).* 49% live alone. 97 counties funded home-delivered meals under the HCCBG.

Home health is skilled health care prescribed by a physician that is provided in the home of an older adult in need of skilled nursing; physical, occupational, and/or speech therapy; medical social services; and/or nutrition care. *The average client is 80 years old, female (58%), has limitations with 1+ ADLs (79%) and 1+ IADLs (73%).* 1 county funded home health under the HCCBG.

Housing and home improvement is a service that assists older adults obtain or maintain adequate housing and basic furnishings, by providing information about available options for housing and housing with services and how to finance them; assisting with finding and relocating to alternative housing; and providing labor and/or materials for minor renovations and/or repair of dwellings to remedy conditions that create a risk to personal health and safety. *The average client is 77 years old, female (74%), economically needy (79%), has limitations with 2+ ADLs (52%) and 2+ IADLs (71%), and is at risk of malnutrition (83%).* 44% live alone. 30 counties funded this service.

In-home aide (level 1) is a service that provides assistance with basic home management tasks, such as housekeeping, cooking, shopping, and bill paying to enable the older adult to remain at home as long as possible. *The average client is 82 years old, female (78%), has limitations with 3+ IADLs (63%), and is at risk of malnutrition (81%).* 11% are cognitively impaired and 57% live alone. 45% are economically needy. 74 counties funded level 1 under the HCCBG.

In-home aide (level 2) is a service that provides support to persons/families who predominately require assistance with basic personal care (bathing, shaving, toileting, and personal hygiene) and associated home management tasks. *The average client is 82 years old, female (75%), has limitations with 2+ ADLS (64%) and 3+ IADLs (78%), and is at risk of malnutrition (86%).* 19% are cognitively impaired, 29% live alone, and 42% are economically needy. 86 counties funded level 2.

In-home aide (level 3) is a service that provides intensive education and support to persons/families in carrying out home management tasks and improving family functioning skills, or provides substantial ADL support to individuals/families who require assistance with health and personal care tasks. *The average client is 81 years old, female (67%), has limitations with 3+ ADLS (58%) and 3+ IADLs (87%), and is at high risk of malnutrition (52%).* 24% are cognitively impaired, 38% are economically needy and 27% live alone. 47 counties funded level 3 under the HCCBG.

In-home aide (level 4) is a service that provides a wide range of educational and supportive services to persons/families who are in crisis or who require long-term assistance with complex home management tasks and help in performing family functioning skills. *The average client is 75 years old, female (61%), has limitations in 1+ ADLs (54%), has limitations in 3+ IADLs (85%), is cognitively impaired (100%) and is at risk of malnutrition (58%).* 11% live alone. Currently, there are no counties funding level 4 services under the HCCBG.

Institutional respite is a service that temporarily places older adults, who require constant care and/or supervision, out of their homes to provide their unpaid, primary caregiver with relief from caregiving responsibilities. *The average client is 80 years old, female (68%), has limitations in 1+ ADLS (65%), has 3+ IADLs (67%), is cognitively impaired (56%) and is at risk of malnutrition (60%).* 69% are economically needy. One county funded this service under the HCCBG.

The Senior Companion program offers a part-time stipended volunteer opportunity for low-income persons 60+ years of age who provide support, task assistance, and/or companionship to other adults with exceptional needs (developmental disabilities, functional impairments, or persons who have other special needs for companionship). *The average senior companion is 78 years old, female (91%) and economically needy (56%).* 73% live alone. 8 counties funded this program under the HCCBG.

General transportation is a service that provides travel to and/or from community resources, nutrition sites, and other places where older adults need access to services and activities necessary for daily living. *The average client is 77 years old, female (79%), economically needy (55%), has limitations in 1+ IADLs (61%), and is at risk of malnutrition (55%).* 54% live alone. 94 counties funded this program under the HCCBG.

Medical transportation is a service that provides travel to medical appointments. *The average client is 78 years old, female (75%), economically needy (55%), lives alone (54%), has limitations in 1+ ADLs (58%) and 1+ IADLs (78%), and is at risk of malnutrition (58%).* 44 counties funded this service under the HCCBG.

Other HCCBG Services [non-unit]

Health Screening is a service that provides general medical testing, screening, and referral to promote the early detection and prevention of health problems in older adults. One county funded this service under the HCCBG. This service is also supported in one county under Title III-D of the Older Americans Act.

Health Promotion and Disease Prevention is a service category that promotes the health and wellness of eligible older adults. 7 counties are funded this under the HCCBG and many counties receive funds under Title III-D of the Older Americans Act for this purpose.

Information and Assistance is a service that assists older adults, their families, and others acting on their behalf in their efforts to acquire information about

programs and services and to assist older persons obtain other appropriate and needed services. 39 counties funded this service under the HCCBG.

Mental Health Counseling is a service that incorporates care consultation, evaluation, and outpatient treatment to older adults with mental health problems. No counties funded this service under the HCCBG.

Senior Center Operation supports provision of a broad spectrum of services and activities for older adults. The primary objectives of a multipurpose senior center are: the centralized provision of services that address the special needs of older adults; the provision of opportunities for older adults to become more involved in the community; the prevention of loneliness and premature institutionalization by promoting personal independence and wellness. 60 counties funded the operation of senior centers under the HCCBG.

Volunteer Program Development supports the development and operation of a systematic program for volunteer participation. These volunteers, encompassing all ages, provide opportunities for older adults to perform community services for other older adults. 11 counties funded this service under the HCCBG.

FOR IMMEDIATE RELEASE
December 8, 2009
Contact: Angel Dennison, Council on Aging, 542-4512

Chatham-Orange Partnership Boosts Access to Services for Seniors & Disabled

PITTSBORO—The Chatham-Orange Community Resource Connections for Aging and Disabilities collaborative officially launched on Nov. 30. It is a collaborative program designed to help seniors and disabled adults have better access to information, referrals and various types of services.

"The goal is to improve communications so that these residents can better obtain critical information and necessary health and support in both counties and to enhance the transition period after being discharged from a hospital," said Angel Dennison, executive director of the Chatham County Council on Aging.

"We also want to provide care management services that are focused more on the needs of individuals and less on what each service provider might offer," Dennison said.

The collaborative project is funded by a grant from the Federal Administration on Aging and the Centers for Medicare and Medicaid. The Chatham-Orange program received $116,000 in grant funds through 2012 to establish and sustain the project. The NC Department of Health and Human Services Division of Long Term Services and Supports is the state-level program manager.

The Chatham County Council on Aging is the lead agency locally, but the following organizations are active participants and serve on the governing committee:

- Orange County Department on Aging and Department of Social Services
- Chatham County Department of Social Services
- Alliance for Disability Advocates – Centers for Independent Living
- UNC Healthcare
- Community Care of Central Carolina
- Orange-Person-Chatham Area Mental Health Program
- Carol Woods Community Connections for Seniors

Community volunteers comprise about one-third of the membership of the governing committee for the Chatham-Orange collaborative. Other active partners include Mobile Rehab, UNC Hospice and Home Health and Hispanic Liaison.

"All the agencies have worked diligently over the past year to establish common protocols for assisting residents. We have been working to create a process so that there is 'no wrong door' for people to get the help they need," said Dennison. "This means they should be able to call any organization in the collaborative to receive information about and access to the programs and services that all the agencies provide."

Extensive cross training for all agencies has already begun and will continue in the coming months.

"Aging and Disability Resource Connections are a very high priority nationwide as service providers look for successful programs to improve consumer access to health services and community support, particularly for older adults and adults with disabilities," according to Dennison.

To learn more about the Chatham-Orange collaborative, visit its website: www.chathamorangecrc.org. Residents also may contact any of the agencies listed above. The Spanish version of the website is under construction and will be fully operational in the near future, Dennison said.

First In Families of NC

in collaboration with

Chatham County Council on Aging

Chatham-Orange CRC

First In Families will present two informational sessions in Chatham County on services we offer, including our expanded family support program. These sessions will be hosted by the **Chatham County Council on Aging** and sponsored by the **Chatham-Orange Community Resource Connections for Aging & Disabilities:**

7 p.m. February 1, 2010 at The Eastern Chatham Senior Center, 367 Highway 87N, Pittsboro.

7 p.m. February 2, 2010 at The Western Chatham Senior Center, 112 Village Lake Rd., Siler Business Park, Siler City.

Light refreshments will be provided. Please contact Gail Dupre (919-251-8368, Ext. 102, gdupre@fifnc.org) at First In Families of NC for more information about the sessions. To RSVP, leave a voice mail at 929-251-8368, Ext. 0.

What will FIF provide in your community?

Family support and respite information and/or vouchers in two new counties, with specific outreach to National Guard and Reserve families.

Who is eligible?

Families or individuals experiencing a disability or traumatic brain injury (TBI), including NC National Guard and Reserve Families.

Where will the new services be offered?

Chatham, Durham and Orange counties.

Take a look at our website for more information about First In Families of NC:
www.fifnc.org

Support for this program expansion has been generously provided to First In Families of NC by the Home Health Foundation of Chapel Hill Endowment Fund of the Triangle Community Foundation.

Community Resource Connections NC CRC for Aging & Disabilities

Chatham-Orange CRC
Community Resource Connections For Aging and Disabilities
www.chathamorangecrc.org

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Mecklenburg County's Roadmap AAA Region F

Aging Snapshot

Health Promotion Programming

In 2006 adults ≥ 65 made up 8% of the county's population

• By 2030 the population age 65 and older will increase 181% to 189,416 people. This group will make up 14% of the county's population.
• Compared to the state, older adults are better educated; only 4% live in rural areas; there are slightly more African Americans, Asians and Latinos; and there is less disability.
• The median income is higher for all age groups; fewer older adults are at or below the poverty level.
• There were 17 Code orange days in 2006.
• Falls account for 9% of hospitalizations.

For more information on Aging in Mecklenburg County download (pdf).

Detailed demographic information can be found at: http://www.ncdhhs.gov/aging/cprofile/cprofile.htm

Information about Area Agency on Aging Region F can be found at:
http://www.ncdhhs.gov/aging/aaa.htm

Health Promotion Programming in Mecklenburg County

Organizations/Facilities/Groups

- Charlotte-Mecklenburg Senior Centers, Inc.
- Korean Senior Center
- Levine Senior Center
- Levine Jewish Community Center
- Shamrock Senior Center
- Mecklenburg County Health Department
- Mecklenburg County YMCA's
- North Mecklenburg Senior Center
- Mecklenburg County Aquatic Center
- Centralina Area Agency on Aging
- Southminster Retirement Community

Evidence-based Health Promotion Programs

- Tobacco Cessation Programs: Quitline
- Tobacco Cessation Programs: Become an Ex
- Arthritis Foundation Exercise Program
- Arthritis Foundation Aquatic Program
- Arthritis Foundation Tai Chi Program

- Matter Of Balance
- Living Healthy (CDSMP) - Region F (Iredell, Rowan, Lincoln, Gaston, Mecklenburg, Cabarrus, Stanly, Union, Anson)
- Powerful Tools
- Breast and Cervical Cancer Control Program (BCCCP)
- Well-Integrated Screening and Evaluation for Women Across the Nation (NCWISEWOMAN)
- Carolinas Mobile Dentistry

Ashley Kennedy

Be Active North Carolina, Inc.

P.O. Box 38252 Charlotte, NC 28278

(919) 287-7002

ashley@beactivenc.org www.beactivenc.org

ProgrammingInfo :

North Mecklenburg Senior Center offered Matter of Balance Class

Master Trainer for Matter of Balance Ashley Kennedy (919) 287-7002 ashley@beactivenc.org

-- AshleyKennedy - 2009-06-22

Robeson County's Roadmap AAA Region N

Aging Snapshot

Health Promotion Programming

In 2006 adults ⩾ 65 made up 10% of the county's population

• By 2030 the population 65 and older will increase 83% to 23,417 people. This group will make up 15% of the county's population.
• Compared to the state, older adults are slightly less educated, 65% live in rural areas, there are more Native Americans (29%) and African Americans (23%), and 32% have two or more disabilities.
• The median income is significantly lower than the state, with 29% of adults over age 75 below the poverty level.
• Arthritis and diabetes are common chronic conditions, accounting for 27% of physician visits.

For more information on Aging in Robeson County download (pdf).

Detailed demographic information can be found at: http://www.ncdhhs.gov/aging/cprofile/cprofile.htm

Information about Area Agency on Aging Region N can be found at:
http://www.ncdhhs.gov/aging/aaa.htm

Health Promotion Programming in Robeson County

Organizations/Facilities/Groups

- Pine Street Senior Center
- Robeson County Health Department
- Lumber River Council of Governments

Evidence-based Health Promotion Programs

- Tobacco Cessation Programs: Quitline
- Tobacco Cessation Programs: Become an Ex
- Arthritis Foundation Exercise Program
- Powerful Tools
- Breast and Cervical Cancer Control Program (BCCCP)
- Well-Integrated Screening and Evaluation for Women Across the Nation (NCWISEWOMAN)
- Living Healthy - Region N (Richmond, Scotland, Hoke, Robeson, Bladen)

Comparison of Estimated and Projected Population Change in NC Counties for Age Groups 0-17 and 60+ between 2008 and 2029

Counties in **bold** are those where the population age 60 and older (60+) is greater than 0-17. Counties in *italics* are those where the population 0-17 is greater than 60+. Both **bold** and *italicized* counties are ranked in descending order by the population 60+

2008			2029		
County/State	0-17	60+	County/State	0-17	60+
HENDERSON	21,933	26,402	GUILFORD	143,799	153,167
BRUNSWICK	21,141	24,434	FORSYTH	107,865	109,704
MOORE	18,098	22,083	BUNCOMBE	58,773	75,367
CARTERET	11,933	16,400	NEW HANOVER	49,983	61,638
HAYWOOD	11,133	15,286	DAVIDSON	46,957	52,847
BEAUFORT	10,638	10,864	CATAWBA	44,596	47,741
MACON	6,745	9,688	ROWAN	41,179	44,374
TRANSYLVANIA	5,734	9,085	RANDOLPH	39,541	43,936
WATAUGA	6,759	8,134	BRUNSWICK	38,119	41,897
JACKSON	6,950	7,894	ORANGE	27,893	41,398
DARE	6,868	7,676	HENDERSON	32,384	35,391
CHEROKEE	5,325	7,457	MOORE	26,524	29,339
ASHE	5,102	6,688	BURKE	23,097	28,433
POLK	3,556	5,386	CLEVELAND	24,085	26,839
NORTHAMPTON	4,573	5,124	LINCOLN	25,751	26,806
CASWELL	4,749	4,998	ROCKINGHAM	19,748	25,242
WARREN	3,995	4,918	CALDWELL	20,251	24,773
YANCEY	3,673	4,833	CHATHAM	20,855	23,120
MADISON	4,224	4,717	SURRY	18,343	21,044
MITCHELL	3,103	4,199	PENDER	17,812	20,958
AVERY	3,384	4,150	CARTERET	13,148	20,229
PAMLICO	2,266	3,691	WILKES	15,696	19,992
CHOWAN	3,360	3,480	FRANKLIN	17,840	19,284
PERQUIMANS	2,591	3,311	RUTHERFORD	17,610	18,718
CLAY	1,801	3,057	HAYWOOD	12,182	18,210
ALLEGHANY	2,087	3,026	GRANVILLE	14,253	17,910
JONES	2,143	2,328	STANLY	14,456	17,229
GRAHAM	1,762	2,138	STOKES	10,038	14,385
HYDE	1,059	1,280	DAVIE	11,716	14,333
TYRRELL	871	935	MCDOWELL	11,884	14,321
MECKLENBURG	*228,206*	*120,780*	WATAUGA	8,423	13,433
WAKE	*216,700*	*113,009*	HALIFAX	12,727	13,246
GUILFORD	*110,261*	*81,382*	BEAUFORT	12,028	12,778
FORSYTH	*83,733*	*61,891*	MACON	10,518	12,011
BUNCOMBE	*48,463*	*47,913*	YADKIN	10,567	11,749
CUMBERLAND	*90,644*	*38,690*	JACKSON	9,645	11,303
GASTON	*49,174*	*37,488*	ALEXANDER	8,346	10,959
DURHAM	*65,749*	*36,493*	PASQUOTANK	10,270	10,711
NEW HANOVER	*40,644*	*35,918*	PERSON	8,780	10,414
DAVIDSON	*36,410*	*31,266*	DARE	6,528	10,357
CATAWBA	*36,835*	*28,753*	TRANSYLVANIA	6,642	10,114
CABARRUS	*43,212*	*27,718*	CHEROKEE	6,834	9,275
ALAMANCE	*34,204*	*27,486*	ASHE	6,132	8,718
UNION	*49,936*	*27,178*	CURRITUCK	5,449	7,539
IREDELL	*37,359*	*27,079*	CASWELL	4,057	6,768
RANDOLPH	*33,432*	*26,521*	MADISON	4,790	6,658

Data retrieved from North Carolina State Data Center website on September 18, 2009

Comparison of Estimated and Projected Population Change in NC Counties for Age Groups 0-17 and 60+ between 2008 and 2029

Counties in **bold** are those where the population age 60 and older (60+) is greater than 0-17. Counties in *italics* are those where the population 0-17 is greater than 60+. Both **bold** and *italicized* counties are ranked in descending order by the population 60+

2008			2029		
County/State	**0-17**	**60+**	**County/State**	**0-17**	**60+**
ROWAN	*32,136*	*26,503*	**ANSON**	**5,416**	**6,473**
JOHNSTON	*42,216*	*24,721*	**YANCEY**	**4,243**	**6,254**
PITT	*36,806*	*21,480*	**GREENE**	**5,197**	**6,035**
WAYNE	*29,590*	*19,897*	**POLK**	**3,635**	**5,980**
ROCKINGHAM	*20,451*	*19,553*	**HERTFORD**	**5,573**	**5,765**
ROBESON	*36,667*	*19,489*	**AVERY**	**3,074**	**5,741**
CLEVELAND	*23,168*	*19,450*	**WARREN**	**4,036**	**5,572**
ORANGE	*24,433*	*18,682*	**NORTHAMPTON**	**4,679**	**5,476**
BURKE	*19,770*	*18,591*	**MARTIN**	**5,343**	**5,453**
CRAVEN	*25,953*	*17,738*	**BERTIE**	**4,583**	**5,010**
NASH	*22,729*	*16,945*	**MITCHELL**	**3,262**	**4,818**
CALDWELL	*17,933*	*16,625*	**PERQUIMANS**	**4,002**	**4,677**
HARNETT	*28,282*	*16,391*	**PAMLICO**	**2,281**	**4,138**
ONSLOW	*50,313*	*16,080*	**CLAY**	**2,576**	**4,112**
SURRY	*16,827*	*15,872*	**CHOWAN**	**3,740**	**3,893**
WILKES	*14,904*	*14,711*	**GATES**	**3,171**	**3,729**
WILSON	*19,534*	*14,604*	**ALLEGHANY**	**2,490**	**3,662**
RUTHERFORD	*14,586*	*13,822*	**CAMDEN**	**2,387**	**3,219**
LINCOLN	*17,245*	*13,478*	**JONES**	**2,074**	**2,997**
CHATHAM	*13,529*	*12,239*	**GRAHAM**	**2,243**	**2,365**
STANLY	*13,689*	*12,236*	**HYDE**	**874**	**1,570**
LENOIR	*13,932*	*12,175*	**TYRRELL**	**1,021**	**1,398**
SAMPSON	*16,548*	*11,719*	*WAKE*	*383,072*	*358,850*
HALIFAX	*13,143*	*11,443*	*MECKLENBURG*	*300,460*	*287,299*
COLUMBUS	*13,395*	*10,953*	*DURHAM*	*107,495*	*81,849*
PENDER	*11,015*	*10,784*	*UNION*	*97,591*	*80,199*
LEE	*14,760*	*10,174*	*CUMBERLAND*	*99,746*	*68,307*
GRANVILLE	*12,385*	*9,723*	*GASTON*	*69,362*	*66,316*
FRANKLIN	*13,642*	*9,563*	*CABARRUS*	*77,450*	*64,685*
EDGECOMBE	*13,217*	*9,546*	*JOHNSTON*	*71,607*	*61,276*
DUPLIN	*13,863*	*9,487*	*IREDELL*	*56,412*	*54,751*
MCDOWELL	*9,715*	*9,405*	*ALAMANCE*	*49,224*	*48,832*
STOKES	*10,147*	*9,160*	*PITT*	*55,361*	*45,646*
RICHMOND	*11,720*	*8,906*	*HARNETT*	*42,276*	*36,659*
DAVIE	*9,112*	*8,360*	*ONSLOW*	*77,019*	*31,409*
YADKIN	*8,893*	*7,961*	*ROBESON*	*41,829*	*29,325*
VANCE	*11,738*	*7,718*	*NASH*	*28,165*	*27,863*
PASQUOTANK	*9,660*	*7,476*	*WAYNE*	*29,891*	*27,384*
PERSON	*8,503*	*7,404*	*CRAVEN*	*31,995*	*22,945*
ALEXANDER	*8,369*	*7,240*	*WILSON*	*24,436*	*22,723*
BLADEN	*7,819*	*6,653*	*SAMPSON*	*19,823*	*18,332*
SCOTLAND	*9,559*	*6,418*	*LEE*	*21,426*	*17,617*
MONTGOMERY	*6,821*	*5,614*	*LENOIR*	*13,989*	*13,958*
MARTIN	*5,585*	*5,212*	*COLUMBUS*	*15,201*	*13,730*
HOKE	*13,163*	*5,197*	*DUPLIN*	*15,535*	*13,439*
ANSON	*5,983*	*5,033*	*HOKE*	*19,302*	*12,583*

Data retrieved from North Carolina State Data Center website on September 18, 2009

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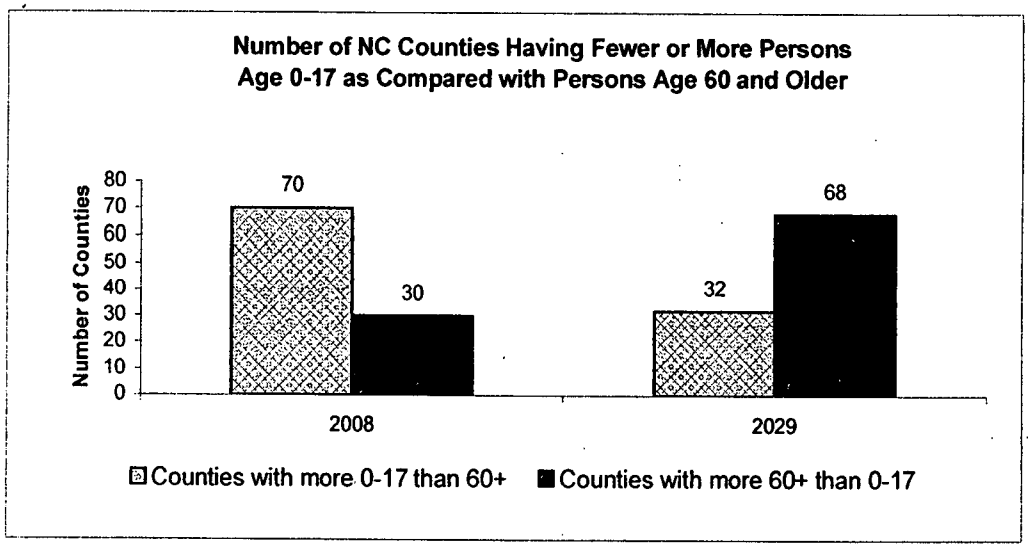
2008			2029		
County/State	**0-17**	**60+**	**County/State**	**0-17**	**60+**
HERTFORD	*5,278*	*4,937*	*EDGECOMBE*	*12,872*	*11,629*
CURRITUCK	*5,029*	*4,505*	*RICHMOND*	*11,551*	*10,627*
BERTIE	*4,743*	*4,219*	*VANCE*	*11,905*	*9,403*
GREENE	*4,910*	*3,752*	*SCOTLAND*	*10,780*	*9,292*
WASHINGTON	*3,151*	*3,007*	*BLADEN*	*7,626*	*7,567*
SWAIN	*3,321*	*2,961*	*MONTGOMERY*	*7,495*	*7,178*
GATES	*2,592*	*2,378*	*SWAIN*	*4,399*	*3,739*
CAMDEN	*2,030*	*1,896*	*WASHINGTON*	*3,162*	*3,123*
STATE	*2,217,020*	*1,613,313*	*STATE*	*2,992,471*	*2,941,530*



Data retrieved from North Carolina State Data Center website on September 18, 2009

Attachment I (h)

(h)

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Image results for "*Bobby Yurkanin*"

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Bobby Yurkanin

Murder case a glimpse into stress of caretaking - Alzheimer's Disease ...

Murder case a glimpse into stress of caretaking -

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Murder case a glimpse into stress of caretaking

Fla. man to stand trial for killing his father, a longtime Alzheimer's sufferer

The Associated Press
updated 12:12 p.m. ET,Sun., Nov . 8, 2009

FORT LAUDERDALE, Fla. - The scenes seared into the minds of those who know Bobby Yurkanin differed only in place: Whether in the pool, around the dinner table or at the bowling alley, he was the 50-something man whose life had long before been handed over to the sickness of his parents. Always his father was by his side.

Yurkanin moved across the country to care for his dying mother, only to do it all over as his father sank into the fog of Alzheimer's disease. When the old man grew combative, his son would calm him. When he didn't want to eat, his namesake would cajole him to take some fruit.

The son assumed his caretaker role out of necessity, friends said, despite a strained family history and a less-than-perfect childhood. And those who observed him and his father together often describe the younger Yurkanin with similar adjectives of praise:

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Yet all of this disappears into a single scene: A beachside argument, the father's lifeless body lying in the sand, and the accusing fingers that then pointed the son's way. It disappears into the accounts of witnesses certain they saw the son drag his father into the ocean, let the waves steal his breath, then tell the 911 dispatcher called by an onlooker to turn the ambulance around.

Yurkanin arrived at his lowest point following a well-worn path of the relentless, thankless, solitary task of caring for someone no longer recognizable under a mask of dementia. Millions of others know it. But Yurkanin's downward spiral ended with a charge of murder.

Tales of a troubled past

The success of Yurkanin's father as an engineer, businessman and inventor allowed a comfortable existence. The family home in New Jersey sold for nearly a million dollars, and there were two other more modest homes in Florida.

But Yurkanin has told psychologists his father was an abusive alcoholic, his mother prone to psychotic episodes triggered by mental illness. He told his ex-wife that his father abused both his mother and his grandmother.

For Bobby, an only child, childhood was traumatic and his family life strained, says his attorney, Michael Weinstein. Still, he went on to finish college and graduate school. He started law school but dropped out. He set up a paralegal business.

And he excelled at something that would be cited when his father lay helpless on the beach. For years, he was a lifeguard, whose skill is evident in

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weathered newspaper clippings accounting his wins at regional competitions.

In the last decade, he had stood guard within his family. He moved home to Short Hills, N.J., in the late 1990s to help care for a mother, who was struggling with cancer. It wasn't long after she died in 2001 that his father showed signs of illness, too. It became clear it was Alzheimer's. When the father resisted going in a nursing home, his son felt he had no choice but to take over his care.

After Bobby Yurkanin assumed round-the-clock supervision and he and his father moved permanently to Florida, the disease progressed. And in time, the son began to show signs of losing control.

At their home in Palm Coast, a neighbor, Kathy Mittelstadt, told police she once saw the father wandering the street only in a diaper. Numerous other times, she said she heard the son erupt in yelling and cursing.

"I can't wait till you're no longer one of my problems," she said she heard him say.

At the Playa Del Sol condominiums in Fort Lauderdale, where the father and son ultimately settled, the complaints began to amass. The father was repeatedly found wandering hallways, sometimes nude, and into others' apartments. Residents complained he dressed in front of an open door. Once, when Yurkanin was alerted his dad had been wandering again, condo employees said he went into a profane tirade in the lobby.

Anna Fico, a friend who sometimes helped watch the father, says Bobby Yukanin confided that it was all too much.

It's a dilemma many others have confronted, and sometimes crippling stress has led to physical abuse. People tasked with caring for a dementia-ridden spouse or parent have been accused of killing them in rage or in a warped expression of mercy to end their misery. Caregivers have ended up in prison.

"The demands on caregivers are almost unfathomable," said Dr. Gail Gazelle, an assistant professor at Harvard Medical School who works as a patient advocate for people with Alzheimer's and their families. "The anger, guilt, and shame that caregivers experience is intense."

No one accused Yurkanin of abuse, Weinstein says. For all the unraveling that now seems apparent in Yurkanin's life, many who observed him with his father say they saw a son who, yes, would grow frustrated by his dad and sometimes raise his voice, but whose care was undeniably loving.

Kenneth Wayne Carter, an old friend of Yurkanin, said he observed his law school buddy with his father during several visits of two to three weeks. He described both men as alcoholics, but said he was impressed with the way his friend cared for his father.

The old man, Carter said, would suddenly stand at attention to recite the Gettysburg Address or sing the P enn State fight song or "The Star-Spangled Banner." He would take off his shorts and scamper down the street. His mood could change at any moment, and he would kick and scream, become combative and pick fights.

"Bobby would always come to Bob's rescue," Carter

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wrote after Yurkanin's arrest, "and all would be forgiven."

It is Friday. Yurkanin needs to give his father a shower and a shave, but his friend, Fico, calls and asks them to join her down at the beach. Yurkanin decides they will. It's about 5 p.m.

Not long after they arrive, the father pulls down his swimsuit and stands on the sand exposed.

"Bob! Bob!" Fico shouts. "Bob, your father took off his clothes."

Exactly what happens next varies according to different witness accounts.

The scene on the beach

Yurkanin begins to swear at his father, according to a couple who were lying nearby. Then, with the father resisting, the son takes the old man into the water. Onlookers use the word "drag," and so does Fico.

It's the only way his father will learn, the only way he'll listen, one witness quotes Yurkanin as saying in a declaration mixed with profanity.

In roughly waist-deep waters, Yurkanin removes his father's shorts and diaper as Fico helps hold him up. The son goes ashore to throw out the diaper, returns to the water, and dives underneath to try to put the shorts back on. It isn't working; some say the father continues to fight his son.

"I don't want my shorts on," Fico remembers him saying. "I don't want."

Some witnesses say Yurkanin pulled his father's ankles upward to put the shorts back on and insist the old man's head went underwater. But Weinstein, the defense attorney, says it's not clear the father's head ever was submerged.

Whatever happened, it becomes clear to many who are watching that the father is in distress. Joanne Turing watched through binoculars from her balcony. She says she could see the man's face changing color.

"This guy's dying," Turing anxiously tells a friend.

After Yurkanin struggles to bring his father ashore, some witnesses describe being puzzled by his actions.

He places him so close to the water that waves continue to wash over his face, some say; others don't understand why the son goes back into the water briefly, or why it seems to take so long before he begins CPR. Some question how long he continues the life-saving technique; some claim he never performed it at all.

Three witnesses call 911. In one call, Yurkanin's agitated voice can be heard in the background.

No ambulance is needed, he tells the caller.

"Oh sir, you're kidding," she says.

"I'm his son!" he shouts, then later: "Get out of here! Don't send any ambulance. I don't want any ambulance."

The caller pleads with the operator: "Help! Help! Help! Help! Help!"

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And then Yurkanin is heard taking the phone, talking directly to the dispatcher: "Forget it! Don't you come! If you come, I'm not releasing this patient."

Another man gets on the phone, asking the operator to send help despite the son's pleas.

"Does anybody here have CPR training?" the other man asks those around him.

Paramedics arrive as the 911 call is still under way. As they load the elder Yurkanin for transport to Holy Cross Hospital, where he'll arrive in critical condition, the son wants to ride along.

Instead, he is told to wait for police.

Several witnesses claim Yurkanin shuffles his feet along the sand where he allegedly dragged his father. When a detective arrives, he asks Yurkanin why he forced his father in the water.

"He smelled bad," he says.

Weinstein, the defense attorney, says Yurkanin's response was the culmination of "deep-rooted psychological issues," not of any malice. Psychologists hired by Weinstein have noted Yurkanin had long felt helpless and hopeless, and said the intense load of caring for two chronically ill parents over many years resulted in post-traumatic stress disorder.

The lawyer recognizes the way it all may look, but says there are reasons for each decision his client made. He brought his father in the water, he says, to quickly cover his naked body. When his father lay lifeless, he says, the son was so troubled he thought the man would eventually wake up. And in trying to refuse the ambulance, Weinstein says, Yurkanin was simply hoping to keep his father from possibly being agitated even more.

If Yurkanin were to kill his father, he asks, why would he do it in broad daylight, in the middle of a public beach? Why would he have spent years caring for him and never shown signs of abuse?

"He lost it, he absolutely lost it," Weinstein says. "But he would never, ever have killed his father."

Awaiting the trial

The next day, at 11:01 a.m., the father dies.

The body is taken to the medical examiner. Sand is still in the man's gray hair. Weinstein insists there is no way to know precisely what killed the 84-year-old man, that he could have gone at any time. But the autopsy concludes he died of "complications of near drowning." The medical examiner says dysrhythmia could have been triggered by swallowing saltwater or simply by being submerged. The report says the patient had mild hypertension. It also notes he was well nourished.

The death is ruled a homicide.

Two weeks later, Yurkanin is arrested on a charge of first-degree murder.

He makes a jailhouse phone call to Cesar Navarette, a friend who would watch college football with Yurkanin and his father. Yurkanin is sobbing.

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"I know you loved your dad," Navarette tells him.

Yurkanin is now free on bond while awaiting trial scheduled for January; the terms of his release mostly limit his movements to visits to doctors, lawyers and church. If convicted, the 53-year-old could be sentenced to life in prison, though there are murmurs there may be a plea deal instead.

Only in retrospect has he become aware how overwhelmed he was as a caretaker, his lawyer says. Under the circumstances, he adds, Yurkanin feels no burden lifted.

URL: http://www.msnbc.msn.com/id/33627695/ns/health-alzheimers_disease//

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Murder case a glimpse into stress of caretaking

Fla. man to stand trial for killing his father, a longtime Alzheimer's sufferer

Yurkanin Family / AP

This 2005 photo released by the Yurkanin family shows Bobby Yurkanin, left, and his father, Bob Yurkanin, in Short Hills, N.J.

Associated Press

updated 12:12 p.m. ET, Sun., Nov. 8, 2009

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The success of Yurkanin's father as an engineer, businessman and inventor allowed a comfortable existence. The family home in New Jersey sold for nearly a million dollars, and there were two other more modest homes in Florida.

Broward County Sheriffs Office / AP

Bobby Yurkanin Jr. is awaiting trial on a charge of first degree murder in the death of his father in Fort Lauderdale, Fla.

But Yurkanin has told psychologists his father was an abusive alcoholic, his mother prone to psychotic episodes triggered by mental illness. He told his ex-wife that his father abused both his mother and his grandmother.

For Bobby, an only child, childhood was traumatic and his family life strained, says his attorney, Michael Weinstein. Still, he went on to finish college and graduate school. He started law school but dropped out. He set up a paralegal business.

And he excelled at something that would be cited when his father lay helpless on the beach. For years, he was a lifeguard, whose skill is evident in weathered newspaper clippings accounting his wins at regional competitions.

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After Bobby Yurkanin assumed round-the-clock supervision and he and his father moved permanently to Florida, the disease progressed.

Son Allegedly Killed Dad With Alzheimer's

FORT LAUDERDALE, Fla. (Nov. 8) — The scenes seared into the minds of those who know Bobby Yurkanin differed only in place: Whether in the pool, around the dinner table or at the bowling alley, he was the 50-something man whose life had long before been handed over to the sickness of his parents. Always his father was by his side.

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Three witnesses call 911. In one call, Yurkanin's agitated voice can be heard in the background.

No ambulance is needed, he tells the caller.

"Oh sir, you're kidding," she says.

"I'm his son!" he shouts, then later: "Get out of here! Don't send any ambulance. I don't want any ambulance."

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Another man gets on the phone, asking the operator to send help despite the son's pleas.

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The lawyer recognizes the way it all may look, but says there are reasons for each decision his client made. He brought his father in the water, he says, to quickly cover his naked body. When his father lay lifeless, he says, the son was so troubled he thought the man would eventually wake up. And in trying to refuse the ambulance, Weinstein says, Yurkanin was simply hoping to keep his father from possibly being agitated even more.

If Yurkanin were to kill his father, he asks, why would he do it in broad daylight, in the middle of a public beach? Why would he have spent years caring for him and never shown signs of abuse?

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—

The next day, at 11:01 a.m., the father dies.

The body is taken to the medical examiner. Sand is still in the man's gray hair. Weinstein insists there is no way to know precisely what killed the 84-year-old man, that he could have gone at any time. But the autopsy concludes he died of "complications of near drowning." The medical examiner says dysrhythmia could have been triggered by swallowing saltwater or simply by being submerged. The report says the patient had mild hypertension. It also notes he was well nourished.

The death is ruled a homicide.

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He makes a jailhouse phone call to Cesar Navarette,
a friend who would watch college football with Yurkanin and his father. Yurkanin is sobbing.

"I know you loved your dad," Navarette tells him.

Yurkanin is now free on bond while awaiting trial scheduled for January; the terms of his release mostly limit his movements to visits to doctors, lawyers and church. If convicted, the 53-year-old could be sentenced to life in prison, though there are murmurs there may be a plea deal instead.

Only in retrospect has he become aware how overwhelmed he was as a caretaker, his lawyer says. Under the circumstances, he adds, Yurkanin feels no burden lifted.

The Examiner

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Nation

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A father's descent into Alzheimer's pressures a caregiver-son, and murder is charged

By: MATT SEDENSKY
Associated Press
11/08/09 12:10 AM EST

FORT LAUDERDALE, FLA. — The scenes seared into the minds of those who know Bobby Yurkanin differed only in place: Whether in the pool, around the dinner table or at the bowling alley, he was the 50-something man whose life had long before been handed over to the sickness of his parents. Always his father was by his side.

Yurkanin moved across the country to care for his dying mother, only to do it all over as his father sank into the fog of Alzheimer's disease. When the octogenarian grew combative, his son would calm him. When he didn't want to eat, his namesake would cajole him to take some fruit.

The son assumed his caretaker role out of necessity, friends said, despite a strained family history and a less-than-perfect childhood. And those who observed him and his father together often describe the younger Yurkanin with similar adjectives of praise:

Dutiful. Patient. Dedicated.

Yet all of this disappears into a single scene: A beachside argument, the father's lifeless body lying in the sand, and the accusing fingers that then pointed the son's way. It disappears into the accounts of witnesses certain they saw the son drag his father into the ocean, let the waves steal his breath, then tell the 911 dispatcher called by an onlooker to turn the ambulance around.

Yurkanin arrived at his lowest point following a well-worn path of the relentless, thankless, solitary task of caring for someone no longer recognizable under a mask of dementia. Millions of others know it. But Yurkanin's downward spiral ended with a charge of murder.

The success of Yurkanin's father as an engineer, businessman and inventor allowed a comfortable existence. The family home in New Jersey sold for nearly a million dollars, and there were two other more modest homes in Florida.

But Yurkanin has told psychologists his father was an abusive alcoholic, his mother prone to psychotic episodes triggered by mental illness. He told his ex-wife that his father abused both his mother and his grandmother.

For Bobby, an only child, childhood was traumatic and his family life strained, says his attorney, Michael Weinstein. Still, he went on to finish college and graduate school. He started law school but dropped out. He set up a paralegal business.

And he excelled at something that would be cited when his father lay helpless on the beach. For years, he was a lifeguard, whose skill is evident in weathered newspaper clippings accounting his wins at regional competitions.

In the last decade, he had stood guard within his family. He moved home to Short Hills, N.J., in the late 1990s to help care for a mother, who was struggling with cancer. It wasn't long after she died in 2001 that his father showed signs of illness, too. It became clear it was Alzheimer's. When the father resisted going in a nursing home, his son felt he had no choice but to take over his care.

After Bobby Yurkanin assumed round-the-clock supervision and he and his father moved permanently to Florida, the disease progressed. And in time, the son began to show signs of losing control.

At their home in Palm Coast, a neighbor, Kathy Mittelstadt, told police she once saw the father wandering the street only in a diaper. Numerous other times, she said she heard the son erupt in yelling and cursing.

"I can't wait till you're no longer one of my problems," she said she heard him say.

At the Playa Del Sol condominiums in Fort Lauderdale, where the father and son ultimately settled, the complaints began to amass. The father was repeatedly found wandering hallways, sometimes nude, and into others' apartments. Residents complained he dressed in front of an open door. Once, when Yurkanin was alerted his dad had been wandering again, condo employees said he went into a profane tirade in the lobby.

Anna Fico, a friend who sometimes helped watch the father, says Bobby Yukanin confided that it was all too much.

It's a dilemma many others have confronted, and sometimes crippling stress has led to physical abuse. People tasked with caring for a dementia-ridden spouse or parent have been accused of killing them in rage or in a warped expression of mercy to end their misery. Caregivers have ended up in prison.

"The demands on caregivers are almost unfathomable," said Dr. Gail Gazelle, an assistant professor at Harvard Medical School who works as a patient advocate for people with Alzheimer's and their families. "The anger, guilt, and shame that caregivers experience is intense."

No one accused Yurkanin of abuse, Weinstein says. For all the unraveling that now seems apparent in Yurkanin's life, many who observed him with his father say they saw a son who, yes, would grow frustrated by his dad and sometimes raise his voice, but whose care was undeniably loving.

Kenneth Wayne Carter, an old friend of Yurkanin, said he observed his law school buddy with his father during several visits of two to three weeks. He described both men as alcoholics, but said he was impressed with the way his friend cared for his father.

The old man, Carter said, would suddenly stand at attention to recite the Gettysburg Address or sing the Penn State fight song or "The Star-Spangled Banner." He would take off his shorts and scamper down the street. His mood could change at any moment, and he would kick and scream, become combative and pick fights.

"Bobby would always come to Bob's rescue," Carter wrote after Yurkanin's arrest, "and all would be forgiven."

It is Friday. Yurkanin needs to give his father a shower and a shave, but his friend, Fico, calls and asks them to join her down at the beach. Yurkanin decides they will. It's about 5 p.m.

Not long after they arrive, the father pulls down his swimsuit and stands on the sand exposed.

"Bob! Bob!" Fico shouts. "Bob, your father took off his clothes."

Exactly what happens next varies according to different witness accounts.

Yurkanin begins to swear at his father, according to a couple who were lying nearby. Then, with the father resisting, the son takes the old man into the water. Onlookers use the word "drag," and so does Fico.

It's the only way his father will learn, the only way he'll listen, one witness quotes Yurkanin as saying in a declaration mixed with profanity.

In roughly waist-deep waters, Yurkanin removes his father's shorts and diaper as Fico helps hold him up. The son goes ashore to throw out the diaper, returns to the water, and dives underneath to try to put the shorts back on. It isn't working; some say the father continues to fight his son.

"I don't want my shorts on," Fico remembers him saying. "I don't want."

Some witnesses say Yurkanin pulled his father's ankles upward to put the shorts back on and insist the old man's head went underwater. But Weinstein, the defense attorney, says it's not clear the father's head ever was submerged.

Whatever happened, it becomes clear to many who are watching that the father is in distress. Joanne Turing watched through binoculars from her balcony. She says she could see the man's face changing color.

"This guy's dying," Turing anxiously tells a friend.

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autopsy concludes he died of "complications of near drowning." The medical examiner says dysrhythmia could have been triggered by swallowing saltwater or simply by being submerged. The report says the patient had mild hypertension. It also notes he was well nourished.

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North Carolina Association of County Commissioners
2006-07 Ralph W. Ketner Employee Productivity Awards Application

County: Transylvania **Employee:** Mark Burrows **Email:** econdev@transylvaniacounty.org

County Department: Planning & Economic Development **Employee Title:** Director

County Phone: (828) 884-3205 **County Mailing Address:** Box 1578, Brevard, NC 28712

Is this project being submitted on behalf of two or more employees? **NO** [ ] **YES** [x]

If yes, please provide below a listing of all project employees in Number 6. Employee & title as listed above should be for lead team member.

Fair Labors Standards Act Designation: In order for your project to be eligible, you MUST indicate one of the following. If you do not know, please contact your personnel director.

EXEMPT: [ ] **NON-EXEMPT:** [ ] **BOTH (if applicable to a team):** [x]

1.	**Productivity Improvement Title:**	Cost Avoidance: Utilization of Retiree Resource Network Volunteers
2.	**Implementation Date (must be between January 1, 2006 and December 31, 2006)**	February through April, 2006
3.	**Please describe the productivity improvement. (Please limit response to these 2 pages.)**	

An important step in preparing the County's Economic Development Strategic Plan for 2006-2009 was to obtain, from elected officials and community, business and professional leaders, evaluations of current economic development programs, initiatives and priorities. Rather than engage outside consultants for this work, as done with the strategic plan for 2002-2005, 20 members of the newly-organized Retiree Resource Network were selected to help design a proposed questionnaire and then to conduct individual interviews with about 70 participants. The interviews provided excellent qualitative information to supplement the quantitative results. Network members also reviewed the draft strategic plan that resulted and recommended improvements.

Attachment I (i)

4.	**Please describe why this project was initiated or what problem it addressed:**
The project was initiated in order to provide evaluations of current Economic Development activities, programs and priorities by means of a 34-item questionnaire that was administered by means of personal interviews with each of the 70 participants. After a brief training session conducted by the Network Coordinator, Bill Layton, each of the 20 Network members scheduled one-on-one interviews with 3 to 5 business and community leaders. The personal contact not only produced the quantitative data on the rating scales, but also provided valuable explanatory information that could be documented, reviewed and analyzed by the Department staff and the Economic Development Advisory Board in order to prepare the strategic plan goals and tasks. The strategic plan was approved by the County Commissioners as submitted. (The plan can be found at econdev.transylvaniacounty.org. Click on "Economic Statistics" and then "Economic Development Strategic Plan 2006-2009.")	
5.	**Please quantify the improvement's results in terms of cost savings, cost avoidance and/or a higher level of services provided.**
	(Please indicate what resources were used to achieve your results, and what was done with the time savings, if any accrued).
By utilizing the Retiree Resource Network, the County was able to complete the 2006-2009 economic development strategic plan in-house and avoid the cost of external resources. A similar plan developed for the 2002-2005 period, with the aid of an outside consulting firm, cost approximately $40,000. In addition, the Network members' experience helped ensure a high-quality finished product.	
6.	**Please provide any other descriptive information you would like to be considered by the review committee.**
In less than three years, the Transylvania County Retiree Resource Network has grown from a group of 4 or 5 retired executives to 70 volunteers. Their backgrounds are diverse, covering extensive experience in engineering, manufacturing, general management, marketing, sales, finance and accounting, human resources, small business consulting and more. The Network has provided free consulting services to between 40 and 50 companies and organizations in the County, and feedback from the Network's clients has been strongly positive.	
Project Employees: Mark Burrows, Director (exempt); Trish Hamilton, Administrative Assistant (non-exempt) ; William Layton (exempt – contract employee)	

County Manager's Name:	Artie Wilson	**Supervisor's Name:**	Artie Wilson

Return by June 15, 2007 via email to ncacc@ncacc.org.

 Attachment I (j)

Local Man's Spirit An Inspiration For Others

Man who was shot returns to delivering Meals-on-Wheels

by Richard Gottlieb, President and CEO, Senior Services, Inc.

On April 24, 2008, the Winston-Salem and Forsyth County community was shocked and saddened when long-time Meals-on-Wheels volunteers Anne and Bill Magness, delivering a hot lunch to a disabled man's Jonestown Road home, encountered a robbery in progress. The meal recipient, Robert Denning, lost his life in the tragic incident, as did volunteer Anne Magness. Bill Magness was hospitalized in critical condition.

In the months that followed, Mr. Magness and his family were faced with an enormous emotional and spiritual struggle. Bill and Anne Magness' four children had to try to come to terms with the sudden and senseless loss of their mother even while Mr. Magness was in intensive care fighting for his life. The Magnesses' good friends Henry and Margaret Gieser remarked recently that upon seeing Bill Magness in the hospital shortly after the incident, they did not think he would survive. The family arranged for Mrs. Magness' memorial service to be put off for a month after the incident until Mr. Magness was physically able to attend.

For the Magness family, this year has brought the first Christmas without Anne Magness, the first of her birthdays to pass without her there. Bill Magness, 79 and possessed of an indomitable spirit, has worked with great persistence and determination to regain his independence and his life. After five surgeries and many hours of physical rehabilitation, he is now able to drive a car; he has returned to worship at Clemmons United Methodist Church, and he can once again visit with his family and friends.

The board of trustees of Senior Services, Inc., the charitable organization that operates Meals-on-Wheels, established the Anne and Bill Magness Meals-on-Wheels Fund at The Winston-Salem Foundation in an effort to honor the Magnesses. The community has responded generously, and to date the fund has received approximately $100,000 in donations and matching funds since it was established in August 2008; enough to permanently endow Meals-on-Wheels service to four homebound seniors.

Mr. Magness is honored and pleased that a permanent fund has been established to remember his wife Anne and that some good for Meals-on-Wheels will come out of the tragedy. Mr. Magness writes a thank you note to each person who contributes to the Anne and Bill Magness Meals-on-Wheels Fund. Bill sent me the following note on December 19, 2008, after we sent him a list of donor names and addresses:

Thank you Richard for the fund information and list of donors. It is amazing that I know only two personally. Perhaps some know my children and I am sure others were moved by the event plus the generous matching offer. I will of course thank them. It was wonderful you provided us this opportunity.

The pre-Christmas is not the same this year and it was sad decorating the house trying to remember where Anne placed each item. The tremendous support has helped immensely.

I would appreciate if you could have the route schedulers place me on the sub list for the Pine Grove route where this happened. I am not prepared to go back full time but confident to be a substitute.

Please wish every one my sincere Season Greetings and Happy New Year!

— Bill Magness

Bill and Anne Magness

Mr. Magness requested that we call on him to deliver meals on the Pine Grove Meals-on-Wheels route when a regularly scheduled volunteer cannot deliver. This is the same route where he and his wife Anne encountered the robbers. Imagine the courage, grace, and spirit that prompted this request. As of this writing, Mr. Magness has delivered Meals-on-Wheels many times as a substitute on the Pine Grove Route. It is an important step in his recovery and speaks volumes about his spirit and his desire to continue to help others.

Bill Magness typifies the many thousands of dedicated volunteers who go the extra mile in our community each and every day. In the simple act of going back out to deliver Meals-on-Wheels to homebound seniors, Mr. Magness has inspired all who know him to make our community a better place. To his family and friends, to everyone involved at Senior Services and Meals-on-Wheels, and to all who hear his story, Bill Magness is a role model for persistence, an inspiration to help others, and a hero at a time when we need them the most.

 Attachment I (k)

Nomination for 2009 Awards

Rogers Dept 13 1/28/10

1. Check which award this nomination is for:

( ) Ewald W. Busse Award recognizes an individual or organization that has had a significant impact on enhancing the health status of older North Carolinians through efforts to direct health related policies and/or to provide leadership in developing innovative solutions to health care problems.

( ) George L. Maddox Award recognizes an individual or organization in the state that has excelled in developing and implementing creative programs for older adults.

(✓) Ernest B. Messer Award recognizes a community (a defined geographic area) in the state that has excelled in addressing the needs of its older citizens.

2. Name of nominee: **William (Billy) Butler**
Address: **2674 Smyrna Rd., Whiteville, NC 28472**
Phone number: **910-642-5607**
E-mail: none

[more than 16 FTEs for a year] nearly 34,000 hrs of service

3. Brief descriptive information of nominee: **Mr. Butler began organized volunteering in September 1992. He was specifically recruited for his talents and skills as a piano player and music director. Since joining Columbus County RSVP, he has reported 33,866 hours of service at the local nursing homes and rest homes. He is the leader of the singing group. These responsibilities require that he drive the van to pick up those who cannot drive, organize the group for special community events, and direct the music. As the group leader, he coordinates the music and the other volunteers each week at a specifically chosen rest home. His volunteer service is not limited to music, he transports senior citizens who can no longer drive to medical appointment, the pharmacy, and grocery stores. He visits the frail and shut-ins at home and in the hospital.**

4. If nominee is other than an individual, name and title of highest ranking official of nominee:

5. Narrative - Using no more than four double-spaced typed pages, explain significant contributions the nominee has made in the area recognized by the award and how this has had an impact on older adults. **Attached.**

6. Letters of support - Include no more than three letters of support from individuals or organizations that are aware of the nominee's contributions.

Nomination submitted by:

Melody Prevatte

Melody Prevatte, Ed.D.	Director of Volunteer Services
Name	Title
PO Box 151	910-642-7141 x 294
Mailing Address	Phone
Whiteville, NC 28472	mprevatte@sccnc.edu
City, State, Zip	E-Mail Address

Email the nomination information (must include all nomination information- ie. nomination form, electronic copies of letters of support, and narrative) to Mary.Edwards@dhhs.nc.gov or send 5 copies of the nomination information to Mary Edwards (N.C. Division of Aging and Adult Services, 2101 Mail Service Center – Raleigh, N.C. 27699-2101) by September 4th, 2009.

(7)

Narrative: Van Pierce

Mr. Pierce has been a volunteer for the Ramps & Rails Program for more than 6 years. He has committed to this program his time, his carpentry and leadership skills. He spends several hours per week assessing the homes of disabled persons for a wheel chair ramp or handrails. He compiles a list of needed materials to complete the ramp. He has the skill of just getting the right amount of the needed lumber to build the ramp that meets Columbus County building code. He coordinates with the team of volunteers to get the best job done in a timely manner. He enjoys meeting the people and providing a service which promotes independence and enhances quality of life for the individual who without the ramp may not be able to live alone. Fall prevention alone is worth the 20 or more hours a week he contributes to this project. Over 125 ramps were built last year in all areas of the county. We project this year to be the same. The value of his time and labor is immeasurable. Mr. Pierce has made this community service possible, without his devotion to helping others and commitment it would not be a great success.

Judy Ward

Judy Ward

Ramps & Rails Case Manager

Columbus County

(L)

Subject: FW: Evelyn Clay
From: "Carol McLimans" <carol@landofsky.org>
Date: Tue, 21 Oct 2008 16:39:37 -0400
To: <Dennis.Streets@ncmail.net>

From: Larry Reeves [mailto:Larry.Reeves@alz.org]
Sent: Tuesday, October 21, 2008 10:40 AM
To: Beth Croom; Jackie Rivers; Anthony Richards; Tricia Adell; Toni Maddox; Eileen McGuinness; Wilhelmenia Pledger; Nicole Rieger Thomas; Ashley Tyler; Rachel Demeter; Becca Carpenter; Kether Abeles; Walter Anderson; Wilhelmenia Pledger; Len Erker; Margaret Moody; Teresa Hoover; Heidi Kimsey; Carol McLimans; bhinshaw@landofsky.org
Subject: Evelyn Clay
Importance: High

On Thursday, October 16, one of the strongest supporters of the work of the Alzheimer's Association, here in the mountains died. For the past 16 years Evelyn Clay led a SG in Madison County. She was a strong advocate for our efforts, raising awareness and attempting to raise political and financial support. She had been a caregiver for a family member (several years) that died with Alzheimer's disease, she helped open an adult day services center (later closed, but not from a lack of effort on her part) as an expression of her desire to help individuals and families make the journey with memory loss, she was well known and loved by all that knew her. Gerald, her spouse of 53 years, was her strongest supporter. Her memorial service will be held on Saturday afternoon, October 25. I will attempt to covey my deep admiration for Evelyn and gratitude for all that she did on behalf of those we seek to serve. Memorial gifts will be directed to the Chapter.

According to her family, as she was actively dying she asked the ICU nurses that were attending to her for their assistance with using the phone. Her mission: to find someone that would be willing to take her place as a facilitator for her group. Gerald said that Evelyn was saying, "They need support and encouragement. I cannot go unless someone is able to take my place."

She was a small lady that left some mighty big shoes to fill.

Larry Alan Reeves

Mountain Area Program Manager

Alzheimer's Association, Western Carolina Chapter

31 College Place, Suite 320 D

Asheville, NC 28801

(828)254-7363

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REPORT TO THE NORTH CAROLINA STUDY COMMISSION ON AGING ON THE IMPLEMENTATION OF THE RATED CERTIFICATE SYSTEM FOR ADULT CARE HOMES

North Carolina Department of Health and Human Services
Division of Health Service Regulation

October 1, 2009

TABLE OF CONTENTS

North Carolina Department of Health and Human Services
Division of Health Service Regulation

Response to Legislative Request

The General Assembly enacted as part of Senate Bill 56, S.L. 2007-544 the following provision:

"**§ 131D-10. Adult care home rated certificates.**

SECTION 3.(g) *The Department of Health and Human Services, Division of Health Service Regulation, shall report on the implementation of the rated certificate system. The Department shall make an interim report to the North Carolina Study Commission on Aging not later than October 1, 2009, and a final report to the Commission not later than October 1, 2010.*

In response to the above directive, the Department implemented the Star Rated Certificate program on January 1, 2009, for adult care homes and family care homes in North Carolina.

The Division of Health Service Regulation regulates two types of adult care facilities, depending on their size. Adult care homes accommodate seven or more residents, and family care homes two to six residents. Under either of these types, licensees can choose to license to serve only those with a diagnosis of dementia or the elderly, which by statute is defined as those serving individuals 55 years or older. Additionally, adult care homes can choose to license all or part of their facility as a special care unit to serve those with Alzheimer's Disease or other dementia. Both adult care homes and family care homes undergo the same inspection processes and both participate in the Star Rated Certificate program.

Background & Development

The North Carolina Star Rated Certificate Program was established to provide consumers with meaningful, easily accessible information about the care and services provided in the state's adult care home and family care home facilities. Senate Bill 56, S.L. 2007-544 Section 3.(a) put in place requirements for the North Carolina Medical Care Commission to adopt rules for the issuance of rated certificates to adult care homes. Section 3.(b) of the law contained minimal requirements and other parameters on which the rated certificates would be based. In response, after discussion and input from stakeholders in the provider and advocacy communities, the rules for the rated certificate program for adult care homes and family care homes were adopted by the Medical Care Commission on February 8, 2008. The rules for the rating system were passed by the NC General Assembly on July 3, 2008. The rules governing the rated certificate program for adult care homes are 10A NCAC 13F .1601-.1005, and for family care homes are 10A NCAC 13G .1601-.1605. The rules for the star rating program are based on fundamental rule areas that are inspected on an annual basis by DHSR. The following rules and statutes comprise the standards that contribute to rated certificates:

- Resident's Rights, G.S. 131D-21
- Physical Plant Requirements, 10A NCAC 13F.0300, 13G .0300
- Admission and Discharge, 10A NCAC 13F .0700, 13G .0700
- Resident Assessment and Care Plan, 10A NCAC 13F .0800, 13G .0800
- Resident Care and Services, 10A NCAC 13F .0900, 13G .0900
- Medication Administration Policies and Procedures, 10A NCAC 13F .1000, 13G .1000
- Special Care Units for Alzheimer and Related Disorders, 10A NCAC 13F .1300
- Special Care Units for Mental Health Disorders, 10A NCAC 13F .1400
- Use of Physical Restraints and Alternatives, 10A NCAC 13F .1500, 13G .1300

In preparation for the implementation of the new program, two additional staff members were added to the Adult Care Licensure Section. They are responsible for implementing and maintaining the new program, including printing and mailing rating certificates to providers. Also, the database currently used by the Division to maintain licensing information was enhanced to allow for calculation and tracking of star ratings, as well as generation of the rating certificate and worksheet. In addition, star rating information that explains how the program works and allows consumers to view facility ratings was added to the Adult Care Licensure website. Facility ratings and star rating program information can be viewed at the following website: ***http://www.ncdhhs.gov/dhsr/acls/star/search.asp***.

The North Carolina Star Rated Certificate program was implemented across the state on January 1, 2009, and is administered by the Division of Health Service Regulation, Adult Care Licensure Section.

How the North Carolina Star Rated Certificate Program Works

The Inspection Process

North Carolina's adult care home and family care home facilities are inspected annually by the Division of Health Service Regulation (DHSR), Adult Care Licensure Section. The goal of inspections is to assess the facility's compliance with applicable laws and regulations affecting the quality of care provided. Follow-up inspections to the annual survey are conducted if a facility has demonstrated significant non-compliance during the annual inspection. The Adult Care Licensure Section, along with the County Departments of Social Services, also conducts complaint investigations as needed. All inspections are unannounced.

During annual inspections, the focus of the survey is on various rule areas that are vital to ensuring the health, safety and welfare of the residents. These are known as the "Fundamental Rule Areas," and are addressed later in this section. Although the focus of the survey begins with the fundamental rule areas, any rule area can be cited if non-compliance is identified. If non-compliance with state rules and regulations for adult care homes and family care homes is identified during an inspection, the survey team must determine the level of the facility's non-compliance. There are 4 levels of non-compliance: Type A Violations, Type B Violations, Uncorrected Type B Violations, and Citations.

Type A Violations

A facility is cited for a Type A violation when its failure to follow the regulations, standards or requirements governing its licensure results in death or serious physical harm, or results in substantial risk that death or serious physical harm will occur. Civil monetary penalties are imposed for Type A violations.

Examples of a Type A violation include the following:

- A confused resident who is not properly supervised, wanders away from the facility and as a result, his or her safety is endangered or the resident suffers serious physical harm; or
- A wrong medication, given to a resident by facility staff, has the strong potential of adversely affecting the resident or the resident suffers serious physical harm.

Type B Violations
A facility is cited for a Type B violation when its failure to follow the regulations, standards or requirements governing its licensure presents a direct relationship to the health, safety, or welfare of any resident, but which does not result in substantial risk that death or serious harm will occur. If a facility fails to correct a Type B violation by a specified timeframe, it is called an "Uncorrected (or Unabated) Type B Violation," and a civil monetary penalty is imposed.

Examples of a Type B violation include the following:

- Several residents have orders to receive over the counter pain medications every morning, but on one morning staff forget to give the residents the medication. The residents suffer no ill consequence from the missed doses and subsequent doses are given as ordered.
- The facility failed to provide an approved handicap wheelchair accessible ramp of correct size and construction for its wheelchair-bound residents. Instead the facility used a piece of plywood balanced on top of a landscape timber, and residents were forced to back up their wheelchairs and drop from the timber, bouncing on to the door sill. Entry to the facility required several attempts by the residents. No handrail was present.

Citations (or 'Standard Deficiencies')
A facility receives a citation when it fails to comply with licensure rules. A citation will be issued if the survey team determines there is sufficient scope (there are a number of residents potentially or actually affected by the non-compliance) and severity (the effect on resident outcomes).

Examples of a citation include the following:

- The facility fails to provide a program of activities designed to meet the needs of the residents. Resident activities included smoking and watching television and being picked-up by a local church for services.
- The facility failed to assure dietary supplements were given to a resident as ordered by the resident's licensed prescribing practitioner.

<u>The Star Rated Certificate Program</u>

As of January 1, 2009, each facility began with a base score of 100 points. Based on the facility's compliance or non-compliance with rule areas during inspections, the facility earns merit or

demerit points which are added or subtracted from the 100 base points. Within 45 days of the survey report (called a "Statement of Deficiencies") being mailed, a rating certificate (showing a numeric score and number of stars earned) and the worksheet used to calculate the rating score is sent to the facility. A new certificate and worksheet is generated after each annual inspection, after subsequent inspections, and each time the rating score changes for administrative licensure actions. Facilities are required to post the most recent certificate and worksheet at the facility in a location visible to the public. Also, star ratings and rating worksheets are posted on the DHSR Adult Care Licensure website monthly. The website contains the facility's current rating as well as any past ratings to allow consumers to view the facility's compliance history. *http://www.ncdhhs.gov/dhsr/acls/star/search.asp*.

Star Ratings are based on the results of:

1. DHSR annual inspections
2. DHSR follow-up surveys
3. DHSR Construction surveys (Type A and Type B violations cited)
4. Administrative Licensure Actions issued by DHSR
5. Recommendations of Type A and uncorrected Type B violations from the County Department of Social Services (DSS) as agreed to by DHSR.

Star Rating Scale

The Star Rated Certificate program is based on a point scale and ranges from zero to four stars. The scale used to determine a facility's star rating is as follows:

 (4 stars) = 100 or greater points on two consecutive annual surveys

 (3 stars) = 90.0-99.9 points, or for any facility whose score is 100 points or greater on one annual inspection

 (2 stars) = 80.0-89.9 points

 (1 star) = 70.0-79.9 points

(ZERO STAR) (0 stars) = 69.9 points or lower

It is important to note that a facility must obtain 100 points or greater on two consecutive annual surveys in order to earn a four star rating.

Demerit Points

Demerit points are points subtracted from the base score for citations and violations cited. Citations and Type B violations cited by DHSR under the fundamental rule areas will count against a facility's rating score. If a citation or Type B violation is not from a fundamental rule area, it will not count against the facility's rating. Type A and Uncorrected Type B violations from any rule area cited by DHSR or DSS will count against the rating score. Demerit point values are as follows:

- Citations: Deduct 2.0 points each
- Type A violations (in any rule area): Deduct 10.0 points each
- Type B violations: Deduct 3.5 points each
- Uncorrected Type B violation (in any rule area): Deduct 3.5 points each

Administrative licensure action issued by DHSR also results in demerit points being deducted from the rating score as follows:

- Suspension of Admissions issued by DHSR: Deduct 10 points
- Notice of Revocation of License issued by DHSR: Deduct 31 points

*(*Note: Suspension of Admissions issued by DHSR for a facility's failure to submit an annual cost report does not result in the deduction of points.)*

Merit Points

Merit points are points added to a facility's score for correction of citations and violations upon follow-up inspection. Merit point values are as follows:

- Corrected citation: Add 1.25 points each
- Corrected Type A violation (in any rule area): Add 2.5 points each
- Corrected Type B violation: Add 1.25 points each
- Uncorrected Type B violation corrected (in any rule area): Add 1.25 points each

Administrative licensure actions rescinded by DHSR also results in merit points being added to the rating score as follows:

- Removal of Suspension of Admissions issued by DHSR: Add 5.0 points

Also, when a facility corrects the citation for which a Type A violation was identified, the facility not only receives 2.5 merit points upon correction, but also can receive an additional 2.5 merit points following the next annual inspection if no further Type A violations are identified.

Additional Merit Point Opportunities

There are four opportunities for a facility to earn extra merit points at each annual inspection. The extra merit points are given to recognize when a facility has taken additional measures to go above and beyond what is minimally required by state rules to ensure the health, safety, welfare, and quality of life of their residents. Facilities will not lose points by not putting these measures in place. The four extra merit point opportunities are:

1. Emergency Power Backup
Facilities who have made arrangements for emergency power backup (i.e. have a generator permanently installed on-site or have a current contract with an emergency power backup provider) and maintain the system in working order receive extra merit points at each annual inspection. Verification of the emergency power backup system or contract is conducted by the DHSR Construction Section.

Facilities receive extra merit points for emergency power backup based on whether it is "new" or "existing." Merit points are issued at each annual inspection as follows:

- If the facility's generator was installed (or contract is dated) before July 3, 2008, it is considered "existing" and 1.0 merit points are added to the rating score.
- If the facility's generator was installed (or contract is dated) after July 3, 2008, it is considered "new" and 2.0 merit points are added to the rating score.

2. Automatic Sprinkler System
Facilities who have installed an automatic sprinkler system in the facility and maintain the system in working order receive extra merit points at each annual inspection. Verification of the automatic sprinkler system and maintenance of the system is conducted by the DHSR Construction Section.

Facilities receive extra merit points for an automatic sprinkler system based on whether the system is "new" or "existing." Merit points are issued at each annual inspection as follows:

- If the facility's automatic sprinkler system was installed before July 3, 2008, it is considered "existing" and 2.0 merit points are added to the rating score.
- If the facility's automatic sprinkler system was installed after July 3, 2008, it is considered "new" and 3.0 merit points are added to the rating score.

3. NC NOVA Designation
The North Carolina New Organizational Vision Award, or NC NOVA, is a voluntary special license awarded to adult care homes, home care agencies and nursing facilities that meet rigorous workplace standards for their direct care workers.

Successful applicants receive a special state license over and above their operating license, designating them as NC NOVA providers committed to the idea that better jobs mean better care. NC NOVA recognizes long-term care employers that take extra steps to support their workers on the job. NC NOVA licensure tells families this provider has met higher workforce standards

designed to keep a well-trained, effective, and satisfied team of quality caregivers. Any licensed provider in good standing may apply for NC NOVA licensure. NC NOVA licensure is issued for two years.

When a facility has achieved NC NOVA special licensure designation, 2.5 additional merit points are added to the rating score upon each annual inspection that the designation remains in effect.

4. Participation in a Quality Improvement Program Approved by DHHS
Facilities who participate in a Quality Improvement (QI) program that has been approved by DHHS are issued 2.5 extra merit points. QI Program approval is conducted on-site by the DHSR survey team during a facility's annual inspection. Facilities may develop their own quality improvement program, participate in a program organized by their corporation, or may participate in a program already approved by DHHS such as those offered by the Division of Aging and Adult Services.

Additional Star Rating Information

- Rating certificates are issued based on results of annual inspections by DHSR beginning January 1, 2009. Facilities do not receive a rating until after their annual inspection.
- A facility with a "0" or "1" star rating with no Type A or B violations after their annual inspection can request a follow-up survey from DHSR that would occur at least 60 days after their annual survey.
- Points deducted for Type A violations resulting in a penalty affect the facility's star rating score for 24 months from the date the violation was identified. Points deducted for uncorrected Type B violations resulting in a penalty affect the facility's rating score for 12 months from the date the violation was identified.
- Initial licensure surveys do not generate a rating. No star ratings are issued until a facility has had an annual survey.
- Change of Ownership:
  The Star Rating earned by a facility remains in effect through a change of ownership until the facility's next annual inspection has occurred.
- Facilities may contest the rated certificate by requesting a contested case hearing with the Office of Administrative Hearings, 1711 New Hope Church Road, Raleigh, NC 919-431-3000. The rated certificate and any subsequent certificates remain in effect during any contested case hearing process.

Findings and Recommendations

The North Carolina Star Rated Certificate Program for adult care homes and family care homes was implemented on January 1, 2009. As of August 25, 2009, 708 star ratings have been issued to facilities based on annual, follow-up and complaint inspections and administrative licensure actions issued by DHSR since January 1, 2009. All ratings and rating worksheets are posted on the Adult Care Licensure Section website and available to consumers. The website is *http://www.ncdhhs.gov/dhsr/acls/star/search.asp*.

From January 1, 2009 through August 25, 2009, 624 star ratings have been issued based on annual inspections conducted by DHSR. Table 1.1 shows the number of stars issued to all facilities, as well as by type of facility (i.e. adult care home and family care home) based on annual inspections.

Table 1.1 Star Ratings Issued 1/1/09-8/25/09 (Annual Inspections only)

Number of Stars Issued		# Total Ratings	% of Total Ratings	# ACH Ratings	% ACH Ratings	# FCH Ratings	% FCH Ratings
★★★★	4 Stars	0	0.00%	0	0.00%	0	0.00%
★★★	3 Stars	585	93.75%	342	93.19%	243	94.55%
★★	2 Stars	23	3.69%	14	3.81%	9	4%
★	1 Star	6	0.96%	5	1.36%	1	0.39%
ZERO STAR	ZERO Stars	10	1.60%	6	1.63%	4	1.56%

As mentioned previously, facilities must earn 100 point or greater scores on two consecutive annual inspections in order to receive 4 Stars. Therefore, there are no 4 Stars awarded in the first year of the program. However, of the 585 facilities who earned 3 Stars, 389 facilities (62.34% of total rated facilities) scored 100 points or greater, making them eligible for 4 Stars next year if they score 100 points or greater on their next annual inspection. According to the current ratings issued as of August 25, 2009, 59% of adult care homes could be eligible for 4 Stars and 68% of family care homes could be eligible.

Of the 624 ratings issued based on annual inspections, 295 ratings (47.28%) included extra merit points for the additional merit point opportunities:

- Emergency Power Backup System,
- Automatic Sprinkler System,
- NC NOVA Licensure Designation, and
- Participation in a Quality Improvement Program Approved by DHHS.

Table 1.2 shows the total number of facilities awarded additional points toward their rating score at their annual inspection for achieving the extra merit point opportunities, also according to type of facility (i.e. adult care home or family care home).

Table 1.2 Merit Points Issued for Extra Merit Point Opportunities 1/1/09-8/25/09 (Annual Inspections Only)

Merit Point Opportunity	# Total Ratings	% of Total Ratings	# ACH Ratings	% ACH Ratings	# FCH Ratings	% FCH Ratings
Emergency Power Backup System	135	21.63%	123	33.51%	12	4.67%
Automatic Sprinkler System	163	26.12%	158	43.05%	5	1.95%
NC NOVA Licensure Designation	1	>1%	1	>1%	0	0%
Participation in an Approved QI Program	211	33.81%	178	48.50%	33	12.84%

The extra merit point opportunities have enabled several facilities to be eligible for a 4 Star rating next year. Data shows that 70 facilities (11.22%) who received demerit points for citations or violations of non-compliance with rules achieved a score of 100 points or greater only after the addition of the extra merit points listed above.

Overall, the North Carolina Star Rated Certificate Program for adult care homes and family care homes has been a success. Feedback from consumers has been very positive and most report they find the ratings to be easily accessible and helpful when making decisions regarding long term care options for themselves or a loved one. The provider community has also reported positive feedback on the program as it continues to roll out across the state.

At this time, further implementation of the program into its second year is needed in order to make any recommendations for changes in the star rating program. In the future, the Division anticipates establishing a stakeholders group to explore possible enhancement of the program as well as any areas for improvement.

ATTACHMENT A

"**§ 131D-10. Adult care home rated certificates.**

(a) Rules adopted by the North Carolina Medical Care Commission for issuance of certificates to adult care homes shall contain a rating based, at a minimum, on the following:

(1) Inspections and substantiated complaint investigations conducted by the Department to determine compliance with licensing statutes and rules. Specific areas to be reviewed include:

a. Admission and discharge procedures.

b. Medication management.

c. Physical plant.

d. Resident care and services, including food services, resident activities programs, and safety measures.

e. Residents' rights.

f. Sanitation grade.

g. Special Care Units.

h. Use of physical restraints and alternatives.

(b) The initial ratings awarded to a facility pursuant to the rules adopted under this section shall be based on inspections, penalties imposed, and investigations of substantiated complaints that revealed noncompliance with statutes and rules, that occurred on or after the act becomes law.

(c) Type A penalties shall affect the rating for 24 months from the date the penalty is assessed. Type B penalties shall affect the rating for 12 months from the date the penalty is assessed.

(d) Adult care homes shall display the rating certificate in a location visible to the public. Certificates shall include the Web site address for the Department of Health and Human Services, Division of Health Service Regulation, which can be accessed for specific information regarding the basis of the facility rating. For access by the public on request, adult care homes shall also maintain on-site a copy of information provided by the Department of Health and Human Services, Division of Health Service Regulation, regarding the basis of the facility rating. In addition to information on the basis of the rating, the Department of Health and Human Services, Division of Health Service Regulation, shall make information available via its Web site and in the materials available on-site at the facility regarding quality improvement efforts undertaken by the facility including:

(1) Participation in any quality improvement programs approved by the Department.

(2) The facility's attainment of the North Carolina New Organizational Vision Award special licensure designation authorized in Article 5, Chapter 131E of the General Statutes."

SECTION 3.(c) The Department of Health and Human Services shall provide a copy of emergency, temporary, and permanent rules adopted pursuant to this section to the North Carolina Study Commission on Aging at the same time the Department submits the adopted rules to the Rules Review Commission for its review under Chapter 150B of the General Statutes.

SECTION 3.(d) The Department of Health and Human Services, Divisions of Health Service Regulation, Aging and Adult Services, and Medical Assistance shall study the structure and cost of a system to reward adult care homes which receive high ratings. The Department shall report findings and recommendations on this study to the North Carolina Study Commission on Aging not later than March 1, 2008.

SECTION 3.(e) It is the intent of the General Assembly to provide funding for technical assistance to adult care homes for the 2008-2009 fiscal year.

SECTION 3.(f) The Department of Health and Human Services, Division of Health Service Regulation and Division of Aging and Adult Services, shall study expanding the rated certificate system to other facilities and services licensed and certified by the Department. The Department shall report to the North Carolina Study Commission on Aging on the expansion of the rating system by October 1, 2009.

SECTION 3.(g) The Department of Health and Human Services, Division of Health Service Regulation, shall report on the implementation of the rated certificate system. The Department shall make an interim report to the North Carolina Study Commission on Aging not later than October 1, 2009, and a final report to the Commission not later than October 1, 2010.

SECTION 4. Section 1 of this act becomes effective October 1, 2007. Section 2 becomes effective January 1, 2008. Certificates authorized under Section 3 shall be issued beginning January 1, 2009. The remainder of this act is effective when it becomes law.

ATTACHMENT B

SECTION .1600 – RATED CERTIFICATES (ADULT CARE HOMES 7+ BEDS)

10A NCAC 13F .1601 SCOPE

(a) This Section applies to all licensed adult care homes for seven or more residents that have been in operation for more than one year.

(b) As used in this Section a "rated certificate" means a certificate issued to an adult care home on or after January 1, 2009 and based on the factors contained in G.S. 131D-10.

History Note: *Authority G.S. 131D-4.5; 131D-10; Eff. July 3, 2008.*

10A NCAC 13F .1602 ISSUANCE OF RATED CERTIFICATES

(a) A rated certificate shall be issued to a facility by the Division of Health Service Regulation within 45 days completion of a new rating calculation pursuant to Rule .1604 of this Subchapter.

(b) If the ownership of the facility changes, the rated certificate in effect at the time of the change of ownership shall remain in effect until the next annual survey or until a new certificate is issued pursuant to Rule .1604(b) of this Subchapter.

(c) The certificate and any worksheet the Division used to calculate the rated certificate shall be displayed in a location visible to the public.

(d) The facility may contest the rated certificate by requesting a contested case hearing pursuant to G.S. 150B. The rated certificate and any subsequent certificates remain in effect during any contested case hearing process.

History Note: *Authority G.S. 131D-4.5; 131D-10; Eff. July 3, 2008.*

10A NCAC 13F .1603 STATUTORY AND RULE REQUIREMENTS AFFECTING RATED CERTIFICATES

The following Statutes and Rules comprise the standards that contribute to rated certificates:

(1) G.S. 131D-21 Resident's Rights;
(2) 10A NCAC 13F .0300 Physical Plant Requirements;
(3) 10A NCAC 13F .0700 Admission and Discharge Requirements;
(4) 10A NCAC 13F .0800 Resident Assessment and Care Plan;
(5) 10A NCAC 13F .0900 Resident Care and Services;
(6) 10A NCAC 13F .1000 Medication Management;
(7) 10A NCAC 13F .1300 Special Care Units for Alzheimer's and Related Disorders;

(8) 10A NCAC 13F .1400 Special Care Units for Mental Health Disorders; and
(9) 10A NCAC 13F .1500 Use of Physical Restraints and Alternatives.

History Note: *Authority G.S. 131D-4.5; 131D-10;*
Eff. July 3, 2008.

10A NCAC 13F .1604 RATING CALCULATION

(a) Ratings shall be based on:
(1) Inspections completed pursuant to G.S. 131D-2(b)(1a)a;
(2) Statutory and Rule requirements listed in Rule .1603 of this Section;
(3) Type A or uncorrected Type B penalty violations identified pursuant to G.S. 131D-34; and
(4) Other items listed in Subparagraphs (c)(1) and (c)(2) of this Rule.

(b) The initial rating a facility receives shall remain in effect until the next inspection. If an activity occurs which results in the assignment of additional merit or demerit points, a new certificate shall be issued pursuant to Rule .1602(a) of this Section.

(c) The rating shall be based on a 100 point scale. Beginning with the initial rating and repeating with each annual inspection, the facility shall be assigned 100 points and shall receive merits or demerits, which shall be added or subtracted from the 100 points, respectively. The merits and demerits shall be assigned as follows:

(1) Merit Points
(A) If the facility corrects citations of noncompliance with the statutes or rules listed in Rule .1603 of this Subchapter, which are not related to the identification of a Type A violation or an uncorrected Type B violation, the facility shall receive 1.25 merit points for each corrected deficiency;
(B) If the facility receives citations on its annual inspection with no Type A or Type B violations and the rating from the annual inspection is one or zero stars the facility may request Division of Health Service Regulation to conduct a follow-up inspection not less than 60 days after the date of the annual inspection. A follow-up inspection shall be completed depending upon the availability of Division of Health Service Regulation staff. As determined by the follow-up review, the facility shall receive 1.25 merit points for each corrected deficiency;
(C) If the facility corrects the citation for which a Type A violation was identified, the facility shall receive 2.5 merit points and shall receive an additional 2.5 merit points following the next annual inspection if no further Type A violations are identified;
(D) If the facility corrects a previously uncorrected Type B violation, the facility shall receive 1.25 merit points;
(E) If the facility's admissions have been suspended, the facility shall receive 5 merit points if the suspension is removed;

(F) If the facility participates in any quality improvement program pursuant to G.S. 131D-10, the facility shall receive 2.5 merit points;

(G) If the facility receives NC NOVA special licensure designation, the facility shall receive 2.5 merit points;

(H) On or after the effective date of this Rule, if the facility permanently installs a generator or has a contract with a generator provider to provide emergency power for essential functions of the facility, the facility shall receive 2 merit points. For purposes of this Section, essential functions mean those functions necessary to maintain the health or safety of residents during power outages greater than 6 hours. If the facility has an existing permanently installed generator or an existing contract with a generator provider, the facility shall receive 1 merit point for maintaining the generator in working order or continuing the contract with a generator provider; and

(I) On or after the effective date of this Rule, if the facility installs automatic sprinklers in compliance with the North Carolina Building Code, the facility shall receive 3 merit points. If the facility has an existing automatic sprinkler, the facility shall receive 2 merit points for subsequent ratings for maintaining the automatic sprinklers in good working order.

(2) Demerit Points

(A) For each citation of noncompliance with the statutes or rules listed in Rule .1603 of this Subchapter, the facility shall receive a demerit of 2 points. The facility shall receive demerit points only once for citations in which the findings are identical to those findings used for another citation;

(B) For each citation of a Type A violation, the facility shall receive a demerit of 10 points;

(C) For each citation of a Type B violation, the facility shall receive a demerit of 3.5 points and if the Type B violation remains uncorrected as the result of a follow-up inspection, the facility shall receive an additional demerit of 3.5 points;

(D) If the facility's admissions are suspended, the facility shall receive a demerit of 10 points; however, if the facility's admissions are suspended pursuant to G.S. 131D-4.2, the facility shall not receive any demerit points; and

(E) If the facility receives a notice of revocation against its license, the facility shall receive demerit of 31 points.

(d) Facilities shall be given a rating of zero to four stars depending on the score assigned pursuant to Paragraph (a), (b) or (c) of this Rule. Ratings shall be assigned as follows:

(1) Four stars shall be assigned to any facility whose score is 100 points or greater on two consecutive annual inspections;

(2) Three stars shall be assigned for scores of 90 to 99.9 points, or for any facility whose score is 100 points or greater on one annual inspection;

(3) Two stars shall be assigned for scores of 80 to 89.9 points;

(4) One star shall be assigned for scores of 70 to 79.9 points; and

(5) Zero stars shall be assigned for scores of 69.9 points or lower.

History Note: *Authority G.S. 131D-4.5; 131D-10;*
Eff. July 3, 2008.

10A NCAC 13F .1605 CONTENTS OF RATED CERTIFICATE

(a) The certificate shall contain a rating determined pursuant to Rule .1604 of this Subchapter.

(b) The certificate or accompanying worksheet from which the score is derived shall contain a breakdown of the point merits and demerits by the factors listed in Rules .1603 and .1604(c) of this Subchapter in a manner that the public can determine how the rating was assigned and the factors that contributed to the rating.

(c) The certificate shall be printed on the same type of paper that is used to print the facility's license.

(d) The Division of Health Service Regulation shall issue the certificate pursuant to Rule .1602 of this Subchapter.

History Note: *Authority G.S. 131D-4.5; 131D-10;*
Eff. July 3, 2008.

ATTACHMENT C

SECTION .1600 – RATED CERTIFICATES (FAMILY CARE HOMES 2-6 BEDS)

10A NCAC 13G .1601 SCOPE

(a) This Section applies to all licensed family care homes for two to six residents that have been in operation for more than one year.
(b) As used in this Section a "rated certificate" means a certificate issued to a family care home on or after January 1, 2009 and based on the factors contained in G.S. 131D-10.

History Note: *Authority G.S. 131D-4.5; 131D-10;*
Eff. July 3, 2008.

10A NCAC 13G .1602 ISSUANCE OF RATED CERTIFICATES

(a) A rated certificate shall be issued to a facility by the Division of Health Service Regulation within 45 days completion of a new rating calculation pursuant to Rule .1604 of this Subchapter.
(b) If the ownership of the facility changes, the rated certificate in effect at the time of the change of ownership shall remain in effect until the next annual survey or until a new certificate is issued pursuant to Rule .1604(b) of this Subchapter.
(c) The certificate and any worksheet the Division used to calculate the rated certificate shall be displayed in a location visible to the public.
(d) The facility may contest the rated certificate by requesting a contested case hearing pursuant to G.S. 150B. The rated certificate and any subsequent certificates remain in effect during any contested case hearing process.

History Note: *Authority G.S. 131D-4.5; 131D-10;*
Eff. July 3, 2008.

10A NCAC 13G .1603 STATUTORY AND RULE REQUIREMENTS AFFECTING RATED CERTIFICATES

The following Statutes and Rules comprise the standards that contribute to rated certificates:

(1) G.S. 131D-21 Resident's Rights;
(2) 10A NCAC 13G .0300 The Building;
(3) 10A NCAC 13G .0700 Admission and Discharge Requirements;
(4) 10A NCAC 13G .0800 Resident Assessment and Care Plan;
(5) 10A NCAC 13G .0900 Resident Care and Services;
(6) 10A NCAC 13G .1000 Medications; and
(7) 10A NCAC 13G .1300 Use of Physical Restraints and Alternatives.

History Note: *Authority G.S. 131D-4.5; 131D-10;*
Eff. July 3, 2008.

10A NCAC 13G .1604 RATING CALCULATION

(a) Ratings shall be based on:

(1) Inspections completed pursuant to G.S. 131D-2(b)(1a)a;

(2) Statutory and Rule requirements listed in Rule .1603 of this Section;

(3) Type A or uncorrected Type B penalty violations identified pursuant to G.S. 131D-34; and

(4) Other items listed in Subparagraphs (c)(1) and (c)(2) of this Rule.

(b) The initial rating a facility receives shall remain in effect until the next inspection. If an activity occurs which results in the assignment of additional merit or demerit points, a new certificate shall be issued pursuant to Rule .1602(a) of this Section.

(c) The rating shall be based on a 100 point scale. Beginning with the initial rating and repeating with each annual inspection, the facility shall be assigned 100 points and shall receive merits or demerits, which shall be added or subtracted from the 100 points, respectively. The merits and demerits shall be assigned as follows:

(1) Merit Points

(A) If the facility corrects citations of noncompliance with the statutes or rules listed in Rule .1603 of this Subchapter, which are not related to the identification of a Type A violation or an uncorrected Type B violation, the facility shall receive 1.25 merit points for each corrected deficiency;

(B) If the facility receives citations on its annual inspection with no Type A or Type B violations and the rating from the annual inspection is one or zero stars, the facility may request Division of Health Service Regulation to conduct a follow-up inspection not less than 60 days after the date of the annual inspection. A follow-up inspection shall be completed depending upon the availability of Division of Health Service Regulation staff. As determined by the follow-up review, the facility shall receive 1.25 merit points for each corrected deficiency;

(C) If the facility corrects the citation for which a Type A violation was identified, the facility shall receive 2.5 merit points and shall receive an additional 2.5 merit points following the next annual inspection if no further Type A violations are identified;

(D) If the facility corrects a previously uncorrected Type B violation, the facility shall receive 1.25 merit points;

(E) If the facility's admissions have been suspended, the facility shall receive 5 merit points if the suspension is removed;

(F) If the facility participates in any quality improvement program pursuant to G.S. 131D-10, the facility shall receive 2.5 merit points;

(G) If the facility receives NC NOVA special licensure designation, the facility shall receive 2.5 merit points;

(H) On or after the effective date of this Rule, if the facility permanently installs a generator or has a contract with a generator provider to provide emergency power for essential functions of the facility, the facility shall receive 2 merit points. For purposes of this Section, essential functions mean those functions necessary to maintain the health or safety of residents during power outages greater than 6 hours. If the facility has an existing permanently installed generator or an existing contract with a generator provider, the facility shall receive 1 merit point for maintaining the generator in working order or continuing the contract with a generator provider; and

(I) On or after the effective date of this Rule, if the facility installs automatic sprinklers in compliance with the North Carolina Building Code, the facility shall receive 3 merit points. If the facility has an existing automatic sprinkler, the facility shall receive 2 merit points for subsequent ratings for maintaining the automatic sprinklers in good working order.

(2) Demerit Points

(A) For each citation of noncompliance with the statutes or rules listed in Rule .1603 of this Subchapter, the facility shall receive a demerit of 2 points. The facility shall receive demerit points only once for citations in which the findings are identical to those findings used for another citation;

(B) For each citation of a Type A violation, the facility shall receive a demerit of 10 points;

(C) For each citation of a Type B violation, the facility shall receive a demerit of 3.5 points and if the Type B violation remains uncorrected as the result of a follow-up inspection, the facility shall receive an additional demerit of 3.5 points;

(D) If the facility's admissions are suspended, the facility shall receive a demerit of 10 points; however, if the facility's admissions are suspended pursuant to G.S. 131D-4.2, the facility shall not receive any demerit points; and

(E) If the facility receives a notice of revocation against its license, the facility shall receive demerit of 31 points.

(d) Facilities shall be given a rating of zero to four stars depending on the score assigned pursuant to Paragraph (a), (b) or (c) of this Rule. Ratings shall be assigned as follows:

(1) Four stars shall be assigned to any facility whose score is 100 points or greater on two consecutive annual inspections;

(2) Three stars shall be assigned for scores of 90 to 99.9 points, or for any facility whose score is 100 points or greater on one annual inspection;

(3) Two stars shall be assigned for scores of 80 to 89.9 points;

(4) One star shall be assigned for scores of 70 to 79.9 points; and

(5) Zero stars shall be assigned for scores of 69.9 points or lower.

History Note: *Authority G.S. 131D-4.5; 131D-10;*

Eff. July 3, 2008.

10A NCAC 13G .1605 CONTENTS OF RATED CERTIFICATE

(a) The certificate shall contain a rating determined pursuant to Rule .1604 of this Subchapter.

(b) The certificate or accompanying worksheet from which the score is derived shall contain a breakdown of the point merits and demerits by the factors listed in Rules .1603 and .1604(c) of this Subchapter in a manner that the public can determine how the rating was assigned and the factors that contributed to the rating.

(c) The certificate shall be printed on the same type of paper that is used to print the facility's license.

(d) The Division of Health Service Regulation shall issue the certificate pursuant to Rule .1602 of this Subchapter.

History Note: Authority G.S. 131D-4.5; 131D-10;
Eff. July 3, 2008.

ATTACHMENT D

DHHS - Division of Health Service Regulation
Adult Care Home Rating Worksheet

Procedure: DHSR will complete the rating worksheet upon conclusion of the facility's annual inspection. Conclusion of the inspection is defined as when DHSR staff has returned to the office and the statement of deficiencies is mailed to the facility. If issues affecting the rating change between annual inspections, a new certificate will be mailed to the facility.
More information about the Star Rating Program and inspections of adult care homes can be found at the DHSR website: http://www.ncdhhs.gov/dhsr/

Reason for Rating Issuance:

Annual Inspection	Date: 05/13/2009		

Merit Points Earned	Demerit Points Issued	Statute or Rule - Category	Measurement Evaluated
		13F/G.0300 - Physical Plant Requirements	For each citation of noncompliance with the rules related to physical plant, the facility will receive a demerit of 2 points. (citation(s): ___ x 2.0= ___)
		13F/G.0700 - Admission & Discharge Requirements	For each citation of noncompliance with the rules related to admission and discharge, the facility will receive a demerit of 2 points. (citation(s): ___ x 2.0= ___)
		13F/G.0800 - Resident Assessment & Care Plan	For each citation of noncompliance with the rules related to resident assessment & care plan, the facility will receive a demerit of 2 points. (citation(s): ___ x 2.0= ___)
		13F/G.0900 - Resident Care & Services	For each citation of noncompliance with the rules related to resident care & services, the facility will receive a demerit of 2 points. (citation(s): ___ x 2.0= ___)
		13F/G.3000 - Medication Management	For each citation of noncompliance with the rules related to medication management, the facility will receive a demerit of 2 points. (citation(s): ___ x 2.0= ___)
		13F.1300 - Special Care Units for Alzheimer's & Related Disorders (ACH ONLY)	For each citation of noncompliance with the rules related to special care units for Alzheimer's & related disorders, the facility will receive a demerit of 2 points. (citation(s): ___ x 2.0= ___)
		13F.1400 - Special Care Units for Mental Health Disorders (ACH ONLY)	For each citation of noncompliance with the rules related to special care units for mental health disorders, the facility will receive a demerit of 2 points. (citation(s): ___ x 2.0= ___)
		13F/G.1500 - Use of Physical Restraints & Alternatives	For each citation of noncompliance with the rules related to physical restraints and alternatives, the facility will receive a demerit of 2 points. (citation(s): ___ x 2.0= ___)
		G.S.131D-21 - Residents' Rights	For each citation of noncompliance with the statutes related to residents' rights, the facility will receive a demerit of 2 points. (citation(s): ___ x 2.0= ___)
		13F/G.0215 - Type A Violation	For each citation of noncompliance, which results in a Type A violation, the facility will receive a demerit of 10 points. (citation(s): ___ x 10.0= ___)
		13F/G.0215 - Type B Violation	For each citation of noncompliance, which results in a Type B violation, the facility will receive a demerit of 3.5 points. (citation(s): ___ x 3.5= ___)
		13F/G.0215 - Type B Violation Uncorrected	For each Type B violation that is uncorrected, the facility will receive a demerit of 3.5 points. (Type B violations uncorrected: ___ x 3.5= ___)
		13F/G.0214 Suspension of Admissions	If the facility's admissions are suspended, the facility will receive a demerit of 10 points.
		13F/G.0212 Notice of Revocation of License Issued	If a notice of revocation of license is issued, the facility will receive a demerit of 31 points.
		13F/G.1603 - Citation of noncompliance corrected or Type B Violation correction	For each citation of non-compliance or Type B Violation correction with rules related to 10A NCAC 13F .1603, which is corrected, the facility will receive a merit of 1.25points. (citation(s): ___ x 1.25= ___)
		13F/G.0215 - Type A Violation corrected / No further Type A Violations identified	For each citation, which is corrected, which previously resulted in a Type A violation, the facility will receive a merit of 2.5 points. (citation(s): ___ x 2.5= ___)
		13F/G.0215 - Uncorrected Type B Violation corrected	For each uncorrected Type B violation that is corrected, the facility will receive a merit of 1.25 points. (Type B violations corrected: ___ x 1.25= ___)
		Removal of Suspension of Admissions	If the facility has a Suspension of Admissions removed, the facility will receive a merit of 5 points.
2.50		G.S.131D-10(d)(2) - Participation in a Quality Improvement Program	If the facility participates in a quality improvement program approved by DHHS, it will receive a merit of 2.5 points.
2.50		G.S.131E - NC NOVA designation awarded	If the facility has been awarded NC NOVA designation, it will receive a merit of 2.5 points.
1.00		Emergency power back-up (Existing)	The facility will receive 2 merit points for new (On or after 07/03/2008) emergency power arrangements and 1 point for existing emergency power arrangements.
2.00		Automatic sprinklers (Existing)	The facility will receive 3 merit points for newly (On or after 07/03/2008) installed sprinklers and 2 points for existing sprinklers.

Total Merit Points	Total Demerit Points	Base Points	FACILITY RATING SCORE *Base Points - Total Demerits + Total Merits = Rating Score*
8.00	0.00	100.00	108.00

STAR RATING SCORE KEY

Four Stars	= 100 points or greater
Three Stars	= 90.9 - 99.9 points
Two Stars	= 80.0 - 89.9 points
One Star	= 70.00 - 79.9 points
Zero Stars	= 69.9 and lower

This facility is rated:

3

** Facilities must obtain two consecutive 100 point or greater annual surveys to earn a Four Star Rating.*

Facility Name: The Coventry

County / License #: Moore / HAL-063-016 **FID: 960429**

Signature DHSR Adult Care Licensure Section Representative: _____ Date: _____

ATTACHMENT E

State of North Carolina

Department of Health and Human Services
Division of Health Service Regulation
Adult Care Rating Certificate

Rating Score: 108.00

The Coventry
License #: HAL-063-016
105 Gossman Drive
Southern Pines, NC 28387-

Rating Summary:	
Base Points:	100.00 points
Total Deficits:	-0.00 points
Total Merits:	8.00 points

Score Calculation:
Base Points + Total Deficits + Total Merits = Rating Score:
100.00 base points - 0.00 deficits + 8.00 merits = 108.00

Star Rating Key:	
Four Stars	100 points or greater
Three Stars	90.0 - 99.9 points
Two Stars	80.0 - 89.9 points
One Star	70.0 - 79.9 points
Zero Stars	69.9 and lower

* Facilities must obtain two consecutive 100 points or greater annual surveys to earn a Four Star Rating.

Date of Inspection: May 15, 2009 - Annual Inspection
Date Issued: May 20, 2009

For more information about Star Rating Program and inspection results, please go to the DHSR web address: https://www.ncdhhs.gov/dhsr/

Authorized by:

Secretary, N.C. Department of Health and Human Services

Director, Division of Health Service Regulation

ATTACHMENT F

DHHS - Division of Health Service Regulation
Adult Care Home Rating Worksheet

Procedure: DHSR will complete the rating worksheet upon conclusion of the facility's annual inspection. Conclusion of the inspection is defined as when DHSR staff has returned to the office and the statement of deficiencies is mailed to the facility. If issues affecting the rating change between annual inspections, a new certificate will be mailed to the facility.
More information about the Star Rating Program and inspections of adult care homes can be found at the DHSR website: http://www.ncdhhs.gov/dhsr/

Reason for Rating Issuance:

Annual Inspection	Date: 02/05/2009	Type A Violation	Date: 02/05/2009	Suspension of Admissions	Date: 02/20/2009

Merit Points Earned	Demerit Points Issued	Statute or Rule - Category	Measurement Evaluated
		13F/G.0300 - Physical Plant Requirements	For each citation of noncompliance with the rules related to physical plant, the facility will receive a demerit of 2 points. (citation(s): ___ x 2.0= ___)
		13F/G.0700 - Admission & Discharge Requirements	For each citation of noncompliance with the rules related to admission and discharge, the facility will receive a demerit of 2 points. (citation(s): ___ x 2.0= ___)
		13F/G.0800 - Resident Assessment & Care Plan	For each citation of noncompliance with the rules related to resident assessment & care plan, the facility will receive a demerit of 2 points. (citation(s): ___ x 2.0= ___)
	2.00	13F/G.0900 - Resident Care & Services	For each citation of noncompliance with the rules related to resident care & services, the facility will receive a demerit of 2 points. (citation(s): 1 x 2.0 = 2.00)
		13F/G.1000 - Medication Management	For each citation of noncompliance with the rules related to medication management, the facility will receive a demerit of 2 points. (citation(s): ___ x 2.0= ___)
		13F.1300 - Special Care Units for Alzheimer's & Related Disorders (ACH ONLY)	For each citation of noncompliance with the rules related to special care units for Alzheimer's & related disorders, the facility will receive a demerit of 2 points. (citation(s): ___ x 2.0= ___)
		13F.1400 - Special Care Units for Mental Health Disorders (ACH ONLY)	For each citation of noncompliance with the rules related to special care units for mental health disorders, the facility will receive a demerit of 3 points. (citation(s): ___ x 2.0= ___)
		13F/G.1500 - Use of Physical Restraints & Alternatives	For each citation of noncompliance with the rules related to physical restraints and alternatives, the facility will receive a demerit of 2 points. (citation(s): ___ x 2.0= ___)
		G.S.131D-21 - Residents' Rights	For each citation of noncompliance with the statutes related to residents' rights, the facility will receive a demerit of 2 points. (citation(s): ___ x 2.0= ___)
	40.00	13F/G.0215 - Type A Violation	For each citation of noncompliance, which results in a Type A violation, the facility will receive a demerit of 10 points. (citation(s): 4 x 10.0 = 40.0)
	3.50	13F/G.0215 - Type B Violation	For each citation of noncompliance, which results in a Type B violation, the facility will receive a demerit of 3.5 points. (citation(s): 1 x 3.5 = 3.50)
		13F/G.0215 - Type B Violation Uncorrected	For each Type B violation that is uncorrected, the facility will receive a demerit of 3.5 points. (Type B violations uncorrected: ___ x 3.5= ___)
	10.00	13F/G.0214 Suspension of Admissions	If the facility's admissions are suspended, the facility will receive a demerit of 10 points.
		13F/G.0212 Notice of Revocation of License Issued	If a notice of revocation of license is issued, the facility will receive a demerit of 31 points.
		13F/G.1603 - Citation of noncompliance corrected or Type B Violation correction	For each citation of non-compliance or Type B Violation correction with rules related to 10A NCAC 13F .1603, which is corrected, the facility will receive a merit of 1.25points. (citation(s): ___ x 1.25= ___)
		13F/G.0215 - Type A Violation corrected / No further Type A Violations identified	For each citation, which is corrected, which previously resulted in a Type A violation, the facility will receive a merit of 2.5 points. (citation(s): ___ x 2.5= ___)
		13F/G.0215 - Uncorrected Type B Violation corrected	For each uncorrected Type B violation that is corrected, the facility will receive a merit of 1.25 points. (Type B violations corrected: ___ x 1.25= ___)
		Removal of Suspension of Admissions	If the facility has a Suspension of Admissions removed, the facility will receive a merit of 5 points.
		G.S.131D-10(d)(2) - Participation in a Quality Improvement Program	If the facility participates in a quality improvement program approved by DHHS, it will receive a merit of 2.5 points.
		G.S.131E - NC NOVA designation awarded	If the facility has been awarded NC NOVA designation, it will receive a merit of 2.5 points.
		Emergency power back-up	The facility will receive 2 merit points for new (On or after 07/03/2008) emergency power arrangements and 1 point for existing emergency power arrangements.
		Automatic sprinklers	The facility will receive 3 merit points for newly (On or after 07/03/2008) installed sprinklers and 2 points for existing sprinklers.

Total Merit Points	Total Demerit Points	Base Points	FACILITY RATING SCORE *Base Points - Total Demerits + Total Merits = Rating Score*
0.00	55.50	100.00	44.50

STAR RATING SCORE KEY

Four Stars	= 100 points or greater
Three Stars	= 90.0 - 99.9 points
Two Stars	= 80.0 - 89.9 points
One Star	= 70.00 - 79.9 points
Zero Stars	= 69.9 and lower

This facility is rated:

0

** Facilities must obtain two consecutive 100 point or greater annual surveys to earn a Four Star Rating.*

Facility Name: Holman-Hampton Sunshine Family Care

County / License #: Rockingham / FCL-079-064 **FID:** 970378

Signature DHSR Adult Care Licensure Section Representative: _____ Date: _____

ATTACHMENT G

State of North Carolina

Department of Health and Human Services
Division of Health Service Regulation

Adult Care Rating Certificate

ZERO Stars

Rating Score: 44.50

Holman-Hampton Sunshine Family Care Homes Inc # 3
License #: FCL-079-064
149 Glendale Drive
Eden, NC 27288-

Rating Summary:	
Base Points	+100.00 points
Total Demerits	-55.50 points
Total Merits	0.00 points
Score Calculation:	
Base Points - demerits + merits = Rating Score	
= 100.00 base points - 55.50 demerits + 0.00 merits = 44.50	

Star Rating Key:	
Four Stars	100 points or greater
Three Stars	90.0 - 99.0 points
Two Stars	80.0 - 89.[illegible] points
One Star	70.0 - 79.9 points
Zero Stars	[illegible] and lower

* [illegible] 100 points or greater [illegible] to earn a Four Star Rating

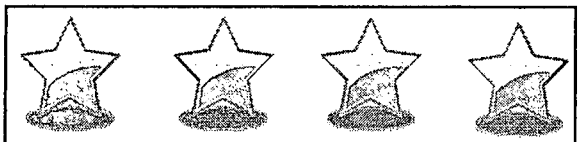
Date of Inspection: February 05, 2009 - Annual Inspection
Date Issued: February 24, 2009

For more information about Star Rating Program and inspection results, please go to the DHSR web address http://www.ncdhhs.gov/dhsr

Authorized by:

Secretary, N.C. Department of Health and Human Services

Director, Division of Health Service Regulation



North Carolina Adult Care Home Star Rated Certificate Program

NC Division of Health Service Regulation
Adult Care Licensure Section

1

North Carolina Star Rated Certificate Program

- Beginning January 1, 2009 adult care homes and family care homes receive star ratings based on inspections
- The program was initiated by the Study Commission on Aging in response to citizens of North Carolina who voiced the need for increased availability of public information regarding the care provided in adult care facilities.
- The Star Rating program is part of Senate Bill 56, and was passed in July 2007 by the NC General Assembly as GS 131D-10.
- NC Medical Care Commission developed rules for the rating program with input from residents and families in adult care homes, advocacy groups, providers, and others.

2

Ratings Are Based On...

- DHSR Annual Inspections
- DHSR Follow-up and Complaint Investigations
- DHSR Construction Inspections
- DHSR Licensure Actions
- County DSS Investigations

3

Calculating a Rating Score

- Rating scores are based on a 100 point scale that renews at each annual inspection.
- Facilities earn **demerit** points which are deducted from the base score for:
  - ✓Citations and Violations
  - ✓Licensure Actions
- Facilities earn **merit** points which are added to the rating score for:
  - ✓Correcting citations and violations
  - ✓Lifting of licensure actions
  - ✓Meeting criteria of extra merit point opportunities

4

Extra Merit Point Opportunities

At each annual inspection, facilities have four opportunities to earn extra merit points. These are:

1. **Permanently Installed Emergency Power Backup System or Contract**
2. **Automatic Sprinkler System**
3. **NC NOVA Licensure Designation**
4. **Participation in a Quality Improvement Program** (approved by the Department)

5

Star Rating Scale

Four Stars	☆☆☆☆	100 or greater points *on two consecutive annual surveys*
Three Stars	☆☆☆	90.0-99.9 points, **OR, for any facility whose score is 100 points or greater on one annual inspection*
Two Stars	☆☆	80.0-89.9 points
One Star	☆	70.0-79.9 points
Zero Stars		69.9 points or lower

- Note: A facility must obtain 2 consecutive 100 point or greater annual surveys in order to earn a Four Star rating!
- There were no 4 Star ratings in the first year of the program.

6

Certificates and Worksheets

- A rating worksheet and certificate are sent to the facility within 45 days from the date the Statement of Deficiencies (SOD) report is mailed to the facility.
- Facilities must post their rating in a location visible to the public.
  - Worksheet- Illustrates how scores are calculated
  - Certificate- Reflects number of stars earned
- A new worksheet and certificate are issued *every time the rating score changes* (annual, follow-up, complaints, DSS, construction, licensure actions)
- Star Ratings are posted on the DHSR/ACLS website and the rating history is maintained.

7

Potential Factors That May Affect Ratings

Type A & Unabated Type B Violations

- Points deducted for these types of violations affect the facility's rating score beyond the current year's rating.
  - Type A= 24 months from the date cited
  - Unabated Type B= 12 months from the date cited

Changes of Ownership

- The star rating stays with a facility through a change of ownership, until the next annual inspection.

Appealing the Rating

- Facilities may contest the rated certificate.
- Appeals are heard through the Office of Administrative Hearings.
- The rated certificate and any subsequent certificates remain in effect during any contested case hearing process.

8

Increasing Availability of Information to Consumers: Program Enhancements

- Star Rating Website

  http://www.ncdhhs.gov/dhsr/acls/star/index.html
  - Comprehensive explanation of the program
  - Facility ratings (increased frequency of posting)
  - Links to resources to assist consumers in their search for long term care options for placement
- Facility Rating Search on Website

  http://www.ncdhhs.gov/dhsr/acls/star/search.asp
  - New! Ability to search facility ratings by county, city and facility name
- Star Rating E-Mail Address

  DSHR.AdultCare.Star@lists.ncmail.net
  - Allows public to send questions regarding the star rating program and receive a quick response (providers, county DSS and advocates, too)

9

Star Rating Update

Based on Ratings Issued January 1, 2009 – December 31, 2009

- Total Number of Ratings Issued 1261

Total Number Ratings Issued based on Annual Inspections 1050

Table 1.1
Star Ratings Issued (Annual Inspections Only)
1/1/09-12/31/09

Star Rating Scores	# Total Ratings	% Total Ratings	% ACH Ratings	% FCH Ratings
100.00 or greater points (4 Star Eligible)	634	65%	49%	51%
90 to 99.9 points	300	29%	60%	40%
80 to 89.9 points	37	4%	51%	49%
70 to 79.9 points	15	1%	73%	27%
69.9 or lower points	14	1%	57%	43%

10

Star Rating Update 2009 Continued

Table 1.2
Merit Points Issued for Extra Merit Point Opportunities
1/1/09-12/31/09

Merit Point Opportunity	# of Total Ratings	% of Total Ratings	% ACH Ratings	% FCH Ratings
Emergency Power Backup	230	23%	85%	15%
Automatic Sprinkler System	261	25%	97%	3%
NC NOVA Designation	1	<1%	100%	0%
Quality Improvement Program	388	37%	79%	21%

11

Questions?

12

SAMPLE

DHHS - Division of Health Service Regulation
Adult Care Home Rating Worksheet

SAMPLE

Procedure: DHSR will complete the rating worksheet upon conclusion of the facility's annual inspection. Conclusion of the inspection is defined as when DHSR staff has returned to the office and the statement of deficiencies is mailed to the facility. If issues affecting the rating change between annual inspections, a new certificate will be mailed to the facility.

More information about the Star Rating Program and inspections of adult care homes can be found at the DHSR website: http://www.ncdhhs.gov/dhsr/

[redacted] for Rating Issuance:

[redacted]nnual Inspection Date: 10/01/2009

Merit Points Earned	Demerit Points Issued	Statute or Rule - Category	Measurement Evaluated
[redacted]		13F/G.0300 - Physical Plant Requirements	For each citation of noncompliance with the rules related to physical plant, the facility will receive a demerit of 2 points. (citation(s) ___x 2.0= ___)
		13F/G.0700 - Admission & Discharge Requirements	For each citation of noncompliance with the rules related to admission and discharge, the facility will receive a demerit of 2 points. (citation(s): ___x 2.0= ___)
		13F/G.0800 - Resident Assessment & Care Plan	For each citation of noncompliance with the rules related to resident assessment & care plan, the facility will receive a demerit of 2 points. (citation(s): ___x 2.0= ___)
	2.00	13F/G.0900 - Resident Care & Services	For each citation of noncompliance with the rules related to resident care & services, the facility will receive a demerit of 2 points. (citation(s): 1 x 2.0 = 2.00)
	2.00	13F/G.1000 - Medication Management	For each citation of noncompliance with the rules related to medication management, the facility will receive a demerit of 2 points. (citation(s): 1 x 2.0 = 2.00)
		13F.1300 - Special Care Units for Alzheimer's & Related Disorders (ACH ONLY)	For each citation of noncompliance with the rules related to special care units for Alzheimer's & related disorders, the facility will receive a demerit of 2 points. (citation(s): ___x 2.0= ___)
		13F.1400 - Special Care Units for Mental Health Disorders (ACH ONLY)	For each citation of noncompliance with the rules related to special care units for mental health disorders, the facility will receive a demerit of 2 points. (citation(s): ___x 2.0= ___)
		13F/G.1500 - Use of Physical Restraints & Alternatives	For each citation of noncompliance with the rules related to physical restraints and alternatives, the facility will receive a demerit of 2 points. (citation(s): ___x 2.0= ___)
		G.S.131D-21 - Residents' Rights	For each citation of noncompliance with the statutes related to residents' rights, the facility will receive a demerit of 2 points. (citation(s): ___x 2.0= ___)
		13F/G.0215 - Type A Violation	For each citation of noncompliance, which results in a Type A violation, the facility will receive a demerit of 10 points. (citation(s): ___x 10.0= ___)
	3.50	13F/G.0215 - Type B Violation	For each citation of noncompliance, which results in a Type B violation, the facility will receive a demerit of 3.5 points. (citation(s): 1 x 3.5 = 3.50)
		13F/G.0215 - Type B Violation Uncorrected	For each Type B violation that is uncorrected, the facility will receive a demerit of 3.5 points. (Type B violations uncorrected: ___x 3.5= ___)
		13F/G.0214 Suspension of Admissions	If the facility's admissions are suspended, the facility will receive a demerit of 10 points.
		13F/G.0212 Notice of Revocation of License Issued	If a notice of revocation of license is issued, the facility will receive a demerit of 31 points.
	[redacted]	13F/G.1603 - Citation of noncompliance corrected or Type B Violation correction	For each citation of non-compliance or Type B Violation correction with rules related to 10A NCAC 13F .1603, which is corrected, the facility will receive a merit of 1.25points. (citation(s): ___x 1.25= ___)
		13F/G.0215 - Type A Violation corrected / No further Type A Violations identified	For each citation, which is corrected, which previously resulted in a Type A violation, the facility will receive a merit of 2.5 points. (citation(s): ___x 2.5= ___)
		13F/G.0215 - Uncorrected Type B Violation corrected	For each uncorrected Type B violation that is corrected, the facility will receive a merit of 1.25 points. (Type B violations corrected: ___x 1.25= ___)
		Removal of Suspension of Admissions	If the facility has a Suspension of Admissions removed, the facility will receive a merit of 5 points.
		G.S.131D-10(d)(2) - Participation in a Quality Improvement Program	If the facility participates in a quality improvement program approved by DHHS, it will receive a merit of 2.5 points.
		G.S.131E - NC NOVA designation awarded	If the facility has been awarded NC NOVA designation, it will receive a merit of 2.5 points.
1.00		Emergency power back-up (Existing)	The facility will receive 2 merit points for new (On or after 07/03/2008) emergency power arrangements and 1 point for existing emergency power arrangements.
		Automatic sprinklers	The facility will receive 3 merit points for newly (On or after 07/03/2008) installed sprinklers and 2 points for existing sprinklers.

Total Merit Points	Total Demerit Points	Base Points	FACILITY RATING SCORE *Base Points - Total Demerits + Total Merits = Rating Score*
[redacted]0	7.50	100.00	93.50

STAR RATING SCORE KEY

Four Stars	= 100 points or greater
Three Stars	= 90.9 - 99.9 points
Two Stars	= 80.0 - 89.9 points
One Star	= 70.00 - 79.9 points
Zero Stars	= 69.9 and lower

This facility is rated:

3

** Facilities must obtain two consecutive 100 point or greater annual surveys to earn a Four Star Rating.*

Facility Name: Canterbury Hills Adult Care Home

County / License #: Buncombe / HAL-011-031

FID: 920511

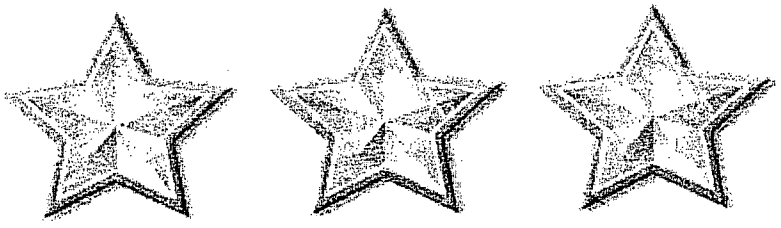
Signature DHSR Adult Care Licensure Section Representative: Megan Ramphrey, MSW Date: 11/3/09

*SAMPLE *SAMPLE

State of North Carolina

Department of Health and Human Services
Division of Health Service Regulation

Adult Care Rating Certificate



Rating Score: 93.50

Canterbury Hills Adult Care Home
License #: HAL-011-031
18 Horse Barn Road
Candler, NC 28715-

Rating Summary:	
Base Points:	+100.00 points
Total Demerits:	-7.50 points
Total Merits:	+1.00 points

Score Calculation:
Base Points +/- merits/demerits = Rating Score
100.00 base points - 7.50 demerits + 1.00 merits = 93.50

Star Rating Key:	
Four Stars	100 points or greater
Three Stars	90.0 - 99.0 points
Two Stars	80.0 - 89. points
One Star	70.0 - 79.9 points
Zero Stars	69.9 and lower

** Facilities must obtain two consecutive 100 point or greater annual surveys to earn a Four Star Rating.*

Date of Inspection: October 01, 2009 - Annual Inspection
Date Issued: November 03, 2009

For more information about Star Rating Program and inspection results, please go to the DHSR web address: http://www.ncdhhs.gov/dhsr/

Authorized by:

Secretary, N.C. Department of Health and Human Services

Director, Division of Health Service Regulation

DHHS Study Regarding Expansion of Rated Certificates

Jeff Horton, Division of Health Service Regulation

Expansion of Rated Certificates

- Section 3.(f) of Session Law 2007-544, Senate Bill 56 required the Department of Health and Human Services to study expansion of rated certificates to other facilities and services licensed and certified by the Department.
- "The Department of Health and Human Services, Division of Health Service Regulation and Division of Aging and Adult Services, shall study expanding the rated certificate system to other facilities and services licensed and certified by the Department. The Department shall report to the North Carolina Study Commission on Aging on the expansion of the rating system by October 1, 2009."

Facilities and Services Considered

- The Department identified four categories of other (non-adult care homes) facilities and services licensed and certified by the Department to be considered for inclusion in a rated certificate program.
- Three categories are licensed and regulated by the Division of Health Service Regulation (DHSR) and one by the Division of Aging and Adult Services (DAAS):
  - DHSR
    - acute and home care facilities and agencies,
    - nursing homes, and
    - mental health, developmental disability and substance abuse services.
  - DAAS
    - adult day services

DHSR - Acute and Home Care Facilities and Agencies

- This category contains the following facilities/agencies licensed and regulated by DHSR:
  - Hospitals – G.S. 131E, Article 5, Part 1;
  - Home Care – G.S. 131E, Article 6, Part 3;
  - Ambulatory Surgical Facilities – G.S. 131E, Article 6, Part 4;
  - Nursing Pools – G.S. 131E, Article 6, Part 5;
  - Cardiac Rehabilitation – G.S. 131E, Article 8;
  - Hospice – G.S. 131E, Article 10; and
  - Abortion Clinics – G.S. 14, Article 11.

DHSR - Hospitals

- Hospitals are monitored by the state primarily on a complaint basis through contractual arrangement with the Centers for Medicare and Medicaid Services (CMS); therefore, a rating system would not be useful since there is no standard monitoring frequency such as annual inspections.
- CMS provides hospital quality information on their website at www.hospitalcompare.hhs.gov/

DHSR - Home Care

- Home care agencies are required to be inspected every three years pursuant to G.S. 131E-140(b); however, DHSR currently does not have enough staff to conduct inspections every three years
- Even if DHSR were to conduct home care inspections every three years, this frequency would not be enough to provide meaningful measures of quality beyond the first year after the survey.

DHSR - Other Acute Care Services

- None of the below providers are inspected on a regular basis and similar to hospitals and home care agencies the largest drawback is that none of these programs are monitored by DHSR at a frequency, i.e. annually, that would provide meaningful measures of quality.
  - Ambulatory Surgical Facilities – G.S. 131E, Article 6, Part 4;
  - Nursing Pools – G.S. 131E, Article 6, Part 5;
  - Cardiac Rehabilitation – G.S. 131E, Article 8;
  - Hospice – G.S. 131E, Article 10; and
  - Abortion Clinics – G.S. 14, Article 11.

DHSR – Nursing Homes

- CMS has developed a Five Star Rating System for nursing homes nation-wide. The Five-Star Quality Rating System was created to help consumers, their families, and caregivers compare nursing homes more easily and help identify areas about which consumers may want to ask questions. Nursing home ratings are taken from the following three sources of data: Health Inspections, Staffing and, Quality Measures. This information can be accessed at www.medicare.gov/NHCompare.
- Ninety-seven percent (97%) of the nursing homes in North Carolina participate in the Medicare/Medicaid program; therefore, star rating information is already available for these facilities.
- It would be expensive and duplicative to create another star rating system for nursing homes. In addition, having a Medicare star rating system and a state sponsored star rating system would most likely be confusing to the public.

DHSR – Mental Health, Developmental Disabilities and Substance Abuse Services Facilities (MHDDSAS)

- This category contains over 30 different residential and day services licensed pursuant to G.S. 122C, Article 2 by DHSR;
  - 24-hour residential facilities for individuals with mental illness, developmental disabilities or substance abuse (i.e. group homes, crisis and other 24-hour residential services); and
  - Day treatment or outpatient facilities serving individuals with mental illness, developmental disabilities or substance abuse (i.e. partial hospitalization, developmental day programs, day activity programs, etc.)
- The requirements for these facilities and services can be vastly different and, as such, is not conducive to a comparative rating system.
- DHSR proposes posting information concerning results of inspections on its web site.

DHSR – MHDDSAS Facilities

- Making inspection information available would not require changes in statutes or administrative code (rules) but would require at least one additional staff person to make daily changes to the web site.
- Since the agency does not currently have a web master, adding such a position would be the primary cost of implementing and making information available Information on the web.

DHSR – MHDDSAS Facilities

Information posted on web may include:

- Description of survey process
- Types of Administrative Actions, including definitions of Type A, Type B, Suspension of Admissions, and Revocation.
- Ability to pull up the following information (possibly in table format) by county or by provider:
  - Facility Name
  - Type of Survey - annual, complaint, follow-up, other
  - License Number
  - Program Code (with link to service categories and rules)
  - County
  - Date of Survey
  - Administrative Action Taken
  - Appeal Status
  - Post Appeal Outcome
  - Final Penalty Amount
  - Link to Statement of Deficiencies (inspection report)

DAAS – Adult Day Services

- This category contains services certified and regulated by the Division of Aging and Adult Services (DAAS) pursuant to G.S. 131D-6 and under rules adopted by the Social Services Commission (10A NCAC 06P, 06R, 06S).

DAAS – Adult Day Services (continued)

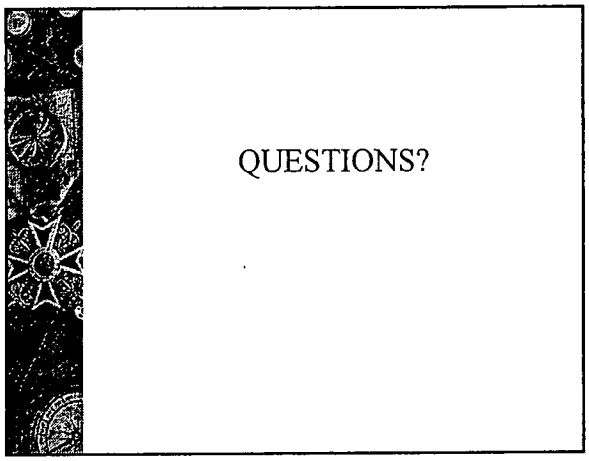
- There would be significant challenges to the creation of an effective rated certificate system for adult day services.
  - First, there would need to be consensus on the criteria to use in developing a rated certificate system. Consumer, advocate and provider input would be essential.
  - Second, the current monitoring and certification system is largely still paper-driven, non-electronic. While DAAS has begun moving to either a web-based or other e-system for communicating with its local monitoring partners (i.e., county DSS and health department), this would require additional time and especially resources at the local and state levels. Such an automated system would be essential for documenting and analyzing provider performance in a timely and consistent manner to drive a rated certificate system.
  - Third, there would need to be a substantial and well planned provider and consumer education campaign to assure appropriate understanding and use of any rated certificate system.

DAAS – Adult Day Services (continued)

- Cost/Benefit
- DAAS concluded that the cost of instituting a rated certificate system for adult day services outweighs the potential benefits, and more importantly, that the current system is adequate in terms of informing consumers about adult day services options.
- The creation of an adult day services rated certificate system would require additional staff and resources. Because currently most consumers are in counties that do not have a choice of providers and with 46 counties having no providers, the cost of implementing a rated certificate system would not be of substantial benefit in terms of informing consumers or increasing competition among providers.
- Under the current system, consumers have ready access to information at the adult day services center about the certification status.

DAAS – Adult Day Services (continued)

- DAAS does not recommend that the State invest in development of a rated certificate system at this time because of:
  - the limited availability of providers,
  - the challenges that would be involved in developing an effective system with existing resources,
  - the adequacy of current oversight of adult day services, and
  - the adequacy of information for consumers and their families about the status of existing providers and how to select the service.
  - DAAS is not aware of any state that has implemented a rated certificate system for adult day care or adult day health programs.


QUESTIONS?

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

SESSION LAW 2007-544
SENATE BILL 56

AN ACT TO AMEND THE PENALTY REVIEW COMMITTEE PROCESS, EXPAND THE HEALTH CARE PERSONNEL REGISTRY AND AUTHORIZE THE MEDICAL CARE COMMISSION TO ADOPT RULES ALLOWING THE ISSUANCE OF RATED CERTIFICATES TO ADULT CARE HOMES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 131D-34(h) reads as rewritten:

"(h) The Secretary shall establish a penalty review committee within the Department, which shall meet as often as needed, but no less frequently than once each quarter of the year, ~~at least semiannually to review violations and penalties imposed by the Adult Care Licensure Section; provide a forum for residents, guardians or families of residents, local department of social services, and providers; and make recommendations to the Department for changes in policy, training, or rules as a result of its review and publish a report.~~ to review administrative penalties assessed pursuant to this section and pursuant to G.S. 131E-129 as follows:

(1) The Secretary shall administer the work of the Committee and provide public notice of its meetings via Web site, and provide direct notice to the following parties involved in the penalties the Committee will be reviewing:
   a. The licensed ~~provider;~~ provider, who upon receipt of the notice, shall post the notice of the scheduled Penalty Review Committee meeting in a conspicuous place available to residents, family members, and the public;
   b. The local department of social services that is responsible for oversight of the facility involved;
   c. The residents affected; and
   d. ~~The families or guardians of the residents affected.~~ Those individuals lawfully designated by the affected resident to make health care decisions for the resident.

(2) The Secretary shall ensure that the Nursing Home/Adult Care Home Penalty Review Committee established by this subsection is comprised of nine members. At least one member shall be appointed from each of the following categories:
   a. A licensed pharmacist;
   b. A registered nurse experienced in long term care;
   c. A representative of a nursing home;
   d. A representative of an adult care home; and
   e. Two public members. One shall be a "near" relative of a nursing home patient, chosen from a list prepared by the Office of State Long Term Care Ombudsman, Division of Aging, Department of Health and Human Services. One shall be a "near" relative of a rest home patient, chosen from a list prepared by the Office of State Long Term Care Ombudsman, Division of Aging, Department of Health and Human Services. For purposes of this

subdivision, a "near" relative is a spouse, sibling, parent, child, grandparent, or grandchild.

(3) Neither the pharmacist, nurse, nor public members appointed under this subsection nor any member of their immediate families shall be employed by or own any interest in a nursing home or adult care home.

(4) Repealed by Session Laws 2005-276, s. 10.40A(l), effective July 1, 2005.

~~(4a) The Department of Health and Human Services shall notify families or guardians of affected residents of the right to request a penalty review committee review of the Department's penalty decision before the decision becomes final. Within 60 days of receipt of a request from a family member or guardian for review of the Department's penalty decision, the penalty review committee shall meet to conduct the review and shall inform the family member or guardian of the results of the review.~~

(4b) Prior to serving on the Committee, each member shall complete a training program provided by the Department of Health and Human Services that covers standards of care and applicable State and federal laws and regulations governing facilities licensed under Chapter 131D and Chapter 131E of the General Statutes.

(5) Each member of the Committee shall serve a term of two years. The initial terms of the members shall commence on August 3, 1989. The Secretary shall fill all vacancies. Unexcused absences from three consecutive meetings constitute resignation from the Committee.

(6) The Committee shall be cochaired by:

a. One member of the Department outside of the Division of ~~Facility Services~~ Health Service Regulation; and

b. One member who is not affiliated with the Department."

SECTION 2. G.S. 131E-256 reads as rewritten:

"**§ 131E-256. Health Care Personnel Registry.**

(a) The Department shall establish and maintain a health care personnel registry containing the names of all health care personnel working in health care facilities in North Carolina who have:

(1) Been subject to findings by the Department of:

a. Neglect or abuse of a resident in a health care facility or a person to whom home care services as defined by G.S. 131E-136 or hospice services as defined by G.S. 131E-201 are being provided.

b. Misappropriation of the property of a resident in a health care facility, as defined in subsection (b) of this section including places where home care services as defined by G.S. 131E-136 or hospice services as defined by G.S. 131E-201 are being provided.

c. Misappropriation of the property of a health care facility.

d. Diversion of drugs belonging to a health care ~~facility or to a patient or client.~~facility.

d1. Diversion of drugs belonging to a patient or client of the health care facility.

e. Fraud against a health care ~~facility or against a patient or client for whom the employee is providing services.~~facility.

e1. Fraud against a patient or client for whom the employee is providing services.

(2) Been accused of any of the acts listed in subdivision (1) of this subsection, but only after the Department has screened the allegation and determined that an investigation is required.

The Health Care Personnel Registry shall also contain all findings by the Department of neglect of a resident in a nursing facility or abuse of a resident in a nursing facility or misappropriation of the property of a resident in a nursing facility by a nurse aide that are contained in the nurse aide registry under G.S. 131E-255.

(a1) The Department shall include in the registry a brief statement of any individual disputing the finding entered against the individual in the health care personnel registry pursuant to subdivision (1) of subsection (a) of this section.

(b) For the purpose of this section, the following are considered to be "health care facilities":

(1) Adult Care Homes as defined in G.S. 131D-2.
(2) Hospitals as defined in G.S. 131E-76.
(3) Home Care Agencies as defined in G.S. 131E-136.
(4) Nursing Pools as defined by G.S. 131E-154.2.
(5) Hospices as defined by G.S. 131E-201.
(6) Nursing Facilities as defined by G.S. 131E-255.
(7) State-Operated Facilities as defined in G.S. 122C-3(14)f.
(8) Residential Facilities as defined in G.S. 122C-3(14)e.
(9) 24-Hour Facilities as defined in G.S. 122C-3(14)g.
(10) Licensable Facilities as defined in G.S. 122C-3(14)b.
(11) Multiunit Assisted Housing with Services as defined in G.S. 131D-2.
(12) Community-Based Providers of Services for the Mentally Ill, the Developmentally Disabled, and Substance Abusers that are not required to be licensed under Article 2 of Chapter 122C of the General Statutes.
(13) Agencies providing in-home aide services funded through the Home and Community Care Block Grant Program in accordance with G.S. 143B-181.1(a)11.

(c) For the purpose of this section, the term "health care personnel" means any unlicensed staff of a health care facility that has direct access to residents, clients, or their property. Direct access includes any health care facility unlicensed staff that during the course of employment has the opportunity for direct contact with an individual or an individual's property, when that individual is a resident or person to whom services are provided.~~the following are considered to be "health care personnel":~~

~~(1) In an adult care home, an adult care personal aide who is any person who either performs or directly supervises others who perform task functions in activities of daily living which are personal functions essential for the health and well-being of residents such as bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting, and eating.~~
~~(2) A nurse aide.~~
~~(3) An in-home aide or an in-home personal care aide who provides hands-on paraprofessional services.~~
~~(4) Unlicensed assistant personnel who provide hands-on care, including, but not limited to, habilitative aides and health care technicians.~~

(d) Health care personnel who wish to contest findings under subdivision (a)(1) of this section are entitled to an administrative hearing as provided by the Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a contested case shall be filed within 30 days of the mailing of the written notice of the Department's intent to place its findings about the person in the Health Care Personnel Registry.

(d1) Health care personnel who wish to contest the placement of information under subdivision (a)(2) of this section are entitled to an administrative hearing as

provided by the Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a contested case hearing shall be filed within 30 days of the mailing of the written notice of the Department's intent to place information about the person in the Health Care Personnel Registry under subdivision (a)(2) of this section. Health care personnel who have filed a petition contesting the placement of information in the health care personnel registry under subdivision (a)(2) of this section are deemed to have challenged any findings made by the Department at the conclusion of its investigation.

(d2) Before hiring health care personnel into a health care facility or service, every employer at a health care facility shall access the Health Care Personnel Registry and shall note each incident of access in the appropriate business files.

(e) The Department shall provide an employer at a health care facility or potential employer at a health care facility of any person listed on the Health Care Personnel Registry information concerning the nature of the finding or allegation and the status of the investigation.

(f) No person shall be liable for providing any information for the health care personnel registry if the information is provided in good faith. Neither an employer, potential employer, nor the Department shall be liable for using any information from the health care personnel registry if the information is used in good faith for the purpose of screening prospective applicants for employment or reviewing the employment status of an employee.

(g) Health care facilities shall ensure that the Department is notified of all allegations against health care personnel, including injuries of unknown source, which appear to be related to any act listed in subdivision (a)(1) of this section. Facilities must have evidence that all alleged acts are investigated and must make every effort to protect residents from harm while the investigation is in progress. The results of all investigations must be reported to the Department within five working days of the initial notification to the Department.

(h) The North Carolina Medical Care Commission shall adopt, amend, and repeal all rules necessary for the implementation of this section.

(i) In the case of a finding of neglect under subdivision (1) of subsection (a) of this section, the Department shall establish a procedure to permit health care personnel to petition the Department to have his or her name removed from the registry upon a determination that:

(1) The employment and personal history of the nurse aid does not reflect a pattern of abusive behavior or neglect;

(2) The neglect involved in the original finding was a singular occurrence; and

(3) The petition for removal is submitted after the expiration of the one-year period which began on the date the petitioner's name was added to the registry under subdivision (1) of subsection (a) of this section."

SECTION 3.(a) G.S. 131D-4.5 reads as rewritten:

"**§ 131D-4.5. Rules adopted by Medical Care Commission.**

The Medical Care Commission shall adopt rules as follows:

(1) Establishing minimum medication administration standards for adult care homes. The rules shall include the minimum staffing and training requirements for medication aides and standards for professional supervision of adult care homes' medication controls. The requirements shall be designed to reduce the medication error rate in adult care homes to an acceptable level. The requirements shall include, but need not be limited to, all of the following:

a. Training for medication aides, including periodic refresher training.

b. Standards for management of complex medication regimens.

c. Oversight by licensed professionals.
d. Measures to ensure proper storage of medication.

(2) Establishing training requirements for adult care home staff in behavioral interventions. The training shall include appropriate responses to behavioral problems posed by adult care residents. The training shall emphasize safety and humane care and shall specifically include alternatives to the use of restraints.

(3) Establishing minimum training and education qualifications for supervisors in adult care homes and specifying the safety responsibilities of supervisors.

(4) Specifying the qualifications of staff who shall be on duty in adult care homes during various portions of the day in order to assure safe and quality care for the residents. The rules shall take into account varied resident needs and population mixes.

(5) Implementing the due process and appeal rights for discharge and transfer of residents in adult care homes afforded by G.S. 131D-21. The rules shall offer at least the same protections to residents as State and federal rules and regulations governing the transfer or discharge of residents from nursing homes.

(6) Establishing procedures for determining the compliance history of adult care homes' principals and affiliates. The rules shall include criteria for refusing to license facilities which have a history of, or have principals or affiliates with a history of, noncompliance with State law, or disregard for the health, safety, and welfare of residents.

(7) For the licensure of special care units in accordance with G.S. 131D-4.6, and for disclosures required to be made under G.S. 131D-8.

(8) For time limited provisional licenses and for granting extensions for provisional licenses.

(9) For the issuance of certificates to adult care homes as authorized under G.S. 131D-10."

SECTION 3.(b) Article 1 of Chapter 131D of the General Statutes is amended by adding the following new section to read:

"**§ 131D-10. Adult care home rated certificates.**

(a) Rules adopted by the North Carolina Medical Care Commission for issuance of certificates to adult care homes shall contain a rating based, at a minimum, on the following:

(1) Inspections and substantiated complaint investigations conducted by the Department to determine compliance with licensing statutes and rules. Specific areas to be reviewed include:

a. Admission and discharge procedures.
b. Medication management.
c. Physical plant.
d. Resident care and services, including food services, resident activities programs, and safety measures.
e. Residents' rights.
f. Sanitation grade.
g. Special Care Units.
h. Use of physical restraints and alternatives.

(b) The initial ratings awarded to a facility pursuant to the rules adopted under this section shall be based on inspections, penalties imposed, and investigations of substantiated complaints that revealed noncompliance with statutes and rules, that occurred on or after the act becomes law.

(c) Type A penalties shall affect the rating for 24 months from the date the penalty is assessed. Type B penalties shall affect the rating for 12 months from the date the penalty is assessed.

(d) Adult care homes shall display the rating certificate in a location visible to the public. Certificates shall include the Web site address for the Department of Health and Human Services, Division of Health Service Regulation, which can be accessed for specific information regarding the basis of the facility rating. For access by the public on request, adult care homes shall also maintain on-site a copy of information provided by the Department of Health and Human Services, Division of Health Service Regulation, regarding the basis of the facility rating. In addition to information on the basis of the rating, the Department of Health and Human Services, Division of Health Service Regulation, shall make information available via its Web site and in the materials available on-site at the facility regarding quality improvement efforts undertaken by the facility including:

(1) Participation in any quality improvement programs approved by the Department.

(2) The facility's attainment of the North Carolina New Organizational Vision Award special licensure designation authorized in Article 5, Chapter 131E of the General Statutes."

SECTION 3.(c) The Department of Health and Human Services shall provide a copy of emergency, temporary, and permanent rules adopted pursuant to this section to the North Carolina Study Commission on Aging at the same time the Department submits the adopted rules to the Rules Review Commission for its review under Chapter 150B of the General Statutes.

SECTION 3.(d) The Department of Health and Human Services, Divisions of Health Service Regulation, Aging and Adult Services, and Medical Assistance shall study the structure and cost of a system to reward adult care homes which receive high ratings. The Department shall report findings and recommendations on this study to the North Carolina Study Commission on Aging not later than March 1, 2008.

SECTION 3.(e) It is the intent of the General Assembly to provide funding for technical assistance to adult care homes for the 2008-2009 fiscal year.

SECTION 3.(f) The Department of Health and Human Services, Division of Health Service Regulation and Division of Aging and Adult Services, shall study expanding the rated certificate system to other facilities and services licensed and certified by the Department. The Department shall report to the North Carolina Study Commission on Aging on the expansion of the rating system by October 1, 2009.

SECTION 3.(g) The Department of Health and Human Services, Division of Health Service Regulation, shall report on the implementation of the rated certificate system. The Department shall make an interim report to the North Carolina Study Commission on Aging not later than October 1, 2009, and a final report to the Commission not later than October 1, 2010.

SECTION 4. Section 1 of this act becomes effective October 1, 2007. Section 2 becomes effective January 1, 2008. Certificates authorized under Section 3 shall be issued beginning January 1, 2009. The remainder of this act is effective when it becomes law.

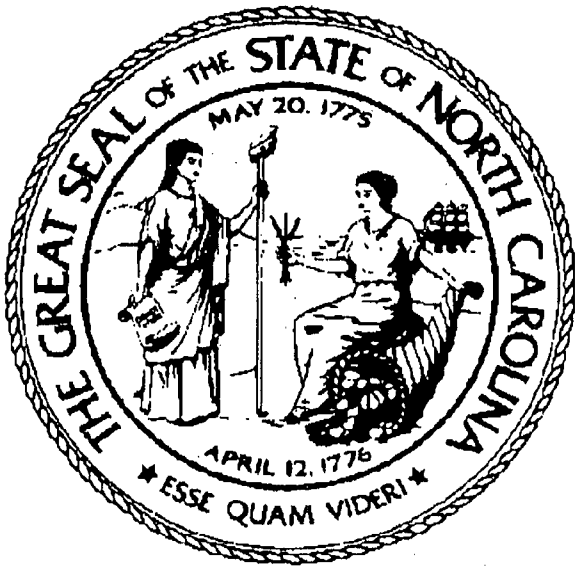
In the General Assembly read three times and ratified this the 28th day of July, 2007.

s/ Beverly E. Perdue
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 10:12 p.m. this 31st day of August, 2007



REPORT TO THE THE NORTH CAROLINA STUDY COMMISSION ON AGING ON EXPANDING THE RATED CERTIFICATE SYSTEM TO OTHER FACILITIES AND SERVICES LICENSED AND CERTIFIED BY THE DEPARTMENT OF HEALTH AND HUMAN SERVICES

North Carolina Department of Health and Human Services
Division of Health Service Regulation and
the Division of Aging and Adult Services

October 1, 2009

North Carolina Department of Health and Human Services

Overview

Session Law 2007-544, Senate Bill 56 required the North Carolina Medical Care Commission to adopt rules implementing a rated certificate system for adult care homes licensed pursuant to G.S. 131D. The adult care home rating system rules became effective April and May 2008 and were implemented in accordance with the law on January 1, 2009. Adult care home "star" ratings and related worksheets are now posted in adult care homes that have received inspections since January 1, 2009 and can also be found on the Division of Health Service Regulation's website at: http://www.ncdhhs.gov/dhsr/acls/star/search.asp

Section 3.(f) of the bill requires the Department of Health and Human Services to study expansion of rated certificates to other facilities and services licensed and certified by the Department.

> "The Department of Health and Human Services, Division of Health Service Regulation and Division of Aging and Adult Services, shall study expanding the rated certificate system to other facilities and services licensed and certified by the Department. The Department shall report to the North Carolina Study Commission on Aging on the expansion of the rating system by October 1, 2009."

In response to the above directive, the Department initiated a process to evaluate the feasibility of implementing a rated certificate system for other facilities and services in accordance with the above Legislative request.

Facilities and Services Considered

The Divisions identified four categories of other facilities and services licensed and certified by the Department to be considered for inclusion in a rated certificate program.

Three are licensed and regulated by the Division of Health Service Regulation: acute and home care facilities and agencies; nursing homes; and mental health, developmental disability and substance abuse services. The Division of Aging and Adult Services regulates and certifies adult day services.

The two divisions determined for a rated certification program to be effective for other categories of facilities that the facilities need to be comparable and subject to annual inspections and that the certification program needs to be cost effective.

Findings and Recommendations

Acute and Home Care Facilities and Agencies

This category contains the following facilities/agencies licensed and regulated by the Division of Health Service Regulation (DHSR):

- Hospitals – G.S. 131E, Article 5, Part 1;
- Home Care – G.S. 131E, Article 6, Part 3;
- Ambulatory Surgical Facilities – G.S. 131E, Article 6, Part 4;
- Nursing Pools – G.S. 131E, Article 6, Part 5;
- Cardiac Rehabilitation – G.S. 131E, Article 8;
- Hospice – G.S. 131E, Article 10; and
- Abortion Clinics – G.S. 14, Article 11.

Although a rating system would provide a tool for consumers of care to identify providers of "quality," the largest drawback is that none of these programs are monitored by the Department on a regular basis. For example, 94% of the hospitals in North Carolina are accredited by The Joint Commission and are not subject to routine monitoring or oversight by the State. Hospitals are monitored by the state primarily on a complaint basis through contractual arrangement with the Centers for Medicare and Medicaid Services (CMS); therefore, a rating system would be problematic since there is no standard survey frequency. Home care agencies are required to be inspected every three years pursuant to G.S. 131E-140(b). This frequency would not be enough to provide meaningful measures of quality beyond the first year after the survey. Because ambulatory surgical facilities, nursing pools, cardiac rehabilitation centers, hospice, and abortion clinics are not monitored on a routine basis insufficient data exist to develop and maintain a rating system.

Nursing Homes

This category contains the following facilities licensed and regulated by DHSR:

- Nursing Homes – G.S. 131E, Article 6, Part 1; and
- Nursing Home beds licensed under a hospital's license pursuant to G.S. 131E, Article 5, Part 1.

The CMS has developed a Five Star Rating System for nursing homes nation-wide. The Five-Star Quality Rating System was created to help consumers, their families, and caregivers compare nursing homes more easily and help identify areas about which consumers may want to ask questions. Nursing home ratings are taken from the following three sources of data: Health Inspections, Staffing, and Quality Measures. This information can be accessed at www.medicare.gov/NHCompare.

Ninety-seven percent (97%) of the nursing homes in North Carolina participate in the Medicare/Medicaid program; therefore, star rating information is already available for these facilities. It would be expensive and duplicative to create another star rating system

for nursing homes. In addition, having a Medicare star rating system and a state sponsored star rating system would most likely be confusing to the public.

Mental Health, Developmental Disabilities and Substance Abuse Services

This category contains over 30 different residential and day services licensed pursuant to G.S. 122C, Article 2 by DHSR:

- 24-hour residential facilities for individuals with mental illness, developmental disabilities or substance abuse (i.e. group homes, crisis and other 24-hour residential services); and
- Day treatment or outpatient facilities serving individuals with mental illness, developmental disabilities or substance abuse (i.e. partial hospitalization, developmental day programs, day activity programs, etc.)

The number of facilities varies but averages around 4,000. The requirements for these facilities and services can be vastly different and, as such, the facilities are not conducive to a comparative rating system. DHSR proposes posting information concerning results of inspections on its web site.

Making inspection information available would not require changes in statutes or administrative code (rules) but would require at least one additional staff person to make daily changes to the web site. Since the agency does not currently have a web master, adding such a position would be the primary cost of implementing and making information available.

If the position were approved by July 1, 2010, the web updating system should be operational by January of 2011. The cost would be about $75,000 which includes the salary and benefits for a webmaster position.

Adult Day Services

This category contains services certified and regulated by the Division of Aging and Adult Services (DAAS) pursuant to G.S. 131D-6 and under rules adopted by the Social Services Commission (10A NCAC 06P, 06R, 06S).

Adult day services, which includes adult day care, adult day health care and the combination of these two services, provide supervision and assistance with activities of daily living to adults age eighteen and over with cognitive and/or physical impairments. The adult health care services programs provide monitoring of health conditions as well. DAAS has the initial certification, annual recertification and monitoring oversight responsibility for adult day services. A representative from the local county department of social services monitors each certified program monthly. Certified programs with a health service component have quarterly monitoring visits from the local department of health as well as the monthly monitoring visits from the local county department of social services. Local monitors and DAAS can issue Violation of Standards and Corrective Action to

programs. DAAS may terminate a program's certification at any time for not meeting the minimum standards for certification. DAAS may also impose civil penalties.

In studying the merits and feasibility of instituting a rated certificate system for certified adult day services, DAAS considered the following questions:

- What would be the purpose of a rated certificate system for adult day services?
- To what extent is that purpose currently being addressed by the existing system?
- How difficult would it be to institute a rated certificate system for adult day services?
- Do the benefits of a rated certificate system outweigh the costs?
- Are there measures other than a rates certificate system that could help further inform consumers?
- What are the views of relevant stakeholders, including the NC Adult Day Services Association?
- Are there any recommendations for improving the current system and/or readying NC for a rated certificate system?

Purpose

The primary purpose of a rated certificate system would be to inform consumers about the status and quality of existing adult day services. A secondary purpose would be to encourage provider accountability and increased quality of service.

Existing System

Presently, adult day services are monitored at least monthly by the county department of social services (and also quarterly by the local health department among programs with the health component); and are recertified annually by DAAS with full certification, provisional certification, or termination of certification. In addition, adult day services programs are required to have a current, approved fire and sanitation inspection. The program must post the current adult day care certificate from DAAS and the current sanitation score in the facility in a conspicuous place. If the program has a provisional certification, the program must post the reason(s) for the provisional certification adjacent to the program's current certificate. Further, consumers and family members are encouraged to visit adult day services programs before choosing to enroll their loved ones. The DAAS web site has some information to assist consumers and their families in this process. This includes a link to a publication of the NC Adult Day Services Association: ***Six Steps to Selecting an Adult Day Program***, which offers advice for caregivers on selecting the right program for a loved one. The Association provides this article free of charge.

There are a limited number of certified adult day services programs across the state and many counties have only one program. Among the state's 100 counties, only 54 have

certified adult day services programs. Of those 54 counties, 35 have only one certified adult day services program. Because only 19 counties currently have more than one adult day services program, adult day services consumers and family members have significantly fewer options than consumers of many other long-term services and supports, including those who need to choose a long-term care facility. In addition, adult day services consumers typically have more time to visit and assess programs. In contrast, a long-term care facility is often hurriedly chosen because a loved one is being discharged from a hospital and requires long-term care or otherwise is facing a change that precipitates a prompt response.

Challenges

There would be significant challenges to the creation of an effective rated certificate system for adult day services. First, there would need to be consensus on the criteria to use in developing a rated certificate system. Consumer, advocate and provider input would be essential. Second, the current monitoring and certification system is largely still paper-driven, non-electronic. While DAAS envisions moving to either a web-based or other e-system for communicating with its local monitoring partners (i.e., county DSS and health department), this would require additional time and especially resources at the local and state levels. Such an automated system would be essential for documenting and analyzing provider performance in a timely and consistent manner to drive a rated certificate system. Third, there would need to be a substantial and well planned provider and consumer education campaign to assure appropriate understanding and use of any rated certificate system.

Cost/Benefit

DAAS has concluded that the cost of instituting a rated certificate system for adult day services outweighs the potential benefits, and more importantly, that the current system is adequate in terms of informing consumers about adult day services options. The creation of an adult day services rated certificate system would require additional staff and resources. Because currently most consumers are in counties that do not have a choice of providers, the cost of implementing a rated certificate system would not be of substantial benefit in terms of informing consumers or increasing competition among providers. Under the current system, consumers have ready access to information at the adult day services center about the certification status and any deficiencies. As stated in the Adult Day Care and Day Health Services Standards for Certification Manual, adult day care/day health services programs are required to post provisional certificates with the reasons for provisional certification posted adjacent to the certificate. The local county DSS adult Day Care coordinators monitor this during their monthly visits.

Other Measures

In considering other measures, DAAS staff considered the possibility of posting on its web-site other information that might be useful to consumers (e.g., certification status, corrective action reports, fire and sanitation inspection reports, and consumer assessment tools). Based on this consideration, DAAS has already acted to strengthen its web information by beginning the process to denote on its list of certified centers if the center

is on provisional status. There will be a note to contact appropriate DAAS staff if there are questions or the need for additional information.

DAAS issues provisional certifications to programs for different reasons including:

- when the recertification process identifies violations and a plan for corrective action is in place;
- when corrective action has not been completed by the deadline in the corrective action plan;
- when DAAS does not receive a complete recertification package before the current expiration date.

When adult day care/day health services programs are reinstated to full certification, the indication that the program has a provisional certification will be removed. The key to this action will be the promptness of posting the changes in certification status. DAAS relies on the Division of Information Resource Management to update its website.

In addition, DAAS will publish provisional status certifications with a different appearance from full certifications to aid in consumer recognition of this document a posted at the facility.

Stakeholder View

DAAS staff contacted the North Carolina Adult Day Services Association (NCADSA), the association of providers currently providing adult day services across the state, to obtain the association's position on this issue. In its response, NCADSA stated "Currently there are an estimated 100 adult day centers operating in North Carolina, fewer than even a few years ago. Almost half of the counties in North Carolina don't even have an adult day center . . . Rather than support the expansion of adult day services in North Carolina, NCADSA perceives the creation of a new rated certificate system to be yet another barrier that will impede sustainability and growth of adult day services."

Recommendations

DAAS is not recommending that the State invest in development of a rated certificate system at this time because of the limited availability of providers, the challenges that would be involved in developing an effective system with existing resources, the adequacy of current oversight of adult day services, and the adequacy of information for consumers and their families about the status of existing providers and how to select the service. DAAS is not aware of any state that has implemented a rated certificate system. In hopes of seeing the availability of adult day services grow across North Carolina, DAAS will continue pursuing steps to strengthen and automate its monitoring and certification system so that it would be better positioned to implement a rated certificate system if warranted in the future. It will also continue its work with stakeholders to identify other ways to strengthen information for consumers within existing resources.

DHHS Study Regarding Expansion of Rated Certificates

Jeff Horton, Division of Health Service Regulation

Expansion of Rated Certificates

- Section 3.(f) of Session Law 2007-544, Senate Bill 56 required the Department of Health and Human Services to study expansion of rated certificates to other facilities and services licensed and certified by the Department.
- "The Department of Health and Human Services, Division of Health Service Regulation and Division of Aging and Adult Services, shall study expanding the rated certificate system to other facilities and services licensed and certified by the Department. The Department shall report to the North Carolina Study Commission on Aging on the expansion of the rating system by October 1, 2009."

Facilities and Services Considered

- The Department identified four categories of other (non-adult care homes) facilities and services licensed and certified by the Department to be considered for inclusion in a rated certificate program.
- Three categories are licensed and regulated by the Division of Health Service Regulation (DHSR) and one by the Division of Aging and Adult Services (DAAS):
  - DHSR
    - acute and home care facilities and agencies,
    - nursing homes, and
    - mental health, developmental disability and substance abuse services.
  - DAAS
    - adult day services

DHSR - Acute and Home Care Facilities and Agencies

- This category contains the following facilities/agencies licensed and regulated by DHSR:
  - Hospitals – G.S. 131E, Article 5, Part 1;
  - Home Care – G.S. 131E, Article 6, Part 3;
  - Ambulatory Surgical Facilities – G.S. 131E, Article 6, Part 4;
  - Nursing Pools – G.S. 131E, Article 6, Part 5;
  - Cardiac Rehabilitation – G.S. 131E, Article 8;
  - Hospice – G.S. 131E, Article 10; and
  - Abortion Clinics – G.S. 14, Article 11.

DHSR - Hospitals

- Hospitals are monitored by the state primarily on a complaint basis through contractual arrangement with the Centers for Medicare and Medicaid Services (CMS); therefore, a rating system would not be useful since there is no standard monitoring frequency such as annual inspections.
- CMS provides hospital quality information on their website at www.hospitalcompare.hhs.gov/

DHSR - Home Care

- Home care agencies are required to be inspected every three years pursuant to G.S. 131E-140(b); however, DHSR currently does not have enough staff to conduct inspections every three years
- Even if DHSR were to conduct home care inspections every three years, this frequency would not be enough to provide meaningful measures of quality beyond the first year after the survey.

DHSR - Other Acute Care Services

- None of the below providers are inspected on a regular basis and similar to hospitals and home care agencies the largest drawback is that none of these programs are monitored by DHSR at a frequency, i.e. annually, that would provide meaningful measures of quality.
  - Ambulatory Surgical Facilities – G.S. 131E, Article 6, Part 4;
  - Nursing Pools – G.S. 131E, Article 6, Part 5;
  - Cardiac Rehabilitation – G.S. 131E, Article 8;
  - Hospice – G.S. 131E, Article 10; and
  - Abortion Clinics – G.S. 14, Article 11.

DHSR – Nursing Homes

- CMS has developed a Five Star Rating System for nursing homes nation-wide. The Five-Star Quality Rating System was created to help consumers, their families, and caregivers compare nursing homes more easily and help identify areas about which consumers may want to ask questions. Nursing home ratings are taken from the following three sources of data: Health Inspections, Staffing and, Quality Measures. This information can be accessed at www.medicare.gov/NHCompare.
- Ninety-seven percent (97%) of the nursing homes in North Carolina participate in the Medicare/Medicaid program; therefore, star rating information is already available for these facilities.
- It would be expensive and duplicative to create another star rating system for nursing homes. In addition, having a Medicare star rating system and a state sponsored star rating system would most likely be confusing to the public.

DHSR – Mental Health, Developmental Disabilities and Substance Abuse Services Facilities (MHDDSAS)

- This category contains over 30 different residential and day services licensed pursuant to G.S. 122C, Article 2 by DHSR;
  - 24-hour residential facilities for individuals with mental illness, developmental disabilities or substance abuse (i.e. group homes, crisis and other 24-hour residential services); and
  - Day treatment or outpatient facilities serving individuals with mental illness, developmental disabilities or substance abuse (i.e. partial hospitalization, developmental day programs, day activity programs, etc.)
- The requirements for these facilities and services can be vastly different and, as such, is not conducive to a comparative rating system.
- DHSR proposes posting information concerning results of inspections on its web site.

DHSR – MHDDSAS Facilities

- Making inspection information available would not require changes in statutes or administrative code (rules) but would require at least one additional staff person to make daily changes to the web site.
- Since the agency does not currently have a web master, adding such a position would be the primary cost of implementing and making information available Information on the web.

DHSR – MHDDSAS Facilities

Information posted on web may include:

- Description of survey process
- Types of Administrative Actions, including definitions of Type A, Type B, Suspension of Admissions, and Revocation.
- Ability to pull up the following information (possibly in table format) by county or by provider:
  - Facility Name
  - Type of Survey - annual, complaint, follow-up, other
  - License Number
  - Program Code (with link to service categories and rules)
  - County
  - Date of Survey
  - Administrative Action Taken
  - Appeal Status
  - Post Appeal Outcome
  - Final Penalty Amount
  - Link to Statement of Deficiencies (inspection report)

DAAS – Adult Day Services

- This category contains services certified and regulated by the Division of Aging and Adult Services (DAAS) pursuant to G.S. 131D-6 and under rules adopted by the Social Services Commission (10A NCAC 06P, 06R, 06S).

DAAS – Adult Day Services (continued)

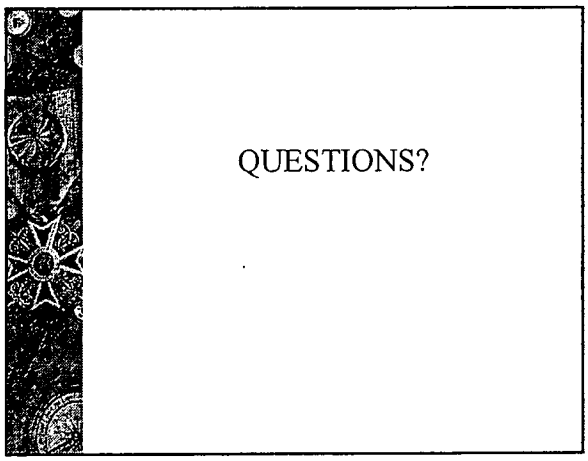
- There would be significant challenges to the creation of an effective rated certificate system for adult day services.
  - First, there would need to be consensus on the criteria to use in developing a rated certificate system. Consumer, advocate and provider input would be essential.
  - Second, the current monitoring and certification system is largely still paper-driven, non-electronic. While DAAS has begun moving to either a web-based or other e-system for communicating with its local monitoring partners (i.e., county DSS and health department), this would require additional time and especially resources at the local and state levels. Such an automated system would be essential for documenting and analyzing provider performance in a timely and consistent manner to drive a rated certificate system.
  - Third, there would need to be a substantial and well planned provider and consumer education campaign to assure appropriate understanding and use of any rated certificate system.

DAAS – Adult Day Services (continued)

- Cost/Benefit
- DAAS concluded that the cost of instituting a rated certificate system for adult day services outweighs the potential benefits, and more importantly, that the current system is adequate in terms of informing consumers about adult day services options.
- The creation of an adult day services rated certificate system would require additional staff and resources. Because currently most consumers are in counties that do not have a choice of providers and with 46 counties having no providers, the cost of implementing a rated certificate system would not be of substantial benefit in terms of informing consumers or increasing competition among providers.
- Under the current system, consumers have ready access to information at the adult day services center about the certification status.

DAAS – Adult Day Services (continued)

- DAAS does not recommend that the State invest in development of a rated certificate system at this time because of:
  - the limited availability of providers,
  - the challenges that would be involved in developing an effective system with existing resources,
  - the adequacy of current oversight of adult day services, and
  - the adequacy of information for consumers and their families about the status of existing providers and how to select the service.
  - DAAS is not aware of any state that has implemented a rated certificate system for adult day care or adult day health programs.


QUESTIONS?

NORTH CAROLINA STUDY COMMISSION ON AGING

Thursday, February 4, 2010
10:00 am
Legislative Office Building, Room 544

The North Carolina Study Commission on Aging met on Thursday, February 4, 2010, at 10:00 am in Room 544 of the Legislative Office Building. Members present were: Senators Bingham, Dorsett, Forrester, Swindell; Representatives Farmer-Butterfield, England, Pierce, Weiss; Ms. Mary Barker; Mr. Anthony Peace; Ms. Joan Pellettier; Ms. Jean Reaves; and Ms. Maria Spaulding. Staff also in attendance was: Susan Barham, Melanie Bush, Joyce Jones, Sara Kamprath, Theresa Matula, Shawn Parker; and commission assistants Janice Mobley-Bennett and Delta Prince.

Co-chair A.B. Swindell called the meeting to order and proceeded as follows:

The Impact of Hearing Loss in Older Adults in North Carolina, presented by Ms. Jan Withers, Director, Division of Services for the Deaf and Hard of Hearing, Department of Health and Human Services (DSDHH, DHHS).

Ms. Withers reviewed significant aspects of the report summarizing the DSDHH study on the impact of hearing loss on North Carolina's older adult population, as outlined in **Attachment I**. The study, as directed by Section 12 of Session Law 2008-181, addressed four areas: (1) The availability of and access to qualified professionals for diagnosis; (2) The availability and access to hearing aid purchase assistance programs for low-income individuals; (3) The development and inventory of adaptive technology options available to assist older adults with hearing loss; and (4) An assessment of resources available in other states that are used to offset problems associated with hearings loss. The report can be read in full in **Attachment I(a)**.

Points of interest from the study included:

- A basic survey of randomly selected directors in NC skilled care facilities indicated that most directors rate themselves less than knowledgeable of hearing loss impact on older adults, do not have hearing loss professionals visit their facilities, and are unaware of hearing aid purchase assistance programs or other resources or programs for hearing loss located outside of this State.
- Demographics indicate that by 2029, the number of individuals with hearing loss residing in NC will more than double. Because NC is a retirement haven, the State has a higher percentage of older adult residents with hearing loss than surrounding regional states.
- There are both tangible and intangible impacts of hearing loss, namely (i) loss of income and unrealized tax dollars resulting from untreated hearing loss; and (ii) poorer general health, psychological well being, and quality of life.
- Very few health care professionals have the necessary expertise to address hearing loss. Even professionals who are qualified to work with these populations often fail to address the full spectrum of their needs such as coping skills, grief counseling and effective use

of assistive technology. This creates a barrier to optimal medical care and services for persons with hearing loss.

- Untreated hearing loss is largely attributed to the high cost of hearing aids and the absence of mandated insurance coverage from private or public sources for adult hearing aids.
- There is huge variability in hearing aid pricing and quality of services among hearing aid dispensers. Many older adult consumers do not have sufficient knowledge about hearing aids, hearing aid dispensers or the hearing aid fitting process to ensure that they are purchasing a device specifically fit for their particular needs.

Based on this study, DSDHH offered three recommendations to the Committee:

1. Establish a task force to assess the feasibility of developing and implementing a formal system that optimizes consumer capacity to fully evaluate quality of hearing aid services prior to and during the process of purchasing hearing aids.
2. Enact legislation that would require all hearing aid dispensers to provide a minimum 30-day trial period with a money back guarantee and instructions on the function of the telecoil and its use.
3. The General Assembly should consider legislation requiring hearing aid health insurance coverage for all ages from any private agency providing health insurance and doing business in North Carolina and from any public agency providing medical insurance coverage assistance.

Representative Jennifer Weiss inquired about what other states with a large number of senior citizens are doing in reference to legislation requiring hearing aid health insurance coverage. Ms. Withers responded that 15 states currently mandate private insurance coverage for hearing aids, and only one of those states mandates the extension of coverage for hearing aids to adults. Thirty states and the District of Columbia provide Medicaid coverage for adults and children to obtain hearing aids, while 20 states limit Medicaid coverage for hearing aids to children only. Ms. Withers noted that North Carolina is one of the states that does not provide hearing aid coverage for adults through either private insurance or Medicaid.

In response to Senator Stan Bingham's question about why North Carolina has such a high number of citizens with hearing loss, Ms. Withers noted that our State is a retirement haven; therefore, there is a larger population of older individuals with hearing loss. Senator Bingham was also interested in what calculations were used to identify the amount of lost income attributed to untreated hearing loss in North Carolina, considering that most of the older adults in this State are retirees. Ms. Withers stated that the figures were based on a national study using North Carolina figures.

Senator Katie Dorsett wanted to know the price of hearing aids and if other states have any control over hearing aid costs. Ms. Withers noted that hearing loss is very complex; therefore, there are varying types of hearing aid technologies and costs will vary depending upon the technology. According to a July 2009 article in *Consumer Reports*, part of the cost discrepancy is due to mark-up pricing which can range from 25% to 300% above wholesale costs. Mr. Jeff Mobley of DSDHH, who led the study, analogized purchasing a hearing aid to purchasing a car – you begin with a base and add upgrades or options. Currently, there are no cost regulations in

North Carolina, which explains the wide range in mark-ups. Mr. Mobley also noted that he is unaware of any mandates by others states to control hearing aid costs. Ms. Withers will supply the Commission with copies of the article released by *Consumer Reports.*

Ms. Joan Pellettier, Commission member, noted that some of the options in hearing aids are not just amenities, but therapeutic options, and requested that DSDHH focus their loss of income figures on individuals between the ages of 18 and 64 who are gainfully employed. Ms. Jean Reaves, Commission member, wanted to know how to distinguish between hearing aid options that are medically necessary versus convenient. According to Mr. Mobley, older consumers are, unfortunately, at the hands of dispensers and there is no guarantee that consumers will be protected when purchasing a hearing aid. However, he believes there are a large majority of good hearing aid dispensers in North Carolina.

Senator Jim Forrester stressed the need for public education about the causes of hearing loss, such as loud music, noisy working environments, recreational activities, etc. He also suggested that the State should explore alternatives to costly hearing aids.

Mr. Anthony Peace, Commission member, inquired about the life expectancy of a hearing aid. Mr. Mobley stated the life expectancy to be at least a five-year span, depending upon usage and care. Mr. Dennis Streets, Director, DAAS, DHHS, re-emphasized the importance of educating citizens about the prevention of hearing loss.

Medicaid Changes and the Impact on Older Adults, presented by Dr. Larry Nason and Dr. Karen Feasel, Division of Medical Assistance, DHHS.

Dr. Nason gave a basic overview of the Medicaid Personal Care Services (PCS) Program and the scope of authorized services under the program. His presentation included an explanation of the differences between PCS provided under a 1915(c) Home and Community-Based Services Waiver versus PCS provided as an optional service under the State Medicaid Plan. Additional information about the Medicaid PCS Program is outlined in **Attachment II.**

Dr. Nason discussed the dramatic and steady increase in PCS participation, utilization and costs. He noted that PCS is one of the fastest growing programs in our State Medicaid Plan, and data shows that (i) the average number of monthly recipients increased by 146% from SFY 2002 to SFY 2009, and (ii) expenditures of PCS increased by 126% during that same time period. Actual expenditures have already exceeded budgeted expenditures thus far in SFY 2010. Dr. Nason further noted that the General Assembly has directed a 41% budget reduction in PCS, which will translate into a $40 million dollar budget reduction goal for SFY 2010 and a $60 million dollar budget reduction goal for SFY 2011. **See Attachment II, pages 5-8; Attachment II(a), page 1; and Attachment II(b).**

Next, Dr. Feasel reviewed the PCS compliance reviews conducted by The Carolinas Center for Medical Excellence (CCME), details of which are provided in **Attachment II, page 8** and **Attachment II(a), pages 3-4**. Based on the compliance reviews, DMA estimates that 23% of current PCS recipients in any given month do not qualify for those services. This represents

about $6.5 million dollars per month or $79 million dollars per year in PCS claims. **See Attachment II, page 8.**

Dr. Feasel reported that DMA plans to take 8 specific actions to implement changes to the PCS benefit that are mandated by Session Law 2009-451. These actions should help to achieve the budgeted reductions. Details of the actions are included in **Attachment II, pages 11-12.**

Lastly, Dr. Feasel reviewed the history of the CAP/DA slot allocations and explained the pending reduction in PCS slot allocations under this program to the July 1, 2008 level, as outlined in **Attachment II, page 13.**

Following the presentation, Co-chair Swindell inquired about the difference between PACE (Program of All-Inclusive Care for the Elderly) centers and adult care homes. Per Dr. Nason, PACE centers are optional programs that the Federal government established mainly to serve individuals who are eligible for both Medicaid and Medicare. It allows the provider to get the capitation payment from each and basically takes the combined capitation to provide all the services mandated under Federal regulations. PACE centers must have a full-time primary care physician, a physical therapist, skilled nursing, transportation, a full or part-time individual involved in nutrition, pharmacy, specialized therapies and several other programs as well. Also, according to Dr. Nason, PACE centers contract with community providers (like hospitals and nursing homes) to deliver services that are not provided by the PACE centers.

Senator Bingham asked for a breakdown of the national expenditures for PCS statewide or per 100,000 population size rather than total national expenses. Dr. Nason did not have a current chart available, but agreed to provide that information to the Commission prior to the next meeting.

Senator Forrester stated that it appears it would be a lot less expensive to have personal in-home care versus a private duty nurse. Dr. Nason responded that if an individual requires continuous skilled nursing services, then PCS, in and of itself, would not likely be a program adequate to meet that individual's needs.

Representative England asked for the daily, weekly, or monthly cost of operating the PACE program and what portion of that cost represents State dollars other than the State's share of Medicaid. Dr. Nason stated that the payments for PACE do not vary by individual. If an individual qualifies for PACE and is duly eligible, that individual will receive a set fee every month from both Medicare and Medicaid. Part of the Medicaid fee is part of the federal participation amount, so that amount does not vary. According to Dr. Nason, the fees for both Medicaid and Medicare are set by actuarial consultants based on programs and their historical costs and utilization patterns. These fees are paid in the same amount each month, just like an HMO.

Representative Weiss asked if there was an increase in use of PCS and the aging population over the same time period, and if there is any correlation between usage of adult care homes and CAP/DA programs during the same period of time. Dr. Nason stated that DMA would provide that information prior to the next meeting.

Senator Forrester asked if the Federal government has requested a refund or rebate for the 23% of current PCS recipients that do not qualify for this program but are receiving payments. According to Dr. Nason, the US Department of Health and Human Services, Office of the Inspector General, is currently auditing programs in North Carolina, but he cannot report on the findings until final reports are received and accepted. Also, there is a possibility that the Federal government will request reimbursement of these payments from the State of North Carolina. Representative Weiss noted that as a policymaker she found this information incredibly frustrating and disturbing because we want to make sure that people who do need services get services. But, at the same time, we want to make sure we stop unqualified individuals from receiving services. She also stated that she is hearing from people who need the services but are being told they cannot get the care they need. Representative Weiss noted that misuse of services and the resulting misallocation of funds must stop.

Representative England noted that most of the providers and provider organizations he has heard from disagree with the numbers and figures presented today on PCS, and he hopes the Commission will have a chance to hear directly from these providers in relation to the amount of unjustified PCS.

Ms. Mary Barker asked how we could queue the number of hours of PCS to the level of care needed so that recipients can remain at home in a lower level of care as long as possible. According to Dr. Nason, all medical care is based on the premise that a person gets what they need in terms of severity of their disability or illness and that we do not deliver programs in excess of that care. However, if a person deteriorates or ends up in a position where more care becomes necessary, then that person has an opportunity to request a change of status review, which includes a new assessment of needs and services. Dr. Nason also noted that there will be a revised PCS Clinical Coverage Policy to address documented problems with costs, compliance and utilization, which will be provided to the Commission.

Senator Bingham asked if there were any agencies that have been prosecuted for fraud, and if so, whether the Commission could receive a copy of the report. Dr. Gray, Director, DMA, stated that for the 1,300 PCS providers across the state, 946 cases are pending of which 211 are currently active.

Senator Forrester noted the importance of considering the time it takes physicians to complete necessary forms for PCS care. Dr. Nason stated that DMA is working with physicians to help alleviate some steps in completing forms using the internet. Dr. Gray also stated that physicians authorize the initiation of the process and the independent reviewer completes all the forms while meeting with the recipient, and then the physician signs off with the confidence that the independent process has been done accurately.

Five Year Post Study Follow-Up on Adult Day Care Sustainability, presented by Ms. Teresa Johnson, North Carolina Adult Day Services Association.

After explaining the types of services provided by adult day service centers in North Carolina, Ms. Johnson reviewed various reimbursement methodology changes and training and technical assistance initiatives that were implemented at the recommendation of a national adult day

services resource center under contract with DHHS. An overview of the work plan that led to the recommended changes is available in **Attachment III, page 2**.

According to Ms. Johnson, the result is that adult day centers are healthier five years later and NC has established itself as a leader in the adult day services industry. Overall improvements are detailed in **Attachment III, pages 2-4**. Most notably, average daily attendance and hours of operation have increased, fewer centers reported cash flow problems and year-end deficits, and 92% of adult day service centers' total expenses are covered by total operating revenue.

Ms. Johnson concluded by notifying Committee members of the 2010 Conference of the National Adult Day Services Association, which is schedule for August 19-21 at the Sheraton Raleigh Hotel.

Review and Approval of Minutes – The Commission unanimously voted to approve the minutes from the January 7 and January 21, 2010, meetings.

The Visitor Registration Sheets are attached and made a part of these minutes.

The Commission will meet again on Thursday, February 25, 2010. This meeting adjourned at 12:20 pm.

Senator A.B. Swindell
Presiding Co-Chair

Delta F. Prince
Commission Assistant

Agenda

North Carolina Study Commission on Aging

Thursday, February 4, 2010
10:00 a.m.
Legislative Office Building
Room 544

I. Welcome and Comments

Senator A.B. Swindell, Cochair
Representative Jean Farmer-Butterfield, Cochair

II. The Impact of Hearing Loss in Older Adults in NC (S.L. 2008-181, Sec. 12.1)

Jan Withers, Director, Division of Deaf and Hard of Hearing, DHHS

III. Medicaid Changes and the Impact on Older Adults

- **Personal Care Services (PCS)**
  Dr. Larry Nason, Division of Medical Assistance, DHHS
  Dr. Karen Feasel, Division of Medical Assistance, DHHS

- **Community Alternatives Program for Disabled Adults (CAP/DA)**
  Dr. Larry Nason, Division of Medical Assistance, DHHS

IV. Five Year Post Study Follow-Up on Adult Day Care Sustainability

Teresa Johnson, NC Adult Day Services Association

IV. Review and Approval of Minutes

V. Next Meeting:

Thursday, February 25, 2010
10:00

ATTENDANCE

NORTH CAROLINA STUDY COMMISSION ON AGING

DATES CO-CHAIRS	Jan. 7, 2010	Jan. 21, 2010	Feb. 4, 2010	Feb. 25, 2010	March 4, 2010	April 1, 2010	May 11, 2010								
Senator A. B. Swindell			✓												
Representative J. Farmer-Butterfield			✓												
SENATE MEBERS															
Senator Stan W. Bingham			✓												
Senator Katie G. Dorsett			✓												
Senator James S. Forrester			✓												
Senator Joe Sam Queen															
SENATE PUBLIC MEMBERS															
Mr. Joe Eller															
Mr. Anthony Peace			✓												
Ms. Jean Reaves			✓												
HOUSE MEMBERS															
Representative Alice L. Bordsen															
Representative Bob F. England, MD			✓												
Representative Garland E. Pierce			✓												
Representative Jennifer Weiss			✓												
HOUSE PUBLIC MEMBERS															
Ms. Mary P. Barker			✓												
Ms. Joan M. Pellettier			✓												
Ms. Patricia E. Sprigg															
EX OFFICIO															
Ms. Maria Spaulding			✓												
STAFF															
Ms. Susan Barham			✓												
Ms. Melanie Bush			✓												
Ms. Joyce Jones			✓												
Ms. Sara Kamprath			✓												
Ms. Theresa Matula			✓												
Mr. Shawn Parker			✓												
COMMITTEE ASSISTANTS															
Delta Prince			✓												
Janice O. Mobley-Bennett			✓												

NORTH CAROLINA GENERAL ASSEMBLY
COMMITTEE MEETING NOTICE
LEGISLATIVE OFFICE BUILDING
RALEIGH, NORTHCAROLINA 27603

January 25, 2010

MEMORANDUM

TO: Members of the North Carolina Study Commission on Aging

FROM: Representative Jean Farmer-Butterfield, Co-Chair
Senator A. B. Swindell, Co-Chair

SUBJECT: Meeting Notice

The North Carolina Study Commission on Aging will meet on the following date:

DAY: Thursday
DATE: February 4, 2010
TIME: 10:00 A.M.
LOCATION: Legislative Office Building, Room 544

Parking for non-legislative members of the committee/commission is available in the visitor parking deck #75 located on Salisbury Street across from the Legislative Office Building. Parking is also available in the parking lot across Jones Street from the State Library/Archives (see attached map). The cost for visitor parking is $1.00 per hour or $8.00 per day and may be reimbursed with a parking receipt submitted with your travel reimbursement form.

If you have any questions concerning this meeting, please contact Janice O. Mobley-Bennett, Committee Assistant, at (919) 733-5780 or email mobleyla@ncleg.net.

Posted: January 8, 2010

cc: Committee Record x
Interested Parties x

HOUSE PAGES

NAME OF COMMITTEE _____ DATE 2-4-10

1. Name: _____

   County: _____

   Sponsor: _____

2. Name: _____

   County: _____

   Sponsor: _____

3. Name: _____

   County: _____

   Sponsor: _____

4. Name: _____

   County: _____

   Sponsor: _____

5. Name: _____

   County: _____

   Sponsor: _____

SGT-AT-ARM

1. Name: Ken Burroughs Ron Spain
2. Name: Martha Patrick Ernie Sherrell
3. Name: Tommy Avant Charles Marcellis
4. Name: _____

VISITOR REGISTRATION SHEET

N.C. Commission Aging 2-4-10

Name of Committee Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
TRACY COLLINS	~~AHAC~~
Rose Williams	NC DOI
MARK WHISENANT	DSDHH / DHHS
Dennis Streets	DAAS / DHHS
Ann Eller	DHHS / OLTS
Paula A. Wolf	Friends of Residents in Long-Term Care
BILL LAMB	UNC - Institute on Aging
Trey Adams	PDA, Inc.
Roxanne Bragg	NC Coalition on Aging Franklin Co Dept of Aging
BRAD ALLEN	NC SENIOR GAMES, INC
Betty Rising	AARP - Dir. Comm. Outreach NC Assn. Citizens Reps. - Gov's Advisory Council on Aging
Mary Bethel	AARP-NC

VISITOR REGISTRATION SHEET

AGING Commission — 2/4/10

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Leslie Jaresma	NCANPHA
L C Bengtson	NCANPHA
JAMES KIRBY	OFFICE OF SEN. QUEEN
Guelda Beckwith	EH&R
Peggy A. Smith	NCALA
Tim Boen	Boen Assn.
W. Gaston Culpepper	Personal Interest
Teresa Johnson	NC Adult Day Service Assn, FORLTC
Martha Roberts	adult Day Health Care Association Mecklenburg, NC
Judy Brengle	The Carolinas Center for Hospice and End of Life Care

VISITOR REGISTRATION SHEET

Aging Commission — 2/4/10

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Mary Edwards	DAAS
Heather Carter	DAAS
Glenda Artis	DAAS
Steve Freedman	DAAS
Jeff Horton	DHHS DAAR
Jesse Goodmon	DAHS/DASR
Polly Williams	NC Justice Center / Triangle Older Women's League
Dick Hatch	AARP, NCCOA & IVCSTHL
JaMarcus Underwood	Rep. Garland Pierce
Ran Coble	N.C. Center for Public Policy Research

VISITOR REGISTRATION SHEET

Aging Commission — 2/4/10

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Abby Emanuelson	NMSS-NC
Miki Alexander	NMSS-NC

Making Gains in North Carolina Communities:
Eat Smart, Move More Community Grants Summary
2006 – 2009

Every September, the North Carolina Division of Public Health awards a series of Eat Smart, Move More NC Community Grants to local North Carolina health departments and districts. These grants promote healthy eating and physical activity in communities, schools and worksites across the state. Each of the counties or health districts (groups of counties that share health services) receive up to $20,000 to implement strategies that advance the goals and objectives of *Eat Smart, Move More: North Carolina's Plan to Prevent Overweight, Obesity and Related Chronic Diseases*. These strategies emphasize policy and environmental change, which means they change the rules, customary practices and physical surroundings in which North Carolinians live, learn and work supporting healthy behaviors.

Community grantees are helping to create a North Carolina where healthy eating and active living are the norm rather than the exception. Although a great deal of success is already evident, it may take a few more years to gauge the full impact of the 2006-09 community grants. The *Eat Smart, Move More* Community Grant Program is funded by the North Carolina Division of Public Health in support of the *Eat Smart, Move More NC* movement. Information on grant recipients both past and present is available online at www.EatSmartMoveMoreNC.com. Many of the curricula and program materials used by the grantees are available for free download to support healthy changes in the places where North Carolinians live, learn, work, pray and play.

Alexander

06/07 Alexander County's Eat Smart, Move More community grant project increased residents' healthy eating and physical activity through improvements to Matheson Park. Upgrades included paving the walking trail and adding fitness stations. As a result, there was a significant increase in the trail's use by the community, which includes seven schools, various walking groups, and local families and individuals.

Appalachian

05/06 Watauga County launched a school-based, multi-level intervention to prevent obesity through physical activity and nutrition education. The program successfully: 1) trained school personnel (including 39 teachers) to use health-based curricula; 2) promoted physical activity and nutrition to children; 3) educated parents about healthy behaviors, and 4) implemented the Winner's Circle Healthy Dining Program in the school cafeterias. A key strategy in the program's success was creating a broad partnership of stakeholders, including parent-teacher groups, several school staff organizations, Appalachian State University, and local health agencies. The community grant project also helped mobilize additional funds, as the Be Active NC-Appalachian partnership andWatauga County Schools augmented the intervention with $10,000 worth of additional resources.

06/07 The Appalachian Health District used its grant funding to implement walking trails in two communities. The first project, Ashe County Gets Moving with Art!, sponsored a contest for local artists to design bronze plaques for installation in a community walking trail in West Jefferson. The plaques highlight Ashe County heritage and healthy behaviors to celebrate the local community and encourage physical activity. The second project constructed a brand new trail at Glade Creek Elementary School in Ennice, NC in Alleghany County. This project was driven largely by the local Board of Education and the school's Parent Teacher Association – as well as by parents who helped grade and pave the trail. Both projects organized walking challenges, kick-off events and media coverage to promote the trail and encourage participation from local residents. Thanks to these two walking trail projects, hundreds of people have heard the message to eat smart and move more.

07/08 In Ashe County, organizers completed a new walking trail and installed playground equipment at a community park in Lansing, in addition to implementing a *Families Eating Smart, Moving More Together* program and contest. Parents attended information sessions about adding healthy activities and nutrition to family leisure time. Twenty participating families submitted personal success stories to compete for one of two $500 prizes, which were awarded at a local festival held annually at the park.

Bladen

07/08 Bladen County's *Mission Possible: Eating Smart and Moving More Day Camp III* represents a collaborative approach to reducing rates of Type II Diabetes among at-risk youth. The week-long day camp enabled 43 campers to engage in physical activity and healthy eating workshops to learn about healthy eating at home and in restaurants. Instructors used the Families Eating Smart Moving More curriculum to encourage campers to eat at home and increase their fruits and vegetable intake and the Syber Shop program to educate campers on making smart choices at fast food restaurants. Campers also learned about the risks associated with Type II diabetes.

Brunswick

05/06 Funds went to the construction of a walking track and implementation of policies supporting healthy eating and physical activity in several African American Churches. The target population were residents of the town of Northwest, which is geographically isolated and cut off from many county services. In response to a community-needs assessment that identified health as a major concern, health-training teams were assigned to participating churches to introduce the My Pyramid nutrition program and organize other health promoting activities. Outcomes included the implementation of healthy eating and physical activity policies in several local churches, a church-based soft ball league, and 97 people signed up to participate in the "Eat Fit Eat Right" initiative. In addition, the city of Northwest celebrated the completion of the walking track, with a health-focused groundbreaking ceremony. Organizers secured additional funding for the project from local churches and donations from the community.

Buncombe

05/06 April 29, 2006 marked the grand opening of the Strong Roots Youth Garden in the Shiloh Community, the oldest and only historical African-American neighborhood of Asheville, NC. The garden project represents a successful, multi-agency approach to improving the health of a community. Objectives included increasing opportunities for physical activity and fruit and vegetable consumption among children and youth. On a larger scale, organizers hope the project will result in a vibrant multi-generational community in Shiloh with lower neighborhood crime. Following a gift to the local Shiloh Association of land valued at more the $45,000, the ESMM Community Grant helped to purchase tools, top soil, and plants, while volunteers from each partnering organization helped prepare the land. Outcomes included the successful construction of the garden as well as educational activities on healthy eating and gardening offered through after school programs.

06/07 Buncombe County Health Center used additional ESMM grant funds to expand the Community Garden initiative in the historical Shiloh African American Community. The goal was to transform the project into a community-supported, sustainable effort that increases fruit and vegetable consumption by teaching gardening and cooking skills, honoring and celebrating food traditions, and promoting multi-generational interaction. Funds enabled the purchase of tools, a permanent water supply, and support a permanent neighborhood gardener. Community events focused on story telling, family recipes, and food traditions, which were subsequently compiled and published as a cookbook to preserve the community's heritage.

07/08 Asheville used its Community Grant to sponsor the *Downtown on the Move* initiative, which supported worksite wellness among small, downtown businesses and promoted healthful living among Asheville residents. In the Downtown Asheville area, organizers marked walking trails, hosted a kick-off event, provided three months of free wellness classes and offered technical assistance to small businesses, one of which agreed to be a pilot project for a downtown produce-delivery model program. Twenty small businesses (with less than 50 employees) participated in the initiative by attending programs and utilizing technical assistance.

08/09 Buncombe Safe Routes, Safe Rides ("BSR2") expanded its Safe Routes to Schools efforts in West Asheville schools this year in addition to helping develop after-school programs and the Erwin Middle School Bicycle Club. Organizers focused on providing resources and infrastructure for K-8 bicycle and pedestrian education, emphasizing skill development, safety and a lifelong passion for bicycling. More than 170 students participated in BSR2 activities and 158 students took part in one of the five community and/or school bike-safety training events. Trainers at these sessions verified that the vast majority of students had proficiency in bicycle safety and developed improved bicycle skills.

Caldwell

05/06 Caldwell's community grant constructed a trail connecting Hudson Elementary and Hudson Middle Schools and connecting adjoining neighborhoods to the Barton and Estoy Educational Forest and Redwood Park. The connector enables students to use the paved trail for physical activity and provides them with a path to walk to school. The grant also funded a physical activity awareness campaign in the form of an art contest for Hudson Elementary. The project marks the completion of another phase of the trail system for the Town of Hudson, passage of a bicycle policy for the Caldwell school system and the completion of the physical activity awareness campaign/art contest.

06/07 Grant funds constructed a missing section of the Town of Hudson's trail system to completed a municipal pathway that extends from two schools (Hudson Elementary and Hudson Middle), to the community college and recreation center. This connecting trail enables more than 900 students to walk or ride bicycles to school and exercise during school hours. Adults also gained a safe and accessible trail for physical activity.

Carteret

08/09 The Carteret County Health Department, in collaboration with County Parks and Recreation and other community partners, is constructing a 1.5 mile walking trail equipped with outdoor fitness stations. The completed trail will be located at Newport Middle School and is part of a dual-use, community-school park project.

Catawba

05/06 Catawba County implemented three school-based interventions to increase physical activity and healthy food options to students across three school districts. Organizers offered a combination of the Take 10!, Winner's Circle in School, and Food for Thought programs to promote healthful habits and policy and environmental change. As a result,all three schools enacted wellness policies and the county developed a brochure that showcased the nutrition and physical activity resources available for kids ages 2-18 years old throughout the county.

07/08 Catawba County Schools implemented a series of curricula – SPARK, My Pyramid for Kids, and Sybershop – promoting physical activity and nutrition that reached 2,000 kids in 32 elementary, middle, and high schools. In addition, afterschool programs adopted policies to increase the amount of PA and healthy snack options offered to students enrolled in their program. Local media spread the word about the new programs and policies to create interest and keep the community informed.

Chatham

06/07 Chatham County's "Town Lake to Downtown" project sought to promote a little used downtown park to increase physical activity among Pittsboro students and their parents. The initiative placed signs and labeled trees for educational purposes on the Town Lake Park Trail, and organized an Outdoor Classroom Club that drew 150 children into being active and trying new, healthy foods.

08/09 Chatham County's program, "Playground Kids Growing Healthy in Goldston," is an intervention to prevent overweight and obesity in children ages zero to five. Grant recipients constructed an age-appropriate playground area and organized healthy eating classes. The playground, located in Goldston, offers families a permanent community resource for physical activity while the classes helped parents improve their healthy eating habits through education. Grant organizers estimate that the playground reaches about 150 children ages 0-5 now and another 40 children each additional year.

Davidson

08/09 Davidson County Health Department and Thomasville Parks and Recreation Department collaborated to construct three walking paths and enhance several existing paths and sidewalks in the city of Thomasville. This project encourages physical activity and better cardiovascular health through environmental change – offering and promoting safe, accessible walking trails for Thomasville residents. To advertize the walking trails and related programs, grant organizers participated in two community events that drew more than 1,500 people and where they distributed several hundred goody bags and wristbands. The trails are expected to impact a total of 2,600 people.

Davie

05/06 Grant funds were directed to teachers in six Davie County Elementary Schools to implemented the Take 10! Program to incorporate physical activity into daily lesson plans. Teachers received training and kits at all six elementary schools. As a result, all participating students received and some even exceeded the recommended 150 minutes of weekly physical activity.

06/07 Davie County was awarded a second community grant to expand its school-based physical activity initiative from the previous year. This second round of funding provided a Take 10! kit to every classroom in the initial six elementary schools and implemented the Energizers curriculum at South Davie Middle School.

Durham

05/06 Grantees in Durham launched The PEACE Project – Physical Activity and Eating Healthy through Activities in the Church Environment. The project was comprised of churches and advisors from Shaw University, Cooperative Extension and several public and private medical and health agencies. Organizers initially held a health education conference with 212 participants, and selected from these participants 8 local churches to be the focus of future health promotion activities. Afterwards, all eight churches designated a health minister for their congregations and received incentives and equipment promoting physical activity and nutrition.

07/08 The Durham Health Department used its 2007-08 grant to expand the ongoing PEACE Project by adding four new churches and continuing to work with existing member congregations. These efforts focused on establishing or reviving health ministries in local African American churches to promote policy/environmental change, capacity building and activities to improve nutrition and increase physical activity. By the end of the project year, churches were planning and implementing their own projects without relying on partner agencies. The four new churches received fitness equipment, nutritional education and hands-on guidance on establishing a healthy ministry for congregants.

08/09 Durham County's Seasons Project worked with existing African American faith-based partner organizations to improve nutrition and increase physical activity through gardening activities. In addition, Operation Frontline offered six food preparation and nutrition classes and the County Horticulturist and SEEDS Program assisted participants in developing and maintaining container gardens. More than 370 people signed up to partake in these activities and they are expected to extend the program's impact to twice as many family and friends by sharing their knowledge and experience. Additionally, grant organizers received five requests from other local faith groups for help starting their own garden projects.

Forsyth

07/08 Kimberly Park Elementary School expanded their Safe Routes to School Program through Walking Wednesday Adventures. The Forsyth Department of Public Health used the program to teach children safe pedestrian skills, increase the number of students who walk to school and increase physical activity in the Kimberly Park community. The initiative included teacher trainings, a walkability study of the neighborhood and several events to kickoff the program and recognize contest winners.

Gaston

05/06 The county health department collaborated with the Gaston County Fitness and Nutrition Council, Gaston County Schools and other community organizations to implement "Winning Moves." This initiative promoted the Winner's Circle Healthy Dining program in 53 public schools and offered information on Families Eating Smart, Moving More through a partnership with local physicians and dentists. As a result of the Winning Moves intervention, school nurses, teachers, and cafeteria staff received training on the two curricula and local businesses contributed prizes to award student contest winners.

Graham

06/07 Graham County's grant funded "Families Fit Together – Eat Smart, Move More," a community-based project that increased physical activity and health education. The centerpiece was the construction of a mile-long walking trail with activity stations, which was supplemented by a community awareness campaign promoting healthy eating and physical activity. The trail was constructed around the ball-fields at the county high school and the school agreed to let the trail be open to the community. To help those ready to make lifestyle changes, the project partners offered individual counseling sessions. As a result, 41 students received nutrition counseling and 239 people lost a total of 1,782 pounds.

Granville/Vance

05/06 The Granville County Health Department and the LiveWell Granville Health Promotion Workgroup constructed a section of the greenway, The Butner-Stem Trail, which created a paved link between a ball field, a middle school, and an Elementary School. Located near the center of a town with no sidewalks, it also represents 0.6 miles of off-road, paved walking path for local residents. The Butner-Stem School Trail connects anelementary with a middle school and a ball field. The 2 schools serve ~950 children. The town of Butner has ~7500 residents who are able to use the trail when the school isnot in session, and are regularly seen enjoying it. The middle school started 2 health/activity clubs which serve ~40 students as a consequence of this project. The ball field at one end of the trail is used by a local volunteer recreation association that serves neighboring Creedmoor (~3500 residents), thereby increasing exposure of the trail.

07/08 When Mrs. Carol King Franklin's house burned to the ground, she donated the property to the city of Henderson as a location for a new neighborhood playground. A coalition of churches, Faith to Freedom Project Inc., and the Vance County Working on Wellness! (WoW!) Coalition combined ESMM Community Grant funds with money raised locally to build King's Kids Park, a 9,100-square-foot playground for the 1,600 residents living within walking distance of the playground. To echo the project's focus on physical activity, members of the Faith to Freedom Project changed rules in their churches to help others eat smart and move more. As a result, congregations now offer health-related messages at least once per month from either the pulpit, the church bulletin or newsletter. They also offer health classes based on the Families Eating Smart and Moving More program.

08/09 The Granville and Vance Counties WoW! Coalition offered mini-grants to community partners to promote environmental and policy change in support of physical activity and nutrition. The variety of programs that were created impacted elementary and high school students and staff, seniors, physically and mentally handicapped individuals, staff and residents of a psychiatric hospital, and members of three African American churches. Policy and environmental changes covered a broad array of initiatives, including allowing employees to exercise during work time, eliminating vending machines, and paving/enhancing walking trails. The total program will likely impact well over 1,000 people.

Guilford

06/07 Residents of Guilford County have more options than ever to grow and/or purchase fresh, locally grown produce and flowers. The Guilford County Department of Public Health used its grant funds to create a community garden in the Glenwood neighborhood, establish the bi-weekly "Fresh Fridays" garden market and enhance the weekly Parks and Recreation Greensboro Farmers' Curb Market. The Glenwood garden was built with the help of more than 50 volunteers and is now a 20-plot, fenced-in area with a tool shed and supplies. Part of the project's launch included distributing 100 bags of local produce along with nutrition and physical activity education materials to social services clients in Greensboro. In addition, 10% of the food grown is donated to a local food bank.

Halifax

07/08 The Halifax County Health Department partnered with the Halifax County government to construct a walking trail and provide indoor physical fitness equipment. The walking trail is now located at the Department of Social Services (DSS) and available to the public. DSS employees launched a walking program and provided prizes and incentives for participants in monthly wellness seminars.

Haywood

05/06 "Kids on a Roll" was Jonathan Valley Elementary School's program to increase physical activity. Organizers used grant funds to purchase Gamebikes – a stationary bicycle that connects to a video game system to create a gaming experience around bike riding. The Gamebikes were incorporated into physical education classes and caught on so quickly that teachers in other classes offer bike time as a reward for students. The school also purchased regular mountain bikes and other equipment and launched an after-school biking program. Public health educators from partnering agencies offered nutrition and physical activity training to teachers, which was then passed on to students in class. Ultimately, 225 students of all ages used the Gamebikes, 60 children participated in use of the mountain bikes and bicycle safety training and nutrition education gained more emphasis in classes.

Henderson

06/07 Grant funds were used to implement nine interventions at the Henderson County Department of Public Health and Department of Social Services. The interventions facilitated policy and environmental changes aimed at increasing physical activity, supporting breastfeeding and improving nutrition among 269 Human Services employees. The program resulted in the creation of a wellness committee, fitness rooms, walking routes and challenges, an on-site breastfeeding room, seven lunch-and-learn sessions, and a healthy vending machines policy. In addition, employees attended a health fair offering body measurements and wellness information.

07/08 Henderson County's Next Top Role Model program encouraged the county's 1,800 public school employees to be healthy role models for students. The initiative established 13 walking routes on school campuses and offered health screenings, bi-weekly on-site health classes, wellness education sessions and walking challenges for employees. Hundreds of employees participated in the screenings, wellness classes and walking challenges.

Hertford

05/06 Hertford County Schools implemented the Take 10! Curriculum in three elementary schools to increase physical activity among students. As a result, 1,600 elementary students received a minimum of 30 minutes of physical activity per day. The school system partnered with the Hertford County Public Health Authority to apply for and implement the grant project and with Roanoke-Chowan Hospital to market the program and purchase incentive items for teachers to offer students. The project included media coverage, a public awareness event and participant newsletters for teachers, students and parents.

06/07 Grant funds in Hertford county went to implementing a program to increase the fruit and vegetable consumption of elementary school students. The intervention's focus was to provide as many as 550 students with at least five servings per day of fruit and vegetables. The grant helped purchase food carts, food baskets and educational materials while local health committees assisted with the delivery and distribution of food to students.

Iredell

05/06 Iredell County's Child Nutrition Department established healthy food options for Mooresville high school students. Following extensive menu analysis and student surveys, a separate area and equipment were designated to create a healthy food line in the cafeteria serving Winner's Circle Healthy Dining items. The project was supported with displays, labeling, t-shirts, the distribution of educational materials and regular taste tests. As a result, cafeteria sales increased about $150 a day, as did awareness, availability and consumption of nutritious food items.

06/07 Two middle schools in Iredell county were struggling with the preparation and selling of healthy foods due to out-dated ovens and a lack of salesmanship. Using Community Grant funds, the two schools purchased updated ovens to prepare higher quality dishes and display cases to advertize healthy food items. Both schools reported more student interest in the healthy foods and a decrease in lunches brought from home.

07/08 Twenty-nine child care providers in Iredell County implemented the Nutrition and Physical Activity Self-Assessment for Child Care (NAP SACC) to improve nutrition and physical activity opportunities. The initiative, which included training Health Department staff to train daycare staff on the NAP SACC curriculum, impacted 55 staff members and more than 430 children at seven child care centers and 22 home-based child care programs. Each facility adopted policy changes related to healthy eating and/or physical activity, thanks to the program's committed training and assessment components.

Jackson

05/06 Recognizing the growing need to address childhood obesity, Jackson County implemented a nutrition training program for teachers in two schools. The trainings focused on how to incorporate nutrition education into the school curriculum and classroom lessons. The training workshop was designed and implemented by a Western Carolina professor and 14 students from her Community Health course. As a result, 10 teachers, and four cafeteria managers received nutrition training and nutrition resources.

07/08 In Jackson, 120 county employees participated in the *Mountain Movers* campaign, a program that provided health screenings and assessments, weight management classes and financial incentives for individuals to increase their physical activity, healthy eating and stress management. As a result of the program, a policy was adopted to provide employees who enrolled in the Wellness Program a discounted membership to a fitness center. A total of 32 employees signed up for the Eat Smart, Move More, Weigh Less program and 19 of those employees lost a total of 131 pounds. In addition, 28 employees received a $50.00 prize based on their achievements.

Lee

08/09 The Lee County Health Department and N.C. Cooperative Extension collaborated with the Lee County School System to provide Growing Children and Healthy Families: "Fit for Life in Lee County." The program was administered to 650 fifth grade students and promoted healthy eating, physical activity, growing vegetables in container gardens and participating in a Community Garden project. Ten families were also selected to participate in the Community Garden component: each family received two raised-bed plots, which reached about 50 individuals. The six hundred and fifty fifth graders all signed statements pledging to live a healthy lifestyle and, among other impacts, 90-95% of participating families increased their consumption of fruits and vegetables, levels of physical activity and number of eating home-cooked meals on weekly basis.

Lenoir

05/06 Lenoir County partnered with St. James AME Church to host an afterschool program for youth from low-income families. The initiative including training afterschool staff on the Color Me Healthy curriculum to promote healthy eating and physical activity among participating children. In addition, the initiative featured planning a garden to teach youth about vegetables and a dietician to assist families with healthy eating. Lenoir County also partnered with Cooperative Extension to train elementary teachers on the Take 10! curriculum, which provides nutrition and physical activity opportunities to students in the classroom. Administrators at three schools' Lenoir County Public Schools and 2 private charter schools, committed to implementing the curriculum in their schools. As a result, teachers, children and their parents received thorough information on eating smart and moving more.

Macon

05/06 Power line regulations at Wesley's Playground in Macon County restricted the presenceof tall trees, which meant kids and families enjoying the equipment never had enough shade or an opportunity to cool off. For this reason, a partnership was formed to raise money through a series of local fundraisers and an ESMM Community Grant to purchase and install a water feature and related playground equipment. Once the county acquired sufficient funding, a contractor was hired to create a 420-square-foot feature, which includes seven separate water jets. A grand opening event was organized by the Healthy Carolinians Coordinator and included a ribbon cutting ceremony, healthy snacks, and media publicity. The installation now provides access toa free and exciting recreational activity for all community residents, which encourages more physical activity for longer periods of time. It also draws more people to the playground and surrounding facilities such as the picnic pavilion, Greenway Trail, and other playground areas.

07/08 Community partners in Macon used grant funds to create a 1.25 mile walking trail with educational materials and maps offered at the trailhead, two picnic tables and four benches. Macon County donated the land and provided inmate labor to clear and gradethe area and install the trail's gravel bed. Following the installation of signage and other equipment, a kick-off event and media coverage were used to spread the word about the trail's opening. From start to finish, the project was completed in just six months.

Madison

05/06 The Madison County Health Department devoted its Community Grant funds to increasing physical activity and promoting healthful living among senior citizens residing at several local facilities. A significant number of local agencies and schools partnered to administer and analyze community surveys, construct walking trails, install fitness equipment and provide health education. As a result, six trails were constructed at six different community/senior centers and four other facilities received indoor fitness equipment. In addition, educational sessions were provided to participants at each of the ten community/senior centers. Although the program targets senior citizens, organizers ensured that the entire community had access to resources as well to maximize the initiative's impact on residents.

Martin-Tyrrell-Washington

06/07 Using the premise of the "Victory Gardens" from World Wars I and II, a community of 62 Creswell Middle and High School agriculture education students created a community garden located on school grounds. Participating students planted and cared for vegetables and then brought them home for family meals. Survey results showed that 79% of participants increased their intake of fruits and vegetables to five or more servings per day and increased physical activity by an average of two hours per week. In addition, home visits made by an agriculture education teacher determined that 58% of the project's target population had planted their own Victory Garden.

New Hanover

06/07 A partnership in New Hanover county implemented Winner's Circle Healthy Dining program throughout their community. A team comprising Cape Fear Healthy Carolinians, New Hanover County Health Department, UNC Wilmington, PPD Inc. and several other agencies contacted restaurants to analyze their menus and explain how the nutrition offerings could be improved. Restaurants that eventually qualified for Winner's Circle designation were advertized through a kick-off event and media campaign. As a result, nine restaurants implemented the program.

Orange

06/07 Thirteen African-American churches in Northern Orange County received mini-grants of up to $500 to implement physical activity and/or nutrition policies. Funds were used to start health ministries at each church to develop projects promoting healthful habits. Churches received physical activity kits and educational resources and materials for outreach in their congregations, as well as technical assistance in implementing new policies. As a result,

- 20 physical activity or nutrition policies were adopted
- 5 congregations established new health ministries
- 9 churches initiated multiple exercise sessions/ walking group meetings
- 6 congregations initiated education sessions focused on physical activity, nutrition and/or health fairs

07/08 Continuing the previous year's project, community partners in Orange again distributed mini-grants to local churches to support healthy behaviors in faith settings. Nine churches implemented Eat Smart, Move More programs that included policy changes, cooking and exercise classes, health screenings, walking challenges and other activities, some of which focused on specific target groups such as men and Latinas.

Person

05/06 Person County's 2004 Community Health Assessment identified a lack of time, access and safety as the primary barriers to increased physical activity among residents. In response, the Person County Health Dept., Zion Christian Center and other community partners came together to build a paved walking track. Using funds from the Eat Smart, Move More Community Grants and in kind donations of signage, benches and garbage bins, the partnership constructed the track on the Zion Christian Center campus for use by students and the entire community at large. Organizers also conducted a physical activity assessment of church members, developed ads for media coverage and held a kickoff event to promote the track's opening. The project has inspired plans to build a playground adjacent to the track to expand opportunities for recreation and physical activity. The Zion Christian Center operates a school at the site, as an additional part of the grant project, teachers from the middle school received training on the Take 10! curriculum. Each classroom teacher set goals for the total amount of physical activity their classroom would get each week. Classes that met their goal by the end of the project were treated to a class party.

Person cont'd –

06/07 Person County Health Department implemented two initiatives promoting physical activity and healthful eating. The first, for students, was a healthy homework program, in which teachers issued assignments related to physical activity and healthy eating several times a week, such as getting 15 minutes of physical activity, drinking water with meals and not watching TV while eating. Ten schools and 30 teachers implemented the program and parent surveys demonstrated high levels of participation.
The second intervention focused on increasing physical activity by promoting dog walking. Organizers partnered with two veterinary clinics to "prescribe" more walking to owners with pets and with other agencies to install dog-waste stations and provide prizes to qualifying dog walkers. Additionally, the county's "Strut-a-Mutt" program encouraged people to provide walks to dogs housed at a local animal shelter. These programs were promoted through media attention, kickoff events and a variety of incentive items.

07/08 Person County implemented two interventions with its grant funds. The first was the Bookworms Encouraged to Eat Smart and Move More in Person program, which established an Eat Smart, Move More section in the Person County Library. Funds purchased books, book-coding supplies, and newspaper ads. From November 2007-May 2008, the books from the new section circulated 387 times. The second intervention, at Person Memorial Hospital, incorporate the Families Eating Smart and Moving More curriculum and activity breaks into the hospital's own Health Nights Out events. Most participants indicated that they had gained new knowledge or skills to help them eat smart and move more. All participants noted that they had gained knowledge or skills that would benefit their families.

Pitt

05/06 The Pitt County Health Dept. recognized the need in Greenville to increase opportunities for physical activity. Working with Greenville Parks and Recreation and city and county government, organizers marked off a walking trail in Town Common Park and launched a walking program to draw local residents. A local bicycle shop offered a $250 certificate as a prize to participants in the Saturday morning walking club.

07/08 In Pitt County, community partners used grant funds to extend a walking trail and organize a walking challenge. Local businesses donated incentive items to encourage participation and organizers offered education materials focused on eating smart and moving more. Within a few months of completion, the trail showed steady use throughout the week, and nearly 100 community members had enrolled in the challenge. This success positioned the county to receive a Fit Community Grant from the North Carolina Health and Wellness Trust Fund to sustain and possibly expand the project.

Robeson

05/06 Aware of the growing threat of childhood obesity, Robeson County focused its community grants on a specific problem – candy rewards in the classroom. Three schools implemented the No Candy as a Reward program and, to reach beyond schools, parents, grandparents and caregivers received letters explaining the program's importance and encouraging alternatives to candy incentives. Ultimately, more than 600 students and 500 parents, grandparents and caregivers were impacted by the program as well teachers and administrators, all of whom learned about the importance of using non-food items as rewards in the school setting.

07/08 The Robeson Enriching Academics for Children's Health (R.E.A.C.H.) program distributed twenty-two mini-grants to K-4th grade public school teachers. Recipients used the funds to incorporate physical activity and/or nutrition messages and materials into their curricula. As a result, all 22 teachers documented environmental and policy changes in their classrooms and 54% of students reported a better understanding of the importance of physical activity and nutrition. Additionally, students that participated in nutrition and/or nutrition and physical activity interventions were twice as likely to consume fruits and vegetables as those who did not participate and also reported more physical activity.

Rockingham

06/07 Students at four elementary schools participated in a pilot project featuring on-site vegetable gardens, in which students grew and harvested their own vegetables. The project was implemented through four phases and incorporated physical activity and nutrition curricula appropriate for each stage. The project included media coverage and community events such as food tastings to reach out beyond students into the community. More than 400 community members and 350 students were educated about the benefits of eating smart and moving more and, as a result, vegetable consumption and physical activity levels increased among participating children. In addition, teachers reported the "seeds for healthful living" experience engaged students and their interests in healthier eating and more active lifestyles.

Rowan

07/08 In Rowan County, grant funds were used to provide safer and much needed playgrounds, walking trails and playing fields for Koontz Elementary School and its roughly 580 students. Organizers also implemented new curricula and policies supporting healthful eating and physical activity so that the new facilities would offer healthful, educational and recreational benefits. Policies included implementing a no-food-rewards project, allowing families to use playgrounds/fields after school hours and educating parents with newsletters. The project also featured the construction of two walking trails, training 40 teachers on implementing nutrition and physical activity into their classrooms, and classes hosting mini-health fairs within their grade levels.

Rutherford-Polk-McDowell

06/07 The Rutherford-Polk-McDowell Health District used its Community Grant to increase physical activity and healthful eating at three schools, with a particular focus on kindergarten and fourth grade students. The schools received either climbing walls or playground equipment, supplies to create a community garden and teacher training materials. The trainings enabled administrators to implement the Energizers and Food for Thought curricula, which are classroom-focused programs to increase physical activity and nutrition intake. As a result, two school systems adopted policies to monitor students' BMI measurements, more than 1,000 students have access to climbing walls and playgrounds and 98% all elementary and middle school teachers were trained to use Energizers to ensure 30 students receive 30 minutes of daily physical activity.

Swain

05/06 In response to troubling BMI measurements among students, the Swain County Health Department implemented programs at two elementary schools targeting students and their teachers and parents. Teachers were trained on the Take 10! program to increase physical activity in the classroom. Parents were invited to attend classes based on the Families Eating Smart and Moving More curriculum and, in addition to training, received a cookbook featuring "super fast suppers." Students also attended FESMM classes and received Dance Dance Revolution dance pads that connect directly to a television. More than 175 parents and students attended the FESMM classes. In addition, school administrators adopted policies increasing recess time and improving food offerings and installed new equipment for physical education, including fitness steps, exercise bikes and climbing walls. Swain's comprehensive approach captured both policy and environmental change to benefit elementary-aged students and their parents.

07/08 At Swain County Middle School, administrators launched a Healthy Homework campaign to tackle concerns over obesity. Fifty percent of the school's 440 students were overweight or at-risk of becoming overweight and so organizers implemented a program to teach students about nutrition and physical activity by assigning healthy behaviors as homework. Program activities were supplemented with journals, pedometers, water bottles and other items to help students track their activities. Additionally, participants were offered one-on-one assistance from health educators for more comprehensive and personalized care. Thanks to a new policy allowing music in the gym to promote physical activity, the program's end-of-year celebration event filled the gym with music and information booths offering a variety of healthy activities.

Wake

06/07 To create new opportunities for physical activity in a Raleigh neighborhood, grant partners created a half-mile walking trail by constructing a series of paved connectors between existing sidewalks. The connectors link five nearby subdivisions, two churches, an elementary school and a city recreation center. Organizers enhanced the trail by installing mile markers, park benches, trees, trash cans, signage and a literature kiosk. To better connect students to the initiative, administrators at the elementary school adopted an after-school policy requiring 15 minutes of physical activity and providing healthy snacks to participating students. The recreation center added a workout room for public use, featuring new exercise equipment. Local residents use the trail daily, and one person reported that it helped him lose 80 pounds.

08/09 Wake County Human Services has partnered with Raleigh Parks and Recreation to construct a playground for children with disabilities. The Eat Smart, Move More, Let's Play Project will increase physical activity levels of children with disabilities and educate families about the importance of healthy behaviors.

Warren

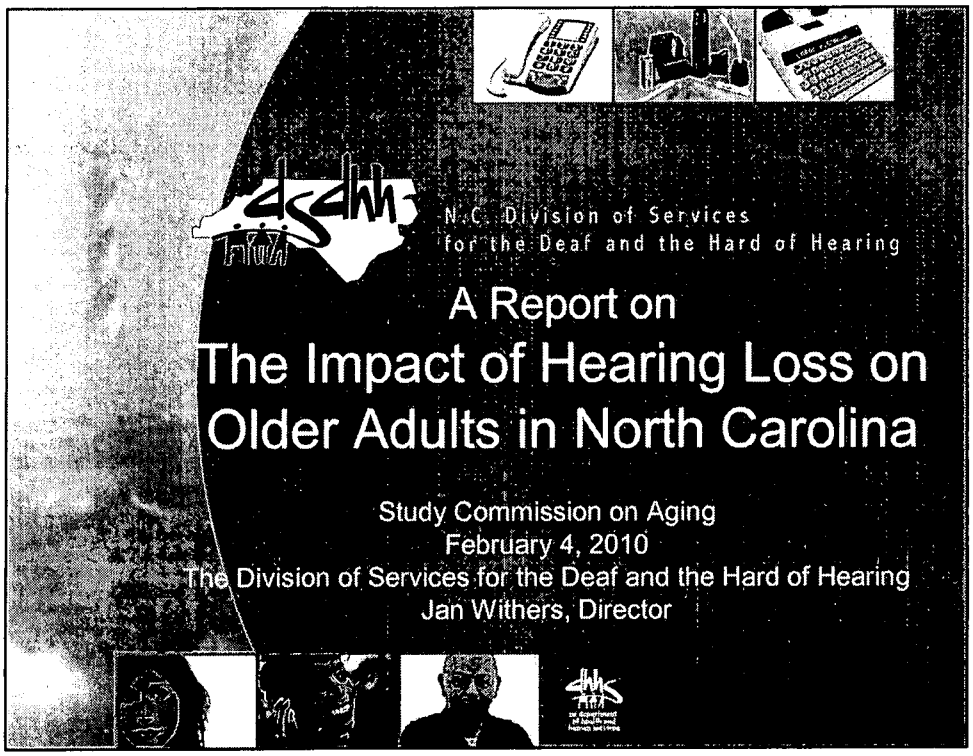
08/09 Warren County's Eat Smart, Move More Nurturing Parenting Program partnered with the Warren Family Institute (WFI) and other organizations to encourage local parents to increase healthy eating and physical activity in their homes. This initiative offered healthy cooking classes with child nurturing sessions through the Warren Family Institute, which offers a broad variety of activities to support individual families and larger-scale community development WFI also implemented a healthy foods policy for all its events. Survey results of participants showed an increase in knowledge about reading food labels and selecting healthy food choices. Likewise, participants report consuming less daily soda and salt and more fruits and vegetables.

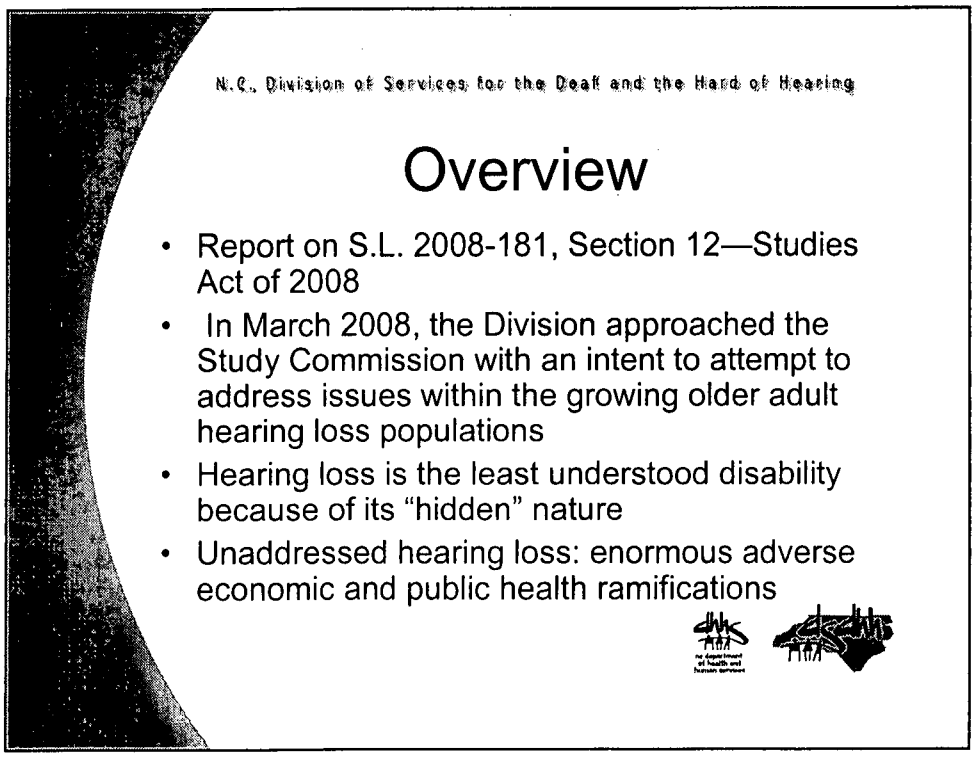
Wayne

07/08 In Wayne, five African American churches implemented multi-faceted interventions to promote physical activity and nutrition. Each church received Eat Smart, Move More, Weigh Less and Give Your Heart a Healthy Beat programs, and Cooking with Heart and Soul workshops. Congregations also installed exercise equipment and/or walking trails. They adopted policy changes to support healthy behaviors and added educational messages into church bulletins. At the program's conclusion, a networking event was held for members of each church to report personal and church-wide successes as a way of fostering a climate of change among participants and congregations.

Wilkes

07/08 Four middle schools – North, East, West and Central – in Wilkes County offered Dance Dance Revolution to students. Dance Dance Revolution is a video game that promotes physical activity by prompting players to follow dance routines displayed on a TV screen. A floor mat with sensors tracks players' footsteps, enabling the game to score their performances. PE teachers at the schools have adopted the use of the game as an alternative PE class. All four middle schools also implemented 3 policy changes related to nutrition or physical activity. 1) to offer healthy options at all staff meetings and functions; 2) Allow staff to participate in physical activity as a part of their workday; 3) to offer healthy snack options at all concession stands.


N.C. Division of Services
for the Deaf and the Hard of Hearing
A Report on
The Impact of Hearing Loss on
Older Adults in North Carolina
Study Commission on Aging
February 4, 2010
The Division of Services for the Deaf and the Hard of Hearing
Jan Withers, Director


N.C. Division of Services for the Deaf and the Hard of Hearing
Overview
• Report on S.L. 2008-181, Section 12—Studies Act of 2008
• In March 2008, the Division approached the Study Commission with an intent to attempt to address issues within the growing older adult hearing loss populations
• Hearing loss is the least understood disability because of its "hidden" nature
• Unaddressed hearing loss: enormous adverse economic and public health ramifications

N.C. Division of Services for the Deaf and the Hard of Hearing

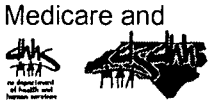
Overview

- Study methodology: a compilation of efforts from three different sources:
  - Division staff research
  - Random survey of Nursing Homes and Skilled Care Facilities' Directors—543 mailed, 254 returned at 46.7%
  - Study Group formed consisting of members from varied professional fields—audiologists, hearing instrument specialists, aging, legal, and consumer grassroots groups
    - Divided into four groups to study the four areas specified by the General Assembly

N.C. Division of Services for the Deaf and the Hard of Hearing

Overview

- Skilled Care Facility Directors' Survey Results:
  - 56% rated themselves less than knowledgeable of hearing loss and the overall impact on older adults
  - 72% stated no hearing loss professionals visit facilities
  - 68% were not aware of hearing aid purchase assistance programs
  - 63% do not provide hearing loss assessments as part of the intake process
  - 54% consider the facility to be fully accessible for ALL persons with hearing loss
  - Special notes: Directors requested 1) more information; 2) hearing aid purchase assistance from Medicare and Medicaid for residents



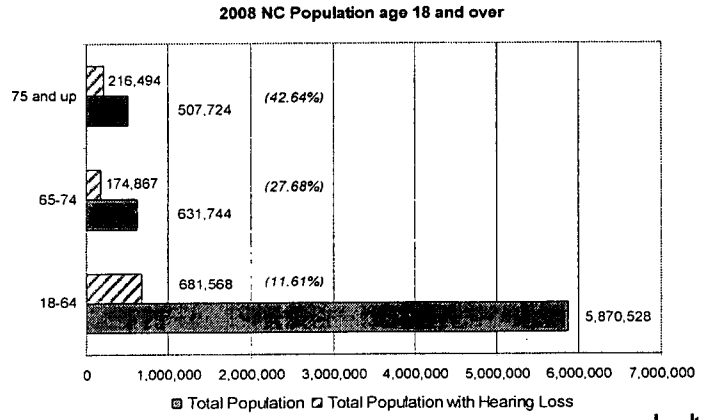
N.C. Division of Services for the Deaf and the Hard of Hearing

Findings of the Study

- Demographics
- Tangible Impact and Costs
  - Severe Adverse Economic Ramifications
- Intangible Impact and Costs
  - General Health and Well-Being
    - Physical, Social, Medical, Mental effects

N.C. Division of Services for the Deaf and the Hard of Hearing

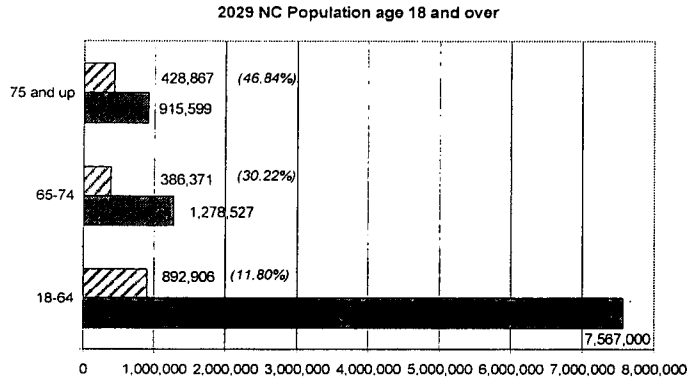
Demographics--2008



Hearing Loss % is derived from the 2008 Series 10 report data from www.cdc.gov/nchs/nhis.htm
Population data from http://www.osbm.state.nc.us/demog/countytotals_agegroup_2008.html

N.C. Division of Services for the Deaf and the Hard of Hearing

Demographics--2029



Hearing Loss % is derived from the average of Series 10 reports from 2004 to 2008 from www.cdc.gov/nchs/nhis.htm
Population data from http://www.osbm.state.nc.us/demog/countytotals_agegroup_2029.html

N.C. Division of Services for the Deaf and the Hard of Hearing

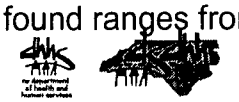
Demographics

- Population totals do not reflect the facts that:
  - Because NC is a retirement haven, the state has a higher percentage of older adult residents with hearing loss than surrounding regional states
  - Involvement by adult children, family or care givers when misunderstandings occur due to communication issues experienced by older adults only broaden the impact spectrum
  - End Result: significantly more people are impacted by hearing loss either directly or indirectly
- NC ranks highest in hearing loss population of regional states—GA, TN, SC, VA

N.C. Division of Services for the Deaf and the Hard of Hearing

Tangible Costs of Hearing Loss

- Economic Ramifications
  - 95% of the hearing loss population can benefit with use of hearing aids
  - However, only 23% reportedly use hearing aids
  - High COST of hearing aids is the most frequently stated reason for not seeking hearing aid treatment
  - Average retail hearing aid costs range from $1400 to $5000 per hearing aid
  - *Consumer Reports* cites average mark-up pricing at 117% above wholesale costs; found ranges from 25% to 300% mark-up



N.C. Division of Services for the Deaf and the Hard of Hearing

Tangible Costs of Hearing Loss

- No mandated insurance coverage from private or public sources for adult hearing aids; decreasing number of non-profit and civic groups able to help due to diminishing membership and the economy
- Persons with untreated hearing loss are shown to have approximately $13,000 less income per year than those using hearing aids
- Lost incomes mean lost tax revenues for state
- An estimated lost income of $3.2 billion for NC citizens equates to lost annual tax revenue of $477.4 million

N.C. Division of Services for the Deaf and the Hard of Hearing

Intangible Costs of Hearing Loss

- Impact on Health and Well-Being
  - In 1999, a study by the National Council on Aging debunked the myth that hearing loss in older adults was a harmless condition
  - Hearing health care providers have projected hearing loss to be a public health problem due to increase in population
  - The Centers for Disease Control noted a correlation between the quality of hearing health and the quality of overall health. The greater the hearing loss, the greater the chance that the individual would report poor health.
    - 28.9% of those deaf or who have a lot of trouble hearing report only fair or poor health as opposed to excellent or good health while only 10.5% of those with good hearing report fair or poor health.

N.C. Division of Services for the Deaf and the Hard of Hearing

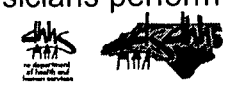
Intangible Costs of Hearing Loss

- Strong association of hearing loss with the following: depression, anxiety, impaired memory, paranoia, reduced coping skills, reduced ability to learning new tasks
- The inability to effectively participate in communication leads to greater isolation and withdrawal and leads to lower sensory input
- Hearing loss is the 3rd most chronic, but treatable condition among older adults following arthritis and hypertension

N.C. Division of Services for the Deaf and the Hard of Hearing

Intangible Costs of Hearing Loss

- Lack of Knowledge by General Populace
  - Confused on how to address hearing loss and possess unrealistic expectations of results of treatment
  - Unaware of resources and how to access to them
  - Hearing loss is becoming a health care issue because it is erroneously assumed that many professionals, including medical, have the necessary expertise to address hearing loss issues
  - Only 12.9% of primary care physicians perform some form of hearing screening



N.C. Division of Services for the Deaf and the Hard of Hearing

Intangible Costs of Hearing Loss

- Ear, Nose and Throat physicians, Audiologists, Hearing Instrument Specialists are available to help with varied needs of people with hearing loss
- These professionals often do not address the full spectrum of needs such as coping skills, grief counseling, effective use of assistive technology.
- A comprehensive approach to treatment is critical to ensuring successful use of hearing aids and other devices

N.C. Division of Services for the Deaf and the Hard of Hearing

Significant Conclusions to Study

- Hearing loss is widespread among older adult and, left unaddressed, could have profound and devastating impact on their health and functioning
- Hearing loss is highly varied, complex and very little understood, even among professionals
- Effective communication is the key to an individual's ability to develop and maintain healthy social connections and to independently access and use the services and resources in their own communities

N.C. Division of Services for the Deaf and the Hard of Hearing

Recommendations

- In order to address these issues and to enable older adults with hearing loss to achieve effective communication, three recommendations are presented:

N.C. Division of Services for the Deaf and the Hard of Hearing

Recommendation One

- Establish a task force to assess the feasibility of developing and implementing a formal system that optimizes consumer capacity to fully evaluate quality of hearing aid services prior to and during the process of purchasing hearing aids
  - Consumer protection tool to prevent costly errors
  - Enhance awareness and empower consumers, especially older adults, in making informed decisions
  - reassure customer of professional integrity at all times
  - Involve professionals from every aspect of the hearing health care industry in developing solutions

N.C. Division of Services for the Deaf and the Hard of Hearing

Recommendation Two

- Enact legislation that would require all hearing aid dispensers provide a minimum of a 30-day trial period with money back guarantee and instruction on the function of the telecoil and its use
  - Also a consumer protection issue; two-part recommendation
  - Part A: Eliminate costly misunderstandings and clarify for the older adult any and all fees associated in the process, with or without a purchase
  - Delineate for the consumer responsibilities of both parties including any financial responsibilities

N.C. Division of Services for the Deaf and the Hard of Hearing

Part B: Provide better use of telephone by removing the electromagnetic interference between the hearing aid and telephone
--Allow a Hard of Hearing and sometimes Deaf consumer to receive needed amplification and easier access to sounds from electronic audio equipment including radios, public address systems and assistive listening devices
--Most consumers are unaware of this beneficial device and do not inquire about it; likewise, many dispensers do not inform customers the device exists

N.C. Division of Services for the Deaf and the Hard of Hearing

Recommendation Three

- The General Assembly should consider legislation requiring hearing aid health insurance coverage for all ages from any private agency providing health insurance and doing business in North Carolina and from any public agency providing medical insurance coverage assistance.
  - Hearing aids are expensive and improvements in technology cause costs to rise rapidly
  - Costs is a primary reason for non-treatment
  - Currently, health benefits plans rarely include coverage for hearing aids; totally out-of-pocket expense

N.C. Division of Services for the Deaf and the Hard of Hearing

--Some older adults seek a last resort purchase via internet or mail order, which is very risky
--Maximum benefits to amplification comes from an appropriate device properly fit and regulated to the individual's hearing loss
--(HB 589 / SB 375—children's coverage)

N.C. Division of Services for the Deaf and the Hard of Hearing

QUESTIONS?

DEFINING THE THREE POPULATIONS OF HEARING LOSS

	Deaf	Hard of Hearing	Deaf-Blind
Degree of Hearing Loss	Profound loss, 90+ decibels	Mild to Severe loss, 26 – 89 decibels	May be either Deaf or Hard of Hearing with vision loss. Vision loss may range from mild to profound.
Cultural Identity	Identifies with Deaf Community, may have parents or family members who are Deaf	Identifies with Hearing Community, parents are usually hearing	May identify with Deaf or Hearing Community
Communication Needs	Preferred mode of communication is American Sign Language, a fully developed, autonomous, natural language with a unique grammar, syntax, vocabulary, and cultural heritage, some may use speech (spoken English)	Preferred mode of communication is spoken English with amplification, may use sign language acquired later in life **Note:** English is not a particularly easy language to speech-read with best estimates of 30% to 35% understood	May use American Sign Language (ASL) or spoken English with amplification. If using ASL, communication needs to be up-close or tactile
Use of Assistive Technology	Videophones, text messaging, pagers, video relay sign language interpreting services, visual alerting systems, interpreting services, closed captioning	Digital hearing aids, pocket talkers, pagers, telephones/cell phones with amplifiers, loop systems, closed captioning	Technology used by Deaf and Hard of Hearing, however, devices come in large print or Braille and/or are tactile (alerts by movement, vibrations)
Educational Background	Graduates of residential schools for the Deaf, some may attend public schools with support systems (interpreting services, Computer Assisted Note-taking)	Graduates of public schools with or without support systems	May be a graduate of a residential school or a public school

Sources: 1) National Association for the Deaf, 8630 Fenton St. Suite 820, Silver Spring, MD: www.nad.org
2) Center for Hearing Loss Help, Neil Bauman, PhD, 49 Piston Ct., Stewartstown, PA: www.hearinglosshelp.com

The Impact of Hearing Loss in Older Adults in North Carolina

Report to the North Carolina General Assembly and the N.C. Study Commission on Aging

November 1, 2009

North Carolina Department of Health and Human Services
Division of Services for the Deaf and the Hard of Hearing

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Executive Summary

Estimates show that the numbers of older North Carolinians with hearing loss will more than double in the next 20 years. This is a result of a confluence of multiple factors, including the aging of the Baby Boomers, increased life expectancies, in-migration of adult population to North Carolina, and an increase in activities that can result in hearing loss (such as the use of personal stereos).

In an effort to prepare for this increase, the North Carolina General Assembly instructed the Department of Health and Human Services to study the impact of hearing loss on North Carolina's older adult population and to report to the North Carolina Study Commission on Aging.

Hearing loss in an older adult tends to happen gradually and is not always identified, and less often treated. This presents a barrier to access to community services and can isolate one from one's own family. Untreated hearing loss can lead to deterioration in mental and physical health. For people in the labor market, untreated hearing loss means reduced income.

One of the most effective treatments for hearing loss is hearing aids. Hearing aids are expensive, ranging in price from $1,400 to $5,000 depending on type. Generally, people with hearing loss have better results with two hearing aids, increasing the cost. Hearing aids for adults are not normally covered by public or private health insurance.

Diagnosis and treatment of hearing loss alone are insufficient to effectively address it. Hearing loss is so poorly recognized and understood that extensive education to the greater community as well as consumer protection mechanisms are necessary. Just as essential to ensuring the effectiveness of treatment is the extensive community support emphasizing well-being and independence.

This study, as directed by S.L. 2008-181, addresses the four areas.

- The availability of and access to qualified professionals for diagnosis and treatment: Although the services seem to be available in the state, lack of awareness and information about the opportunities for addressing hearing loss keeps older adults from seeking needed treatment and related services.
- The availability and access to hearing aid purchase assistance programs for low-income individuals: Multiple nonprofit organizations help with the purchase of hearing aids, but their declining financial assets along with strict eligibility requirements limit access for older adults. Health insurance plans (including Medicare and Medicaid) do not cover hearing aids for adults.
- The development of and inventory of adaptive technology options available to assist older adults with hearing loss: Improvements in technology expand the list of adaptive technology available. Choice for older adults is a matter of obtaining the information on what, where and how to obtain devices. Gathering places for older adults could serve clientele better if they had assistive equipment available on-site.
- An assessment of resources available in other states that are used to offset problems associated with hearing loss: Some states have more progressive policies addressing hearing loss in older adults than North Carolina does. Examples include mandatory telecoil disclosure, low interest loans to people with disabilities, programs to make law enforcement and emergency personnel aware of an individual's hearing loss, insurance coverage in state health plan, mandated trial period for hearing aids, mandated insurance coverage, and retirement communities and nursing homes specializing in serving Deaf people and people with hearing loss. Fifteen states mandate insurance coverage for hearing aids, and thirty states provide Medicaid coverage for hearing aids for adults.

Based on this study, the Department of Health and Human Services, Division for Services to the Deaf and Hard of Hearing makes the following recommendations:

- Establish a task force to assess the feasibility of developing and implementing a formal system that optimizes consumer capacity to evaluate quality of hearing aid services prior to and during the process of purchasing hearing aids.
- Enact legislation that would require all hearing aid dispensers provide a minimum of a 30-day trial period with money back guarantee and instruction on the function of the telecoil and its use.
- The General Assembly should consider legislation requiring hearing aid health insurance coverage for all ages from any private agency providing health insurance and doing business in North Carolina and from any public agency providing medical insurance coverage assistance.

Because hearing loss in older adults is so prevalent and can impact one's health and independence, it raises public health and economic concerns. Opportunities exist, however, to address these concerns. By strengthening the current system of diagnosis and treatment, ensuring the affordability of treatment and expanding a statewide system of education and community support, the General Assembly can assure that Deaf, Hard of Hearing and Deaf-Blind North Carolinians will age well.

Context Leading to Study

Section 12 of S. L. 2008-181 was incorporated in the "Studies Act of 2008" in response to the growing concerns of hearing loss issues specifically among the older adult population coupled with the ramifications of untreated hearing loss. This bill directed the North Carolina Department of Health and Human Services to study the impact of hearing loss on North Carolina's older adult population regarding access to qualified professionals for diagnosis and treatment, access and availability to hearing aid purchase assistance programs for low-income individuals in the state, development and inventory of adaptive technology options, and assessments of resources and programs available in other states.

To understand hearing loss and its impact on a person's life, two presuppositions must be identified.

First, it must be recognized that hearing loss, in and of itself, is complex in nature. It creates one of the most complex of all human needs—the need for effective communication without hearing. There exists a general misconception regarding the hearing loss population as a whole. Though some similarities and common traits among people impacted by hearing loss can be cited, it must be acknowledged that three distinct hearing loss populations exist—Deaf, Hard of Hearing and Deaf-Blind.

Because differences between people who are Deaf, Hard of Hearing and Deaf-Blind exist, consideration of service provision should be based on person-centered principles. Service providers must not only consider the person's degree (level) of hearing loss but also individual characteristics (for example, family and friends, race, ethnicity or language, personal choices, life activities, environment, any physical or cognitive limitations that could prohibit use of assistive equipment, communication needs and his/her general health) in the assessment in order to provide the most effective services. Often, these services are time- and labor-intensive.

Secondly, due to the wide variations in the type, degree, onset and etiology of hearing loss, it is difficult to obtain hard and fast data on the prevalence of hearing loss. Data gathering tools used to enumerate hearing loss populations only provide a statistical estimate, not an exact population total. The two leading sources and tools used for health statistical information gathering are *The National Health Interview Survey (NHIS)* and the *National Health and Nutrition Examination Survey (NHANES).*

Both the NHIS and the NHANES surveys formulate data sets based on the self-reporting of hearing loss from each individual interviewed. It must be noted here that "denial" or the non-acceptance of hearing loss and "vanity" due to the stigma associated with hearing loss are two prominent reasons cited for a person not to seek treatment for his/her hearing loss.[1] Because hearing loss is often gradual in most individuals, a false sense of normalcy develops thereby making hearing loss an "invisible" disability. Without the realization of hearing loss in the person's life, misconceptions on abilities and self-perceptions will cause inaccurate reporting of such leading to further misconstrued statistical information.

Therefore, data can appear skewed at times; it is common to find diverse estimates of the current hearing loss population of the United States cited at 28 million,[2] 31.5 million,[3] 37 million,[4] or as high as 55 million.[5]

Older adults face many challenges in their lives as complications of access to needed services begin to interfere with once active lifestyles. The challenge of hearing loss brings a whole range of diverse issues that have often been misunderstood and neglected. Those with hearing loss, whether Deaf, Hard of Hearing or Deaf-Blind, often experience tremendous barriers to accessing basic resources in their communities, including education, employment, housing, transportation, health care, emergency services, telecommunications, recreation and even their own families and social networks. The most common barriers are lack of access to communication, lack of understanding of the indicators and consequences of hearing loss, insufficient resources to effectively advocate for themselves in obtaining services and lack of knowledge of existing resources available to them.[6]

The approach taken by the Division in the completion of this study can be divided into three distinct tasks: 1) Division research; 2) Survey of Randomly Selected Skilled Care Facility Directors; 3) Study Group.

1) Division staff engaged in research seeking the most up-to-date studies and demographics information. Research facilities, national organizations on hearing loss, other Divisions within the Department of Health and Human Services and other NC governmental agencies were contacted. The Division also sought feedback from customers statewide;

2) A basic survey of a randomly selected sample of directors in North Carolina skilled care facilities such as nursing homes and home care facilities was performed. Facility directors were asked to respond to a total of 12 questions on general issues associated with hearing loss and his/her facility. A total of 543 surveys were mailed with a return of 254 at a return rate of 46.7%. The survey period was for one month. The information was tallied and the following results stood out:

    a. 56 % of the directors rated themselves less than knowledgeable (somewhat knowledgeable, not knowledgeable or unsure) of hearing loss impact on older adults;
    b. 72 % of the directors stated that no hearing loss professionals (audiologists or hearing instrument specialists) make visits to their facility;
    c. 68% were not aware of hearing aid purchase assistance programs;
    d. 79% knew of no resources or programs for hearing loss located outside of North Carolina;
    e. 63% do not provide hearing loss assessments as part of the intake process;
    f. 54% consider the facility to be fully accessible for ALL persons with hearing loss in accordance to the Americans with Disabilities Act;
    g. Many of the directors expressed desire to learn more about hearing loss issues and wanted more information
    h. Several of the directors made specific comments requesting assistance through Medicare and Medicaid to assist residents in the purchase of hearing aids;

3) The Division formed a study group consisting of professionals from diverse backgrounds. Members were professionals in the hearing care industry, professionals and representatives within the aging industry, service providers within state and private industries, members of grassroots organizations associated with the Division and consumers. Diversity was represented in membership ethnically, culturally and by disability. The group's charge was to review the four points of study given by the General Assembly. Members of the Study Group are listed below:

    Johnnie Sexton, Chair, Hearing Aid Dealers and Fitters Licensure Board
    Mary Bethel, Associate State Director for Advocacy, AARP—North Carolina
    Valerie Bateman, Deputy Attorney General, NC Office of the Attorney General
    Bill Lamb, Associate Director of Public Service, UNC Institute on Aging
    Julie Bishop, Vice-President, Hearing Loss Association of North Carolina
    Liz Belk, Interpreter, NC Registry of Interpreters for the Deaf
    Kathryn Lanier, LTC Ombudsman Program Specialist, Div. of Aging and Adult Services
    Angela Bright-Pearson, Audiologist, Bright Audiology and Speech, Inc.
    Ruth Miller, President, NC Council for the Deaf and the Hard of Hearing
    Judy Smith, Program Manager, Div. of Aging and Adult Services
    Lorene Roberson, Specialist, NC Assistive Technology Program
    Ronda Owen, Clinical Policies and Programs Manager, Div. of Medical Assistance
    Joan Black, Co-Owner, Triangle Audio Communication Systems, Inc.
    Alfedia Harris, Consumer, NC Deaf-Blind Associates
    Victoria Bottoms, Hearing Instrument Specialist/ Owner, Down East Hearing Care Center
    Gene Griffin, Hearing Instrument Specialist, Association of Hearing Care Professionals
    Swarna Reddy, Evaluator / Planner, Div. of Aging and Adult Services
    Tovah Wax, Psychologist, NC Association of the Deaf
    Julia Leggett, Policy Coordinator, ARC and NC Association of the Deaf

Mary Williamson, Consumer, Deaf Seniors of NC
Joan Pelletier, Director, Triangle J Area Agency on Aging
Dick Hatch, Retired Attorney, NC Coalition on Aging
Dee Hatch, President, NC AARP
Ron Quillet, Technology Resources Coordinator, DSDHH (Ex-Officio)
Jeff Mobley, Hard of Hearing Services Manager, DSDHH (Ex-Officio), Facilitator
Jan Withers, Director, DSDHH (Ex-Officio)

Presentation of the Findings

In March 2008 the Division submitted to the North Carolina Study Commission on Aging a preliminary interest report which provided basic information on hearing loss issues faced by older adults in North Carolina. This same report expressed key areas of concern based on comments and feedback received by consumers across the state. Some of this feedback was quite unsettling. The Division's intent was to highlight problematic areas and establish the need for further study and evaluation with the hope of identifying appropriate solutions that will benefit older adults with hearing loss to and reporting such findings to policy makers.

A substantial number of service providers, managers, administrators and policy planners in various private and public entities across the state are unaware of the resources available to Deaf, Hard of Hearing and Deaf-Blind people they serve. In addition, their needs often are not considered or understood when policy, procedures and programs are developed.[7]

To understand the total ramifications of hearing loss in older adults, it is necessary to look beyond barriers to service delivery and look at other areas of impact. The first area to consider in understanding the full impact is to gain an idea of the number of people whose lives are impacted. The second area to consider is the fiscal impact of hearing loss as a whole—to the individual and the general economy.

First, the numbers of people impacted with hearing loss in their lives may be surprising. "One of three U.S. adults already suffers from some degree of hearing loss and the use of personal stereos and an aging population ***may create a hearing impairment epidemic***, researchers said."[8]

"By 2030, the number of older adults is projected to increase 59% while older adults with hearing loss will double. The increased number of older adults with hearing loss ***will present a major public health problem and increased demand for health care services***."[9]

The above quotations may elicit alarmist tendencies; however they serve as strong indicators for service provision agencies when considering the incidence of hearing loss, now and in the future. Review of the data and projections available verifies the necessity for preparation in order to face the predicated increased demand.

According to the U.S. Bureau of Census, the older adult population in 2030 is projected to double that of 2000, growing from 35 million to over 72 million. In the two decades between 2030 and 2050, the older adult population growth is expected to slow as those born in the late 1960's and 1970's enter the older age brackets. Projected growth for this time period is 15 million bringing the total of older adults age 65 and older to approximately 87 million.[10]

Table 1 on the following page illustrates clearly the current population totals and the national incidence of hearing loss. Table 2 presents the same information for the national scene as projected for 2030. As one notices the increase in totals, the impact from the influx of Baby Boomers into the aging population is obvious. These tables are specific to the adult population, 18 and older, in the United States.

Table 1—National Incidence of Hearing Loss Totals for Adults age 18 and Over: 2008

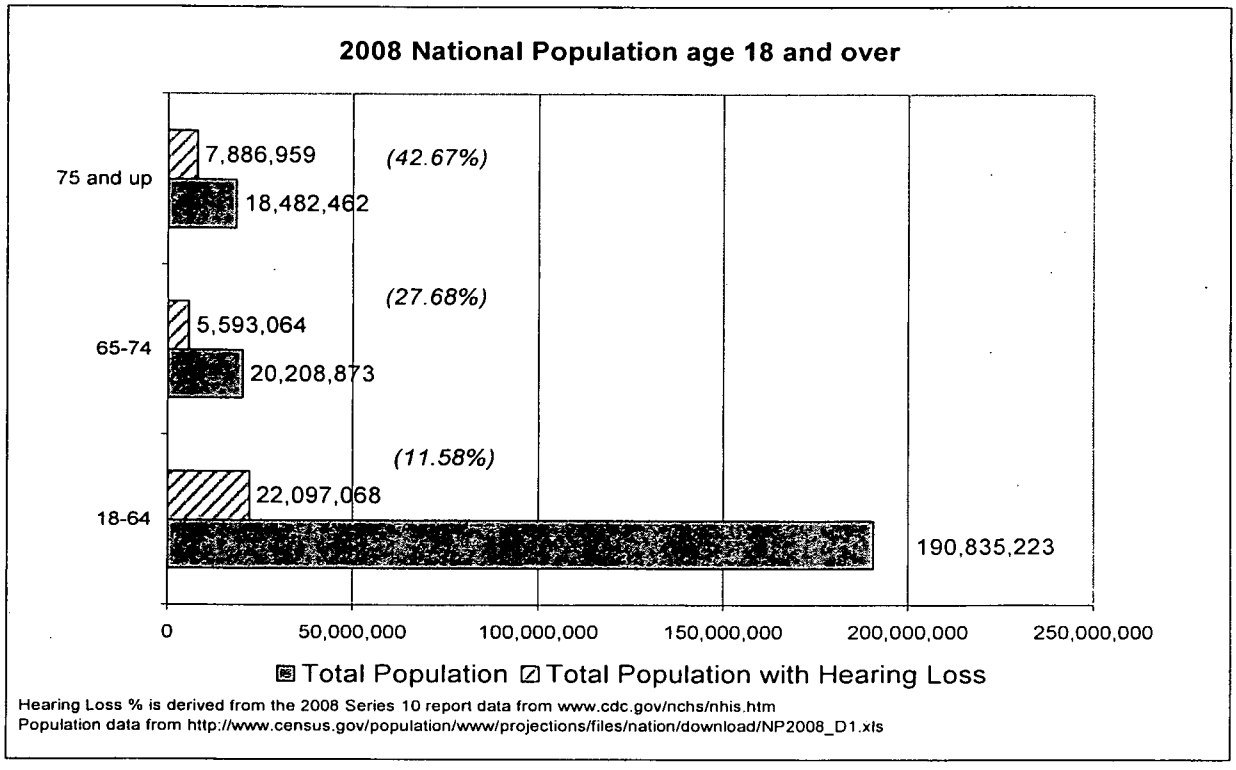
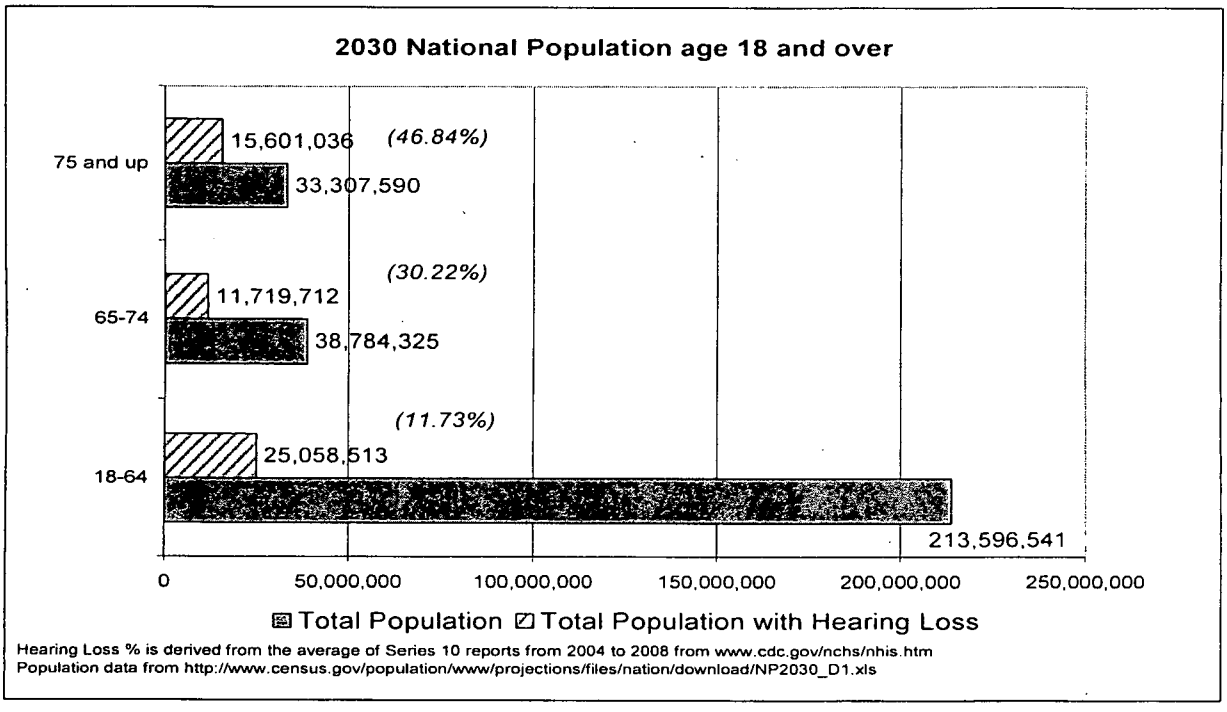


Table 2—National Incidence of Hearing Loss Totals for Adults Age 18 and Over: 2030



The same growth pattern projected for the United States can also be anticipated here in North Carolina. Projections for the year 2029 indicate North Carolina will increase in population to over 12 million people. With this general population growth, will come increased incidence of hearing loss. Currently, statistics indicate a 15.31% incidence of hearing loss for all adults over 18 with a projected increase to 17.50% in

2029. *(OSBM State Demographics Office list projections to year 2029 unlike U.S. Census Bureau's 2030 projections)

The following tables show this same growth pattern in North Carolina populations. Table 3 presents a comparison of the adult population and hearing loss incidence for the year 2008. Table 4 presents the same comparison as projected for the year 2029.

Table 3: Incidence of Hearing Loss, Age Specific Categories, for Adults 18 and Over: 2008

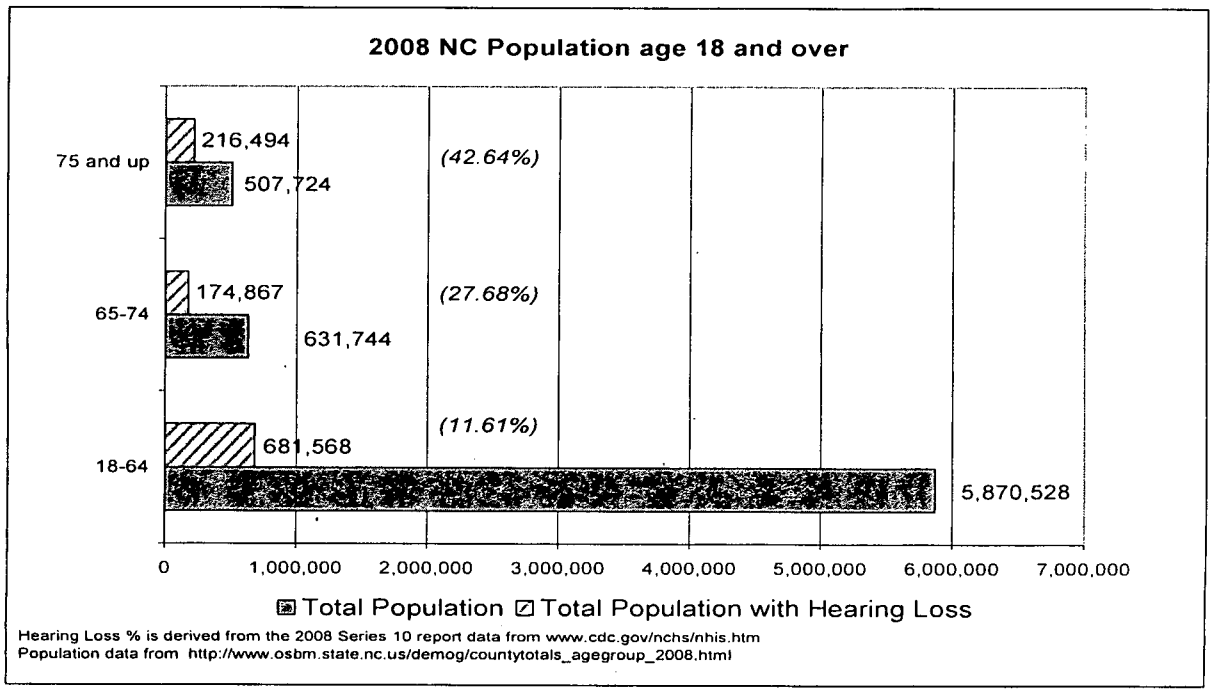
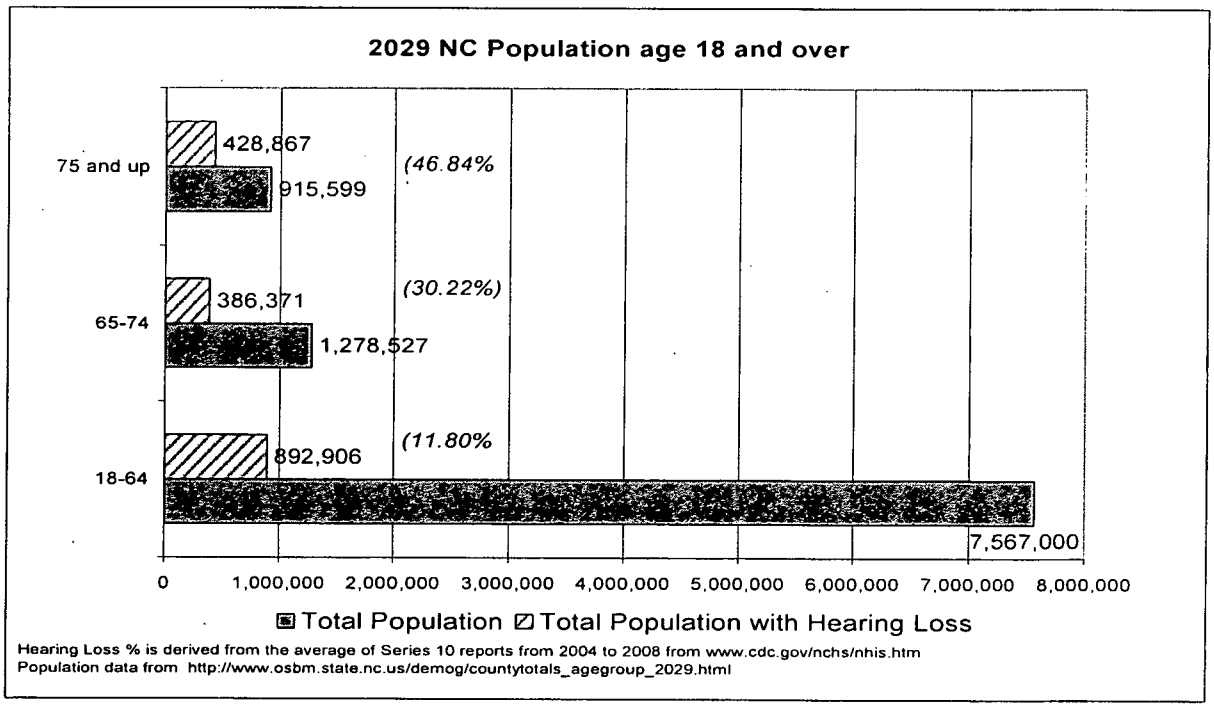
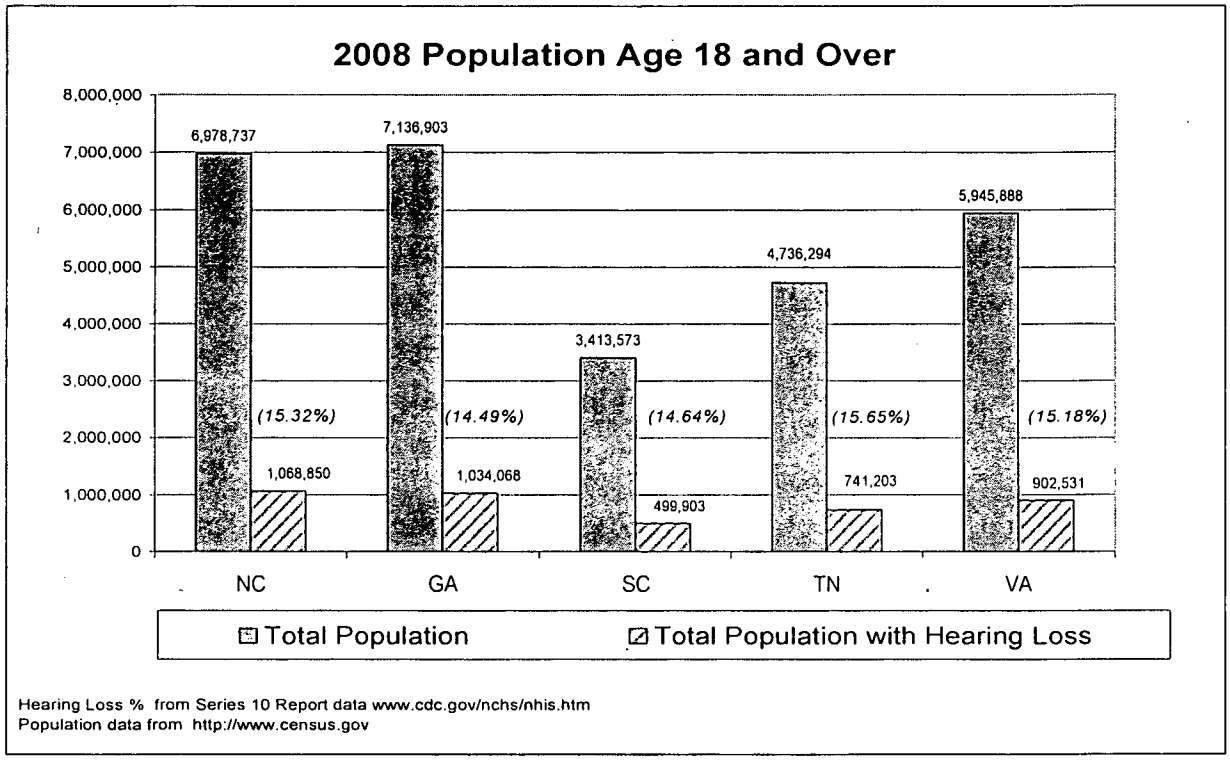


Table 4: Incidence of Hearing Loss, Age Specific Categories, for Adults 18 and Over: 2029



One additional table of interest is also presented. Table 5 below is a comparison of states surrounding North Carolina for the year 2008. Note that North Carolina ranks second in total population of adults 18 and over. However, North Carolina ranks first in number of adult residents with hearing loss. States compared to North Carolina include Georgia, South Carolina, Tennessee and Virginia.

Table 5: Regional Comparison of States, 2008



Hearing Loss % from Series 10 Report data www.cdc.gov/nchs/nhis.htm
Population data from http://www.census.gov

The second area of impact beyond service delivery is the fiscal impact resulting from hearing loss. There is a direct connection between lost income associated with hearing loss and the use of hearing aids according to the results found by the 1999 study of the National Council on Aging.[11] This study revealed a differential of $13,000 per year among non-users of hearing aids between those with mild hearing loss and those with profound hearing loss. For hearing aid users, the difference in earned annual income was $7,000.[12]

This study also clearly noted that hearing aid users report more discretionary funds than did non-users, meaning the non-users were less likely to be able to afford the purchase of hearing aids, thereby exacerbating the real problem.[13]

Sergei Kochkin, Executive Director of the Better Hearing Institute, estimates a total lost income for people in the U.S. with untreated hearing loss at $122 billion thereby creating an unrealized $18 billion in Federal taxes.[14]

Kochkin states that for a large portion of the Hard of Hearing population in the workforce, making decisions to seek hearing aid treatment can illicit a negative impact on total job performance, job effectiveness, opportunity for promotion, and perhaps lifelong earning power and lower income in the retirement years.[15] Communication on the job is highly critical for successful job performance.

In his "The Impact of Untreated Hearing Loss on Household Income" Kochkin assumes that 95% of the total hearing loss population can benefit from hearing aids yet only 23% actually own and/or use such technology. The remaining 77%, suffering anywhere from a 10% to a 100% loss of hearing, do not. Each compounded 10% or decile loss equates to a corresponding $1,000

income loss. Kochkin also supplies a percentage breakdown of the non-user/non-owner population for each decile of loss. Using these figures on North Carolina specific data, we know that 95% of the total hearing loss population (age 18 and up) is approximately 1,019,282. Of these, only 234,435 (23%) use/own an assistive aid. The remaining 784,847 (77%) continue working with a hearing loss and earning less as a result. The table below takes these assumptions above and applies a 15% tax rate to portray potential income loss and potential unrealized taxes. (http://www.betterhearing.org/hearing_solutions/qualityOfLifeDetail.cfm) See Table 5 below.

Table 5: Lost Income and Unrealized Tax Dollars Resulting from Untreated Hearing Loss

2008 NC Population Age 18 and Up (OSBM estimates)				
Hearing Loss in Decile	Current Distribution for non-owners	Population Size	Annual Income Lost (in '000)	Annual unrealized taxes (in '000)
10%	18%	142,057	$ 142,057	$ 21,309
20%	17%	133,424	$ 266,848	$ 40,027
30%	15%	114,588	$ 343,763	$ 51,564
40%	12%	94,182	$ 376,727	$ 56,509
50%	11%	84,764	$ 423,818	$ 63,573
60%	8%	63,573	$ 381,436	$ 57,215
70%	7%	53,370	$ 373,587	$ 56,038
80%	6%	44,736	$ 357,890	$ 53,684
90%	4%	32,964	$ 296,672	$ 44,501
100%	3%	21,976	$ 219,757	$ 32,964
		785,632	$ 3,182,556	$ 477,383

Below are the summary reports of each study area designated by the General Assembly. The Division presents information compiled from all methods of research used for each area of the study. Recommendations based on these findings will follow in the next section titled "Recommendations for Consideration and Action."

Study Area 1: The availability of and access to qualified professionals for diagnosis and treatment.

Untreated hearing loss has serious emotional and social consequences for older adults according to the 1999 report from the National Council on Aging study of "The Consequences of Untreated Hearing Loss in Older Adults." The study debunks the myth that hearing loss in older adults is a harmless condition.[16]

This report, though now ten years old, presents a compelling argument for the social, psychological, cognitive and health effects of hearing loss. The issues raised and the points made are equally as prominent and relevant to 2009.

The inability to effectively communicate due to hearing loss leads to greater isolation and withdrawal and therefore lower sensory input. As a result of a constricted lifestyle, there is a negative impact on the psychological well-being of the individual.

Research is now finding stronger association of hearing loss with the following: embarrassment, fatigue, irritability, tension and stress, anger, avoidance of social activities, withdrawal from social situations, depression, negativism, danger to personal safety, rejection by others, reduced general health,

loneliness, social isolation, less alertness to the environment, impaired memory, less adaptability to learning new tasks, paranoia, reduced coping skills, and reduced overall psychological health.[17] Those with untreated hearing loss reported higher levels of sadness and depression, higher levels of worry and anxiety, less participation in social activities, higher rates of paranoia and greater tendencies to describe themselves as insecure, irritable, fearful or tense. The more severe the hearing loss, the higher the percentages of occurrence.[18]

Not only can a person's psychological welfare be impacted by hearing loss, but it can also create negative consequences on a person's quality of life because of the medical and physical health impact it brings. Hearing loss ranks as the third most chronic, but treatable, condition among older adults behind arthritis and hypertension.

A study performed by Johns Hopkins University of Baltimore, Maryland found the disparities in health and health risk behaviors indicated adults with hearing loss had poorer health and increased risk of engaging in health risk behaviors than adult with good hearing. They found that Whites were more than twice as prone to hearing loss than Blacks and the men were twice as likely as women (21 versus 11 percent) to have speech-frequency hearing loss.[19] The Center for Disease Control (CDC) reports the prevalence of adults with fair or poor health at 10.5% of those with good hearing, 17.5% of those with a little trouble hearing and 28.9% of those deaf or a lot of trouble hearing.[20]

Identifying the barriers to optimal medical care and services has been attempted many times. Yet, even with research and studies presenting strong evidence to a link between hearing loss and health issues, only 12.9% of all physicians screen for hearing loss during routine examinations.[21]

Loss of hearing not only requires good medical care, but also the services of many other professionals. People with hearing loss need access to reputable hearing aid dispensers. They also need access to professionals unrelated to their hearing loss. Professionals ranging from emergency personnel, educators, public servants, legal staff, etc. are key to the success of a person effectively handling their hearing loss.

The Division daily receives communication from North Carolinians across the state expressing concerns about experiences encountered with some hearing health care providers, specifically some hearing aid dispensers. In review, most of these experiences typically involved the same problems related to a 30-day trial period, refund practices or unexpected fees.

Some of the standout situations reported to Division staff are summarized below:

- Upon returning the hearing aid, within the 30-day trial period, the dispenser convinced the consumer to go through adjustments resulting in the trial period expiring;
- Repairs or adjustments needed during the trial period interfered with allowing consumers adequate time to try the hearing aid without interruption;
- Consumers could not get a refund for an undesired hearing aid or could not get the refund in a timely manner;
- Consumers were not aware of any additional charges applied and required if the hearing aids were returned (known as holdback fees); consumers had not been told a fee may apply;
- Consumers were given paperwork to sign all at once and claimed there was no instruction or explanation on what the forms meant. They were instructed to sign them before any assistance could/would be given. Often times these forms included contract to purchase, credit check, application authorization and waiver of physician examination;
- Consumers had fears their hearing evaluation which was performed in an inappropriate and noisy environment was not valid;
- Hearing aid fitting performed without regard to cognitive function of the patient and hearing aids were dispensed to inappropriate candidates; e.g., persons with dementia. No consultation had occurred between dispenser and social worker. In one case cited a

dementia patient thought her hearing aid was candy so she tried to eat it and ingested the battery.

The Federal Trade Commission which monitors the business practices of hearing aid dispensers allows trial period mandates to be determined by each state. In the State of North Carolina, there is not a 30-day trial period mandated. Most dispensers in the state do provide a minimum 30-day trial period as a gesture of good customer service though no law requires them to do so.

The Division's staff also has received feedback from many of its consumers that they were unaware of the process of obtaining a hearing aid, often confused by the technical language used by dispensers, and unsure of the appropriate type of professional they would need to see. *Consumer Reports* and MarkeTrak VII (a report series by the Better Hearing Institute which utilizes the National Family Opinion Poll survey data) both report that survey respondents could not always differentiate a doctor, audiologist or a hearing instrument specialist.[22]

The first step toward better understanding of professionals available is to comprehend the working definition of "qualified" professionals applicable to older Deaf, Hard of Hearing or Deaf-Blind adults.

A. The varying professionals that may be qualified to work with these populations include:

1. Ear, Nose, Throat (ENT) physicians, or otolaryngologists, are MD's that focus specifically on the medical evaluation and treatment of ear, nose, and throat disorders. Otologists focus more narrowly on the medical and treatment of ears and hearing disorders.

2. Audiologists have Master's or Doctorate degrees in the diagnosis and treatment of hearing loss. Doctorate degrees are now required by the American Board of Audiology. Those with Master level degrees were licensed prior to 2007. Audiologists may test children as well as adults and are trained broadly in the areas of medical/otologic issues, balance disorders, counseling, hearing aid dispensing, and aural rehabilitation. In North Carolina they are licensed in audiology by the NC Board of Examiners for Audiology and Speech-Language Pathology and by the NC Hearing Aid Dealers and Fitters Board to dispense hearing aids.

3. Hearing Instrument Specialists must have a minimum of a high school diploma and serve a one year supervised apprenticeship period. Many of these specialists have advanced degrees and often earn additional advanced credentials available through national organizations. Hearing Instruments Specialists test hearing only for the purpose of fitting hearing aids and their training, broad in nature on hearing loss, is focused primarily in that area. They are also licensed by the NC Hearing Aid Dealers and Fitters Board.

4. Speech-Language Pathologists have a Master's degree in the diagnosis and treatment of speech, language, and swallowing disorders for children and adults and are licensed by the NC Board of Examiners for Audiology and Speech-Language Pathology. Some of them focus more narrowly on the habilitation of deaf and hard of hearing children or rehabilitation of adults with hearing loss, assisting them with listening for, and producing speech sounds.

Directories of licensed/certified hearing health care professionals are available through various sources, particularly that of the internet. Each of the hearing care professions has a professional association located in the state where information on available services may be gained through the respective web sites.

The above-referenced professionals specialize in treating hearing loss; they have obtained specialized training and credentials specific to treating hearing loss. Other professionals who merit attention are psychologists, social workers, counselors, primary care physicians, physician assistants and nurses. In general, these professionals are not trained specifically to work with people with hearing loss. Those who have received such specialized training, however, are few and far between. This fact is significant because it is widely but erroneously assumed that these professionals have the necessary expertise to

address hearing loss. These professionals' lack of basic education and training often has adverse ramifications, including failure to recognize the existence of hearing loss. As cited, the MarkeTrak VII survey concluded that only 12.9% of primary care physicians routinely screened for hearing loss during annual physical exams.[23]

B. Diagnosis of hearing loss:

The diagnosis of hearing loss is a complex, multi-phased process that can extend over a lengthy period of time and involve a variety of professionals. For the older adult facing adult-onset hearing loss and who is just trying to come to terms with it, the diagnostic process can be overwhelming, intimidating and confusing. Encountering new terminology and a new world of unfamiliar technology often leaves the unprepared individual dazed.

Complicating matters further is the fact that the individual must first achieve a sufficient degree of acceptance of the hearing loss in order to begin the process of seeking and ultimately accepting formal diagnosis. Sergei Kochkin states that the average person with adult-onset hearing loss can wait as long as fifteen years before seeking assistance.[24]

To shorten the length of time between onset of hearing loss and final diagnosis, it would help for the general public to know the signs of hearing loss, that it is *not* part of the aging process and that resources are available. To shorten this gap even further, it would help for primary care physicians and general health care providers to be cognizant of the signs of hearing loss and to make inquiries about hearing loss a routine part of their patient assessment.

Before, during and after the diagnosis, the person with hearing loss invariably grapples with the range of emotions accompanying the grieving process. Anger, denial, bargaining, depression and finally acceptance are all part of this process. It is not uncommon for individuals to fluctuate back and forth between the different stages before fully accepting the hearing loss. Professionals may be needed to assist the individual through this journey. Some individuals wait until they have more concrete evidence of the hearing loss such as can be gained through a basic hearing screening, similar to what the Division offers, in non-threatening, comfortable and familiar environments such as senior centers before they seek formal diagnosis.

Once at the hearing care professional's office, the full evaluation can begin. However, the hearing care professional needs to be sensitive to the fact that at this point, the typical patient has already undergone a long and draining grieving process. This evaluation itself involves several complex steps in order to obtain a full "work-up" of the individual's hearing loss.

Not only is the diagnostic process complex but so is the treatment, and again, the patient must possess a sufficient degree of acceptance in order to ensure the success of diagnosis and treatment.

C. Treatment of hearing loss:

Receiving treatment for adult-onset hearing loss can be an anxiety-provoking and confusing experience for many people. The effectiveness of treatment often is influenced by how well they are able to deal with their own grief at the loss of their hearing. Just as important is how well they accept and understand the information they receive about the treatment itself.

A common misconception is that hearing aids and cochlear implants address hearing loss the same way glasses address vision loss. Nothing could be further from the truth; they never truly regain the clarity of sound reception they possessed prior to their hearing loss. Very few people understand or accept this important fact. Much work remains for them to learn how to effectively "listen" using their new hearing instrument. They often do not realize that in many situations, such as at a theatrical performance, a church function or in a courtroom, they may need additional assistance in order to be able to hear well.

Much more than treatment is needed in order for older adults to live well with hearing loss. Many seniors, after having purchased hearing aids, experience dissatisfaction and frustration with them that they end up putting their hearing aids away in a drawer, never to use them again. To ensure the success of their new hearing instrument, they need accurate and unbiased information, basic counseling, skills development training, assistance in selecting appropriate assistive technology to supplement the hearing aid or cochlear implant and training in using technology effectively.

Further, the solutions for Deaf and Deaf-Blind seniors are very different from those who are Hard of Hearing and started losing their hearing in middle age. The expertise required to effectively serve Deaf, Hard of Hearing and Deaf-Blind people each is very unique from one another.

Below is a basic list of the types of treatment and supports often needed:

1. Hearing Aid Evaluation incorporates test results obtained during the initial evaluation, and sometimes a listening evaluation utilizing the recommended hearing aids, so that the patient and hearing aid dispenser can evaluate patient's potential outcome with hearing devices. If devices are deemed appropriate, ear impressions are made for the purpose of creating custom-made In the Ear hearing aids or earmolds/shells for Behind the Ear hearing aids.

2. Assistive Device Evaluation incorporates test results obtained during the initial evaluation to determine whether the patient would benefit from assistive technologies such as TV listening headsets, amplified telephones, alerting devices, etc. Devices are either ordered for the patient or can be applied for through the Division.

3. Once the patient has received his/her hearing aids, a minimum of a 30-day adjustment period should be granted, while the patient is learning to adapt to the hearing aids. (Preferably, the patient will receive a longer amount of time to ensure their satisfaction with devices.)

4. Patient should be seen for 2-3 follow-up visits per 30 days of adjustment time to review appropriate insertion/removal of devices, cleaning/care of the devices, appropriate expectations, etc. The patient's hearing outcomes are also reviewed during these sessions and adjustments are made to the hearing aids as indicated.

5. Some form of outcome measure should be used to document benefits of hearing devices (Self-reporting scale, aided testing in sound-field booth, etc.)

6. Communication tips/strategies should be reviewed with the patient and family members. This can be done on an individual basis, or in a group. This aural rehabilitation can also address the "hidden" impact of hearing loss on individuals and their families, by simulating hearing loss for the family members, discussing emotions related to hearing loss, and exploring positive ways of dealing with hearing loss. Counseling could be done on an individual basis with the individual and/or family members. This work could also be done by a speech pathologist, social worker, or counselor, but only if they are trained to do so. The vast majority of these professionals, however, either are not trained or do not have the time to provide such support.

7. Listening training should accompany the hearing aid fitting, for patients that are able to participate. This can be done utilizing live voice or a variety of computerized programs, one being "Listening and Communication Enhancement" (LACE). This type of training has been shown to provide improvements up to 40%, for understanding speech in the presence of background noise. This work could also be done by a trained speech pathologist.

D. Physical accessibility of professionals

Qualified professionals licensed to assist in the treatment of hearing loss are available in the majority of North Carolina counties. According to the North Carolina State Hearing Aid Dealers' and Fitters Board, there

are 545 licensed hearing aid dispensers in the state. However, how an individual may access services is a different issue. Some individuals with hearing loss may be referred to professionals by primary care physicians and others may be referred by "word of mouth". Some may be able to independently drive themselves to appointments, and others may have to depend on family or friends for transportation. Some individuals may live in assisted living facilities or nursing homes with limited transportation.

Like many other professionals in North Carolina, all hearing aid dispensers must secure proper licensure to practice. The licensing law for hearing aid fitters and dealers is contained in Chapter 93D of the North Carolina General Statutes. Likewise hearing aid dispensers are regulated by the North Carolina Administrative Code, 21 NCAC 22 as it applies to the North Carolina State Hearing Aid Dealers' and Fitter Board. This board issues all licenses and is the authoritative and enforcing body for all laws and rules applicable to hearing aid dispensers. The Board has established a Committee on Investigations which has the sole purpose of dealing with complaints about the dispensers.

This report would not be complete without the mention of internet purchase of hearing aids. These amplification devices, publicized as hearing aids, are available for purchase online and at a much lesser cost than traditional hearing aids. *Consumer Reports* states that although these devices amplify sound well, they caution against purchase and use.[25] Hearing aids must be properly fit and adjusted to the person's specific hearing loss. Internet purchase does not allow for this part of the fitting process. Nor does the internet purchasing system provide the one-on-one instructions for use. The full benefit in the use of hearing aids has been removed from the process.

In conclusion, the study of this area has revealed that professional services for hearing aid fitting are clearly available in North Carolina with exception of some of the more rural, low wealth counties of the state. The state also has a system in place to review and act on any substantiated complaint submitted by a consumer. The study also has shown that negative publicity based on public opinion and perception may play an important role in the lack of confidence and feelings of caution directed toward hearing aid dispensers.

However, the study showed an obvious lack of awareness and information of the process of obtaining a hearing aid. Other factors such as transportation, costs, fears, nursing home confinement and similar situations could be reasons why many of North Carolina's older adults do not seek hearing aid treatment.

Problematic situations with adverse impact on the consumer do occur and there exist problems within the system designed to protect the consumer. These need to be reviewed and improved. One example in need of review is the procedure involved when problems arise with the purchase of hearing aids via the internet. Though some regulations do exist for on-line purchasing, attention may need to focus on defining specific policies on hearing aids and similar devices as related to online sales and consumer protection. More and more, because of the rising costs of hearing aid technology, pre-conceived assumptions of the lack of confidence in the industry professionals, convenience or a combination of all of these, consumers are mistakenly seeking these on-line hearing aid sales options foregoing proper and sufficient hearing aid fitting for devices unsuitable to treat specific hearing loss needs. This results in further negative impact on consumers' opinions toward hearing loss treatment.

The large amount of negative public opinion and a lack of knowledge and education regarding hearing loss, hearing aid dispensers and realistic expectations in pursuit of treatment must be addressed to accentuate the positive work being done by many hearing aid dispensers in the state. Until that is done, hearing loss treatment, as a whole, will continue to be neglected and put off by too many people.

For fully effective treatment of hearing loss to take place, the understanding that the involvement of diverse and appropriately-trained professionals must occur. Proper hearing loss treatment is not a "one stop" shopping experience. Nor is it an over-night cure to better living or totally restored hearing. Proper hearing loss treatment involves a broad spectrum of treatment, education, and community support for both the individual with hearing loss and their families.

Study Area 2: The availability and access to hearing aid purchase assistance programs for low-income individuals.

Hearing aids costs are one of the most frequently cited reasons for a person to not seek the use and purchase of hearing aids. In his presentation to the Congressional Hearing Health Caucus, May 18, 2005, Sergei Kochkin stated that 2 out of 3 Americans with hearing loss, aged 55 and above, indicate affordability of hearing instruments as "somewhat" (17%) or "definitely a reason" (42%) for non-use of hearing aids.[26]

Hearing aid technology has improved greatly in recent years. The use of digital technology in most hearing aids manufactured has not only improved functionality of the hearing aid; it has caused costs of the instruments to rise significantly as well.

However, the technological advancement is not the only reason for rising costs. With the purchase of the devices, all related services of the dispenser normally are part of the package. Ensuring a proper fit can often be a tedious task because the technology involved often requires scientific methods for fitting and adjustments. But, because hearing aids are sold by professionals who sell, fit and perform the adjustments for the devices, pricing the hearing aids is open to a system fully dependent on the individual pricing of the dispenser. For that reason, the same hearing aid model could be found to have varying costs at different dispensing locations.

An article released by *Consumer Reports* in July 2009, following a two-year study, reports a huge variability in pricing. The study showed a mark-up price for hearing aids at an average of 117% above wholesale costs[27] but also ranging from 25% to 300%.[28]

Consumer Reports has issued the following pricing guide for each style of hearing aid. Costs listed are per unit:

Behind the Ear (BTE) Open Fit.....Price: $1,850 to $2,700
Behind the Ear (BTE) with Earmold.....Price: $1,300 to $2,750
In the Ear (ITE).....Price: $1,200 to $2,700
In the Canal (ITC).....Price: $1,300 to $2,750
Completely in the Canal (CIC).....Price: $1,365 to $2,860[29]

North Carolina residents purchasing hearing aids must bear the burden of the expense out-of-pocket. With the majority of patients needing a binaural fitting (2 hearing aids) costs then double. For some older adults, the choice then becomes whether to purchase needed medications, food or hearing aids.

Traditional Medicare does not provide coverage for hearing aids. Like private insurers, Medicare will pay for the doctor's exam required for obtaining hearing aids. Medicare also pays for the hearing evaluation if prescribed by a physician. Individuals who have private Medicare Advantage plans have varied coverage and need to check with the plan administrator prior to purchase of hearing aids.

Private insurance companies rarely provide any coverage for hearing aids. North Carolina does not have a mandate for health care coverage for hearing aids. Currently, there are 15 states that have mandated hearing aid coverage. They are Colorado, Connecticut, Delaware, Kentucky, Louisiana, Maine, Maryland, Minnesota, Missouri, New Jersey, New Mexico, Oklahoma, Oregon, Rhode Island and Wisconsin. Rhode Island is the only state that provides a mandate for both children and adult coverage. All the others have coverage strictly for children. Wisconsin, the latest to join the list also mandates coverage not only for hearing aids but also for cochlear implants in children.[30]

Medicaid in North Carolina does not have an adult coverage for hearing aids. As of June 2009 thirty states in the United States and the District of Columbia provide Medicaid coverage for adults when obtaining hearing aids while 20 states do not. Those 20 states which include North Carolina are Alabama, Arizona, Arkansas, Colorado, Delaware, Georgia, Kentucky, Louisiana, Maine, Maryland,

Mississippi, Missouri, Oklahoma, Pennsylvania, South Carolina, Tennessee, Utah, Virginia and West Virginia.[31]

Hearing aid dispensers work with national financing organizations that will finance the purchase of hearing aids for credit worthy individuals. These programs act like loans at credit card rates in that the dispenser is paid in full and the customer is required to make monthly payments back to the financing company. Often, these plans have high interest rates. Division staff have reported seeing contracts made by some older adults with rates ranging from 20% to 30% APR.

For North Carolina older adults, there are a few programs that will assist in the purchase of hearing instruments. However, even though there are some programs providing assistance, the stringent eligibility requirements can make access difficult. State governmental agencies and community/civic non-profit agencies are the primary organizations providing assistance. There are a few national organizations that assist in the provision of hearing aids. Hearing aid assistance programs are listed below:

1) As of January 1, 2009 the Federal Employees Health Benefits (FEHB) provides coverage for hearing aids for adults. Older adults in North Carolina who have this coverage either as an active employee or as a retiree will receive a benefit of $1000 per ear, every 3 years. FEHB has covered hearing aids for dependents since 2008.

2) The North Carolina State Employees' Health Plan, administered by Blue Cross/Blue Shield has 25% off hearing aid manufacturer's suggested retail price or $250 off usual and customary fees, whichever provides greater savings under the Blue Extras/Audio Blue program.

3) The North Carolina Retired Governmental Employees' Association has as a member benefit called the "Hearing Discount Program." Contracted through HearPO, it provides for audiologist services and discounted hearing aid products and services through a network of over 3800 hearing clinics nationwide. Members and spouses may receive a free hearing screening as well as substantial discounts off suggested retail prices on hearing aids and batteries.

4) The Division of Services for the Deaf and the Hard of Hearing can provide to eligible persons one hearing aid. The hearing aid includes a required telecoil (explained in Study Area 3 section). The provision is made possible as part of the Equipment Distribution Service, a service available through the Telecommunications Resources Program of the Division. Eligibility criteria are 1) residency of the state, 2) certified hearing loss and 3) income cap not to exceed 250% of the national poverty level. Provision of the hearing aid is by application process. There is an approximate 8 weeks processing period for approval. Applicants may obtain an application from any of the Division's offices statewide and can get assistance in application completion, if needed, at these offices. Documentation to prove the above eligibility criteria is required with application. Applicants must also use one of the participating hearing aid dispensers contracted with the Division. Dispensers are located by region across the state. Funding for the program is made possible by the surcharge on wireless telephones enacted by the General Assembly (2003-341) G.S. 62-157 i.

The hearing aid distribution service is the only one of its kind in the United States because of the required telecoil element and the funding source from wireless communications. It has served as a model for other states attempting to develop their own hearing aid distribution programs. Since its inception in April of 2005, this service has provided hearing aids to over 10,000 North Carolinians. A major drawback of this service, however, is that it limits only one hearing aid per qualified applicant. Most people require two hearing aids in order to attain the hearing functioning they need.

5) The Division of Vocational Rehabilitation (VR) provides hearing aids to residents of the state meeting eligibility requirements. Hearing aids will be provided to individuals who are employable and need assistance at work or through the Independent Living Program. Income eligibility must be at national poverty level in order to qualify. A person must first apply with the Division of Services for the Deaf and

the Hard of Hearing and be denied before VR will determine eligibility. Independent Living funding levels fluctuate and waiting period is often around 9 months to a year depending upon the region of the state. Funding for the hearing aid provision is from federal sources.

6) The Division of Services for the Blind will provide hearing aids to people who have both vision impairment and hearing loss only when other sources have been exhausted.

7) The Lions Club International Foundation—The Lions Club Affordable Hearing Aid Project came into existence in 2004. Prior to this date, individual local Lions Clubs would work with area hearing aid dispensers to provide one hearing aid for an individual. The new program has contracted with a manufacturer of hearing aids to purchase them at two-thirds of the normal cost. The program will provide the hearing aid only to local clubs. The local club is responsible to pay all fees involved including the dispensing fee, batteries and other fees charged by the dispenser. Unless the local club has other requirements, an income cap of not more than 200% of the national poverty level determines eligibility unless. The local club has the option to choose to assist an individual.

Because of declining membership rosters and the current difficult economic times, most local clubs are not assisting individuals in this program. For those that do provide assistance, the number of individuals assisted is very low—approximately 1 or 2 per year.

8) Easter Seals operates a Durable Medical Equipment Program that can serve any person in the state, all ages and all disabilities. Eligibility requirements include 1) person must be disabled for a minimum period of 1 year; 2) person must not have Medicare, Medicaid, or private insurance that will cover all or a portion of the equipment; 3) person must reside in a private dwelling in North Carolina and not in a nursing home, rest home, home for the aged, a group home, etc. There is a waiting period of at least one and one-half (1 ½) years. Referrals are generally from audiologists as the program is not advertised.

9) The Hear Now Program of the Starkey Foundation will provide an individual with 2 hearing aids if needed. There is a $100 per hearing aid non-refundable application fee. Eligibility is based on household income of not more than $18,403 if single and $24,675 for 2 person household. An applicant must not have any other sources available. In 2007, Hear Now provided 61 people in North Carolina with hearing aids. In 2008, the number of hearing aids provided to North Carolinians rose to 84. Because the Hear Now Program does not provide a reimbursement for dispensing fees to the vendor and restricts the hearing aid dispenser from charging any applicable fees for services (including dispensing fees) many dispensers opted out of the program long ago, making it difficult to find a dispenser cooperating with Hear Now.

10) The Sertoma Hearing Aid Recycling Program helps needy people obtain hearing aids. Clubs collect used hearing aids, have them refurbished and distribute them to people in need. In cases where an individual cannot afford to buy a hearing aid, a club can raise the needed funds to purchase the aid. Sertoma clubs likewise assist in the repair of hearing aids and in the provision of hearing aid batteries. Assistance is at the discretion of each club affiliate.

Regarding hearing aid adult coverage under Medicaid, the issue of coverage under the state Medicaid waiver programs was investigated. Based on information provided by the Division of Medical Assistance, the study group was notified that the Centers for Medicare and Medicaid Services (CMS) would consider approving hearing aids as an extended state plan service under a waiver such as the Community Alternatives Program for Disabled Adults (CAP/DA) if the state could establish that hearing aids help to prevent nursing home placement. To qualify for waiver services, a person has to meet nursing facility level care criteria. It was noted by staff that the bigger issue that would need to be addressed in considering coverage of hearing aids under a waiver program is that of identifying funding for state Medicaid match in light of the current budget crisis facing the state. It would be quite challenging to implement any program changes that would increase Medicaid expenditures in this current fiscal environment.

The study has shown that there are hearing aid assistance programs available to older adults in North Carolina. However, some of these programs are not very accessible. In fact, research shows that several are quite inaccessible and could be considered inactive. Financial restraints on agencies and non-profit organizations control the ability to assist needy older adults with hearing aid provision. Hear Now will provide the hearing aids but the application fee often is a burden for an older adult, particularly if two hearing aids (binaural) have been prescribed. Binaural fitting has the most beneficial effectiveness for hearing aid users.

As the study has made clear, more assistance methods and programs for hearing aid assistance must be creatively developed in order for low-income older adults in North Carolina to receive the hearing health care and treatment that they need. Increased hearing aid assistance for older adults would mean better quality of life and less physical and mental health issues resulting from hearing loss. The funds spent on hearing aid assistance could offset the costs that are now spent on treatment for health issues, and in time the state could likely recognize a savings in expenditures on health care.

The study area also has pointed out the significant need of hearing aid health insurance coverage for adults. Coverage could be either through Medicaid in order to assist the lower-income older adults who totally depend on Medicare/Medicaid as their primary health insurers or coverage from private insurance carriers to benefit the older adults of North Carolina who are retired and have health care coverage as a benefit to retirement.

Study Area 3: The development of and inventory of adaptive technology options available to assist older adults with hearing loss.

Adaptive technology comes in many different shapes and sizes. For the three distinct hearing loss populations (Deaf, Hard of Hearing, and Deaf-Blind), a variety of technology is needed for achieving effective communication. In a technological world, it is often difficult to keep up with the rapidly changing technology. For many, it can be a difficult choice in making a decision on the purchase of a television, a computer or other technological device so prominent in the lives of many. For the hearing loss population, difficulties are magnified as there is no easy solution in choosing which technology is best for the individual. Another added dimension to the difficulty is the range in costs found for specific equipment needed. Costs can range between averages of $100 for a device known as a Pocketalker to as much as $8,000 for a Deaf-Blind Communicator.

There are a number of factors to consider when choosing assistive/adaptive technology for older patients. Physical dexterity, cognitive health and common chronic conditions affecting use of extremities must be assessed before recommending equipment. For example, before dispensing a hearing aid, it is essential to assess dexterity of fingers, hands, wrists, sensitivity in the finger tips and the ability to raise the arms to the ears.

To develop an inventory of technologies available to assist the hearing loss populations would be one of exhaustive accomplishment. However, there is a multitude of varying technology in the market today that can allow a person with hearing loss enhanced functionality, independence as well as the feeling of connectivity in the world.

There are two basic categories of adaptive technologies reviewed for this study. They are hearing aid devices and assistive devices. Hearing aids tend to be the first method of treatment for hearing loss but it is important to realize other options may be a better solution. Treatment involves more than inserting a hearing aid in an individual's ear. Treatment involves major life changes: accommodations in lifestyles, learning the differences of sounds heard because of amplification, receiving counseling and consultation on equipment use, and adapting to a totally new perspective toward communication.

Because the development of an inventory for adaptive technology can be lengthy and because the nature of technological terminology can be confusing only equipment examples are listed within the context of this report.

Not many people would classify hearing aids as adaptive technology. However, it is perhaps the most popular of all technologies available and is the first form of technology used in treatment of hearing loss. Hearing aids come in different styles (noted on page 17). Because of the importance of the role of hearing aids as an accepted adaptive technological device, they are first examined.

A. Hearing aids and similar devices

Audibility is the key concept underlying speech perception. In general, the more audible a speech signal is, the easier it can be understood. It appears the more speech sounds we hear, the better we understand. The following information gathered is upgraded options for hearing aids. These upgrades allow the hard of hearing person a validated hearing system that can be tailored to individual needs. When a hard of hearing person is being fitted monaurally then the hearing aid dispenser will choose options that will maximize understanding, clarity and comfort.

Examples of Options available for Behind the Ear (BTE) and In the Ear (ITE) Digital hearing aids
- Automatic Volume Control
- Expert Assistant
- Multi-channel / Multi-Bands
- Multi-memory
- Directional microphones / Directional Speech Detector (DSD)
- Noise management / Noise Reduction with directional microphones
- Feedback management / Active Feedback Intercept (AFI)
- Programmable/automatic telecoils
- Remotes/FM Systems/Blue-tooth devices
- Verify Comfort

Of the list above, there are two significant devices that should be highlighted. The use of telecoils in hearing aids is significant in that they open the channels of telephone communication for the hearing aid user. A telecoil or t-switch or induction coil detects magnetic signals from the telephone and sends these signals to the hearing instrument for amplification. The induction coil can be programmable. The induction coil /telecoil allows the telephone and the hearing aid to become compatible and creates feedback free telephone use. It is also the most important technology device included in hearing aids needed for use with assistive listening systems and devices, induction loop systems and FM frequency systems.

The second from the list above is the use of directional microphones in hearing aids. Directional microphones pick up sounds from a narrow listening direction. Omni-directional microphones in hearing aids pick up sounds coming from all directions providing a more realistic environmental discretion in the sounds being heard. Directional microphones will also provide a safer sense of security to the user as sounds are better understood.

Though hearing aids are the traditional method of treatment, there is also the newer generation of technology available to people with hearing loss. These involve surgical implantation of electronic devices. The Bone Anchored Hearing Aid (BAHA) is one such device now available. A relatively simple surgical procedure anchors an abutment into the bone just behind the ear. Hearing is received through bone conduction of sounds fully eliminating the outer and middle parts of the ear.

B. Assistive devices

The second part of the adaptive technology section presents a long inventory list of the different equipment available for use that can support a person in adaptation to unexpected life changes resulting from hearing loss. Assistive equipment can allow a person to maintain a high quality of life, to

continue to feel included in society and can provide a better sense of security. Below is a list of situations facing older adults with hearing loss and what assistive devises are appropriate. The list of equipment is not exhaustive due to the wide variety and availability of the technology.

How Can Older Hard of Hearing Adults *Communicate* with Hearing People?

The people who are hard of hearing prefer to communicate with spoken language and speech- reading therefore use their residual hearing with hearing aids, personal communicators or surgically receive cochlear implants. In certain situations they may benefit from Hearing Assistive Technology (HAT) to overcome distance, noise and reverberation. Use of the following assistive devices will help remove barriers to communication which may be encountered:

- Personal Communicators
- Hearing Aids
- Bone Anchored Hearing Aid (BAHA)
- Cochlear Implants
- Computer Aided Real Time Captioning (CART)
- Computer Assisted Notetaking (CAN)

How Can Older Hard of Hearing Adults *Communicate* over the Telephone?

Because Hard of Hearing individuals prefer spoken language for communication, continued use of the telephone remains a vital connection for them. A variety of telephones with special amplification and visual cues are available for use. Such devices include:

- Amplified, Hearing Aid Compatible Telephones
- Voice Carry Over Telephone
- CAPTEL—captioned telephone

How Can Older Hard of Hearing Adults *Participate* in Community or Educational Settings such as Senior Centers or Nutritional Sites?

There are three types of Hearing Assistive Technology systems that could help in this situation: FM, InfraRed, and Audio Induction Loop. Each can cover small, medium and large meeting rooms. There are advantages and disadvantages of each system; the choice depends on how and where the system is used. Costs of the systems depend on the size of the room and number of receivers required.

How Can Older Adults with any Form of Hearing Loss Watch and Understand Television?

Watching television for older adults with hearing loss can often be a painful experience for family and friends because of the raised volume blaring out of the television. With appropriate assistive technology, the Hard of Hard of Hearing individual no longer needs to increase volume to uncomfortable levels for others. Use of the same kinds of devices with similar technology as used in community settings will assist the individual in the understanding of the dialogue on the television. Such devices for use include:

- Personal FM System
- Infrared System
- Induction loop
- Closed Captioning
- TV Ears

How Can Older Adults with Any Hearing Loss be Safe in the Environment?

Environmental safety is crucial in daily life. Those with hearing loss have a variety of devices to assist

in safety recognition. Deaf individuals use a various modes of communication including American Sign Language, speech reading and Cued Speech. A Deaf person, typically has a profound hearing loss and relies on a visual alert for notification. The following list present items that are examples of equipment that assists in eliminating barriers for people with varying degrees of hearing loss:

- Environmental Sounds
- Smoke and Carbon Monoxide Detectors
- Weather Alert Radios
- Personal Paging
- Vibrating Watches
- Shake°Awake
- Smoke Detector with Strobe Light

How Can Late-Deafened Adults Communicate?

While many adults who become deaf late in life may learn sign language and find it more comfortable than reading lips when in the company of other signers, most prefer to use their own voices when communicating. Today's technology provides a variety of choices in how they communicate.

- Assistive Listening Devices
    1. Personal Amplification
    2. FM Sound Systems
    3. Infra-red Sound Systems
    4. Audio Loop Systems
- Computer Aided Real Time Captioning (CART)
- Computer Assisted Notetaking (CAN)
- Cochlear Implants
- Hearing Aids
- Captioning
- Signaling Devices
- Two Communicators
- Voice Carry Over (VCO)
- Video Relay Services (VRS)
- VRS w/VCO
- IP Relay (Internet Relay)
- Wireless Devices (Pagers)
- TTY
- Video Phone (VP)
- Instant Messaging (IM)
- Text Messaging
- Captioned phone

How Can Deaf-Blind Adults Communicate?

Deaf-Blind individuals have dual sensory loss meaning both vision impairment and hearing loss. Technological needs vary according to the individual's levels of loss. Some assistive equipment often needs to have greater specialization for accessibility. Assistive devices for those who are Deaf-Blind can include:

- Tellatouch
- Screen Braille Communicator
- Face to Face
- Deaf-Blind Communicator
- Braille Phone

Technology can be a good thing when used properly. As the study has shown, there is a diverse array of adaptive technology available for use by older adults with all types of hearing loss. Choice is simply a matter of obtaining the pertinent information, the benefits of its use and where to obtain the device. Features available in hearing aids, specifically those of the telecoil and directional microphones, need to be further considered as necessities for any hearing aid user. The benefits that these two features provide would literally open the doors of communication much wider for Hard of Hearing older adults.

The study has also shown that assistive equipment would be valuable to any place where older adults gather for social activities, programs, workshops and presentations where many of the attendees present would have hearing loss. However, the vast majority of people, including service professionals, are not aware of the wide variety of options available.

Study Area 4: An assessment of the resources available in other states that are used to offset the problems associated with hearing loss in older adults.

The Study Group focused on programs of interest located in other states assisting people who are Deaf, Hard of Hearing and Deaf-Blind. These included governmental agencies, non-profit organizations and consumer oriented groups. The study also included a look at national organizations providing similar services. This included Councils and/or Commissions for the Deaf and Hard of Hearing, Health and Human Services Agencies, Vocational Rehabilitation, Emergency Preparedness Agencies and Aging & Long Term Services Agencies. This study is not a detailed or comprehensive comparison between North Carolina and other states.

The following is a summary of relevant programs and services found in other states. A system of services in North Carolina has proven effective in delivering key services to different hearing loss populations, but service gaps exist. The resources below highlight services that North Carolina might learn from or want to emulate.

Arizona	One of two states with telecoil disclosure bill that mandate all audiologists and hearing aid dispensers educate and inform patients of telecoil technology and its benefits
	Uses various task forces to study hearing loss issues and keep community involved; such as Hard of Hearing Taskforce, Mental Health Roundtable, Deaf-Blind Taskforce, Hearing Aid Coalition, Quality Assurance of Programs and Services Taskforce
	Broadcasts weekly television show," Community View." Beginning in 1974 as "Sign Out," it is the longest running weekly TV show specifically geared to Deaf and Hard of Hearing
	Adult Loss of Hearing Association-Arizona (ALOHA) is a non-profit group that offers support and advocacy and provides services for Deaf and Hard of Hearing adults
	Combined efforts with New Mexico to form Southwest Commissions for the Deaf and Hard of Hearing on projects emphasizing Native Americans with hearing loss and hearing aid consumer fraud.
California	Offers a service dog allowance of $50 / month to low income individuals
	Directory of Resources for Deaf and Hard of Hearing Services developed by the California Office of Deaf Access –a comprehensive directory providing detailed contact information and many websites links to various public and private entities
	State employees receive health insurance coverage for hearing aids

Florida	Telecoil notification by hearing aid dispensers mandate
	Loan program for all types of assistive devices by the Florida Alliance for Assistive Devices
	Non-profit groups provide various services with costs based on a sliding scale
	Florida Independent Living Council that promote independent living opportunities for persons with disabilities throughout the state including consumer controlled direct service
	30-day trial period and hearing aid return mandate
Georgia	A combination of state appropriated funds and grants/donations from private foundations, businesses and individuals funds the Georgia Council for the Hearing Impaired
	Reliance on donations makes the funding system for the primary agency providing a variety of assistive services quite vulnerable during economic downturn
Illinois	Low interest loans with extended terms and flexible approval criteria provided by Illinois Assistive Technology Program for individuals to obtain assistive devices, services and home and vehicle modifications
	Telework provides individuals with disabilities low interest loans to start or improve home-based businesses
Kansas	Safety Communications Visor program—alerts law enforcement and emergency person to quickly identify drivers with communication barriers; distributed by Kansas Commission for the Deaf and the Hard of Hearing at $5.00 cost per card **Note: The Division (DSDHH) does have a similar Driver Communication Card service in cooperation with the North Carolina State Highway Patrol. This program went into effect in June 2009 with the same purpose as described above. Visor cards are available to any Deaf or Hard of Hearing licensed driver through Division offices statewide and are at no cost to the driver. A wallet identification card is also available to all Deaf and Hard of Hearing in the state.*
	Funding is available on first come, first-serve basis to persons age 60 and older to assist with up to one-half the purchase price of assistive devices
Minnesota	Accessibility mandate for all state websites to include captioning for any and all video content
	45-day trial period for hearing aid and returns mandate
	All video campaign ads to include captioning for political candidates mandate
	Live captioning and new stadiums and convention centers mandate
	Maintains a toll free phone number and website for consumer information
	Consumer rights brochure regarding hearing aid protection developed for distribution with emphasis on older adults
Nebraska	A public / private partnership hearing aid bank—provides hearing aids to low income individuals—involves collaboration between the state agency, the University of Nebraska Medical College and the Lions and Sertoma civic organizations

New Mexico	State agency web site has direct link to Aging and Long Term Services
	Small mini-grant fund encourages service providers of non-profit agencies and organizations to pursue projects to meet identified long-term goals to improve communication access—provided by New Mexico Commission for Deaf and Hard of Hearing Persons
	Health care coverage for hearing aids for children mandate
	Combined efforts with Arizona to form Southwest Commissions for the Deaf and Hard of Hearing on projects emphasizing Native Americans with hearing loss and hearing aid consumer fraud.
Rhode Island	One stop Deaf and Hard of Hearing Resource Center provides a variety of services to include educational trainings and sessions on leadership and empowerment of consumers—fully accessible for effective communication
	Development of nursing home fully accessible for the Deaf and the Hard of Hearing and is deaf-friendly environment—visual communication, staff fluent or trained in sign language and is knowledgeable of a variety of service supports to the hearing loss populations
	Only state with health insurance mandate for hearing aid coverage for all ages
	Enhanced advocacy efforts to ensure announcements at public places are visible to Deaf and Hard of Hearing people—state government, medical service providers, hospitals for examples
	Convenes key state, private and non-profit stakeholders for dialogue on issues faced by people with hearing loss, reports to state agency to research and document issues and discussion
Texas	Senior Citizens program geared toward bridging communication barriers and reducing the isolation faced by Deaf and Hard of Hearing people 60 or older—part of services for the Department of Assistive and Rehabilitation Services
	Coping skills training, independent living and recreational activities part of services provided

Several States

In at least 9 states, there are specialized retirement communities and nursing homes for Deaf seniors whose primary language is American Sign Language (ASL). These facilities have trained staff that are fluent in ASL and possess in-depth knowledge about the unique needs of Deaf seniors and effective ways to support them. Some of these facilities also provide hospice care for this population. These facilities are found to be extremely effective in fostering a fully-accessible environment where there is active daily peer interaction and consistently appropriate support from the staff. There is an organization called Deaf Senior Housing that specifically seeks to develop retirement communities in the United States. North Carolina currently does not have such a facility. However, the NC Association of the Deaf and the Deaf Seniors of North Carolina are actively pursuing the possibility of establishing this resource for Deaf seniors in North Carolina. The states that do have such facilities are: Arizona, California, Florida, Georgia, Massachusetts, New Jersey, Ohio, Texas and Wisconsin.[32]

After reviewing nearly all the websites for the individual states, it became very clear the emphasis is placed on use of the internet. At each web site, the importance of having a comprehensive, one-stop website is obvious. Audiology On-line offers free videos/classes in nearly all aspects of hearing loss. Although geared towards audiologists and their requirements for continuing education units, the on-line videos are watched by many individuals with hearing loss trying to understand their own disability. Many videos on hearing loss are also available for free on "YouTube. A search at the You-Tube website had 9,000 videos for the search term "hearing loss." At the top of the list is a video "Top Tips for Engaging the Elderly" and a PBS video on hearing loss narrated by Vinton Serf, Google's Internet Guru who is also a hearing aid user.

Several states' websites did have videos imbedded into their sites with added captions and ASL. No states however, had any type of programs to educate on the use of internet or programs to offer free or reduced internet access. The South Carolina Council on Aging website had a link to a report that stated the fastest growing internet users are ages 70 to 75. The Pew Internet & American Life Project found that 78% of 50 to 59 year olds, 60% of 60 to 69 year olds, 45% of 70 to75 year olds, and 27% of 76 plus use the internet on a regular basis. Fully 75% of internet users age 64 and older send and receive email, making email the most popular online activity for the age group. Instant messaging, social networking, and blogging have gained significant ground as important communication tools.[33] The internet is capable of putting all people with hearing loss on equal basis with everyone else.

In addition to the use of the internet for educational and social networking, there is also increasing use of this medium for mental health counseling for the Deaf. An abstract of an article presented in the *Journal of Deaf Studies and Deaf Education*, April 27, 2009, on the use of Telehealth states:

Within the deaf population, an extreme mental health professional shortage exists that may be alleviated with videoconferencing technology—also known as telehealth. Moreover, much needed mental health education within the deaf population remains largely inaccessible. Researchers have warned that the deaf population may remain ***underserved*** *if significant changes do not take place with traditional service delivery methods. This article evaluated the efficacy of telehealth in teaching psycho educational objectives, with special emphasis given to its application to the deaf population. Results indicate that telehealth can be regarded as an efficacious and cost-effective option in delivering health care to the deaf population. Participants also indicated satisfaction with the telehealth technology.*[34]

Along the same line as telehealth for mental health counseling, recent articles on audiologic rehabilitation (AR) also identify the benefits of using the internet to enhance AR's potential. It is also being reported that cognitive compromises and psychoacoustic auditory processing disorders associated with aging may contribute to communication difficulties in this population. This makes the importance of AR for the older hearing aid user an important consideration.

Part of AR strategy involves using support groups. The explosion of electronic hearing loss support groups on the internet allows for an important alternative to traditional support groups when travel, distance, and schedules limit the availability of the face-to-face traditional group. Most laptop computers now include a small video camera for video chatting on the internet. Use of this option will also allow verbal communication within the on-line AR support group.

In the future, more older adults will be increasingly diverse in needs and aging in place. Programs and services will be adjusted to be consumer directed; internet use by older adults will continue to grow and will be an important communication tool for hearing loss populations.

North Carolina's population will become more diverse in the future. Very few states offer services specific to hearing loss issues in older adults. Only one, Texas, has a senior program. States that are similar or larger than North Carolina have more non-profit groups operating within the hearing loss community. Several states utilize non-profits to operate some of their mandated/required services to the Deaf and Hard of Hearing.

Recommendations for Consideration

The intent of this study is to provide answers to key questions that assist members of the Study Commission and the General Assembly in understanding the problems and barriers experienced by older North Carolinians with hearing loss and the resources available and needed. The study makes clear several important points: 1) hearing loss is widespread among older adults and, left unaddressed, could have profound and devastating impact on their health and functioning, 2) hearing loss is highly varied, complex and very little understood, even among professionals such as physicians, psychologists and social workers, and 3) effective communication is the key to an individual's ability to develop and

maintain healthy social connections and to independently access and use the services and resources in their own communities.

Throughout the study, one recurring issue surfaced: the lack of awareness and understanding regarding hearing loss among individuals with hearing loss, their families and the agencies that serve them. This lack of awareness and understanding not only directly impacts the individuals themselves it also impacts the ability of entities in the public and private sectors to make their resources fully accessible to them.

In North Carolina, there is a network of specialists, including Ear, Nose and Throat physicians and audiologists, and hearing aid dispensers. However, as the study demonstrates, there is a need for significantly more intervention beyond what is provided by these professionals: the need of older adults with hearing loss to effectively access and utilize all the resources in the communities where they live.

This need is what the Division of Services for the Deaf and the Hard of Hearing currently is charged with addressing through its seven regional centers and through technology. The penetration of serving this need, however, continues to be very small due to the disparity between limited staff resources and a rapidly growing hearing loss population.

Therefore, emphasis should be placed on increasing the awareness and understanding of hearing loss among all North Carolinians and in all sectors of North Carolina society.

Based on the results of the study, the Division of Services for the Deaf and the Hard of Hearing places before the North Carolina Study Commission on Aging and the North Carolina General Assembly the following recommendations for due consideration.

Recommendation 1: *It is recommended that the General Assembly of North Carolina establish a task force to assess the feasibility of developing and implementing a formal system that optimizes consumer capacity to evaluate quality of hearing aid services prior to and during the process of purchasing hearing aids. The task force should comprise representation from at least each of the following entities: 1) The North Carolina Speech, Hearing and Language Association; 2) The North Carolina Board of Examiners for Speech and Language Pathologists and Audiologists; 3) The North Carolina Association of Hearing Care Professionals; 4) The North Carolina State Hearing Aid Dealers and Fitters Board; 5) the North Carolina Division of Services for the Deaf and the Hard of Hearing; 6) The Attorney General's Office; 7) the North Carolina Division of Aging and Adult Services; and 8) the Hearing Loss Association of North Carolina. As the delegated authority in accordance to G.S. 93D and 21 NCAC 22, the Hearing Aid Dealers and Fitters Board, the Division suggests the Board be the lead entity in this venture. Finally, resources would be made available to assist in fulfilling this mandate within one year of enactment.*

The objective to this recommendation is to establish a system that can be used as a tool to assist customers in a greater level of confidence to ease tensions and anxieties, promoting awareness, developing reassurance of professionalism and making informed decisions associated with hearing aid fitting. One of the areas of study designated by the General Assembly was the availability of qualified professional services for diagnosis and treatment of hearing loss. The study group reviewed the various professions and the treatment of hearing loss through the fitting of hearing aids. As pointed out, this came out of expressed concerns and feedback from the general public having personally experienced problematic situations with some hearing aid dispensers.

This study found that there are a large number of highly skilled and highly qualified hearing aid dispensers in the state. Likewise, it found that the majority of hearing aid dealers exhibit high levels of excellent customer service. Therefore, the conclusion was made that, due to the lack of awareness of the public toward hearing aid fitting and the expectations, public opinion of hearing aid dealers has been skewed by actions of a small number of hearing aid dispensers. The unsure and often confused

Hard of Hearing consumer should feel confident when seeking assistance in the treatment of hearing loss. With a system in place that provides this immediate reassurance to the consumer, the hearing aid fitting process can be approached with the confidence and knowledge needed for successful treatment. The ultimate beneficiaries would be the customers themselves.

Recommendation 2—*It is recommended that the General Assembly enact legislation that would mandate a minimum of a 30-day trial period for hearing aids and instruction in the function and use of telecoil technology in hearing aids. This will promote awareness and best practices in the treatment and rehabilitation of hearing loss through hearing aid use and to ensure consumer protection during the purchasing of hearing aids. It is further recommended the General Assembly require the NC State Hearing Aid Dealers and Fitters Board to adopt rules that require dispensers provide to the buyer written notice of the trial period and money-back guarantee which would permit cancellation of the purchase of the hearing aid within the first 30 days of fitting and an informational brochure which explains the many benefits of telecoil technology.*

This also is a consumer protection issue only where a number of people, particularly older adults, find themselves experiencing difficulties. For a customer who is not aware of standard practices of hearing aid dispensers, they can become very confused by the process. Without sufficient orientation on the part of the dispenser, there can often be situations of total misunderstanding, with disastrous ramifications for the customer. A majority of hearing aid dispensers are excellent in providing a 30 day trial period as a sign of good customer service. However, holdback fees also can be charged for services if the hearing aid is returned. The consumer has the right to know about these fees in advance, particularly if they responded to a promotion of a "free hearing test." For the older adult who has finally acted and sought treatment for his/her hearing loss, a negative event such as surprise charges can often stimulate a response that will keep the hearing loss untreated.

Significant to hearing aid technology is the inclusion of the telecoil. This technology enables Hard of Hearing and some times Deaf users easy access to sounds from telephone equipment as well as a number of other electronic audio equipment, including radios, public address systems and assistive listening devices and systems in movie theaters. Telecoils allow hearing aid users to talk on the telephone without feedback and interference of static sounds from their hearing aids. Most users, especially new hearing aid users fail to inquire about telecoils simply due to lack of knowledge of the technology.

Hearing aids technology has now evolved to programmable automatic telecoil response so that dexterity issues for older adults should not interfere with the telecoil use. In the past the telecoil was manually activated and some seniors could not-successfully use this feature. Now, automatic telecoil response technology has removed these potentially limiting problems for the older adult.

Recommendation 3—*It is recommended that the General Assembly consider legislation requiring hearing aid health insurance coverage for all ages from any private agency providing health insurance and doing business in North Carolina and from any public agency providing medical insurance coverage assistance. Coverage for private insurers would include a $1,500 per ear benefit at a scheduled rate of every 5 years. Coverage for public insurances would follow specified benefit schedules as developed within the administrative agency policies.*

Hearing aids are expensive and technology improves rapidly causing costs to rise often. As costs are a leading reason for a person not to pursue treatment of hearing aids, coverage by health insurance companies would lessen the number of people who go without treatment. The report has shown a direct link to untreated hearing loss and poor health, poor performance at work, lower incomes earned and mental health related issues. At present, health benefits plans rarely include coverage for hearing aids so that consumers pay for hearing aids as an out-of-pocket expense.

Coverage of hearing aids by health benefits providers should allow people with hearing loss,

regardless of age, to realize the potential benefits from appropriate amplification that is properly fit, adjusted, and used as part of a comprehensive intervention plan. Coverage should also recognize the need for replacement of hearing aids due to maturation, change in hearing ability, normal wear and tear, and technological advances that better meet a user's communication needs. If the policy does not cover the entire cost of the hearing aid, the consumer should have the option to select the hearing aid of choice by paying the difference between the market price of the hearing aid and the maximum benefit allowed.

The State of Maryland Health Care Commission commissioned a study conducted by William M. Mercer, Inc. Mercer estimates the average annual cost per member at $7.88 and the annual cost per contract at $16.54 on 2.1 members per contract. The estimated annual per employee costs for group policies was $17.00. It is interesting to note that insurance carrier survey responses ranged from no impact to a 0.5% increase in premium. Overall, the carriers projected a 0.3% increase in premium.[35]

Many older adults in North Carolina do not have access to health insurance coverage through private agencies. Because of the dependency on public insurances like Medicare and Medicaid, many older adults often do not receive similar coverage and benefits that peers with private health insurance do. Though health issues are the same as their peers, Medicaid eligible older adults often find themselves unable to get needed treatment because of restrictions in coverage within the Medicaid policies.

This study has shown that hearing loss in older adults is a contributing factor to poorer health, particularly to those old adults of lower income. It must be recognized that the health needs of these older adults must be approached in a broader sense of definition that would also include treatment for hearing loss, particularly in hearing aid provision.

Research has shown a greater percentage of older adults using hearing aids have healthier, more active lifestyles than those that do not use hearing aids. It can be assumed that with a greater percentage of older adults experiencing better health as a result of hearing aid use, the medical costs within the Medicaid program could decrease, particularly in costs associated with mental health.

National and State Level Initiatives

In the United States, there have been few significant initiatives related to hearing loss and its impact on older adults. In 2006, during the American Public Health Association annual conference, Howard J. Hoffman of the National Institute on Deafness and Communicative Disorders reported that "although hearing loss increases greatly with age and economic costs of severe-to-profound hearing loss exceed $6.7 billion annually, only limited national data on prevalence of hearing loss and rehabilitation devices exist."[36]

Nationally, there are two initiatives of significance that demand mention. First, in 1999 the National Council on Aging released findings on a study which they had commissioned on "The Consequences of Untreated Hearing Loss in Older Persons." This study was conducted by Seniors Research Group utilizing the National Family Opinion Panel. The report revealed a direct link of untreated hearing loss to "serious emotional and social consequences for older persons."[37]

The second notable initiative on the national front is currently the Hearing Aid Tax Credit Bill (HR 1646 / S 1019) in the United States Congress. A tax credit bill has been introduced in Congress for several sessions but has stalled each year. This particular version of the bill was reintroduced in the House of Representative in March 2009 and the Senate version in May 2009. The two separate bills are similar in that, if enacted, the bill would provide for a $500 tax credit per hearing aid every five years. The two bills differ on the ages covered (Senate version covers all ages, dependent children and all adults, while the House version only covers dependent children and adults aged 55 up) and the inclusion of an income cap of $200,000 yearly income in the House bill while the Senate Bill has no cap.[38] Enactment by Congress, whichever version is adopted, would provide a form of hearing aid purchase

assistance for older adults who file tax returns. It would not benefit the large population of older adults who are exempt from filing tax returns.

North Carolina has made a few important strides in legislation and initiatives that benefit citizens with hearing loss. Passage of S.L. 2008-181, HB 2431, Section 12, "The Studies Act of 2008" by the General Assembly marks the first time an authorized study of this magnitude was ordered from a high level of state government.

During the 2009 session of the General Assembly, introduction of HB 589 and S 375 denotes another significant action taken by the Legislature. This legislation mandates health insurance coverage of hearing aids for children. Wide-spread support was shown by legislators of both houses.

In 1989, enactment of G.S. 143B-216.31 restructured and renamed the original Council for the Hearing Impaired to The Council for the Deaf and the Hard of Hearing and G.S.143B-216.33 created the Division of Services for the Deaf and the Hard of Hearing as a part of the Department of Health and Human Services. The creation of these two entities was an important acknowledgement to the Deaf, the Hard of Hearing and the Deaf-Blind populations, their families and the communities of North Carolina and ensured access to communication and human services which are provided to all individuals in the community.

The Division, by the authority of the Department of Health and Human Services in accordance to G.S. 62-157 is likewise charged with the responsibility to administer the Telecommunications Relay Service. Both General Statutes ensure that every person who is Deaf, Hard of Hearing, Deaf-Blind or Deaf with other disabilities in the State of North Carolina can have equal access, effective communication leading to a better quality of life. In 2003, the General Assembly enacted S.L. 2003-341, "Extend Surcharge to TRS Wireless Connections." This legislation was groundbreaking and has provided means to increase equipment distribution and services to citizens with hearing loss. This legislation also serves as a model to other states seeking similar legislation.

Concluding Statements

This study places before the citizens of North Carolina the challenge to comprehend the often devastating impact of hearing loss on individuals and their families. It also challenges us to understand the positive possibilities associated with hearing aid usage, assistive technology usage, and communication access. Individuals who deny having hearing loss, physicians, medical centers, health care facilities, skilled care facilities, general associations—all, need help to understand what the ramifications of hearing loss are. The study also shows that proper access to communication through appropriate means is a contributing factor to the successful resolution of many medical, emotional, social, and psychological conditions in older adults.

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North Carolina Division of Medical Assistance

Medicaid Clinical Policy and Programs

Update on Medicaid In-Home Personal Care Services (PCS)

Presented by: Larry Nason, Ed.D. Chief, Medicaid Facility and Community Care
Karen Feasel, Ph.D. Medicaid Policy Analyst

Purpose of Presentation

- Describe Medicaid PCS and the scope of authorized services
- Illustrate PCS cost and utilization increases over the last eight years
- Provide a demographic profile and detailed analysis of cost and utilization for current PCS participants
- Describe the actions DMA is taking to comply with the legislative mandate contained in S.L. 2009-451

What is In-Home PCS?

C. Scope of Services.--Personal care services (also known in States by other names such as personal attendant services, personal assistance services, or attendant care services, etc.) covered under a State's program MAY include a range of human assistance provided to persons with disabilities and chronic conditions of all ages that enables them to accomplish tasks that they would normally do for themselves if they did not have a (functional) disability.

Source: CMS State Medicaid Manual

Scope of Authorized PCS

States MAY provide the services of a paraprofessional aide to provide:

- **Person-to-person hands-on assistance to help a functionally disabled individual to perform a task**
- **The task itself, if the individual is fully dependent on others**
- **Cueing or prompting the individual to perform the task**

Source: CMS State Medicaid Manual

Scope of Authorized PCS

(Continued)

Services MAY include assistance with:

- Activities of Daily Living (ADLs), such as eating, dressing, mobility, bathing, and toileting
- Instrumental Activities of Daily Living (IADLs), such as light housework, laundry, meal preparation, transportation, using the telephone, shopping, etc.

Source: CMS State Medicaid Manual

Services Not Authorized Under PCS

Skilled services that may be performed only by a licensed health professional are NOT considered personal care services

Source: CMS State Medicaid Manual

How do States Provide PCS Under Medicaid?

In 2006, State Medicaid agencies provided PCS through 238 different programs

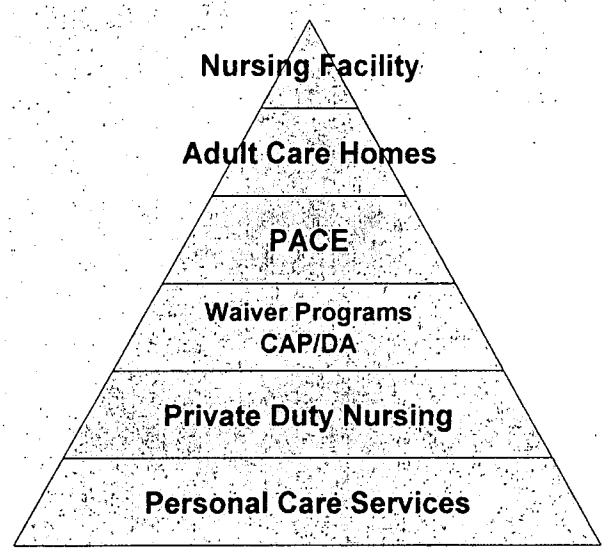
- **Thirty-one through state plan programs (i.e., as an optional service)**
- **Two-hundred and seven through Medicaid waivers**

Source: Office of the Inspector General United States Department of Health and Human Services

PCS Waiver vs. Optional Service

PCS Provided under a §1915(c) HCBS Waiver	NC PCS Benefit under State Medicaid Plan
Need for RN for a minimum of eight hours per day	Paraprofessional service that does not include skilled medical or nursing care
Daily observation and assessment of resident needs by a licensed nurse	Not covered when recipient is not medically stable
Administration and control of medication that must be performed by a licensed nurse	Not covered when recipient needs ongoing supervision
Need for dialysis or mechanical ventilation that is required at least ten hours per day	Not covered when RN or LPN services are required
Source: NC Medicaid Clinical Coverage Policy for Nursing Facility Services	Source: NC Medicaid Policy for In-Home Personal Care Services

Hierarchy of LTC Programs



National Expenditures for PCS
CY 2005

Range

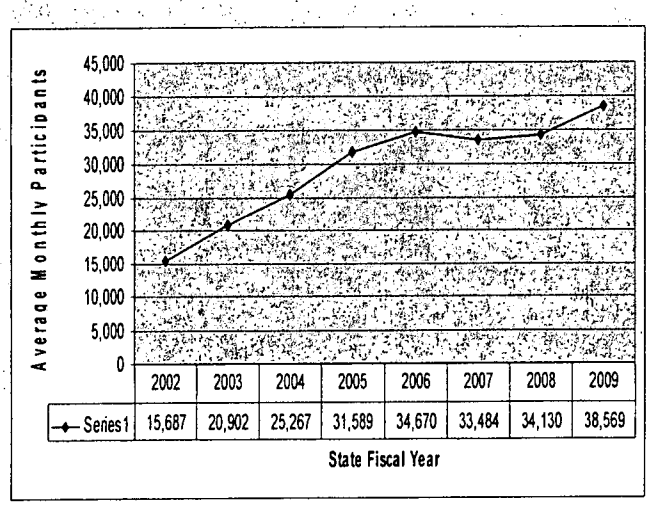
NH: $510,956

25 Other States

	Percent Increase 2004 to 2005
NC: $286,650,908	30%
Texas: $459,179,146	10%
NY: $2,045,068,149	6%
California: $2,857,270,000	10%

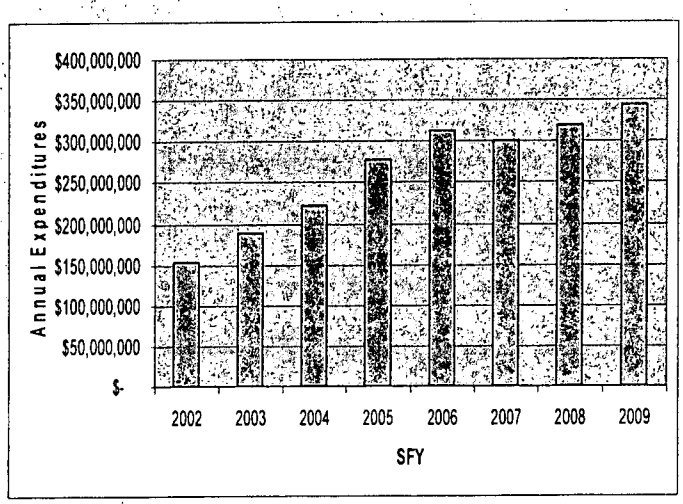
Source: Kaiser Commission on Medicaid and the Uninsured

Increase in PCS Participation
SFY 2002 thru 2009



Source: Medicaid Program Expenditure Reports-June of each SFY

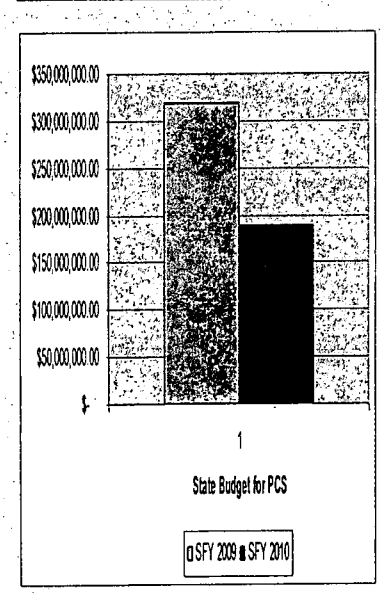
Increase in PCS Costs
SFY 2002 thru 2009



Source: Medicaid Program Expenditure Reports-June of each SFY

Budget Reduction Goals for PCS

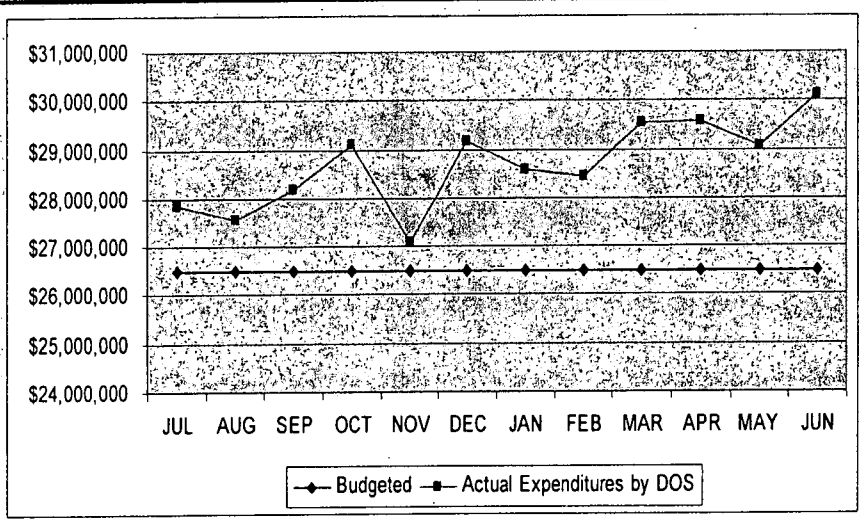
SFY 2010 and 2011



- Budget for SFY 2009: $318,021,185
- Budget for SFY 2010: $188,200,229
- Budget Reduction: 41%
- Budget Reduction Goal for SFY 2010: $40 million state dollars
- Budget Reduction Goal for SFY 2011: $60 million state dollars

PCS Expenditures

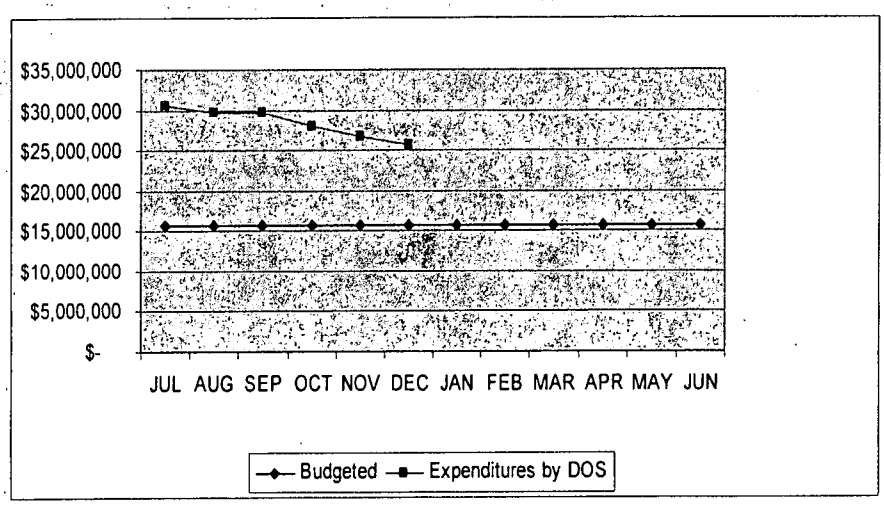
SFY 2009 Actual vs. Budgeted



Source: Medicaid Monthly Claims Report January 2010

PCS Expenditures

SFY 2010 YTD Actual vs. Budgeted



Source: Medicaid Monthly Claims Report January 2010

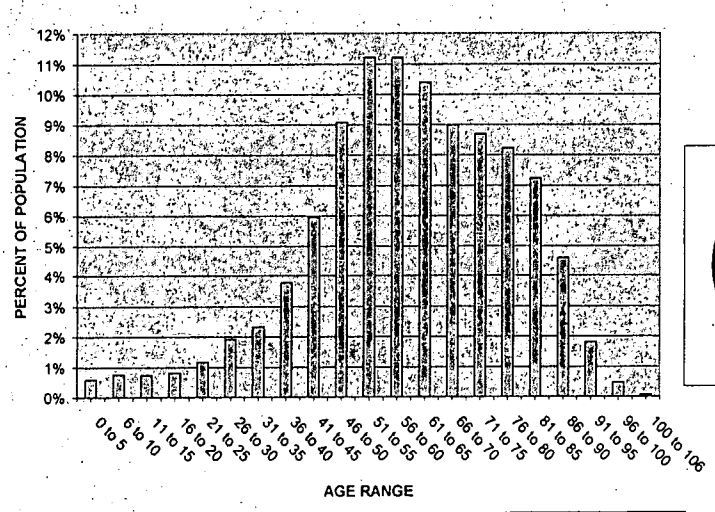
CCME PCS Compliance Reviews

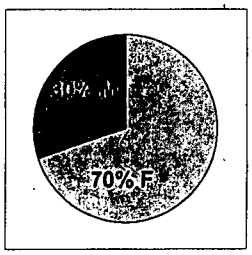
April 2007-March 2009

- 347 Provider Agencies
- 3,732 Recipients
- On-site desk review
- RN home visit, interview, observation

- 7%- Two qualifying ADLs not documented in assessment
- 40%- RN review did not support recipient qualification
- DMA estimates 23% of current recipients do not qualify
- Associated with more than $6.5M per month, $79M per year, $219,000 per day in PCS claims

Current PCS Participants
Demographic Profile



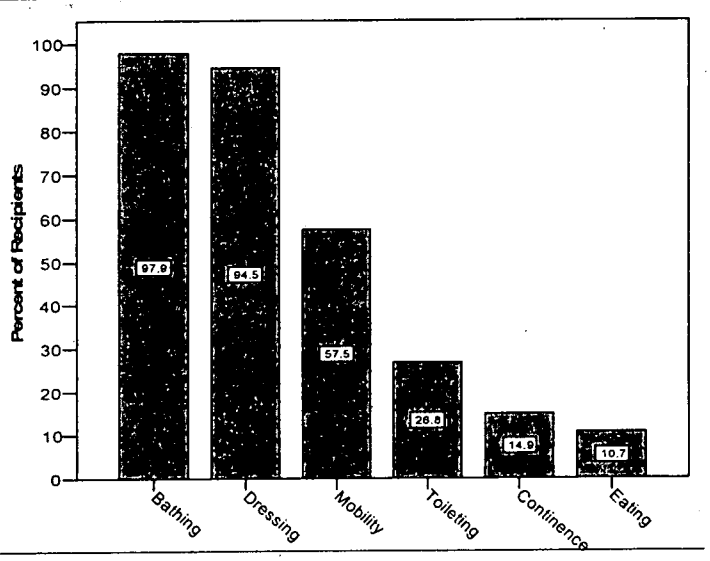


Source: Medicaid Claims Database

Current PCS Participants
ADL Scoring Methodology

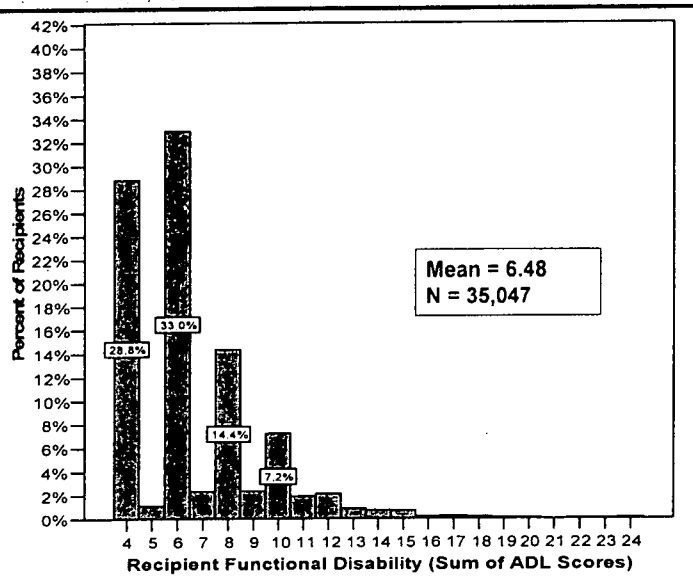
Level	Description	Medicaid PCS Coverage	Assessment Score
Supervision Only	Individual requires supervision, oversight, encouragement, prompting, reminders, or cueing	Not covered	1
Limited Assistance	Individual is highly involved in activity, but requires hands-on assistance from another person for maneuvering of limbs for mobility, eating, bathing, dressing, and toileting	Must require hands-on limited, extensive, or full dependence assistance with at least two of the qualifying ADLs	2
Extensive Assistance	Individual performs part of activity, but requires substantial or consistent hands-on assistance from another person for mobility, eating, bathing, dressing, and toileting		3
Full Dependence	Individual is fully dependent on another person for mobility, eating, bathing, dressing, and toileting		4

Current PCS Participants
Prevalence of ADL Needs



Source: PCS Recipient Assessments (N=35,047)

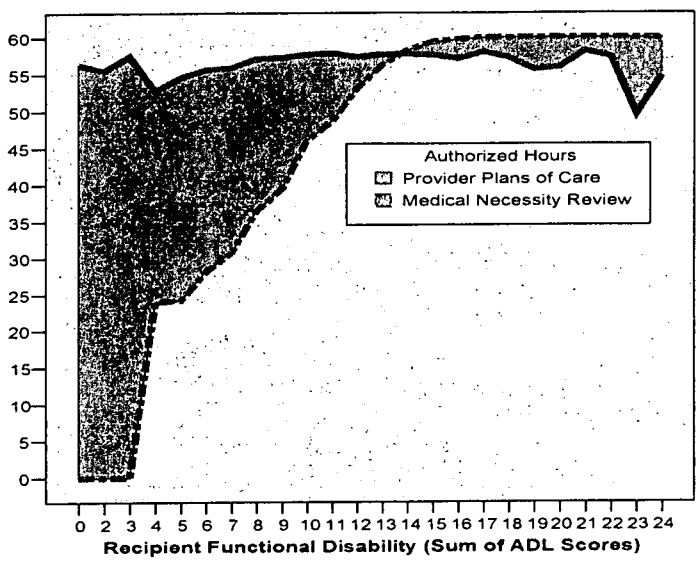
Recipient Functional Disability
Sum of ADL Scores



Source: PCS Recipient Assessments (N=35,047)

Current PCS Participants

Average Number of Service Hours Authorized
In Providers' Plans of Care (POC)



Source: PCS Recipient Assessments (N=35,047)

Implementation of S.L. 2009-451

- Evaluate current PCS participants to determine if utilization is related to functional disability and not excessive
- Revise the current PCS Clinical Coverage Policy to address documented cost, compliance, and utilization problems
- Strengthen the role of the recipient's physician in the PCS admission process
- Automate the PCS program administration process
- Update, improve, and automate assessment tools, service authorizations, plans of care, audit reports, and reports

Implementation of S.L. 2009-451
(Continued)

- Automate and integrate with other HCBS programs quality improvement, utilization review, compliance review, and financial performance metrics to monitor program performance
- Integrate service authorizations with claims processing to ensure only authorized hours are paid
- Implement independent assessment of new PCS admissions, continuation reviews, and change of status reviews

CAP/DA Slot Allocation History

Slots allocated in 2004	13,200
Slots originally funded	11,500
Slots not funded	1,700

Additional slots proposed:

SFY 2009	600
SFY 2010	600
SFY 2011	500

NOT FUNDED

CAP/DA Slot Allocation
2010 SFY Budget Adjustment

- Reduce PCS slot allocations to July 1, 2008 level
- Slots must be reduced to 11,214
- Reductions by county will be achieved through attrition

PCS (AND PLUS) HISTORY - CLAIMS FOR SFY 2009

	Jul-08	Aug-08	Sep-08	Oct-08	Nov-08	Dec-08	Jan-09	Feb-09	Mar-09	Apr-09	May-09	Jun-09	SFY 09
DOP													
Clients	34,570	34,485	36,284	40,078	38,866	40,246	39,105	40,558	40,062	41,369	39,833	36,820	59,592
Paid	$32,140,268	$25,651,446	$25,899,113	$32,983,373	$19,509,412	$39,652,782	$26,017,480	$27,898,119	$28,172,696	$26,826,170	$33,734,966	$27,846,191	**$346,329,018**
Avg $/client	$930	$744	$714	$823	$502	$985	$665	$688	$703	$648	$847	$756	$5,812
DOS													
Clients	35,932	36,239	36,542	37,050	36,888	37,207	37,335	37,665	37,992	38,186	38,171	38,622	53,042
Paid	$27,834,986	$27,546,060	$28,174,481	$29,107,474	$27,077,677	$29,158,265	$28,588,462	$28,442,456	$29,538,034	$29,584,503	$29,041,418	$30,116,994	$345,546,085
Avg $/client	$775	$760	$771	$786	$734	$784	$766	$755	$777	$775	$761	$780	$6,515

Amount Paid to Date	Budget	% of Budget	Average Paid per Month	Average x 12 months	Compared to Budget: over (-) under (+)
$346,329,018	$318,021,185	108.9%	$28,860,752	$346,329,018	-$28,307,833

PCS (AND PLUS) HISTORY - CLAIMS FOR SFY 2010

	Jul-09	Aug-09	Sep-09	Oct-09	Nov-09	Dec-09	Jan-10	Feb-10	Mar-10	Apr-10	May-10	Jun-10	SFY 10
DOP													
Clients	36,731	38,129	37,419	38,457	36,742	38,041							47,955
Paid	$27,234,032	$34,977,312	$28,000,190	$34,726,968	$20,406,671	$33,647,665							**$195,761,811**
Avg $/client	$741	$917	$748	$903	$555	$885							$4,082
DOS													
Clients	38,890	38,572	38,409	37,798	37,009	35,718							46,138
Paid	$30,558,284	$29,694,907	$29,628,434	$27,982,662	$26,683,350	$25,717,293							$173,492,294
Avg $/client	$786	$770	$771	$740	$721	$720							$3,760

Amount Paid to Date	Budget	% of Budget	Average Paid per Month	Average x 12 months	Compared to Budget: over (-) under (+)
$195,761,811	$188,200,229	104.0%	$27,965,973	$335,591,677	-$147,391,448

DRIVE Run Date 01/19/10
Data Run back to
Contains Claims Adjudicated by
01/12/10 checkwrite

DMA/FCC
D. Boissy

CAP/DA SLOT REDUCTION ALLOCATION HISTORY with PROPOSED CUT

County Name	Total Slots Allocated for SFY 09-10	Slot reduction effective 9/1/2009	Number of slots to be cut	Allocation after reduction
Alamance	113	96	6	90
Alexander	104	100	6	94
Alleghany	73	72	5	67
Anson	91	83	5	78
Ashe	187	185	12	173
Avery	213	143	9	134
Beaufort	135	119	8	111
Bertie	201	201	13	188
Bladen	164	140	9	131
Brunswick	70	48	3	45
Buncombe	289	289	19	270
Burke	285	201	13	188
Cabarrus	293	189	12	177
Caldwell	214	185	12	173
Camden	15	9	1	8
Carteret	119	114	7	107
Caswell	54	54	4	50
Catawba	183	182	12	170
Chatham	61	60	4	56
Cherokee	161	145	9	136

CAP/DA SLOT REDUCTION ALLOCATION HISTORY with PROPOSED CUT

County Name	Total Slots Allocated for SFY 09-10	Slot reduction effective 9/1/2009	Number of slots to be cut	Allocation after reduction
Chowan	60	52	3	49
Clay	56	45	3	42
Cleveland	162	162	11	151
Columbus	236	206	13	193
Craven	156	154	10	144
Cumberland	304	304	20	284
Currituck	26	18	1	17
Dare	16	11	1	10
Davidson	123	121	8	113
Davie	103	57	4	53
Duplin	140	126	8	118
Durham	163	159	11	148
Edgecombe	119	117	8	109
Forsyth	202	205	13	192
Franklin	118	118	8	110
Gaston	165	165	12	154
Gates	48	26	2	24
Graham	122	79	1	77
Granville	77	77	5	72
Greene	41	41	3	38
Guilford	376	332	22	310

CAP/DA SLOT REDUCTION ALLOCATION HISTORY with PROPOSED CUT

County Name	Total Slots Allocated for SFY 09-10	Slot reduction effective 9/1/2009	Number of slots to be cut	Allocation after reduction
Halifax	147	138	9	129
Harnett	123	100	7	93
Haywood	166	143	9	134
Henderson	80	76	5	71
Hertford	158	135	9	126
Hoke	104	84	5	79
Hyde	27	26	2	24
Iredell	209	209	14	195
Jackson	95	55	4	51
Johnston	86	73	5	68
Jones	51	35	2	33
Lee	120	110	7	103
Lenoir	106	106	7	99
Lincoln	133	133	9	124
Macon	79	77	5	72
Madison	39	39	3	36
Martin	71	65	4	61
McDowell	68	68	4	64
Mecklenberg	548	548	36	512
Mitchell	101	101	7	94
Montgomery	37	30	2	28

CAP/DA SLOT REDUCTION ALLOCATION HISTORY with PROPOSED CUT

County Name	Total Slots Allocated for SFY 09-10	Slot reduction effective 9/1/2009	Number of slots to be cut	Allocation after reduction
Moore	108	108	7	101
Nash	123	112		105
New Hanover	150	150	10	140
Northampton	88	76	5	71
Onslow	165	161	11	150
Orange	86	62	4	58
Pamlico	54	48	3	45
Pasquotank	82	58	4	54
Pender	138	133	9	124
Perquimans	34	17	1	16
Person	52	43	3	40
Pitt	141	115	7	108
Polk	60	57	4	53
Randolph	166	166	11	155
Richmond	89	89	6	83
Robeson	493	493	32	461
Rockingham	381	370	36	346
Rowan	202	202	13	189
Rutherford	112	112	7	105
Sampson	69	68	4	64
Scotland	153	153	10	143

CAP/DA SLOT REDUCTION ALLOCATION HISTORY with PROPOSED CUT

County Name	Total Slots Allocated for SFY 09-10	Slot reduction effective 9/1/2009	Number of slots to be cut	Allocation after reduction
Stanly	94	94	6	88
Stokes	90	82	5	77
Surry	161	161	10	151
Swain	78	78	5	73
Transylvania	45	21	1	20
Tyrrell	12	11	1	10
Union	95	94	6	88
Vance	58	54	4	50
Wake	420	328	21	307
Warren	33	18	1	17
Washington	73	61	4	57
Watauga	78	55	4	51
Wayne	40	30	2	28
Wilkes	208	198	13	185
Wilson	183	183	12	171
Yadkin	107	99	6	93
Yancey	93	93	6	87
TOTAL	13200	11994	785	11214

MEDICAID OPTIONAL SERVICE FOR IN-HOME PERSONAL CARE SERVICES (PCS)

History, Problems, and Proposed Solutions

A. Background and History

PCS Under Medicaid

Under the Medicaid program, States have the option to implement a personal care services (PCS) program. These programs provide benefits to individuals who require "hands on" assistance from another person to perform many certain activities of daily living, such as eating, dressing, mobility, bathing, and toileting. These services are provided by paraprofessional aides. If the individual requires skilled medical services from licensed medical professionals, they are not eligible for this service (Source: State Medicaid Manual).

Most state Medicaid agencies provide some variation of personal care or in-home aide services. The Office of the Inspector General of the United States Department of Health and Human services (OIG) reported in 2006 that States were providing personal care services through 238 programs: 31 through the state plan as an Optional Medicaid Service and 207 through a wide variety of Medicaid waivers aimed at different population groups, including the elderly, disabled, developmentally disabled, mentally ill, and medically fragile children.

PCS Utilization and Expenditures

The Medicaid Personal Care Services (PCS) benefit was implemented in North Carolina in January of 1986 as a Medicaid optional service under the State Medicaid Plan. Concern with increasing utilization and costs was evidenced as early as December 2002 when Medicaid reduced the monthly limit for PCS from 80 to 60 hours. The 80 hour limit was subsequently restored under the PCS-Plus Program in November 2003. PCS-Plus allows up to 80 hours of PCS per month; however, PCS above 60 hours must be prior approved by Medicaid.

Since its inception, PCS utilization and costs have risen dramatically. The average number of monthly recipients increased from 15,687 in SFY 2002 to 38,569 in SFY 2009 – an increase of 146 percent. During the same period, expenditures of PCS went from $152,655,698 to $345,006,361 – an increase of 126 percent. See Exhibit 1 below.

In Federal Fiscal Year 2005, North Carolina, ranked fourth among 30 states offering PCS as a state plan services in total PCS expenditures. Only California, New York, and Texas spent more than North Carolina on this service.

In State Fiscal Year 2009, North Carolina provided services to 52,988 unduplicated Medicaid recipients and spent $345,185,648 for in-home personal care services – $28.3 million over budget. Personal care service costs include costs for wages and benefits to the personal care service providers (aides) and administration of the program (home care agencies).

Exhibit 1: PCS Utilization and Costs
SFY 2002 thru SFY 2009
(Source: Medicaid Program Expenditure Reports
Compiled in June of Each SFY)

SFY	AVERAGE MONTHLY RECIPIENTS	AMOUNT INCREASE	PERCENT INCREASE	ANNUAL EXPENDI-TURES	AMOUNT INCREASE	PERCENT INCREASE
2002	15,687			$ 152,655,698		
2003	20,902	5,215	33%	$ 189,310,930	$36,655,232	24%
2004	25,267	4,365	21%	$220,857,613	$31,546,683	17%
2005	31,589	6,322	25%	$276,889,893	$56,032,280	25%
2006	34,670	3,081	10%	$313,181,303	$36,291,410	13%
2007	33,484	(1,186)	-3%	$ 299,724,191	$ (13,457,112)	-4%
2008	34,130	646	2%	$ 318,712,072	$ 18,987,881	6%
2009	38,569	4,439	13%	$345,006,361	$ 26,294,289	8%
TOTAL INCREASE		22,882	146%		$ 192,350,663	126%
TOTAL	234,298			$2,116,338,061		
AVE	29,287			$264,542,258		

B. North Carolina Medicaid Coverage for PCS

The North Carolina Medicaid PCS benefit, as described in its Clinical Coverage Policy, does not provide services to individuals who are not medically stable, require skilled nursing care, or require other medical services provided by a licensed medical professional on a continuous basis. Because of these limitations, an individual meeting nursing facility level of care criteria would not be eligible for PCS. Conversely the vast majority of Medicaid recipients receiving PCS would not qualify for placement in a nursing facility.

Medicaid recipients qualifying for the highest level of PCS can be approved for up to 80 hours of PCS per month under the PCS-Plus Program. Currently five percent of the current PCS participants receive more than 60 hours of PCS per month under the PCS-Plus Program.

The North Carolina Medicaid PCS Benefit was intended to be "needs based." That is, the greater the recipient's need for personal assistance in performing everyday activities of daily living (ADLs), the more PCS he or she would receive. The assessment for services addresses "qualifying ADLs" and the level of assistance required for each. The qualifying ADLs include eating, dressing, bathing, mobility, toileting, and incontinence. The levels of assistance include supervision, limited assistance, extensive assistance, and full dependence. Supervision alone is not covered. The assessment was intended to yield a score that would place each recipient in one of four categories for each qualifying ADL, as summarized in Exhibit 2 below. An individual must require, at a minimum, limited assistance in at least two qualifying ADLs.

Exhibit 2: Medicaid PCS Coverage
(Source: Medical Clinical Coverage Policy)

Level	Description	Medicaid PCS Coverage	Assessment Score
Supervision	Individual requires supervision, oversight, encouragement, prompting, reminders, or cueing	Not covered	1
Limited Assistance	Individual is highly involved in activity, but requires hands-on assistance from another person for maneuvering of limbs for mobility, eating, bathing, dressing, and toileting	Must require hands-on limited, extensive, or full dependence assistance with at least two of the qualifying ADLs	2
Extensive Assistance	Individual performs part of activity, but requires substantial or consistent hands-on assistance from another person for mobility, eating, bathing, dressing, and toileting		3
Full Dependence	Individual is fully dependent on another person for mobility, eating, bathing, dressing, and toileting		4

The purpose of the scoring methodology is to determine the level of assistance required by the individual for each qualifying ADL. An individual must require a minimum of limited assistance in at least two qualifying ADLs to meet the requirements for PCS. Full dependence in all six qualifying ADLs is the highest level. A recipient with extensive need or higher in three qualifying ADLs or more qualifies for PCS-Plus.

C. PCS Compliance Reviews

In March 2006, DMA contracted with The Carolinas Center for Medical Excellence (CCME) to conduct on-site audits of home care agencies providing PCS. The PCS provider agencies were selected using a statistically valid random sampling technique. At the home care agencies, the surveyors randomly selected Medicaid recipients served by the agency to be assessed and interviewed in their homes. The audit focused on compliance with Medicaid Clinical Coverage Policy, including whether or not the assessment conducted by the provider agency accurately represented the functional disability of the recipient and his/her need for hands-on personal assistance and that all participants met the minimum criteria for participation in the program.

In April 2009, CCME submitted PCS Compliance Review Program summary statistics for the two-year period from April 2007 to March 2009. During this two-year period, CCME audited 347 provider agencies and conducted reviews of 4,273 randomly selected PCS recipients. CCME reviewer scores,

based in part upon recipient interviews and observation, indicated 1,693 of 3,732 (45.4%) did not meet minimum qualifying criteria for the PCS program.

This report was a subset of the full sample because only the first ten recipients were initially reviewed for each agency. However, when the first ten reviews indicated a pre-defined level of noncompliance, up to fifteen additional recipients were reviewed.

CCME provided supplemental data in June 2009 on the full sample of 4,273 recipients reviewed between April 2007 and March 2009 by CCME PCS-certified RNs. Review of Physician Authorization for Certification and Treatment (PACT) assessment forms, **completed by PCS provider agencies,** indicated that seven percent of PCS recipients reviewed did not meet the minimum qualifying criterion for hands-on assistance with two unmet activities of daily living (ADLs). When the same recipients were reviewed in person by a trained RN, 40 percent appeared not to meet the minimum qualifying criteria for unmet ADL needs.

D. Review and Analysis of Current PCS Participants

In November 2009, DMA requested a copy of the assessment form for each current PCS participant. To date, the agency has received 37,913 forms. Forms for participants receiving PCS-Plus were not reviewed, since they had been previously approved by DMA. Also, since many children are receiving PCS under the Early Periodic Screening, Diagnostic, and Treatment (EPSDT) Program all forms for children were excluded.

Assessment data for the remaining 33,820 participants has been entered into a database and an analysis is underway to determine if all participants meet the basic requirements for PCS and if the amounts of PCS are appropriate for the documented levels of functional disability. Non-compliance issues identified to date are summarized in Exhibit 3 below.

Exhibit 3: Common Non-Compliance Issues
Assessment Form Review
November 2009 thru January 2010
N = 33,820

	Total Number	**Percent of Total**
ADL score too low	1,103	3.26%
No physician signature	867	2.56%
No assessor signature	277	.82%
No assessment date	125	.37%
Assessment form expired	942	2.79%
No medical diagnosis	84	.25%
TOTAL	3,398	

Review of Assessment Forms submitted by PCS provider agencies indicates that home care agencies that provide PCS often:

1. Admit Medicaid recipients for PCS when their own assessment indicates that the recipient does not meet the minimum requirement of limited assistance with two qualifying ADLs; and

2. Provide the full 60 hours of PCS per month when the recipient's assessment does not document a level of need that would justify this amount of PCS.

Other common non-compliance issues include failing to:

1. Obtain a physician's verbal order for PCS before initiating services;
2. Obtain the physician's written order for PCS within 60 days of the verbal order;
3. Provide the diagnoses for the medical condition that is causing the need for PCS;
4. Have a RN supervisor sign and date the assessment;
5. Maintain complete and accurate service records;
6. Conduct a reassessment every 12 months.

All of these requirements are specified in the Medicaid Clinical Coverage Policy and the provider is considered out of compliance with the policy if any of these requirements are not met.

Physician Involvement

Reviews by DMA, OIG, and CCME have documented many cases where physician orders have not been obtained by home care agencies. The OIG has documented cases where dates of physician orders have been altered to meet requirements.

DMA has received numerous complaints from physicians including:

1. Home care agencies send PACT forms for recipients who do not need the service;
2. Recipients bring PACT forms to physician and get angry when the physician will not sign it;
3. Home care agencies send PACT forms requesting house cleaning services;
4. Home care agencies send PACT forms requesting full services for recipients who only need a little assistance with bathing;
5. Home care agencies and recipients request PCS when there are family members living with the recipient who could assist them with these ADLs;
6. Home care agencies request physician orders for a recipient the physician has never seen;
7. The PACT form requires too much time to review;
8. Home care agencies continue to send the same PACT form for the same patient over and over until the physician signs it; and
9. Home care agency staff become angry and abusive when they don't get what they want.

Medicaid Payment System

The Medicaid Management Information System (MMIS) was configured to pay all claims for PCS up to 60 hours and all claims for PCS-Plus up to 80 hours. No edits or audits are in place to pay a claim at the exact level of approved hours.

E. Proposed Solution

Independent Assessment

DMA has proposed and the North Carolina General Assembly has mandated the establishment of an independent assessment entity that does not provide PCS to evaluate all recipients prior to admission to PCS. **Section 10.68A.(a)(3) of S.L. 2009-451** requires the Department of Health and Human Services,

Division of Medical Assistance (DMA) to implement the following changes in the Medicaid in-home Personal Care Services benefit.

(3) Medicaid Personal Care Service provision. – Upon the enactment of this act, the Division of Medical Assistance shall implement the following new criteria for personal care services (PCS):

a. Independent assessment by an entity that does not provide direct PCS services for assessment of the recipient prior to initiation of service. The independent assessment will determine the qualifying Activities of Daily Living (ADL), the level of assistance required, and the amount and scope of PCS to be provided, according to policy criteria.

b. Independent assessment or review from the assigned Community Care of North Carolina (CCNC) physician of the continued qualification for PCS services under the revised PCS policy criteria.

c. Establishment of time limits on physician service orders and reauthorization in accordance with the recipient's diagnosis and acuity of need.

d. Add the following items to the list of tasks that are not covered by this service: nonmedical transportation, errands and shopping, money management, cueing, and prompting, guiding, or coaching.

e. Online physician attestation of medical necessity.

f. If sufficient reduction in cost is not achieved with the revised policy, the Secretary shall direct the Division of Medical Assistance to further modify the policy to achieve targeted cost savings.

Recipients currently receiving PCS services shall be reviewed under the above criteria and those recipients not meeting the new criteria shall be terminated from the service within 30 days of the review.

The Division of Medical Assistance has entered into a contract with The Carolinas Center for Medical Excellence to provide this service. The review of existing PCS participants is underway as reported in **Section D** above.

Automated PCS Management

The Independent Assessment Program being implemented by DMA is being designed to:

1. Eliminate incomplete, invalid, unreliable, inconsistent, and fraudulent assessments of individuals applying for admission to PCS or continuation of PCS by transferring the responsibility to conduct PCS assessments from the provider furnishing the service to an independent entity that does not provide PCS.
2. Ensure that PCS are provided on a "needs basis" in amounts proportionate to the participant's documented level of functional disability and level of need for hands-on assistance.
3. Maximize PCS that require hands-on assistance by trained PCS aides and eliminate or minimize other services that do not require a trained aide, such as shopping and running errands.
4. Review the PCS being provided to current program participants, including the provider assessments that provide the basis and justification for the present amount of PCS and implement a mechanism to translate the number of qualifying ADLs and the level of assistance required to an appropriate amount of PCS hours up to 80 hours per participant per month.

5. Automate the entire PCS program in a manner that will provide readily available data to monitor and manage cost, quality, utilization, and compliance with federal and state statutes, rules, regulations, policies, and guidelines.
6. Integrate PCS with other Medicaid home and community-based services, automate the entire process, identify key performance metrics, and monitor these key performance indicators through automated digital dashboards.

7. Automate all assessments, plans of care, physician authorizations, and reporting forms to increase efficiency, build a comprehensive interactive database, and prevent PCS providers from altering records prior to reviews and audits.

Interface with MMIS

The automated system to manage PCS described above will interface with the Medicaid MMIS via monthly file exchanges. Once implemented, the system will pay only for the exact number of authorized PCS hours regardless of what is billed. The system will also reconcile claims to approved hours of PCS, provider service record documentation, and the recipient's plan of care (POC).

Physician Involvement

The OIG auditors have noted a lack of involvement by physicians in the PCS Program. The restructured PCS benefit will require the recipient to have a physician visit prior to approval for PCS. The physician will provide the required basic medical information (including diagnosis), submit the order, and attest to the medical necessity of the ordered services via an Internet-based automated system.

Cost Savings

Extensive analysis of the CCME compliance survey data and claims payment data indicate that savings from independent assessment are expected to be $100 million state dollars over the first two full years of program operation. Savings will result from:

1. Providing a more consistent and valid PCS assessment by one organization that is required to ensure that all assessors are highly trained, knowledgeable about program requirements, and competent to provide a consistent, reliable assessment;
2. Implementing automated Internet-based program management and reporting systems that will allow DMA to closely monitor key performance indicators for quality, utilization, cost, compliance, program efficiency, and outcomes;
3. Avoiding admissions to PCS by individuals who do not meet the minimum requirements;
4. Ensuring that individuals are provided PCS at a level commensurate with their documented need;
5. Setting more frequent reassessment schedules for individuals who have medical conditions that are expected to improve over shorter periods of time;
6. Eliminating the ability of provider agencies to submit inaccurate, incomplete, or fraudulent documentation;
7. Assuring that Medicaid only pays PCS claims for the approved number of monthly PCS hours;
8. Employing automated systems to reconcile approved PCS hours to claims payment and provider service records on an ongoing basis;
9. Ensuring more effective participation by the recipient's primary care or attending physician in the PCS referral and admission process; and

10. Implementing a more aggressive provider review process that will include referral to Medicaid Program Integrity for all program deficiencies and deficits that qualify for Medicaid payment recovery.

The Carolinas Center for Medical Excellence

AQUIP for CAP/DA

State Wide Waiting List

2/4/2010

County Name	Number Currently on List
ALAMANCE	38
ALEXANDER	16
ALLEGHANY	2
ANSON	4
ASHE	5
AVERY	2
BEAUFORT	86
BERTIE	3
BLADEN	81
BRUNSWICK	0
BUNCOMBE	4
BURKE	8
CABARRUS	42
CALDWELL	192
CAMDEN	1
CARTERET	17
CASWELL	1
CATAWBA	24
CHATHAM	2
CHEROKEE	16
CHOWAN	0
CLAY	4
CLEVELAND	39
COLUMBUS	290
CRAVEN	0
CUMBERLAND	124
CURRITUCK	2
DARE	3
DAVIDSON	21
DAVIE	0
DUPLIN	43
DURHAM	82
Total	1152

The Carolinas Center for Medical Excellence

AQUIP for CAP/DA

State Wide Waiting List

2/4/2010

County Name	Number Currently on List
EDGECOMBE	230
FORSYTH	117
FRANKLIN	37
GASTON	4
GATES	2
GRAHAM	2
GRANVILLE	85
GREENE	74
GUILFORD	98
HALIFAX	216
HARNETT	87
HAYWOOD	1
HENDERSON	0
HERTFORD	76
HOKE	13
HYDE	0
IREDELL	53
JACKSON	1
JOHNSTON	49
JONES	0
LEE	4
LENOIR	71
LINCOLN	27
MACON	24
MADISON	44
MARTIN	226
MCDOWELL	22
MECKLENBURG	106
MITCHELL	110
MONTGOMERY	67
MOORE	17
NASH	123
Total	3138

The Carolinas Center for Medical Excellence

AQUIP for CAP/DA

State Wide Waiting List

2/4/2010

County Name	Number Currently on List
NEW HANOVER	100
NORTHAMPTON	159
ONSLOW	26
ORANGE	1
PAMLICO	4
PASQUOTANK	6
PENDER	6
PERQUIMANS	1
PERSON	12
PITT	379
POLK	2
RANDOLPH	2
RICHMOND	157
ROBESON	992
ROCKINGHAM	6
ROWAN	85
RUTHERFORD	5
SAMPSON	232
SCOTLAND	83
STANLY	101
STOKES	32
SURRY	120
SWAIN	7
TRANSYLVANIA	0
TYRRELL	21
UNION	96
VANCE	97
WAKE	398
WARREN	95
WASHINGTON	1
WATAUGA	0
WAYNE	7
Total	6371

The Carolinas Center for Medical Excellence

AQUIP for CAP/DA

State Wide Waiting List

2/4/2010

County Name	Number Currently on List
WILKES	22
WILSON	18
YADKIN	23
YANCEY	0

Total	6434	

Sustaining Adult Day Services in North Carolina: A Five-Year Follow Up

Teresa Johnson
Executive Director,
NC Adult Day Services Association
Communications Director,
National Adult Day Services Association

Because of a concern that 30 adult day programs closed in North Carolina over a five-year period, the following Special Provision was included in the State budget bill, approved in July of 2004 (Section 10.21(a) S.L. 2004-124):

In an effort to support and sustain adult day services in North Carolina, the Department of Health and Human Services shall contract with a national adult day services resource center to provide training and consultation to adult day services providers and State and county adult day services consultants. The selected consultant shall study the current method of reimbursement for adult day services and make recommendations regarding changes to the reimbursement methodology.

What Are Adult Day Services?

Adult day service centers provide a coordinated program of professional and compassionate services for adults in a community-based group setting.

Services Provided Among Adult Day Centers

- Skilled nursing (in day health centers)
- Health monitoring
- Nutritious lunch and snacks
- Medication supervision
- Personal care
- Recreational and Therapeutic Activities
- Modified Exercise Programs
- Transportation (usually contracted service)
- Contracted Services: Speech, occupational and physical therapy

Overview of Work Plan

Project focused on two major areas:

- A reimbursement methodology study

Various reimbursement methodology changes were suggested to determine reasonable reimbursement rates, to allow for negotiated rates with consideration of cost, and to ease administration.

- Training and technical assistance
  - At risk-assessment tool developed to measure risk of closing
  - Comprehensive statewide training to adult day services providers, DAAS staff, DSS adult day care coordinators

Training revolved around marketing, financing and programming.

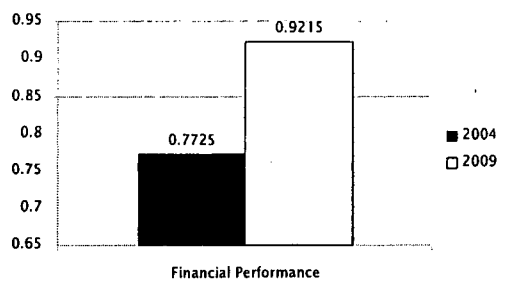
5 Years Later Adult Day Centers are Healthier

- Median # Hours centers operate increased from 10 hours to 10.25 hours per day
- Average Daily Attendance increased from 22 to 25 participants per day
- Average Center Capacity rose from 30 to 34 while maintaining 73% utilization
- Average length of stay rose from 29 months to 33 months

5 Years Later Adult Day Centers are Healthier

- More centers have web sites, 70%, up from 64%
- Operating revenue streams rose to 7 from 6
- 45% of centers access VA funding, up from 38%
- 70% of centers reported no cash flow problems, up from 49%
- Only 25% reported deficit at year-end, compared to 49% five years ago

5 Years Later Total Operating Revenue / Total Expenses



Adult Day Services: *A Smart Choice*

- 82% of the 44 respondents scored in the Safety Zone, up from 71% five years ago

North Carolina

- 100 centers among 54 Counties
- 3,500+ participants served daily
- Centers open 10 hours per day on average
- Average cost of care $55 per day (= $5.50 per hour)
- Minimum Staff to Participant Ratio = 1:6

Adult Day Services: *A Smart Choice*

National

•4,600+ centers confirmed in United States

•As a result of your support, the research, resources and adult day programs developed in NC have established our state as a leader in the adult day services industry

•Leaders from across the United States, Canada and possibly other countries will spend a weekend in our great state this year...

Join us in

Raleigh, North Carolina

August 19-21, 2010

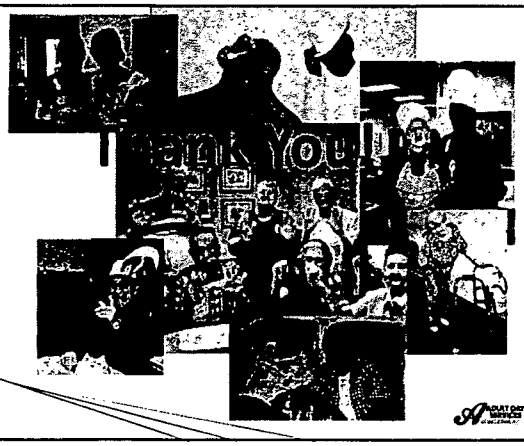
for the

2010 Conference
of the National Adult Day Services
Association

in partnership with

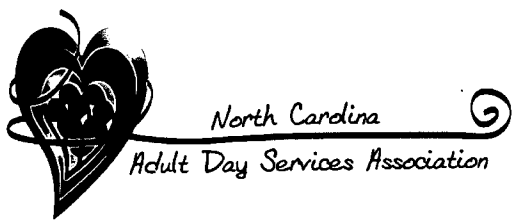
the NC Adult Day Services Association
at the Sheraton Raleigh Hotel

www.NCADSA.org



Sustaining Adult Day Services in North Carolina: A Five-Year Follow Up

Prepared *for*



May 2009

By
Teresa D. Johnson, BS
Creative Consulting for Adult Day Centers
Fuquay Varina, NC

Sustaining Adult Day Services in North Carolina: A Five-Year Follow Up

In January 2009, the North Carolina Adult Day Services Association (NCADSA) surveyed all certified adult day centers as a follow-up to the Sustainability Project implemented in 2004-2005. The follow-up survey was intended to measure the impact of the training, technical assistance, policy changes and best practices introduced through the Sustainability Project.

Background

Because of a concern that 30 adult day programs closed in North Carolina over a five-year period, the following Special Provision was included in the State budget bill, approved in July of 2004 (Section 10.21(a) S.L. 2004-124):

In an effort to support and sustain adult day services in North Carolina, the Department of Health and Human Services shall contract with a national adult day services resource center to provide training and consultation to adult day services providers and State and county adult day services consultants. The selected consultant shall study the current method of reimbursement for adult day services and make recommendations regarding changes to the reimbursement methodology.

The Department of Health and Human Services (DHHS) assigned responsibility to the Division of Aging and Adult Services (DAAS) for contracting with a national adult day services resource center for activities specified in the Special Provision. Partners in Caregiving: The Adult Day Services Program, a national adult day services resource center in the Department of Psychiatry and Behavioral Medicine at the Wake Forest University School of Medicine (Winston-Salem, NC), was chosen as the consultant.

Partners in Caregiving began contract activities in October of 2004, with an overall contract period of October 4, 2004 through December 31, 2005. In accordance with the Special Provision, the adult day services project focused on two major areas: 1) a reimbursement methodology study; and, 2) training and technical assistance. As a result of the study, various reimbursement methodology changes were suggested to determine reasonable reimbursement rates, to allow for negotiated rates with consideration of cost, and to ease administration.

An Adult Day Services Profile was developed to determine to what extent an adult day program was at risk of closing, if at all. This at-risk assessment tool was sent to all certified adult day programs. Completing and returning the profile was their ticket to attend one of the five one-day regional training sessions held across the State. Comprehensive statewide training was provided to certified adult day programs, Division of Aging and Adult Services (DAAS) staff, and county Department of Social Services (DSS) adult day care coordinators. [Details are contained in the Final Report presented to the NC Study Commission on Aging in January 2006.]

The training content of the five regional training sessions revolved entirely around the profile. The completed profiles were returned to the certified centers at the beginning of the training session, for reference during the course of the day. In this way, each program could see their individual strengths and weaknesses, pinpointing the areas they needed to work on for financial

viability and marketing development. This type of technical assistance made the training individualized for each program.

Training session content revolved around predictors of success from a marketing, financing, and programming perspective (as determined by Partners in Caregiving research over a 15-year period). As part of the training package, each certified program attending a training had access to individualized technical assistance (via telephone or e-mail) for a specified time. And, by attending a training, each certified program received certain training products developed by Partners in Caregiving.

A total of 94 (out of 106) certified programs participated in this project, by completing and submitting the Adult Day Services Profile – their ticket to the training. The 89% response rate was exceptional.

Following Up

NCADSA recognizes that the Special Provision funds were a major investment. Moreover, the priority was to develop a System for Sustainability so that these funds were not just a one-shot deal. Since no other state has funded such an endeavor, NCADSA initiated a follow-up study to measure the impact of the Project.

On December 31, 2008, Partners in Caregiving closed its doors after 21 years of research, training and technical assistance in the field of adult day services due to lack of funding. Teresa Johnson worked very closely as a subcontractor with principal investigator Nancy Cox of Partners in Caregiving to implement the Sustainability Project. Teresa served as principal investigator for this follow-up report.

Methodology

Three options for completing the 2009 Adult Day Services Profile (hereafter referred to as "survey") included completion online, as a Word document, or returning a hard copy via mail. Although the survey content was expanded for some questions and new questions were added, the scoring system for risk indicators remained unchanged from the previous study. Fifty-five surveys were returned. Forty-four of the 2009 respondents also completed the surveys five years ago. The attached summary represents a comparison of the results for those 44 respondents.

Conclusion

Key findings suggest that adult day centers in North Carolina are healthier now than five years ago. Gains have been made in programming and financing, while significant attention is still needed in marketing.

In order to be responsive to the needs of the participants and their family caregivers, the number of hours a center operates impacts an adult day center's success and its ability to serve working caregivers. The median number of hours centers operated rose slightly, to 10.25 per day, up from 10 hours per day five years ago. Average daily attendance rose from 22 to 25 participants per day. The average center capacity rose slightly from 30 to 34, while still maintaining a median utilization rate of 73%. Maintaining the same utilization rate may appear stagnant. However, due to the increase in average capacity of centers, the utilization looks more negative

than it actually is. Centers lowered the age requirement to serve participants age 18+ (93%, up from 76%). The average length of stay rose from 29 months to 33 months.

The digital age of marketing has obviously impacted the number of centers boasting web sites--increasing to 70% from 64%. Interestingly enough, though, the number of centers with yellow page ads in targeted headings other than adult day care such as under nursing homes, assisted living or home health dropped to 16% from 22%.

Improvements in revenue-gathering and financial performance resulted from the Project. Financial performance rose to an average 92% from 77% among the respondents. The median number of operating revenue streams rose to 7 from 6, with a notable increase in the percentage accessing Veterans Administration funding (45% up from 38%). The number of centers reporting no cash flow problems rose significantly to 70% from 49%. Rate increases to make public funding reimbursements more equitable obviously had a positive impact on the centers' financial status, with only 25% reporting a deficit at the end of the fiscal year, compared to 49% five years ago. Only 16% of centers reported having no reserve funds upon which to operate, compared to 41% five years ago. Average private pay fees rose to $50 per day, up from $42 per day, resulting in centers covering much more of their costs with operating revenue. The average daily unit cost was $55.68 while the median was only $53.71.

Ninety-one percent of the respondents were members of the NC Adult Day Services Association, up from 84%.

Issues to watch:

A general weakness among centers for basic marketing typically reflects the demands to fill many roles by the small number of administrative staff that most centers have. It takes time to create a coherent marketing plan and put it into action; it takes time to work the community until everyone knows your name; and it takes time to put a newsletter together every month.

The average number of inquiries converting to enrollments--referred to as conversion ratios--dropped to 43% from 55%. However, it is reasonable that respondents in the earlier survey did not understand, or did not track, such statistics, therefore yielding more accurate statistics in this survey.

Only 50% of centers having a marketing plan, and even fewer (32%) distribute a monthly newsletter to participants, caregivers, referral sources, funding sources and legislators. National research has shown that formal referral sources, including health care professionals such as physicians and hospital discharge planners, social service agencies and other community service providers and employers account for 75% of referrals to day centers. Therefore, it seems that efforts to maintain regular contacts with formal referral sources should be increased.

Distribution of a regular monthly newsletter seems like a logical first step toward generating more visibility and referrals for centers. Therefore, a comparison was made of centers distributing a monthly newsletter versus those that did not distribute a monthly newsletter. The following notable results were for centers publishing a monthly newsletter versus those that did not: operated more hours daily, had nearly double the enrollment, 50% higher average daily attendance and capacity, 11% higher utilization rate, 37% higher conversion rate, longer length of stay and higher percentage of private pay. Centers with newsletters were much less likely to

have a parent organization--be unaffiliated, 71%--than centers without newsletters, 50%. Since newsletters can be used as a fundraising tool to solicit donations as well as a marketing tool, a review of revenue was performed. Centers distributing a monthly newsletter reported slightly higher fundraising and donation revenue, but the most significant differences were for the revenue from grants (only 13% among "newsletter" centers compared to 35% among "non-newsletter" centers) and revenue from United Way (39% newsletter centers compared to 15% among non-newsletter centers). Based on these results, we can concur that time and resources invested in distributing a monthly newsletter pay off in funding, service utilization and expansion of adult day centers.

Transportation is a vital part of successful adult day programs, so it is disturbing that the number of centers not providing transportation rose from 9% to 23%. Rising costs to provide transportation have likely attributed to elimination of the service, but further study should also be given to the impact on the centers' enrollment and attendance.

The percentage of scores in the safety zone increased while those in the warning and danger zones decreased. Eighty-two percent of the 44 respondents scored in the safety zone, up from 71% five years ago. Estimates of people with Alzheimer's, aging Baby Boomers and people preferring community-based care are expected to increase the demand on adult day centers. While North Carolina's centers appear to be more stable now than five years ago, expanding adult day services continues to be an uphill struggle. Adult day centers remain a relatively well-kept secret, and their existence and their value need to be publicized more broadly. In addition, services need to be more accessible for persons in rural areas and economically disadvantaged areas. Focused efforts must continue to expand third party reimbursements such as private long-term care insurance and Veterans Administration, while also securing and maintaining equitable reimbursements from existing public reimbursement sources.

In conclusion, analysis of the 2004 and 2009 Adult Day Services Profile data reveals that the training, technical assistance, policy changes and implementing best practices introduced through the Sustainability Project were a wise investment by the North Carolina General Assembly. The results of this study provide a wealth of information, not only for North Carolina, but for the adult day services industry as a whole. North Carolina adult day services providers, legislators and supporters should be applauded for their progress in sustaining adult day centers in order to be better prepared to respond to the needs of its citizens through a cost-effective and more financially stable community-based service.

Summary of All Respondents

	2009 44 Respondents	2004 44 Respondents	
PROGRAM STRUCTURE			
Years in Operation			
Average	17	13	
Median	18.5	14	
<5 years	4.55%	20.0%	
5-10 years	25.00%	26.67%	
11-20 years	31.81%	37.78%	
21+ years	38.64%	15.56%	
Certification Type			
Social	31.82%	33.33%	
Combination	65.91%	64.44%	
Home	2.27%	2.22%	
Affiliation			
Parent Organization	43%	36%	
Free Standing	57%	64%	
Tax Status			
For Profit	9%	9%	
Non Profit	84%	91%	
Public	7%		
LOCATION			
County Classification	2000 US Census	2000 US Census	
Urban	71%	71%	
Rural	29%	29%	
State Regions			
Western	55%	55%	
Central	36%	36%	
Eastern	9%	9%	
OPERATION AND UTILIZATION			
# of Days Open / Year			
Average	247	246	
Median	250	250	

Summary of All Respondents

	2009 (N=44)	2004 (N=44)	
Hours of Operation			
Average	10	10	
Median	10.25	10	
<10 hours / day	15.91%	22.22%	
10+ hours / day	84.09%	77.78%	
Capacity			
Average	34	30	
Median	29	25	
<30	55%	64%	
30+ (state average)	45%	36%	
40+ (national average)	34%	29%	
Average Daily Attendance (ADA)			
Average	25	22	
Median	19.83	19	
Utilization Rate (ADA ÷ Capacity)			
Average	73%	72%	
Median	75%	75%	
< 66% (natl. avg.)	36%	33%	
SERVICE: TRANSPORTATION			
Do Not Provide	23%	9%	
Provide for No Extra Fee	14%	20%	
Provide for Extra Fee	48%	47%	
Contract Out	34%	38%	
STAFFING			
Overall Staff to Participant Ratio			
Average	3.95	3.84	
Median	3.74	3.45	
Overstaffed (<1:4) + Deficit	27%	27%	
MARKETING			
Age Requirement			
Age 18+	93%	76%	
Age 19-59	5%	18%	
Age 60+	2%	7%	

Summary of All Respondents

	2009 (N=44)	2004 (N=44)	
Type of Building Program is Housed			
Free Standing Building	66%	62%	
Senior Center	5%	4%	
Church	18%	18%	
Store Front	2%	4%	
Personal Residence	2%	2%	
Other	5%	9%	
Conversion Ratio (Inquiries into Enrollments)			
Average	43%	55%	
Median	40%	50%	
< 34% (natl. avg.)	45%	36%	
Do Not Know	16%	22%	
Length of Stay (Months Enrolled)			
Average	33	29	
Median	33	25	
< 24 Months (natl. avg.)	39%	49%	
Do Not Know	20%	24%	
Marketing Plan			
Yes	50%	56%	
No	50%	44%	
Monthly Newsletter to Participants/Caregivers, Referral Sources, Funding Sources and Legislators			
Yes	32%	29%	
No	68%	71%	

Summary of All Respondents

	2009 (N=44)	2004 (N=44)	
Target Marketing Materials			
Caregiver brochure(s)	84%	84%	
Referral source brochure(s)	43%	42%	
Caregiver flyer(s)	41%	44%	
Referral source flyer(s)	34%	38%	
Yellow page ad under adult day care	73%	71%	
Yellow page ad(s) under nursing homes, assisted living or home health	16%	22%	
Web site	70%	64%	
FINANCIAL INFORMATION			
# of Operating Revenue Streams			
Average	6	6	
Median	7	6	
< 3	9%	13%	
3-5	27%	24%	
6-8	48%	42%	
9+	16%	20%	

Summary of All Respondents

	2009 (N=44)		2004 (N=44)			
Types of Operating Revenue						
	% of Revenue Source		% of Revenue Source			
Private Pay	95%		96%			
Home and Community Care Block Grant (HCCBG)	91%		84%			
State Adult Day Care Fund (SADCF)	91%		80%			
Family Caregiver Support	18%		24%			
USDA Child & Adult Care Food Program (CACFP)	80%		78%			
Veteran's Administration (VA)	45%		38%			
Medicaid CAP-DA	55%		47%			
Medicaid CAP-MR/DD	32%		29%			
Private Insurance	2%		4%			
Medicaid Special Assistance	0%		4%			
Mental Health-Day Activity	16%		11%			
Medicaid-PSR	2%		2%			
Medicaid Case Mgmt	0%		11%			
Medicaid Therapy: CBS-P	2%		13%			
Other Contracts	75%		73%			
% of Private Pay Revenue to Total Operating Revenue						
Average	20.46%		25.81%			
Median	16.33%		22.29%			
< 35% (natl. avg.)	84%		82%			
35-59%	11%		9%			
60+%	5%		9%			

Summary of All Respondents

	2009 (N=44)	2004 (N=44)	
Unit Cost (Total Expenses ÷ Total Attendance Units)			
Average	$55.68	$49.98	
Median	$53.71	$52.02	
Private Pay Fee			
Average	$50	$42	
Median	$51	$42	
Avg. Fee – Avg. Cost	-$5.56	-$8.16	
Median Fee – Avg. Cost	-$1.41	-$9.56	
Charging < Unit Cost	55%	69%	
Financial Performance (Total Operating Revenue ÷ Total Expenses)			
Average	92.15%	77.25%	
Median	89.59%	80.35%	
<85% (natl. avg.)	39%	67%	
85-99%	36%	20%	
100%	0%	0%	
101+%	25%	13%	
Surplus/Deficit (Total Revenue - Total Expenses)			
Surplus			
% with Surplus	75%	40%	
Average	$53,809.93	$37,912.98	
Median	$17,567.00	$23,998.50	
Deficit			
% with Deficit	25%	49%	
Average	-$52,193.36	-$17,802.75	
Median	-$25,820.00	-$8,829.50	
Deficit and Open >5 years	30%	47%	
Cash Flow Problems			
None	70%	49%	
Monthly	14%	18%	
Quarterly	2%	7%	
Annually	2%	27%	

Summary of All Respondents

	2009 (N=44)	2004 (N=44)	
Reserve Funds			
None	16%	41%	
1-3 months	59%	32%	
4-6 months	14%	2%	
7-9 months	7%	11%	
10-12 months	5%	5%	
Other	2%	9%	
STRATEGIC PLAN			
Yes	61%	56%	
Average # Years	4	4	
No	34%	38%	
Do Not Know	5%	7%	
STATE INVOLVEMENT			
State Association Member			
Yes	91%	84%	
No	9%	16%	
AT RISK SCORE			
Safety Zone	82%	71%	
Warning Zone	16%	24%	
Danger Zone: At Risk of Closing	2%	4%	

Beverly Eaves Perdue
Governor

Lanier M. Cansler
Secretary

State of North Carolina
Department of Health and Human Services

For Release: Immediate
Contact: Lori Walston, Public Affairs Office
(919) 733-9190

Date: January 22, 2010

2009 Aging Awards announced

RALEIGH—The North Carolina Division of Aging and Adult Services (DAAS) has announced the recipients of the 2009 Awards in Aging. These awards recognize individuals, organizations and programs that exhibit outstanding work with North Carolina's aging population, with issues related to aging and with the aging community around the state.

"We have an outstanding group of award winners this year," said Dennis Streets, DAAS Director. "Collectively these groups touch the lives of many older adults and their families in the state. Their common emphasis on healthy aging and volunteerism is especially significant for today's seniors and in helping North Carolina prepare for the aging of our large baby boomer population."

The awards are as follows:

Messer Award: The Messer Award recognizes a community that has excelled in addressing the needs of its older citizens. There are two recipient organizations for the 2009 Messer Award—The Shepherd's Center of Greater Winston-Salem and the Orange County Department on Aging.

"In this award category we have two winners, both equally deserving," said Streets. "These agencies have a tremendous positive effect on their communities."

The Shepherd's Center of Greater Winston-Salem is a tremendous example of a vast community of volunteers dedicated to serving older persons. In 2008, over 475 volunteers provided more than 25,000 hours of support to over 2,500 older adults.

In 1980, Orange County established the first local public department on aging in North Carolina. Since that time, the Orange County Department on Aging has focused on meeting the needs of older adults through the use of creative programming, a team of inter-disciplinary professionals and a director and staff who have championed a person-centered, holistic approach to care.

This award is named for Ernest B. Messer, who was a champion for aging in the General Assembly and former assistant secretary for aging for the NC Department of Health and Human Services between 1981 and 1985.

--continued--

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2001 Mail Service Center, Raleigh, NC 27699-2001
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FAX (919) 733-7447

Renee McCoy
Director

Maddox Award: The Maddox Award recognizes an individual or organization that has excelled in creative programming for older adults. The 2009 Maddox Award winner is AARP North Carolina.

"AARP exemplifies an organization that has excelled in developing and implementing creative programs for older adults since its opening as an AARP State Office in 1995," said Streets. "As the face of the older adult continues to change, AARP has adapted and grown along with those changes to continue addressing the needs and interests of our aging population."

The award is named for Dr. George L. Maddox, a noted gerontologist and director of Duke University's Long Term Care Resource Program.

Busse Award: The Busse Award recognizes an individual or organization that has had a significant impact on enhancing the health status of older North Carolinians through efforts to direct health-related policies and provide leadership in developing innovative solutions to health care problems. The 2009 Busse Award recipient is Wake Resources for Seniors.

"Resources for Seniors is receiving this award for its focus on innovative, creative and effective physical activity programming for older adults in Wake County," said Streets. "The work they do brings long-lasting benefits for our seniors."

The award is named for Dr. Ewald W. Busse, who was president emeritus of the NC Institute of Medicine and a founding director of the Duke University Center for the Study of Aging and Human Development.

For more information about the DAAS or issues related to aging in North Carolina, please go to www.ncdhhs.gov/aging/index.htm.

MINUTES

NORTH CAROLINA STUDY COMMISSION ON AGING

Thursday, January 7, 2010
10:00 am
Legislative Office Building, Room 544

The North Carolina Study Commission on Aging met on Thursday, January 7, 2010, at 10:00 am in Room 544 of the Legislative Office Building. Members present were: Senators Bingham, Forrester, Swindell; Representatives England, Farmer-Butterfield, Pierce, Weiss; Ms. Mary Barker; Mr. Anthony Peace; Ms. Joan Pellettier; Ms. Maria Spaulding; and Ms. Patricia Sprigg. Staff also in attendance was: Susan Barham, Melanie Bush, Joyce Jones, Sara Kamprath Theresa Matula, Shawn Parker; and commission assistants Janice Mobley-Bennett and Delta Prince.

Senator A.B. Swindell, presiding chair, called the meeting order and began with introductions of members, staff (Bill Drafting, Fiscal Research, Research, Sgt. At Arms, Commission Assistants), and visitors from various organizations. Representative Farmer-Butterfield, co-chair, asked the commission members to speak with citizens in their area about issues that are important to them and report back to the Commission to ensure that they are moving forward on critical aging services needed in our State. Chairman Swindell prefaced this meeting stating his familiarity with living in an extended family environment. He, himself, had an aunt that lived with his family and now has a mother-in-law who has lived with him and his wife for many years. The meeting proceeded as follows:

- **Older Adults in NC: An Overview**, presented by Theresa Matula, Research Division, noted the who are they, how many are there, where do they live, and what programs and services are available to older adults in North Carolina. (Attachment I)
    - Representative Garland Pierce asked what part did the state play in funding a building for senior citizens' use. Ms. Matula responded that funding for a building was locally driven. Mr. Dennis Streets, Director, Division of Aging and Adult Services confirmed her answer.
    - Chairman Swindell wanted to know the difference between program participation and age participation. He noted that there were too many variances between program and age. Mr. Streets responded that the funding for some centers is based on the Old American Act, which applies to those persons age 60 and older. However, there are senior centers that will admit those under the age of 60 by using locally driven funding as well. Older workers are considered 45 and older and yes, we do need to come up with a common age group, stated Mr. Streets.
    - Senator Bingham asked what percentage of federal funding does North Carolina receive for older adult programs. Mr. Streets noted that he would have that information broken down into federal and state funding for the next Commission meeting.

- **Summary of Substantive 2009 Legislation Related to Aging**, presented by Shawn Parker, Research Division. (Attachment II)
  - *Older Adult Populations in Their Homes:*
    - Session Law 2009-462 (HB 456)
    - Session Law 2009-145 (HB 436)
    - Session Law 2009-451 (SB 202, Sec. 10.57)
    - Session Law 2009-220 (HB 994)
    - Session Law 2009-417 (HB 1058)
  - *Health and Wellness of Older Adults:*
    - Session Law 2009-100 (SB 188)
    - Session Law 2009-225 (SB 258)
    - Session Law 2009-502 (HB 1020)
  - *Studies:*
    - Session Law 2009-391 (HB 996)
      - Senator Bingham asked if this kind of study is done in other states, for which Ms. Matula replied that it is not done in North Carolina and that it is not currently known if it's done in other states. There may be similar models, but not exactly because North Carolina is not like other states. More information will be provided at an upcoming meeting.
    - Session Law 2009-574 (HB 945, Part XV)
    - Session Law 2009-574 (HB 945, Part XX)
  - *North Carolina Study Commission on Aging:*
    - Session Law 2009-142 (HB 358)
    - Session Law 2009-407 (SB 195)
    - Resolution 2009-26 (SJR 1106)
- **2009-10 Budget for Aging Services and Program**, presented by Melanie Bush, Fiscal Research Division. Senator Forrester asked if there are any decreases in the number of providers providing services with the decrease in payment to the providers. Ms. Bush said that there have been a number of providers that have determined that they will no longer serve Medicaid patients, but there are no solid numbers at this time. This information will be forthcoming during another Commission meeting. (Attachment III)
  - *Division of Aging and Adult Services:*
    - Eliminate Quality Improvement Consultation Plan - ($190,204) R
    - Eliminate Senior Center Outreach - ($100,000) R
    - Reduce and Replace Home and Community Care Block Funding - ($500,000) NR
    - Project CARE (Caregiver Alternatives to Running on Empty) - $500,000 NR
    - Senior Community Service Employment - $1,174,058 NR
  - *Division of Health Service Regulation:*
    - Increases in Annual Fees for License Renewals and Initial Facilities – ($1,122,990) R
  - *Division of Medical Assistance:*
    - Provider Rate Reductions – ($76,440,896) R in FY 2009-10 and ($82,261,586) R in FY 2010-11

        - Modify Personal Care Services Benefits – ($40,000,000) R in FY 2009-10 and ($60,000,000) in FY 2010-11
        - Reduce Nursing Home Cost Ceiling – ($2,298,778) R in FY 2009-10 and ($2,444,230) R in FY 2010-11
    - *Division of Public Health:*
        - Stroke Prevention - $450,000 NR
        - North Carolina Arthritis Patient Services - $50,000 NR
    - *Division of Social Services:*
        - Reduce State/County Special Assistance Rates – ($2,260,521) R in FY 2009-10 and ($3,286,281) R in FY 2010-11

- **Overview of Commission Responsibilities**, presented by Sara Kamprath, Research Division. Article 21 of Chapter 120 explains in detail the authority of this Commission. (Attachment IV)
    - *Creation and Purpose*
        - G.S. 120-180
    - *Membership*
        - G.S. 120-182
    - *Duties*
        - G.S. 120-181
    - *Meetings and Reimbursements*
        - G.S. 120-183 and G.S. 120-184
    - *Public Hearings*
        - G.S. 120-185
    - *Subcommittees*
        - G.S. 120-186.1
    - *Reports*
        - G.S. 120-187
    - *Staff and Meeting Place*
        - G.S. 120-188
- **2009 Study Commission Recommendation Status Report**, presented by Theresa Matula, Research Division. Senator Forrester noted that the Commission examines issues that do not require funding considering the fact that the state is in a budget shortfall. The Commission agreed. Senator Bingham needed Project CARE defined. Representative Weiss noted that this program provided respite care for caregivers of persons with Alzheimer's and dementia so that the patient can stay home longer; thereby, saving the state monies. All of the recommendations and results are in Attachment V.
    - ***Recommendation 1***: Strengthen Disaster Planning for Long-Term Care Facilities
    - ***Recommendation 2:*** Additional HCCBG (Home and Community Care Block Grant) Funds
    - ***Recommendation 3***: Senior Center Funding
    - ***Recommendation 4***: Adult Protective Services Pilot Program
    - ***Recommendation 5***: Special Care Dentistry
        - 5(a): Support Division of Medical Assistance, DHHS efforts to increase dental care providers
        - 5(b): Special Care Dentistry Collaboration

        - 5(c): Dentistry Funds for Special Care Populations
    - ***Recommendation 6***: Adult Day Care Reimbursement Rate Increase
    - ***Recommendation 7***: Funds for Project CARE (Caregiver Alternatives to Running on Empty)
    - ***Recommendation 8***: Preparing for Increased Numbers of Older Adults
    - ***Recommendation 9***: Adult Care Home Mixed Population Workgroup
    - ***Recommendation 10***: Adult Care Home Quality Improvement Pilot Program on Medication Safety
    - ***Recommendation 11***: Support for Changes to Guardianship Laws
- **Tentative 2010 Meeting Schedule and Presentation of Commission Budget**, presented by Theresa Matula, Research Division. The dates of future meetings are attached and made a part of these minutes. A motion was made by Representative Weiss and seconded by Senator Bingham to accept the 2010 Estimated Commission Budget as provided. The Commission agreed unanimously. (Attachments VI and VII)

Senator Forrester asked that there be a presentation on the relationship between childhood obesity and Alzheimer's during an upcoming meeting.

Chairman Swindell thanked the representative of agencies or organizations that help participants in the older adult programs throughout the state.

The Visitor Registration Sheets are attached and made a part of these minutes.

This meeting adjourned at 11:45 am.

Senator A.B. Swindell
Presiding Co-Chair

Delta F. Prince
Commission Assistant

MINUTES

NORTH CAROLINA STUDY COMMISSION ON AGING

Thursday, January 21, 2010
10:00 am
Legislative Office Building, Room 643

The North Carolina Study Commission on Aging (Commission) met on Thursday, January 21, 2010, at 10:00 am in Room 643 of the Legislative Office Building. Members present were: Senators Bingham, Dorsett, Swindell; Representatives Farmer-Butterfield, Pierce, Weiss; Ms. Mary Barker; Mr. Anthony Peace; Ms. Joan Pellettier; Ms. Jean Reaves; Ms. Maria Spaulding; and Ms. Patricia Sprigg. Staff also in attendance was: Susan Barham, Melanie Bush, Joyce Jones, Sara Kamprath, Theresa Matula; and commission assistants Janice Mobley-Bennett and Delta Prince.

Co-chair Jean Farmer-Butterfield called the meeting order and began with introductions of members, staff (Bill Drafting, Fiscal Research, Research, Sgt. At Arms, Commission Assistants) and visitors from various organizations. A special recognition was also given to Jamarcus Underwood, intern for Representative Garland Pierce and a sophomore at North Carolina Central University. The meeting proceeded as follows:

Aging Services and Programs: Concerns, Opportunities, and Optimism, presented by Mr. Dennis Streets, Director, Division of Aging and Adult Services (Division), Department of Health and Human Services (DHHS).

Mr. Streets noted that the Division of Aging was established in 1977 and merged with Adult Services, formerly in the Division of Social Services, in 2003. The Division currently has 58 positions, of which 12 are field positions, but the staff size is no greater now than in the 1980s. The current (2007-2011) State Agency Service Plan has generally been given to the General Assembly in the past, but can now be found on the DHHS website and does describe the work of the various agencies, including Aging.

In the early 1990s the General Assembly instructed the Division to annually collect information from other state agencies about the public expenditures for the population age 60 and older. This information is available on the website and to county officials and county aging committees by February 15 of each year. The purpose of this is to work with area agencies on aging to help determine the best use of the Home and Community Care Block Grant (HCCBG) Funds. Information presented today is from the year ending June 30, 2009, and includes state and federal funds and the required local match. It does not include Medicare, Social Security, or retirement; but at a total amount of $3.1 billion, it is a major infusion of funds for our older population through our counties.

When the Division of Aging merged with Adult Services, the budget for Adult Services' programs remained within the Division of Social Services' budget. The Division of Aging and

Adult Services did not want to disrupt the way county departments of social services were able to report their services and requests for reimbursement. As a result, of the $215 million in total expenditures by the Division of Social Services, about $110 million are expenditures by the Division of Aging and Adult Services. The Division of Aging and Adult Services is responsible for a total of about $178 million in expenditures or about 5.7% rather than the 2.2% as outlined in **Attachment I**.

Senator Bingham asked about the percentage of federal funding that the State receives for older adult programs. Mr. Streets explained that of the $3.1 billion the State receives, about $1.8 billion is federal funds (~59%), less than $1.3 billion is state funds (~39%), and the required local match is about $52.5 million (< 2%). Additional information on total expenditures for other services is outlined in **Attachment I, Slides 4-8**.

Mr. Streets noted that Forsyth County celebrated its four millionth home delivered meal several months ago. Forsyth County has the third oldest home delivered meals program in the nation and is the oldest in the southeast. The average age of the participants in the program is over 80 years old and over half of them live alone. A copy of comments from three participants currently enrolled in the home delivered meals program is outlined in **Attachment I (a).**

According to Mr. Streets, federal laws require that the one meal delivered to participants must be one-third of their minimal daily nutritional requirement. The Division's research found that for half of the people served, this is half of their daily food intake.

Mr. Streets listed a few concerns the Division has in relation to service needs. They are:

- Increase in Adult Protective Services Reports **(Attachment I (b) and (c))**
- Growth of Wait List for Home and Community Services **(Attachment I (c))**
- Status of Home and Community Care Block Grant **(Attachment I (d))**
- Increase in Public Guardianship Cases **(Attachment I and Slide 13)**
- Uncertainty Within Alzheimer's Support Network **(Attachment I (e) and Slides 14-19)**
- The NC Roadmap **(Attachment I (f) and Slides, 20-32)**
- Other Noteworthy Statistics **(Attachment I (g) and Slides 33-37)**

To illustrate the importance of providing professional assistance to the caregivers of people with Alzheimer's and other dementia, Mr. Streets presented an article about a Florida man scheduled to stand trial for killing his father, a longtime Alzheimer's sufferer. The article can be read in full in **Attachment I (h)**.

Mr. Streets then presented reasons to remain optimistic through examples of volunteers, workers, and individuals that provided extraordinary care to North Carolina's aging population:

- **Nancy Richardson and Mary Watson** – In 2007 there was a shooting in Rocky Mount that killed the Meals-on-Wheels director and severely injured the assistant director. Ms. Richardson and Ms. Watson came out of retirement to volunteer their services in order to

ensure that this particular program continued to serve the needs of its participants as usual.

- **Transylvania Retiree Resource Network** – A group of 70+ retirees made themselves available to Transylvania County to produce the county's most recent economic development strategic plan at a great cost savings to the county See **Attachment I (i)**.

- **Bill Magness** – Upon delivering a hot lunch to a disabled man in Forsyth County, Bill and Anne Magness encountered an intruder who had already killed the meal recipient, and in turn, shot both Bill and Anne, killing Anne and severely injuring Bill. After a long battle for his life, Bill recovered and is back volunteering on that same route. Senior Services, Inc., the charitable organization that operates Meals-on-Wheels, established the Anne and Bill Magness Meals-on-Wheels Fund at The Winston-Salem Foundation in an effort to honor the Magnesses for their many years of committee to the community. A copy of the news article is provided in **Attachment I (j)**.

- **Billy Butler and Van Pierce** (volunteers) – Mr. Butler was specifically recruited for his talents and skills as a piano player and music director. Since joining Columbus County RSVP, he has reported nearly 34,000 hours of service at the local nursing homes and rest homes. His volunteer service is not limited to music - he transports senior citizens who can no longer drive to medical appointments, the pharmacy, and grocery stores.

  Mr. Pierce has been a volunteer for the Ramps & Rails Program for more than six years. Over 125 ramps were built last year in all areas of Columbus County due to Mr. Pierce's commitment and leadership. See **Attachment I (k)**.

- **Evelyn Clay** – A strong advocate for the works of the Alzheimer's Association died on October 16, 2008. She had been a caregiver for a family member with Alzheimer's for many years and helped to open an adult day services center in Asheville, North Carolina. According to her family, as she was actively dying she asked the ICU nurses that were attending her for their assistance in using the phone. Ms. Clay wanted to find someone that would be willing to take her place as a facilitator for her group. See **Attachment I (l)**.

After Mr. Streets' presentation, Co-chair Farmer-Butterfield opened the floor for questions from members of the Commission. Senator Katie Dorsett wanted to know how the unsung heroes are publicly recognized. Mr. Streets stated that recognition is generally done at the North Carolina Conference on Aging, but due to lack of funding the conference was not held in 2009. He noted that the Division of Aging and Adult Services will announce its 2009 award recipients through a press release on Friday, January 22, 2010.

Ms. Jean Reaves, Commission member, stressed the importance of recognizing the care of caregivers. She gave an example of a wife caring for her husband and then becoming more ill herself from the stress of caring for him. Now, instead of needing to place one patient, there are two. Ms. Reaves also acknowledged the partnership of the Division with the veteran population and asked that they consider partnering with our school systems as well.

Senator Stan Bingham asked Mr. Streets to explain how Alzheimer's is the 6th leading cause of death. Mr. Streets stated that it is associated with the age of the older population and he would get more information on that issue from the Division of Public Health. Senator Bingham also wanted to know if there was something people could do to help prevent the seriousness of falls in older adults. Mr. Streets noted that several issues could address this problem: strengthening a person's ability, correcting vision, providing good nutrition, providing proper use of medical equipment and aids, etc. Co-chair Swindell noted that pride might be a reason for older adults falling and not having their homes equipped with handicap features in general.

Anthony Peace, Commission member, challenged the Commission to finds ways to change public perception of nursing homes and adult care facilities. Co-chair Farmer-Butterfield asked Mr. Streets to comments on the services the state provides for grandparents with needs that raise their grandchildren. Mr. Streets noted the Division's partnership with the North Carolina Cooperative Extension and AARP North Carolina to produce materials and guides for support of grandparents in need of assistance. He also noted that a number of grandparents today are younger than 60 years of age.

Adult Care Home Star Rating Program (S.L. 2007-544, Section 3(g)), presented by Megan Lamphere, Facility Survey Consultant, Adult Care Licensure Section, Division of Health Service Regulation, DHHS. This program was initiated by the Commission in response to citizens of North Carolina who voiced the need for increased availability of public information regarding the care provided in adult care facilities. The North Carolina Medical Care Commission developed rules for the rating program with input from residents and families in adult care homes, advocacy groups, providers and others. Additional information on this program is outlined in Attachment II.

Co-chair Swindell asked if there are a sufficient number of adult care inspectors compared to the number of facilities operating throughout the State. Mr. Jeff Horton, Acting Director, Division of Health Service Regulation (DHSR), stated that the numbers are not sufficient. He noted that out of 1,300 adult care homes, DHSR was only able to inspect about 1,000 facilities last year. Co-chair Swindell also had concerns about ratings staying with a home that has been purchased by another owner and the current owner having the opportunity to correct specific problems within a reasonable time during the same rating period. Ms. Lamphere noted that the home would begin again with 100 points on their next annual inspection.

Senator Dorsett wanted to know the minimum score a facility could have and continue to operate. According to Mr. Horton, a rating score is not directly related to facility's ability to keep its license or not. Mr. Horton also stated that the severity of the violations, in some cases, could dictate whether or not the license would be revoked. Senator Dorsett asked if training opportunities are available to owners in preparation for the new rating system and if facilities might have more Medicaid patients than paying patients. According to Ms. Lamphere, Medicaid and paying patients are generally evenly distributed. The North Carolina Long-Term Care Facilities Association has contracted with VieBridge, to create the ACHieve website that provides information on the requirements that the star rating is based on. It is free to all providers, all counties, and any interested parties concerned about being in compliance to get

better star ratings. In response to how much information is available on the website, Ms. Lamphere noted that all forms are readily available including the worksheet. Ms. Lamphere also noted that there are formal appeals that are handled through the Office of Administrative Hearings.

Expansion of the Star Rating Program (S.L. 2007-544, Section 3(f)), presented by Mr. Jeff Horton, Acting Director, Division of Health Service Regulation, DHHS. The Division, DHSR, and DHHS identified four categories of other facilities (non-adult care homes) and services licensed and certified by DHHS to be considered for inclusion in a rated certificate program. Additional information on this program is outlined in Attachment III.

Co-chair Farmer-Butterfield wanted to know the estimated cost of the Star Rating Program website. Mr. Horton noted it would cost about $100,000 for a webmaster and to enhance their current system to include mental health, developmental disabilities, and substance abuse services.

Co-chair Farmer-Butterfield announced requests public hearings. She mentioned Guilford, Mecklenburg, and Nash counties as possible locations. The Commission will hear recommendations at the next meeting.

The Visitor Registration Sheets are attached and made a part of these minutes.

The Commission will meet again on Thursday, February 4, 2010. This meeting adjourned at 12:20 pm.

Representative Jean Farmer-Butterfield
Presiding Co-Chair

Delta F. Prince
Commission Assistant

NORTH CAROLINA STUDY COMMISSION ON AGING

Thursday, February 25, 2010
10:00 am
Legislative Office Building, Room 544

The North Carolina Study Commission on Aging met on Thursday, February 25, 2010, at 10:00 am in Room 544 of the Legislative Office Building. Members present were: Senators Bingham, Dorsett, Forrester, Swindell; Representatives Farmer-Butterfield, England, Pierce, Weiss; Ms. Mary Barker; Mr. Anthony Peace; Ms. Joan Pellettier; Ms. Jean Reaves; Ms. Maria Spaulding; and Ms. Patricia Sprigg. Staff also in attendance was: Susan Barham, Melanie Bush, Sara Kamprath, Theresa Matula, Shawn Parker; and Commission assistants Janice Mobley-Bennett and Delta Prince.

Co-chair Jean Farmer-Butterfield called the meeting to order and proceeded as follows:

Types of Aides, Current Requirements, Locations of Employment, and Related Information, presented by Mr. Jesse Goodman, Acting Chief Operating Officer, Division of Health Service Regulation, Department of Health and Human Services (DHSR, DHHS). See **Attachment I**.

Mr. Goodman reviewed the Department's charge to "establish and maintain a registry containing the names of all nurse aides working in nursing facilities in North Carolina. The Department is required to include in the nurse aide registry any findings by the Department of neglect of a resident in a nursing facility or abuse of a resident in a nursing facility or misappropriation of the property of a resident in a nursing facility by a nurse aide."

There are two ways to meet the North Carolina and Federal Requirements for Nurse Aide I Registry: (1) successfully complete either a state-approved Nurse Aide I Training and Competency Evaluation Program or a state-approved Nurse Aide Competency Evaluation Program (42, CFR 483 Subpart B 483.75(e); 42 CFR 483 Subpart D 483.250-158); or (2) renew by working a minimum of eight hours during every 24 months as long as the work is for pay, as a nurse aide, and supervised by a registered nurse.

The Federal Requirements for Nurse Aide I Training (NAT) Programs are as follows states that the State must review and approve or disapprove NAT programs upon request, must withdraw programs that do not meet applicable requirements, and extends approval good for two years.

Federally Required Content for Nurse Aide I Training Programs consist of communication skills, infection control, safety/emergency procedures; promoting residents' independence and rights; basic nursing skills; personal care skills; mental health and social service needs; care of cognitively impaired residents; and basic restorative services.

The Nurse Aide I Model Curriculum was developed in 1997 by DHSR in response to federal regulations. It was updated in 2002 to continue to reflect federal requirements, updated skills and procedures. Research and stakeholder feedback began in 2009 to prepare for the next revision. Representatives from the North Carolina State Board of Nursing, Nurse Aide Registry

and Certification Sections of DHSR, NC Health Care Facilities Association, Beverly Enterprises – Star Mount Villa, Mayview Convalescent Center, NC Association for Home Care, Inc., NC Nurses Association, NC Community College System, and the NC Hospital Association are a few of the stakeholder groups involved in the curriculum development.

Mr. Goodman stated that the North Carolina State-Approved Nurse Aid I Training Programs include all content required by federal government, follow extensive curriculum developed by North Carolina or follow the North Carolina curricular requirements, and require student proficiency in 69 skills. Other training programs include Nurse Aide I refresher courses (taught at community colleges and licensed proprietary schools), schools of nursing (Memorandum of Understanding between NC Board of Nursing and DHSR, public high schools (Memorandum of Understanding between NC Department of Public Instruction and DHSR), and non-approved, unlicensed, private classes/courses and schools. Mr. Goodman noted the types and numbers of state-approved Nurse Aide I training programs as being high schools (212), community colleges (162), schools of nursing (110), proprietary schools (20), nursing homes (12), mental health-state (3), adult care homes (1), and hospitals (0).

The Federal Requirements for Competency Evaluation is administered by a written or oral exam. Individuals have three chances to take and pass the exam. The exam addresses all course requirements in 42 CFR 483.152, requires a demonstration of randomly drawn skills which are performed in a lab setting comparable to the employment setting for an aide employment, and is administered by an RN with experience caring for elderly or chronically ill of any age.

The North Carolina Competency Evaluation Guidelines include all federal guidelines/requirements and required training and re-training in a state-approved program for any tester failing competency evaluation three times, before re-testing a fourth time. The North Carolina Nurse Aide Competency Exam is administered by Pearson VUE, a nationally and internationally recognized leading provider of assessment services to regulatory agencies and national associations. The exam uses the National Nurse Aide Assessment Program (NNAAP), developed and owned by the National Council of State Boards of Nursing, Inc., which measures minimal competency of entry-level nurse aides in their knowledge, skills, and abilities.

Federal Requirements for Nurse Aide In-Service Training state that skilled care facilities must complete a performance review of every nurse aide at least once every 12 months, and must provide regular in-service education based on the outcome of these reviews. The in-service training must be sufficient to ensure the continuing competence of nurse aides, but must be no less than 12 hours per year and based on performance review and special needs of residents. In response to the federal regulations, the agency developed Continuing Education Modules to assist facilities in meeting the in-service requirements. In addition to basic nursing tasks, the agency developed an Expanded Role of the Nurse Aide I in North Carolina, which includes Medication Aide, Geriatric Aide, and Nurse Aide II.

The Health Care Personnel Registry contains information about unlicensed health care workers for any of the following allegations: resident abuse, resident neglect, misappropriation of property, diversion of resident of facility drugs, and fraud against a resident or facility. Mr. Goodman noted that as of June 30, 2009, there were a total of 506 (367 individuals) pending allegations and 4,709 (3,491 individuals) substantiated findings in the Health Care Personnel Registry.

Questions and Answers:
Senator Forrester wanted to know why hospitals did not provide training for nurse aides. Mr. Goodman responded that many agencies hire from the Nurse Aide I Registry knowing there is consistency in the state-approved training programs and it also saves money.

Senator Bingham inquired about the average salary of nurse aides, LPNs, etc. and the number of hours needed to receive a degree in this program. In response, Mr. Goodman and Ms. Kathy Turner, DHHS, Health Care Personnel, stated an average pay would be $11-$12 per hours depending on the agency and the demand level of the care provider with an average of 142 hours of coursework and clinical experience. As for Senator Bingham's question concerning GED graduates and graduates with criminal backgrounds, Ms. Turner explained that there is generally a contract agreement between state-approved educational institutions and clinical facilities that is not governed by State policies and procedures.

Ms. Maria Spaulding questioned the passing rates percentages of written tests vs. skills tests and the groups it represent. Mr. Goodman explained that the written test is a pass or fail test, while the skills tests have many components and if an individual fails any component of the skills test he/she fails the whole test. The passing rate is not 100% for written tests, but it is for skills component. Mr. Goodman stated that he thought that State-approved training was the way to go, but some choose not to take that route.

Ms. Jean Reaves had concerns about the number of substantiated findings against our nurse aides in relation to the total number of aides statewide. Mr. Goodman explained that of the number of active aides listed, there are no findings against them. Once you have substantiated findings against you, you are no longer on the active registry. He noted that the numbers presented today represent the findings since the beginning of this program to date. In response to Ms. Reaves concerns about the credibility of the training programs, Mr. Goodman encourages anyone hoping to become a nurses aide to participate in state-approved training programs such as those offered in local community colleges; however, it is a personal choice (three-day program or state-approved program).

Ms. Joan Pellettier expressed concerns about the cost ($96) and travel to certification sites being a roadblock for many participants. Mr. Goodman stated that the agency is currently working to establish more test sites, online registration/scheduling, and more availability of testing. He also noted that the Geriatric Aide Training Program is under consideration for online access which was a concern of Ms. Patricia Sprigg, as well as, high schools as primary providers (part of allied health curriculum).

Senator Forrester wanted to know if ombudsmen are involved in investigating allegations of substantiated findings. He also asked the Division to submit a copy of the responsibilities of ombudsmen to the Commission. Mr. Goodman stated that ombudsmen are not actively involved in their investigation process. However, Ms. Mary Barker noted that the ombudsman in her area was actively involved in these types of investigations. Ms. Kathy Lanier, DAAS Ombudsman Program, said ombudsmen do not serve in a regulatory capacity but as a vehicle through which a complaint about a misappropriation or improper action is taken.

Co-chair Farmer-Butterfield made reference to the 23,829 tests administered by the State and wanted to know the percentage of repeaters. She also asked for information concerning the retention rate of various employment settings and the availability of employment vs. training for nurse aides. The co-chair also wanted to know if an "alleged" complaint against an individual or facility was added to a list before being proven and how long after unsubstantiated would the name remain on the list. Mr. Goodman noted that alleged allegations against an individual or facility would mean adding your name to a list, but the name would be removed within 24 hours if unsubstantiated. However, the Department would get the other information back to the Commission for the next meeting.

Mr. Anthony Peace responded to Representative Bob England's question concerning the reasons for high turnover rates by stating, from his experience, that older aides are more responsible while the younger ones are less responsible, and the penalty for having an allegation against you is very high. Mr. Peace also noted that if there is an allegation against an individual which causes that individual to leave one facility, the other facility may not know of the allegation because a registry check is done before hire only. It does not carry over into another position or facility, whereas, many aides work at more than one facility. Mr. Goodman stated that the State's website offers a way to follow-up on change of status of individuals with allegations by submitting an email address for updates for up to 12 months after an allegation is listed.

Exploring the Current Requirements, presented by Dr. Saundra Spillman, Executive Director, Direct Care Workers Association; Dr. Linda Burhans, Associate Executive Director, Education/Practice, North Carolina Board of Nursing; Dr. LeRoy King, Board Chair, Friends of Residents of Long Term Care; and Ms. Elizabeth Beall, Board Member, Friends of Residents of Long Term Care. See **Attachment I (a), (b), (c), (d)**.

Dr. Saundra Spillman stated that the Direct Care Workers Association (DCWA) of North Carolina was incorporated on April 22, 2003, to be a statewide, education-based organization for direct care workers and others who share its mission and values. The development of a direct care worker association in the State was one of the activities of the Centers for Medicare and Medicaid Services 2001 Real Choice Systems Change grant that was awarded to DHHS. Membership is represented by all direct care workers from hospitals, home health, hospice, nursing homes and assisted living throughout North Carolina. The mission of the Direct Care Workers Association is to improve the quality of care provided to health and long term care consumers and their families through the education, professional development, and public awareness of direct care workers, noted Dr. Spillman. The DCWA and the Department of Labor developed an apprenticeship training program (career lattice) to help provide a pathway for incumbent employees to work while continuing their education, to ensure additional resources are made available through partnership with the WIB, and to maintain that CNAs receive more specialized training that promotes retention and encourages advancement, stated Dr. Spillman.

Dr. Linda Burhans stated the mission of the North Carolina Board of Nursing (BON) as protecting the public by regulating the practice of nursing. The Nursing Practice Act regulates two levels of nurses who are licensed in this State: (1) the licensed practical nurse (LPN), and (2) the registered nurse (RN). License practical nurses have at least one year of education and have a more limited scope of practice than does the registered nurse. The registered nurse might be educated in community colleges at an associate degree level or in universities at a baccalaureate

degree level. There are still two diploma programs available in our state for registered nurses as well, noted Dr. Burhans.

According to Dr. Burhans, the responsibilities of the Board include: establishing Unlicensed Assistive Personnel (UAP) scope/tasks, approving Nurse Aide (NA) II educational programs, maintaining the Nurse Aide II Registry, and establishing medication aide training requirements for nursing programs. To qualify as a NA II, applicants must obtain a GED or high school diploma, be listed on the NA I Registry (DHSR) with no substantiated findings, successfully complete the NA II education programs, submit an application to the Board, and have a biennial renewal of eight hours of nurse aide compensated work in the last 24 months. The tasks should include 160 hours of coursework and serving in an assistive role. There are 103 (78 community colleges, 14 proprietary schools, 11 hospital) active educational programs in North Carolina. Dr. Burhans stated that there are 17,187 individuals listed as NA IIs of which 5,523 are in hospitals.

Dr. Burhans also gave the qualifications for Medication Aides: GED or high school diploma, successful completion of BON-approved 24 hour Medication Aide education program, successful completion of a state-approved competency evaluation program, listing and biennial renewal on the Medication Aide Registry, and listing on the NA I Registry (DHSR) with no substantiated findings required prior to employment in nursing home. Medication Aide tasks are limited to performing technical aspects of medication administration and are unable to administer injectable medications. Also according to Dr. Burhans, North Carolina currently has 211 medication aide instructors with community colleges serving the majority of these positions.

Dr. Leroy King, Board Chair, Friends of Residents of Long Term Care, addressed concerns about the quality of life and care in residential living. He expressed concern that there is no standardized training for the direct care worker. He pointed out that some take 75 hours of preparation and some take an 8-hour course aimed at passing the exam. He feels that many of the stated training requirements are invalidated by exemptions and staffing levels are too low. Mr. King said to make ends meet, direct care workers often work two back-to-back shifts at the same, or at different facilities, leading to fatigue and increased errors, especially among direct care staff working 12 or more hours. As previously stated by Dr. King, direct care workers in North Carolina are required to have only 75 hours of training, while cosmetologists must have 1,500 hours of an approved training program, manicurists must have 300 hours, and to be a veterinary assistant requires a two-year Associate of Arts degree from a community college.

Ms. Elizabeth Beall is a lawyer who represents people who have been hurt in nursing homes due to caretaker neglect. Ms. Beall expressed her belief that the care that ends with injury or death of an elderly patient is often the result of untrained direct care workers who simply do not have the knowledge to provide the care the patient needs. The North Carolina Administrative Code at 10 NCAC 13F currently requires that staff providing personal care to residents in an adult care home complete an 80-hour personal care training and competency evaluation program. But, Ms. Beall believes the exceptions swallow the rule. She expressed concern that requirements may be satisfied by completing a 40-50 hour training program or a 75-80 hour training program or by a competency evaluation; and the direct care worker may work in the facility taking care of patients for six months without the required training or competency evaluation. She also noted that the competency evaluation is not uniform or standard. Additionally, she believes the certification process in the Administrative Code is discretionary, depending on the registered nurse who conducted the skills competency evaluation; therefore, she does not believe this

provides a consistent, single standard of testing or a single standard of care. Ms. Beall, representing Friends of Residents in Long Term Care, recommends that the Commission on Aging establish a Study Commission on Direct Care Worker Training so that they may collect the data that is sorely missing from current discussions.

Questions and Answers:
Senator Swindell cautioned the Commission on judging cases against a facility without knowing the full details surrounding that particular case.

Senator Bingham asked Dr. Burhans to define "substantiated findings" and outline any opportunities for appeals. She explained that if complaints are submitted against an individual and their NA I listing shows substantiated findings against their listing they are not eligible for the NA II program. Dr. Burhans said the individual would have to go through the appeals process with the NA I listing process, which would not involve the Board of Nursing. When the substantiated finding is removed then they could proceed with the NA II program. Dr. Burhans also explained to Senator Bingham that the Medication Aide program is different from the NA II, but a NA I or NA II could also apply for Medication Aide training.

Road Safety and Aging Driver, presented by David Harkey, Executive Director, UNC Highway Safety Research Center, provided an overview of national and North Carolina demographics and safety facts, aging driver safety strategies, and driver licensing. See **Attachment II (a)**.

In Mr. Harkey's presentation, he noted addressing safety and mobility for aging drivers has been on the national agenda for more than 20 years and this is an integral part of strategic highway safety plans for many state DOTs, including North Carolina. The Executive Committee on Highway Safety Working Group was established with multiple approaches and partners to achieve success. He stated that older driver safety is trending in a positive direction making reductions per capita that are greater than any other age groups. Mr. Harkey told the Commission that licensing policy alone is not the answer to older driver safety in-person renewal is the one correlation to a reduction in fatality rates for this age group. Policies should not be established on the basis of a few crashes that draw media attention. Mr. Harkey believes that ineffective policies waste limited resources.

The North Carolina Driver Medical Evaluation Program, presented by Ms. Susan Stewart, Manager, Drivers License Medical Review Branch, NC Division of Motor Vehicles. See **Attachment II (b)**.

Ms. Stewart stated that the Driver Medical Evaluation (DME) program is administered by the Division of Motor Vehicles (DMV), with medical counsel and individual case recommendations provided by physicians and physician extenders within the High Safety Scientific Services Section of DHHS. Drivers can be referred to DMV by concerned physicians, family members, driver license examiners, and law enforcement officers. As a driver, you may be asked to have your personal physician provide information on your medical condition for review by the medical professionals at DHHS with a final licensing decision made by DMV. Ms. Stewart explained that DMV needs to know if individuals are experiencing medical problems such as seizures, diabetes or blood sugar problems with loss of consciousness spells, blackouts, visual

problems, neuromuscular disorders and sleep disorders, serious respiratory conditions requiring oxygen, heart problems, a recent stroke, dementia, mental illnesses, or substance abuse disorders.

Strategies to Reduce Highway Crashes, Injuries, and Fatalities Involving Older Drivers, presented by Ms. Phyllis Bridgeman, Home and Community-Based Services Consultant and Co-chair of the Older Drivers Task Force, DAAS. See **Attachment II (c)**.

According to Ms. Bridgeman, the UNC-CH Highway Safety Research Center brought this group together originally as a senior driver safety coalition with the help of a grant from the Governor's Highway Safety Program. The coalition was invited to serve as the Executive Committee's older driver working group in 2005, and to date has developed and begun implementation of the seven strategies listed below to reduce crashes and promote older driver safety.

Strategy #1, improve signs at non-standard interchange approaches.
Strategy #2, identify hazardous intersections and improve their safety for older drivers.
Strategy #3, build capacity among engineers, planners, and other practitioners to accommodate the needs of older drivers.
Strategy #4, strengthen DMV training for identifying drivers at increased risk of crashing, while fostering a positive environment for the testing of older drivers experiencing declines.
Strategy #5, increase the public's awareness of older driver issues and resources for maintaining safe mobility.
Strategy #6, engage law enforcement in implementing older driver safety initiatives.
Strategy #7, engage physicians and other health care providers in implementing older driver safety initiatives.

Due to lack of time, there were no questions for the last three presenters.

Review and Approval of Minutes – The Commission unanimously voted to approve the minutes from the February 4, 2010, meetings.

The Visitor Registration Sheets are attached and made a part of these minutes.

The Commission will meet again on Thursday, March 4, 2010. This meeting adjourned at 1:20 pm.

Representative Jean Farmer-Butterfield
Presiding Co-Chair

Delta F. Prince
Commission Assistant

Agenda

North Carolina Study Commission on Aging

Thursday, February 25, 2010
10:00 a.m.
Legislative Office Building
Room 544

I. Welcome and Comments

Representative Jean Farmer-Butterfield, Cochair
Senator A.B. Swindell, Cochair

II. Nurse Aide Preparation

- **Types of Aides, Current Requirements, Locations of Employment, Related Information**
  Jesse Goodman, Division of Health Service Regulation, DHHS

- **Exploring the Current Requirements**
  Saundra (Sandy) H. Spillman, Executive Director, Direct Care Workers Association
  Linda Burhans, Director Education/Practice, NC Board of Nursing
  LeRoy King, Board Chair, and Elizabeth Todd Beal, Board Member, Friends of Residents in Long Term Care

III. Older Driver Safety

David Harkey, Executive Director, UNC Highway Safety Research Center

Susan Stewart, Medical Evaluation Program, NC Division of Motor Vehicles

Phyllis Bridgeman, Division of Aging and Adult Services, and Cochair of the Older Drivers Task Force

IV. Review and Approval of Minutes

V. Next Meeting:
Thursday, March 4, 2010 at 10:00

Public Hearings:

Wednesday, March 24, 2010
from 10:00 – 12:00
Jamestown Town Hall
301 E. Main St., Jamestown, NC

April 7 or 8 – Tentative Date

ATTENDANCE

NORTH CAROLINA STUDY COMMISSION ON AGING

DATES CO-CHAIRS	Jan. 7, 2010	Jan. 21, 2010	Feb. 4, 2010	Feb. 25, 2010	March 4, 2010	April 1, 2010	May 11, 2010								
Senator A. B. Swindell				✓											
Representative J. Farmer-Butterfield				✓											
SENATE MEBERS															
Senator Stan W. Bingham				✓											
Senator Katie G. Dorsett				✓											
Senator James S. Forrester				✓											
Senator Joe Sam Queen															
SENATE PUBLIC MEMBERS															
Mr. Joe Eller															
Mr. Anthony Peace				✓											
Ms. Jean Reaves				✓											
HOUSE MEMBERS															
Representative Alice L. Bordsen															
Representative Bob F. England, MD				✓											
Representative Garland E. Pierce				✓											
Representative Jennifer Weiss				✓											
HOUSE PUBLIC MEMBERS															
Ms. Mary P. Barker				✓											
Ms. Joan M. Pellettier				✓											
Ms. Patricia E. Sprigg				✓											
EX OFFICIO															
Ms. Maria Spaulding				✓											
STAFF															
Ms. Susan Barham				✓											
Ms. Melanie Bush				✓											
Ms. Joyce Jones															
Ms. Sara Kamprath				✓											
Ms. Theresa Matula				✓											
Mr. Shawn Parker															
COMMITTEE ASSISTANTS															
Delta Prince				✓											
Janice O. Mobley-Bennett				✓											

NORTH CAROLINA GENERAL ASSEMBLY
COMMITTEE MEETING NOTICE
LEGISLATIVE OFFICE BUILDING
RALEIGH, NORTHCAROLINA 27603

February 8, 2010

MEMORANDUM

TO: Members of the North Carolina Study Commission on Aging

FROM: Representative Jean Farmer-Butterfield, Co-Chair
Senator A. B. Swindell, Co-Chair

SUBJECT: Meeting Notice

The North Carolina Study Commission on Aging will meet on the following date:

DAY: Thursday
DATE: February 25, 2010
TIME: 10:00 A.M.
LOCATION: Legislative Office Building, Room 544

Parking for non-legislative members of the committee/commission is available in the visitor parking deck #75 located on Salisbury Street across from the Legislative Office Building. Parking is also available in the parking lot across Jones Street from the State Library/Archives (see attached map). The cost for visitor parking is $1.00 per hour or $8.00 per day and may be reimbursed with a parking receipt submitted with your travel reimbursement form.

If you have any questions concerning this meeting, please contact Janice O. Mobley-Bennett, Committee Assistant, at (919) 733-5780 or email mobleyla@ncleg.net.

Posted: February 8, 2010

cc: Committee Record x
Interested Parties x

VISITOR REGISTRATION SHEET

North Carolina Study Commission on Aging — February 25, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Dick Hatch	AARP, STHL, NCCOA
Dee Hatch	AARP, OWL
Talbatha Myatt	DMA
Theresa Johnson	NCADSA, FORLTC
Martha Roberts	Mecklenburg Adult Day Care Assoc.
Polly Williams	Triangle Older Women's League / NC Justice Center
Abby Emanuelson	NMSS-NC
Miki Alexander	NMSS-NC
TRACY COLVARD	AHHC
Preston O. Von Arx	ComForcare Senior Services Wilson, NC 27896
Roxanne Pugh-Lash	Franklin Co Dept of Aging NC Coalition on Aging

VISITOR REGISTRATION SHEET

North Carolina Study Commission on Aging — February 25, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Glenda Artis	Division of Aging and ~~Adult~~ Services
Kathryn Lanier	Div. of Aging & Adult Services
Richard Trotter	Legal Aid NC – Senior Law Project
Jeff Horn	DHHS – DHSR
Kathy Turner	DHSR – Center for Adult Regulation & Edu.
Marge Howell	DMV Communications – 1100 New Bern Ave.
Lori Kroll	DMV, Director Hearings 1100 New Bern 1100 New Bern Ave
Susan Stewart	DMV, Manager Medical Review Program
Phyllis Bridgeman	Division of Aging + Adult Services – 693 Palmer Dr.
David Harkey	UNC Highway Safety Research Center

VISITOR REGISTRATION SHEET

North Carolina Study Commission on Aging — February 25, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Suzanne LaFollette-Black	AARP-NC 1511 Sunday Dr #312, Raleigh, NC
Carla Obiol	NC Dept. of Insurance 11 S. Bayleaf Raleigh NC
Eileen Kugler	NC Board of Nursing National Dr. Raleigh, NC
Mary Edwards	Division of Aging + Adult Services
David Holbrooke	NC Board of Nursing
Mary Bethel	ANNP-NC
J. LeRay King	Friends of Residents in LTC
Elizabeth Beall	Friends of Residents in Long Term Care
Paula A. Wolf	Friends of Residents in Long Term Care

VISITOR REGISTRATION SHEET

North Carolina Study Commission on Aging — February 25, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
James Underwood	Intern for Rep. Pierce
Kristi Huff	NCHCFA

The North Carolina Nurse Aide

Jesse Goodman, Acting Chief Operating Officer
North Carolina Division of Health Service Regulation
February 25, 2010

§ 131E-255. Nurse Aide Registry

(a) Pursuant to 42 U.S.C. § 1395i-3(e) and 42 U.S.C. § 1396r(e), the Department shall establish and maintain a registry containing the names of all nurse aides working in nursing facilities in North Carolina. The Department shall include in the nurse aide registry any findings by the Department of neglect of a resident in a nursing facility or abuse of a resident in a nursing facility or misappropriation of the property of a resident in a nursing facility by a nurse aide.

Overview

- Nurse aide is federally defined – Any individual providing nursing or nursing-related services to residents in a facility who is not a licensed health professional, a registered dietitian, or someone who volunteers to provide such services without pay. *42CFR483.75(e)*
- Other names used among various groups include CNA, certified nurse aide, nursing assistant.
- Nurse aides must hold a current listing on the NC Nurse Aide I Registry.

NC and Federal Requirements for Nurse Aide I Registry Listing

- Successfully complete either a state-approved Nurse Aide I Training and Competency Evaluation Program or a state-approved Nurse Aide Competency Evaluation Program (*42 CFR 483 Subpart B 483.75(e); 42 CFR 483 Subpart D 483.150-158)*
- May renew by working a minimum of 8 hours during every 24 months as long as the work is 1) for pay, 2) as a nurse aide, and 3) supervised by a registered nurse
- Active Nurse Aides FY 08-09 - **110,726**

Registry Verifications

- Before allowing an individual to serve as a nurse aide, a skilled nursing facility must receive registry verification that the individual has met competency evaluation requirements.
  42 CFR 483, Subpart B 483.75, 42 CFR 483.13 (c)(1)(ii)(B)
- Verification confirmations given in FY 08-09 – **650,279**

Federal Requirements for Nurse Aide I Training (NAT) Programs

42CFR483.151-152

- State must review and approve or disapprove NAT programs upon request
- State must withdraw programs that do not meet applicable requirements
- Approval good for 2 years

Federally Required Content for Nurse Aide I Training Programs

- Communication skills, infection control, safety/emergency procedures
- Promoting residents' independence and rights
- Basics nursing skills
- Personal care skills
- Mental health and social service needs
- Care of cognitively impaired residents
- Basic restorative services

Source: 42CFR483.152

Nurse Aide I Model Curriculum

- Developed in 1997 by DHSR in response to the federal regulations
- Updated in 2002; continued to reflect federal requirements, updated skills/procedures
- Research and stakeholder feedback began in 2009 to prepare for next revision

Representatives from the following stakeholder groups were involved in curriculum development:

- NC State Board of Nursing
- Nurse Aide Registry & Certification Sections of the Division of Health Service Regulation
- NC Health Care Facilities Association
- Beverly Enterprises - Star Mount Villa
- Mayview Convalescent Center
- NC Association for Home Care, Inc.
- NC Nurses Association
- NC Community College System Office
- NC Hospital Association

North Carolina State-approved Nurse Aide I Training Programs:

- Include all content required by federal government.
- Follow extensive curriculum developed by North Carolina or follow the North Carolina curricular requirements (*www.ncnar.org*).
- Require student proficiency in 69 skills.

NC state-approved* programs follow or exceed federal requirements:

Federal Curricular Hourly Requirements for Nurse Aide I Training	State-Approved Program Averages (data sampled)
Minimum Total - 75 Requirement includes at least 16 hours of supervised practical training (simulated lab or clinical experience)	**Average Total – 142** Average hours supervised simulated lab – 48 Average hours of clinical experience - 43

*includes community college, licensed proprietary schools, hospitals & nursing facilities

Other Training Programs

Type	Content	Hours	Average Training Cost
Nurse Aide I Refresher courses (*taught at community colleges and licensed proprietary schools*)	Reviews basic nurse aide knowledge and skills (for previously listed aides & out-of-state aides)	Varies – approximately 27 hours	$150 (plus books + various fees)
NC Schools of Nursing (*Memorandum of Understanding between NC Board of Nursing (BON) and NC Division of Health Service Regulation*)	Covers state curriculum within nursing courses	Point which approved school's curriculum meets all federal and state requirements for Nurse Aide I training	No additional cost to enrollees
NC Public High Schools (*Memorandum of Understanding between NC Department of Public Instruction and NC Division of Health Service Regulation*)	Covers state curriculum within health science courses	180-360 (40 clinical hours)	Free to enrollees
Non-approved, unlicensed, private classes/courses & schools	Varies, no minimum classroom content; anecdotal information reveals "test prep" type classes focusing on 25 testing skills rather than content/skills required in state-approved training	Varies, no minimum; anecdotal information reveals range of a few hours to one day to several classes; many known as "fast track" classes	Anecdotal information reveals $200 - $800, depending on length of class

Types and Numbers of State-approved NA I Training Programs

School type	Number of State approved programs
High Schools	212
Community Colleges	162
Schools of Nursing	110
Proprietary Schools	20
Nursing Homes	12
Mental Health-State	3
Adult Care Homes	1
Hospitals	0

Federal Requirements for Competency Evaluation

(42CFR483.154)

- Choice of written or oral exam
- All course requirements in *42CFR483.152* addressed
- Demonstration of randomly drawn skills
- Skills performed in a lab setting comparable to setting of aide employment
- Evaluator is an RN with experience caring for elderly or chronically ill of any age
- Individual has 3 chances to take the exam

North Carolina Competency Evaluation Guidelines include:

- All federal guidelines/requirements.
- Required training or re-training in a state-approved program for any tester failing competency evaluation three times, before re-testing a fourth time.

NC Nurse Aide Competency Exam

- Administered by Pearson VUE, a nationally and internationally recognized leading provider of assessment services to regulatory agencies and national associations
- Uses the ***National Nurse Aide Assessment Program (NNAAP),*** developed and owned by the National Council of State Boards of Nursing, Inc.

NNAAP Exam

- National exam which measures minimal competence of entry-level nurse aides in their knowledge, skills, and abilities
- Written (also available as oral English and oral Spanish) and skills (performance) component
- Skills component: candidates must successfully complete five (5) randomly selected skills within 30 minutes
- Candidate cost to take exam - $96
- Exam is legally defensible
- Candidates who fail three times are required to complete state-approved training in order to continue testing
- Number of tests administered FY 2008-09 – **23,829**
  (number includes repeaters)

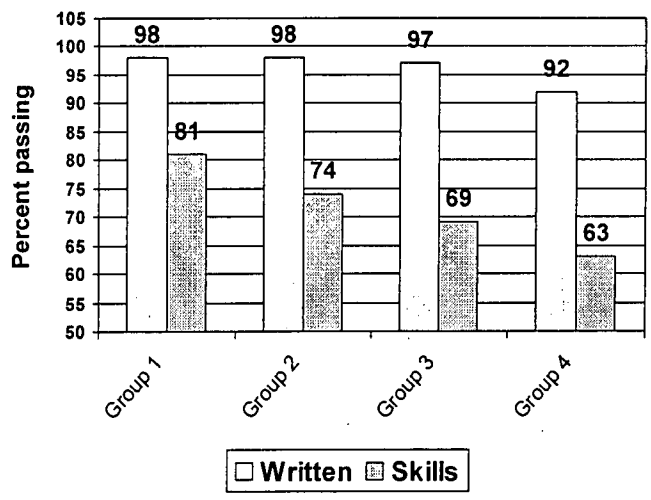
Passing Rates Percentages (%) by Type Tested (6/1/08 – 12/31/09)

Group 1: State-approved training

Group 2: Refreshers

Group 3: MOU Schools (HS/SON)

Group 4: Test-out/ Non-approved training



Federal Requirements for Nurse Aide Inservice Training

- The skilled care facility must complete a performance review of every nurse aide at least once every 12 months, and must provide regular inservice education based on the outcome of these reviews.
- The inservice training must be sufficient to ensure the continuing competence of nurse aides, but must be no less than 12 hours per year and based on performance review and special needs of residents. *42CFR483(e)(8)*

In response to the federal regulations, the agency developed Continuing Education Modules to assist facilities in meeting the inservice requirements. Topics include:

- A More Empathic You
- Advanced Communication
- Being Part of a Team
- Fecal Impaction and Hydration
- Infection Control
- Me, Myself and I
- Prevention of pressure ulcers
- Principles of Adult Learning

The agency continues to work collaboratively with numerous professional and industry stakeholders:

- North Carolina Board of Nursing
- National Council for State Boards of Nursing
- NC Division of Aging
- Direct Care Workers Association
- NC-NOVA
- NC Department of Public Instruction
- NC Community College System Offices of Proprietary Schools & Continuing Education
- NC Health Care Facilities Association

Nurse Aides - Supply & Demand

(Bureau of Labor Statistics, US Department of Labor - *http://www.projectionscentral.com/lt_search.aspx)*

*Note: *in NC, the majority of Home Health Aides, Personal and Home Care Aides are also Nurse Aides*	**2006 employment**	**2016 projections**	**Demand** (number needed)	**Percent change**
Nurse Aides	21,780	28,360	6,580	30%
Home Health Aides	72,130	99,990	27,860	39%
Personal & Home Care Aides	18,350	32,250	13,900	76%
Totals	**112,260**	**160,600**	**48,340**	**43%**

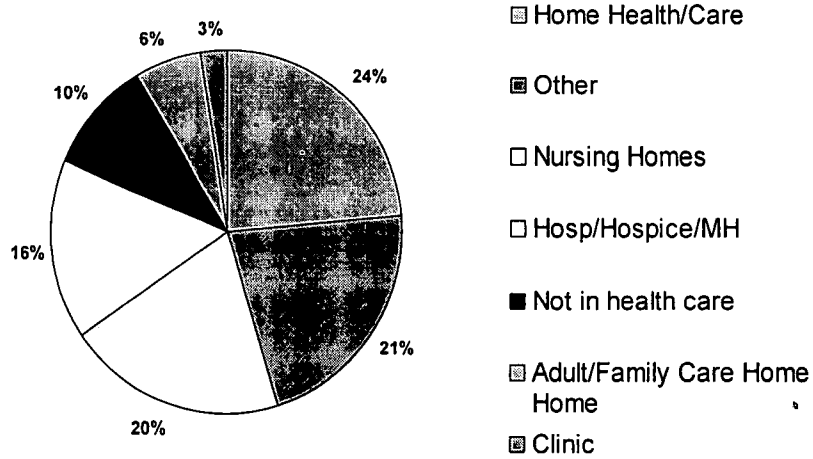
Nurse Aide I Employment Breakdown Report

Source: DHSR/Center for Aide Regulation and Education
2/10/10

Employment Setting	Number Employed	%
Home Health/Home Care (includes nursing pools)	26524	24%
Other*	23909	21%
Nursing Homes	22432	20%
Hospital/Hospice/Mental Health	18060	15%
Not employed in health care	11097	10%
Adult/Family Care Home	6739	6%
Clinics (health dept, health clinics, MD offices and dialysis centers)	2933	3%
TOTAL	111694	

*Other includes categories such as private duty, military/VA facilities, schools, Native American Indian Reservations, adult daycare, cardiac rehab & ambulatory surgery

Employment Settings for Nurse Aide I



Source: Employment Breakdown Report, Center for Aide Regulation and Education

Duties for Nurse Aide I

Job duties approved by the Board of Nursing include, but are not limited to, basic nursing tasks within the following categories:

- Personal Care (Activities of Daily Living)
- Body Mechanics
- Nutrition
- Elimination
- Safety
- Special Procedures

The Registered Nurse is ultimately responsible for determining competence of the aide before delegating nursing or nursing-related tasks.

Expanded Role of the Nurse Aide I in North Carolina

Type	Listing Requirements	Duties *(requires RN supervision)*	Number Active
Medication Aide	• 24-hour Board of Nursing (BON) approved course • State Med Aide Exam	Performs technical aspects of medication administration for certain types of medicines	1889 *(2/12/09)*
Geriatric Aide (began in 2009)	• State-approved Geriatric Aide course • Must be listed on Nurse Aide I Registry	Learn new concepts to help older adults: dementia/challenging behaviors, death/dying, stress management	22 *(2/12/09)*
Nurse Aide II (managed by BON))	• Must be listed on Nurse Aide I Registry •BON approved course •No substantiated findings •Fee	Performs more complex nursing skills emphasizing sterile technique in elimination, oxygenation, nutrition	17,183 *(2/12/09)*

Health Care Personnel Registry Law

- Investigations of unlicensed health care workers began in 1992 with the investigations of nurse aides working in nursing homes in the areas of abuse, neglect, and misappropriation of property of nursing home residents - result of federal nursing home reform legislation (OBRA).
- *GS 131E-256* expanded investigations & "findings" of the Nurse Aide I Registry; expanded types of reportable allegations and health care facilities reporting allegations and required names of individuals under investigation for any reportable allegation to be listed on the registry.
- In 1998, 1999, 2000, and 2008, expansions of the HCPR law increased the types of unlicensed health care personnel reported and the types of health care facilities that must report allegations.
- "Health care personnel" was defined as any unlicensed staff of a health care facility that has direct access to residents, clients, or their property.
- Facilities must access the registry before hiring unlicensed staff. Most facilities, by rule, are prohibited from hiring individuals who have findings.

The Health Care Personnel Registry contains information about unlicensed health care workers for any of the following allegations:

- Resident abuse
- Resident neglect
- Misappropriation of property (from a resident or facility)
- Diversion of resident of facility drugs
- Fraud against a resident or facility

The following types of facilities are required to report allegations:

- Adult Care Homes
- Hospitals
- Home Care Agencies
- Nursing Pools
- Hospices
- Nursing Facilities
- State-Operated Facilities
- Licensable Facilities for mentally ill, developmental disabled, and substance abusers
- Multiunit Assisted Housing with Services
- Community-Based Providers of Services for the mentally ill, developmentally disabled, and substance abusers
- Agencies providing in-home aide services funded through the Home and Community Care Block Grant Program

Pending Allegations and Substantiated Findings on the Health Care Personnel Registry

As of June 30, 2009	Pending Allegations	Substantiated Findings
Total Number	506	4,709
Total Individuals	367	3,491

For additional information go to agency's website for the Center for Aide Regulation and Education at *www.ncnar.org*

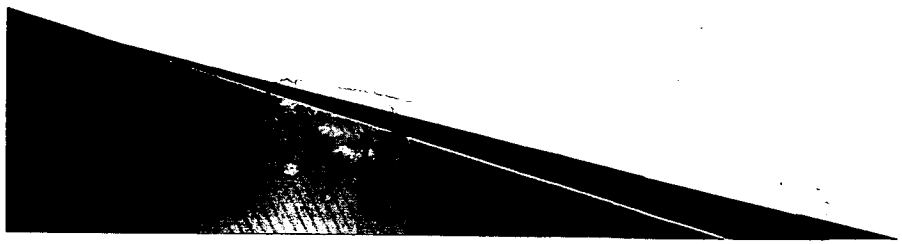
Direct Care Workers Association of NC

Sandy Spillman
Executive Director

Hands at the heart of care

DCWA

Direct Care Workers Association of North Carolina



Attachment I (b)

DUMC Department of Community and Family Medicine,
Division of Community Health *and*
North Carolina Direct Care Workers Association
Co-sponsors of This Event

DCWA
Direct Care Workers Association of North Carolina

SAVE-THE-DATE!!
Free Conference

"The Force Is With You: Strengthening North Carolina's Direct Care Workforce"

Strategies, Opportunities, And YOU

Wednesday, MARCH 24, 2010 **Time: 9:00AM-2:00PM**

Registration Begins at 8:30AM

Jane S. McKimmon Conference Center
1101 Gorman Street
Raleigh, NC 27606

Those benefiting from attendance include:

- Nursing Home, Adult Care Home, Home Care Agency, Hospital and Clinic management staff.
- Nurses and paraprofessionals such as Nurse Aides, Personal Attendants, Personal Care Aides and staff providing services and supports to individuals with chronic or acute illnesses.
- Academics, Health Policy Makers, and Workforce Development Professionals.

This conference is for YOU if you'd like to learn strategies that reduce turnover, aid recruitment, increase staff job satisfaction, increase patient supportive services and allow better budget management.
This conference is for YOU if you'd like to learn what's new through interactive presentations on topics such as Coaching Supervision and Person Centered Thinking. There will also be opportunities to share ideas and learn about new workforce development initiatives.

THERE IS NO CHARGE FOR THIS EVENT. HOWEVER, PRE-REGISTRATION IS REQUIRED FOR ATTENDANCE

Lunch will be provided
Compliments of
LayneCare Pharmacy

- **For more information**

Contact: Claudia.Graham@duke.edu
Phone: 919.681.5724

REGISTER NOW—SPACE IS LIMITED!
Registration ends March 10, 2010

TO REGISTER ANYTIME ONLINE
GO TO:
http://www.surveymonkey.com/s/DukeDCWAConf

or Telephone 919.681.5724

The Jane S. McKimmon Conference Center is on the campus of North Carolina State University at the corner of Gorman Street and Western Blvd. For DRIVING DIRECTIONS go to:
http://www.ncsu.edu/ctu/img/mckimmonMap.gif

The Force Is With You: Strengthening North Carolina's Direct Care Workforce, Strategies, Opportunities and You

Jane S. McKimmon Conference Center

9:00am -2:00pm March 24, 2010

8:30 a.m.	**Registration and Continental Breakfast**	
9:00 a.m.	**Welcome – Opening Remarks**	*Frederick Johnson* *Deputy Director* *Duke Community Health*
9:05 a.m.	**The Direct Care Workforce, A Historical Perspective**	*Thomas R.(Bob) Conrad* *UNC Institute on Aging*
9: 20 a.m.	**Strengthening The Workforce Through Workplace Excellence**	*Susan Harmuth* *NC NOVA*
	**Audience Participation Activity* *Coaching Supervision*	*Saundra Spillman,* *Executive Director, DCWA* *Ally Woodside, UNC Institute on Aging*
9:45 a.m.	**Strengthening The Workforce Through Job Creation Introduction**	*Betty Herbster* *NC Dept. of Labor*
	Workforce Initiative Board Perspective	*Laura Spivey* *NC Dept. of Commerce*
	Lattice Apprenticeship Programs	*Betty Herbster*
	Geriatric Aide and Medication Aide Programs	*Kathy Turner, NC DHHS*
	Direct Care Food Service Worker Program	*Saundra Spillman, DCWA*
10:25 a.m.	***BREAK and Networking***	
10:45 a.m.	**Strengthening The Workforce Through A Person-Centered Thinking Approach to Change**	*Donna Holt, NC DHHS*
	**Audience Participation Activity* *Person-Centered Thinking Demonstration*	*Tanya Richmond, UNC CARES* *Saundra Spillman, DCWA*
11:20 a.m.	**Strengthening The Workforce Through Private, Public and Not-for-Profit Organization Collaborations Introduction**	*Claudia J. Graham* *Duke Community Health*
	North Carolina Association, Long Term Care Facilities	*Lou B. Wilson* *Executive Director, NCALTCF*
	North Carolina Council on Developmental Disabilities	*Holly Riddle, Executive Director, NCCDD* *Bob Hedrick, Executive Director, NC Providers Council*
	LayneCare Pharmacy	*Nancy Green, Sales Manager* *LayneCare Pharmacy*
12:05 p.m.	***LUNCH** Sponsored by LayneCare Pharmacy*	
12:35 p.m.	**Strengthening The Workforce Through Education and Training Introduction**	*Jan Moxley, NC DHHS*
	Direct Care Workforce Training in North Carolina's Community College System	*Jamie Glass, VP Continuing Education* *Durham Tech CC*
	Case Management Assistant A Community College Initiative	*Jeannine Woody,* *Assoc. Dean, Health Technology* *Davidson CC*
	Chronic Disease Prevention Training for CNAs, A University Medical School Initiative	*Frederick Johnson* *Duke Community Health*
	Chronic Disease Self-Management Program, The Stanford Model A State Government Initiative	*Serena E. Weisner, MS* *NC DHHS*
1:30 p.m.	**Q & A - Where do we go from here?**	*Frederick Johnson, DCH*
1:50 p.m.	**Closing Remarks- Acknowledgments**	*Saundra Spillman,* *Executive Director, DCWA*

This conference is made possible by a grant from The Fullerton Foundation, Inc. and
The Direct Care Workers Association of North Carolina

Direct Care Workers Association of NC

DCWA
Direct Care Workers Association of North Carolina

History of DCWA-NC

The Direct Care Workers Association of North Carolina was incorporated April 22, 2003, to be a statewide, education-based organization for direct care workers and others who share its mission and values.

Development of a direct care worker association in the state was one of the activities of the Centers for Medicare and Medicaid Services 2001 Real Choice Systems Change grant that was awarded to the North Carolina Department of Health and Human Services.

Membership represented by all direct care workers from Hospitals, Home Health, Hospice, Nursing Homes, Assisted Living throughout North Carolina

MISSION STATEMENT

- **The Mission of the Direct Care Workers** Association is to improve the quality of care provided to Health and Long Term Care consumers and their families through the education, professional development and public awareness of Direct Care Workers.

Association Values

- **Quality care**, and the skill, individual attention, diligence, compassion, commitment and dedication necessary to make it happen;
- **Professionalism**, and the opportunity, advocacy, integrity and fairness that go with it;
- **Effective communication**, and the clarity that comes from listening with an open mind to what others say;
- **Diversity**, and the inclusion and active participation of people with different backgrounds and differing points of view; and
- **Teamwork**, and the respect that comes from working toward a common goal with a commitment to support the group's decisions.

FAQ

Why should I join the Association? You should join if you:

- Support the Association's mission.
- Have an interest in direct care workforce issues and initiatives.
- Are looking for training/professional development opportunities.
- Enjoy networking with direct care workers and others interested in the field of direct care.

What's in it for me?

- By joining the Association you will be part of a statewide network that has a shared interest in the direct care workforce.
- There will be opportunities to participate in annual training Institutes, exchange best practices, meet and network with other direct care workers from across North Carolina and learn more about state and national efforts under way to address direct care workforce concerns.

Board of Directors

- **President**
  - Martha Holt Dunston
    Wilson's Mills, NC
- **Vice President**
  - Melanie R. Jones
    Dover, NC
- **Secretary**
  - Jacquilyn Peterson
    Vanceboro, NC
- **Treasurer**
  - Mike Pedneau
    Raleigh, NC

ADVISORY BOARD

- Julie Budzinski – Medicaid Program Service Chief
- Mary Beth Clemons – Liberty Corners, Asheville
- Bob Konrad – Senior Research Scientist – UNC
- Betty Herbster – NC Department of Labor
- William Lamb – UNC Institute on Aging
- Eileen McGuinness – Alzheimer's Association
- Sharon Wilder – State LTC Ombudsman
- Hazel Slocumb – Former DHHS – Personnel Registry
- Susan Harmuth – NC Foundation for Advanced Health Programs
- Jan Moxley – DHHS

Advisory Board Continued...

- Sheila Weeks – Western Piedmont Council Govt.
- Lou Wilson – NCLTCFA – Executive Director
- Caroline Farmer – NC Department of Justice
- Kathy Smith – Home Health and Hospice
- Chris Szalony – Instructor, Central Piedmont Community College
- Tanya Berkerdite – UNC Cares
- Kathryn Lanier – NC Ombudsman Program SAFE
- Kevin Hart – Director of Operations – Salem Senior Housing, Inc.
- Janet McQueen – Administrator - DCWA

Contact Us

- Direct Care Workers Association of North Carolina
  P.O. Box 37365
  Raleigh, NC 27627
- **Phone:** (919) 327-9732
- **Fax:** (866) 873-4532

Programs: Better Jobs Better Care

In 2003, North Carolina was named one of only five state-based coalitions to receive a "Better Jobs, Better Care" grant to create changes in policy and practice that will lead to the recruitment and retention of high-quality direct care workers in both nursing homes and home and community based settings.

Funded by the Robert Wood Johnson Foundation and The Atlantic Philanthropies, the grant was awarded to the N.C. Foundation for Advanced Health Programs, Inc.

The Direct Care Workers Association of North Carolina is among the agencies that make up the partner team working to develop a pilot program that would demonstrate a link between job quality and care in nursing homes, adult day homes and home health agencies.

DCWA FACTS

In 2001, North Carolina was selected to receive a $1.6 million "Real Choice" grant from the Centers for Medicare and Medicaid Services, part of the U.S. Department of Health and Human Services.

The grant program is intended to help states improve the infrastructure and services to support the preferences of people who have disabilities or long-term illnesses. North Carolina's grant focuses on workforce issues affecting home and community based long-term care.

The grant covered five major areas to improve the size, stability and quality of North Carolina's direct care workforce:

- Reviewing state and federal policies governing home- and community-based services to identify those that contribute to an institutional care bias
- Developing a career ladder to support initial and professional development opportunities for direct care staff
- Launching public education and awareness efforts to promote recruitment and retention of direct care workers
- Collecting and analyzing data about workforce trends, including turnover
- Developing a quality improvement system for the direct support professional

PROGRAMS

The WIN A STEP UP project is a partnership of the N.C. Department of Health and Human Services and the University of North Carolina Institute on Aging. The program provides financial and other incentives for direct care workers in exchange for the workers' completing certain training and agreeing to remain with the employer for a designated period of time.

Funded by a grant from the Kate B. Reynolds Health Charitable Trust, WIN A STEP UP stands for:

Apprenticeship Training in Long-Term Care

North Carolina Direct Care Workers Association
The CNA Career Lattice

The Cost of Turnover

DIRECT COST
Separation
Vacancy
Recruitment
Training & Orientation
INDIRECT COST
Lost Productivity
Reduced quality of care
Decreased Employee Morale

Cost per worker can exceed 100% of annual salary. Cost estimates range from a conservative $2500 per worker at the CNA level (direct costs only) to over $74,000 (including indirect costs for an RN.

Benefits to Long-Term Care Providers

- Reduced turnover rates
- Greater employee retention
- Higher productivity
- Greater competence of employees
- Improved quality of services
- Improved quality of patient care
- Lower investment in recruitment
- More diverse workforce
- New pool of potential workers
- Creation of career pathways

Benefits to Apprentices

- Nationally recognized and portable certificates
- Improved skills and competencies
- Increased wages
- Career advancement
- Higher self-esteem based on enhanced skills and certifications

Strengths of Career Lattice Approach

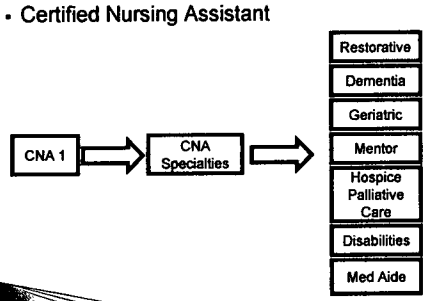
- Provides a development pathway for incumbent employees
- Participants work while continuing their education
- Additional resources are made available through partnership with the WIB
- CNAs receive more specialized training that promotes retention and encourages advancement

What is Registered Apprenticeship?

- On-the-job Learning
- Related Instruction
- Mentoring
- Incremental Wage Increases

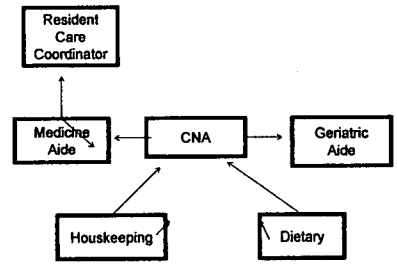
Apprenticeable Long-Term Care Occupations

- Certified Nursing Assistant



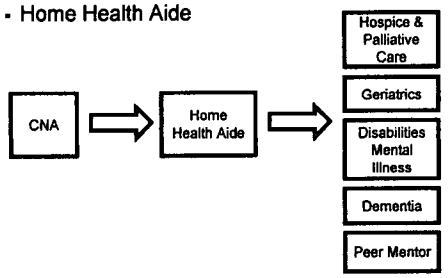
Apprenticeable Long-Term Care Occupations

- Health Support Specialist



Apprenticeable Long-Term Care Occupations

- Home Health Aide



COLLABORATIVE EFFORTS

- Duke University Department of Community and Family Medicine
- March 24, 2010
- The Force is With You – "Strengthening North Carolina's Direct Care Workforce" - Strategies Opportunities and YOU
- For: Nursing Homes, Adult Care Homes, Home Care Agencies, Hospital and Clinic Management Staff
- Academics, Health Policy Makers, and Workforce Development Professionals

TOPICS TO COVER

- LATTICE APPRENTICESHIP PROGRAMS
- GERIATRIC AIDE AND MEDICATION AIDE
- DIRECT CARE FOOD SERVICE WORKER
- PERSON CENTERED THINKING/CARE
- ACHIEVE
- COMMUNITY COLLEGE INITIATIVE
- CHRONIC DISEASE PREVENTION TRAINING FOR CNA'S
- CASE MANAGEMENT ASSISTANT
- THE STANFORD MODEL CHRONIC DISEASE SELF MANAGEMENT PROGRAM

ROSALYNN CARTER QUOTE

- THERE ARE ONLY FOUR KINDS OF PEOPLE IN THE WORLD:
  - PEOPLE WHO GIVE CARE NOW
  - PEOPLE WHO NEED CARE NOW
  - PEOPLE WHO WILL NEED CARE IN THE FUTURE
  - PEOPLE WHO WILL GIVE CARE IN THE FUTURE

LET'S BE SURE THEY ARE WELL TRAINED AND APPRECIATED – IT MAY BE ME/YOU THEY ARE CARING FOR!

THANK YOU

Nurse Aide II
and
Medication Aide

Linda Burhans, PhD, RN
Associate Executive Director, Education/Practice

NC BOARD of NURSING

Mission Statement

The mission of the North Carolina Board of Nursing is to protect the public by regulating the practice of nursing.

(January 2010)

NC BOARD of NURSING

Activities of the Board

(§ 90-171.55 & .56 and 21NCAC 36 .0400)

- Establish Unlicensed Assistive Personnel (UAP) Scope/Tasks
- Approve NA II education programs
- Maintain the Nurse Aide II Registry
- Establish medication aide training requirements

NC BOARD of NURSING

Roles of Unlicensed Personnel

- Board of Nursing is determining authority to identify those Nursing Care activities/tasks which may be delegated to unlicensed personnel
- Delegated activities/tasks must be appropriate to level of knowledge and skill of unlicensed personnel and within legal scope of practice

NC BOARD of NURSING

CRITERIA for DELEGATION of TASKS to UAP (21 NCAC 36.0221)

- Activity frequently occurs in the daily care of a client or group of clients
- Activity is performed according to an established sequence of steps
- Activity involves little or no modification from one client situation to another
- Activity is performed with a predictable outcome
- Activity does not involve assessment, interpretation or decision-making in the process
- Activity does not endanger client's life or well-being

NC BOARD of NURSING

NA II Qualifications

- GED or high school diploma
- Listing on NA I Registry (DHSR) – no substantiated findings
- Successful completion of NA II education program
- Submission of application to Board
- Biennnial renewal with 8 hours NA compensated work in last 24 months

NC BOARD of NURSING

NA II Task List

160 Hour Course:

- Oxygen Therapy
- Tracheostomy Care
- Sterile Dressing Change
- Break-up & Removal of Fecal Impaction
- I.V. Fluid – Assistive Activities
- Suctioning
- Wound Irrigation
- Elimination Procedures
- Urinary Catheters
- Nutrition Activities

NC Board of Nursing

Nurse Aide II Education Programs

103 Active Programs:

- Community College – 78
- Proprietary Schools – 14
- Hospital Programs - 11

NC Board of Nursing

Nurse Aide II Employment

2/13/10

CATEGORY	NUMBER
Currently Listed NA II	**17187**
Hospital	5523
Nursing Home	1896
Home Health/Hospice	1728
Other In-Home Care	837
Private Duty	134
Office/Clinic	688
Dialysis	501
Other	97

NC Board of Nursing

Medication Aide

QUALIFICATIONS:

- GED or high school diploma
- Successful completion of BON-approved 24 hour Medication Aide education program
- Successful completion of a state-approved competency evaluation program
- Listing and biennial renewal on the Medication Aide Registry
- Listing on NA I Registry (DHSR) with no substantiated findings required prior to employment in Nursing Home

NC Board of Nursing

Medication Aide

TASKS:

- Limited to performing technical aspects of medication administration
- Unable to administer injectable medications

EDUCATION:

- 211 Medication Aide Instructors
- Community Colleges & Independent

NC Board of Nursing

Questions/Comments.....

NC Board of Nursing

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Study Commission on Aging
Dr. LeRoy King on behalf of Friends of Residents in Long Term Care
February 25, 2010

Mr. Chairman, Madam Chairman, and Members of the Study Commission. I am Dr. LeRoy King and I thank you for the opportunity to speak to you today. I am here representing Friends of Residents in Long Term Care. Friends is the only independent 501(c)(3) organization in North Carolina whose mission is to advance the quality of life and care in residential living.

Our main policy focus for 2010 is to examine the training and preparation of direct care workers in our state.

I speak from the point of view of a physician -- as well as a son. My mother died in long term care, in my view, as a result of the lack of essential educational training for her direct care workers.

The problems are easily stated but difficult to address:

1. There is no standardized training for the direct care worker. Some take 75 hours of preparation, and some take an 8-hour course aimed at passing the exam.
2. Many of the stated training requirements are invalidated by exemptions. Ms. Beall will address this in more detail in the next presentation.
3. Staffing levels are too low.
4. To make ends meet, direct care workers often work 2 back-to-back shifts at the same, or at different facilities, leading to fatigue and increased errors, especially among direct care staff working 12 or more hours.[1]

Figures published by the **Paraprofessional Healthcare Institute** reveal that North Carolina is behind 27 other states plus the District of Columbia. I believe you have a handout with this data.[2]

All of these 27 states require more than the federally mandated 75 hours as stated in the federal Omnibus Reconciliation Act of 1987. Missouri requires 175 hours. Maine, Delaware, and Oregon require 150 hours. Alaska 140 hours. 8 states require 120 hours including 2 neighboring states – Virginia and Florida.

Direct care workers in North Carolina are required to have only **75 hours**, while Cosmetologists in North Carolina must have **1,500 hours** of an approved training program; Manicurists must have **300 hours** of an approved training program; and to be a Veterinary Assistant requires a **two-year Associate of Arts** degree from a Community College.

Without standard and rigorous education, direct care workers do not have the necessary background to understand:

1. The simple task of getting a person out of bed in the morning. Training explains why they should keep a firm grip – or have another aide assisting - and allow the patient **time** -- to avoid that sudden drop in blood pressure (doctors call orthostatic hypotension), that may cause a fall and a broken hip.
2. Medication errors can cause life-threatening complications. **Two common examples**, too little or too much insulin for diabetes' and incorrect dosage of Cumadin, a common blood thinner, which **is the leading** medication error in long term care.
3. Training to manage choking -- **the** most common emergency that occurs in long term care, which is to clear the upper airway and how to properly administer the Heimlich maneuver so as to avoid a ruptured diaphragm and death.

I certainly speak from personal experience here for this was the cause of my mother's death, completely avoidable had only her direct care worker been provided that essential training.

---

[1] (Garrett, Connie, The Effect of Nurse Staffing Patterns on Medical Errors and Nurse Burnout, AORN Journal, June 2008).

[2] PHI (Paraprofessional Healthcare Institute) (December 2009) "State Nurse Aide Training Requirements, 2009," Bronx, NY: PHI. Available at: http://phinational.org/policy/publications/state-nurse-aide-training-requirements/

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Background to State Nurse Aide Training Requirements, 2009

Federal legislation (Omnibus Budget Reconciliation Act of 1987) and associated regulations (42 CFR 483.152) require that Medicare- and Medicaid-certified nursing homes employ nurse aides who are trained and evaluated through training programs approved by their state. Federal regulations require that these training programs consist of at least 75 hours of training, including at least 16 hours of supervised practical or clinical training.

Related Resources

- PHI Strategic Area: Training & Credentialing
- PHI National Policy Agenda: Training & Support
- PHI Training & Organizational Development

Federal regulations also list the subject areas and skills to be taught, outline the qualifications for approved trainers, define the competency evaluation process, and require that each state establish and maintain a registry of nurse aides.

Just over half of states have chosen to require additional hours of classroom and clinical training, as summarized in the accompanying chart:

- 30 states and the District of Columbia have extended the minimum number of training hours beyond 75 hours to as many as 180 hours.
- 13 states and the District of Columbia require a minimum of 120 or more training hours.
- 33 states and the District of Columbia require more than the minimum 16 hours of clinical training, with required clinical hours ranging up to 100 hours.

Despite the fact that many states have gone beyond the minimum federal requirements, 20 states still operate with requirements that have not changed in over twenty years.

In its recent report on the adequacy of the healthcare workforce for older Americans (Retooling for an Aging America, 2008), the Institute of Medicine recommends that "Federal requirements for the minimum training of certified nursing assistants (CNAs) and home health aides should be **raised to at least 120 hours and should include demonstration of competence in the care of older adults** as a criterion for certification" (Recommendation 5-1).

State Nurse Aide Training Requirements, 2009

		Training Hours	Clinical Hours
120+ hours	Maine *	180	70
	Missouri	175	100
(13 states + District of Columbia)	California	150	100
	Delaware	150	75
	Oregon	150	75
	Alaska	140	80
	Arizona	120	40
	District of Columbia	120	45
	Florida	120	40
	Idaho	120	40
	Illinois	120	40
	Virginia	120	40
	West Virginia	120	55
	Wisconsin	120	32
76 – 119 hours	Indiana	105	75
	Connecticut	100	50
(17 states)	Hawaii	100	70
	Maryland	100	40
	New Hampshire	100	60
	New York	100	30
	Rhode Island	100	20
	Arkansas	90	16
	Kansas	90	45
	New Jersey	90	40
	Georgia	85	24
	Washington	85	50
	Louisiana	80	40
	Pennsylvania	80	37.5
	South Carolina	80	40
	Utah	80	16
	Vermont	80	30

		Training Hours	Clinical Hours
75 hours	Alabama	75	16
	Colorado	75	16
(20 states)	Iowa	75	30
	Kentucky	75	16
	Massachusetts	75	16
	Michigan	75	16
	Minnesota	75	16
	Mississippi	75	16
	Montana	75	25
	Nebraska	75	16
	Nevada	75	16
	New Mexico	75	16
	North Carolina	75	16
	North Dakota	75	16
	Ohio	75	16
	Oklahoma	75	16
	South Dakota	75	16
	Tennessee	75	35
	Texas	75	24
	Wyoming	75	48

PHI Quality Care through Quality Jobs

www.PHInational.org/policy

* Effective 2010.

State Citations for Nurse Aide Training Requirements

December 2009

Alabama: Follows Federal Code of Regulations: CFR Title 42, Vol. 3, 483.

Alaska: Alaska Administrative Code, Title 12, 44.835.

Arizona: Arizona Administrative Code, Title 4, Chapter 19, Article 8.

Arkansas: Arkansas Administrative Code 20-10-701.

California: California Code of Regulations, Title 22, Division 5, Chapter 2.5, Article 3.

Colorado: Code of Colorado Regulations, 3 CCR 717-1, Chapter XI.

Connecticut: Connecticut Department of Public Health Regulations, Public Health Code, Chapter IV, Title 19-13-D8t.

Delaware: Delaware Code, Title 16, Chapter 30A.

District of Columbia: District of Columbia Municipal Regulations, Title 29, Chapter 32, Nurse Aide Certification, Section 3204.

Florida: Florida Administrative Code, Rule Chapter: 64B9-15.

Georgia: Georgia Department of Community Health, Division of Medical Assistance, *Policies and Procedures for Nurse Aide Training Program (NATP)* (October 2009).

Hawaii: Hawaii Administrative Rules, Title 16, Chapter 89A, and Med-QUEST Division, Certification Programs, "State Certified Nurse Aide Training Program" (May 2004).

Idaho: Health Professions Program, Idaho Division of Professional-Technical Education, "How to Start a Nursing Assistant Course."

Illinois: Illinois Administrative Code, Title 77, Chapter I, Subchapter c: Long-Term Care Facilities, Section 395.150.

Indiana: Indiana Administrative Code, 410 IAC 16.2-3.1-14.

Iowa: Iowa Administrative Code 441.81.16.

Kansas: Kansas Administrative Regulations 28-39-165.

Kentucky: Kentucky Administrative Regulations, Title 907, Chapter 1, Section 450.

Louisiana: Louisiana Administrative Code, Title 48: I. 10001-10079.

Maine: Code of Maine Rules, 02-380, Chapter 5.

Maryland: Code of Maryland Regulations, Title 10.39.02.07.

Massachusetts: Code of Massachusetts Regulations, Title 105.156.320.

Michigan: Michigan Department of Community Health, Bureau of Health Professions, *Nurse Aide Training Curriculum.*

Minnesota: Follows Federal Code of Regulations: CFR Title 42, Vol. 3, 483.

Mississippi: Follows Federal Code of Regulations: CFR Title 42, Vol. 3, 483.

Missouri: Missouri Code of State Regulations, Title 19, 30-84.010.

Montana: Montana Department of Public Health and Human Services, Quality Assurance Division, Certification Bureau, *State Plan for the Nurse Aide Training and Competency Testing Program.*

Nebraska: Nebraska Administrative Code, Title 172, 108-003.01 (172 NAC 108-003.01).

Nevada: Nevada Revised Statues, Chapter 632 – Nursing, NRS 632.2856.

New Hampshire: New Hampshire Code of Administrative Rules, Chapter Nur 10, Section Nur 704.09.

New Jersey: New Jersey Administrative Code, 8:39-43.10.

New Mexico: New Mexico Administrative Code, 8.312.2.21.

New York: New York Codes, Rules and Regulations (NYCRR), Title 10, Section 415.26.

North Carolina: North Carolina Department of Health and Human Services, Division of Health Service Regulation, Center for Aide Regulation and Education, *State Approved Curriculum for Nurse Aide I Training.*

North Dakota: North Dakota Administrative Code, 33.07.06.02.

Ohio: Ohio Revised Code, Title 37, 3721.30.

Oklahoma: Oklahoma Administrative Code, Title 310, 677-11-4.

Oregon: Oregon Administrative Code, 851-061-0090.

Pennsylvania: Pennsylvania Administrative Code, Title 55, 1181.521.

Rhode Island: Rhode Island Rules and Regulations, R23-17.9-NA.

South Carolina: South Carolina Department of Health and Human Services, Department of Facility Services, *South Carolina Nurse Aide Training Program Packet*, "Guidelines for Nurse Aide Program Training Approval."

South Dakota: South Dakota Administrative Rules 44:04:18:15.

Tennessee: Follows Federal Code of Regulations: CFR Title 42, Vol. 3, 483.

Texas: Texas Administrative Code, Title 40, Part 1, Rule 94.3.

Utah: Utah Administrative Code, Rule R414-7B-4.

Vermont: Vermont Board of Nursing, Administrative Rules, Chapter 5.1.IV.H.

Virginia: Virginia Administrative Code, Title 18, Agency 90, Chapter 25, Section 50 (18VAC90-25-50).

Washington: Washington Administrative Code, Chapter 246-841-490.

West Virginia: West Virginia Department of Health and Human Resources, Bureau for Public Health, Office of Health Facility Licensure and Certification, Long-Term Care Nurse Aide Program, *Handbook for West Virginia Registered Long-Term Care Nurse Aides.*

Wisconsin: Wisconsin Administrative Rules and Regulations, Chapter HFS 129, Certification of Programs for Training and Testing Nurse Aides, Medication Aides and Feeding Assistants, Subchapter II.

Wyoming: Wyoming State Board of Nursing, Administrative Rules and Regulations, Ch. II, Section 5(b).

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Study Commission on Aging
Elizabeth Beall on behalf of Friends of Residents in Long Term Care
February 25, 2010

Mr. Chairman, Madam Chairman, and Members of the Study Commission. I appreciate the opportunity to speak to you today. My name is Elizabeth Beall. I am a Board Member of Friends of Residents in Long Term Care.

I speak to you today from the point of view of an attorney who represents those people who have been hurt in nursing homes due to caretaker neglect. The care that ends with injury or death of an elderly patient is often the result of untrained direct care workers who simply do not have the knowledge to provide the care the patient needs.

The North Carolina Administrative Code at 10 NCAC 13F currently requires that staff providing personal care to residents in an adult care home complete an 80-hour personal care training and competency evaluation program.

On the surface this seems to be a more than adequate requirement for training of a direct care worker care worker. But the exceptions swallow the rule:

1. The requirement may be satisfied by completing a 40- to 45- hour training program OR a 75-80-hour training program OR by a competency evaluation; and
2. The direct care worker may work in the facility taking care of patients for 6 months without the required training or competency evaluation.

These people come to their jobs through a lower standard program. This is not an improvement from the Omnibus Budget Reconciliation Act nursing home reforms of 1987 that required 75 hours of an approved training program OR passing a qualifying exam.

The North Carolina Code section allows the direct care worker to take advantage of a 7-hour study course advertised regularly in the Raleigh News & Observer and the Charlotte Observer, which promises, "Train and learn to become a CNA in just one day. We will prepare you to pass the skills and written test".

In addition, the competency evaluation is not uniform or standard. The certification process in the Administrative Code is discretionary, depending on the registered nurse who conducted the skills competency evaluation. This does not provide a consistent, single standard of testing or a single standard of care.

One example of the lack of training leading to patient harm is a recent instance in which a patient needed a modified diet – soft food – because he was confused and couldn't eat a regular diet. The direct care worker who was with him in the dining room saw that her patient had received the wrong tray – chicken and salad – but decided that salad was soft enough for the man to eat. It wasn't. The man began to choke on the salad, and as he sat in his wheelchair choking to death, the direct care worker ran out of the dining room to find someone who was able to perform the Heimlich maneuver. The man choked to death while the direct care worker looked for someone to perform one of the most basic first aide procedures.

Our recommendation is for this Commission to establish a Study Commission on Direct Care Worker training so that we may collect the data that is sorely missing from this discussion.

Wed-Based Training

ACHieve is a comprehensive Web service designed for use by adult care homes in North Carolina. This Web service is accessible 24/7 for authorized users and is a significant step toward an electronic resident record. It is also a vehicle for information sharing among individuals and organizations in the community assisting residents. Users have access to various job aids and educational content that varies based upon what type of access is authorized.

To register on ACHieve as an organization and/or staff, email jcorbally@viebridge.com and to request a registration form.

ACHieve: Personal Care Aide support

ACHieve

Search Go

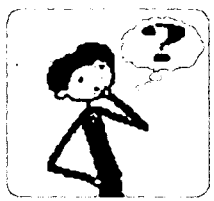
Home | **Services** | Management | Staffing

ces

re

Welcome To The Personal Care / Aides Resource Center

Did You Know?



Personal care aide services are provided according to a written plan of care. Do not stray from the plan of care when providing aide services. If the resident's aide service needs don't match the plan, change the plan to reflect the changed needs. Then provide aide services according to the amended plan.

Best Practices Corner

A Supportive Workplace

How do we make adult care homes a good place for aides to work? How do we reward and encourage such work traits and behaviors in a climate where low wages and high turnover exist ..at times exceeding 100% a year? One of the keys is what is called a "supportive workplace".

More...

Characteristics of An Ideal Aide

Knowing we live in anything but a perfect

Test Your Personal Care Knowledge

Which of the following aide tasks require licensed health professional support?

- ○ Perineal Care
- ○ Empty and Record Drainage of Catheter Bag
- ○ Collect Urine Specimens
- ○ Care of Pressure Ulcers

Submit

Medicaid Personal Care Tasks Coverage

ACH/PC coverage includes the performance of one or more personal care tasks daily for the resident by qualified personal care aides. Assistance with personal care tasks under ACH/PC may include supervising and prompting a resident's self-performance of tasks, as well as providing hands-on and weight-bearing assistance when necessary. Medicaid policies define personal care tasks and identify which require the licensed health professional support.

More...

Personal Links

ACHieve:
Direct Care training examples

- **DHSR Personal Care Basics Presentation** - Powerpoint presentation summarizing basic requirements for the provision of personal care services and monitoring for compliance with these provisions.
- **Orientation - Personal Care Basics** - Powerpoint orientation and summary
- **Personal Care Self-Survey Module** - A set of questions surveyors use to review personal care services in adult care homes. Developed by DHSR.
- **Self Survey Checklist – Supervision** - Spreadsheet of questions, answers and remediation plans.
- **Self-Survey Checklist - Personal Care** - Spreadsheet of questions, answers and remediation plans
- **Training Program - A More Empathic You** - PDF of a complete training curriculum on building a higher level of empathy by workers in long term care facilities

THE UNIVERSITY OF NORTH CAROLINA
HIGHWAY SAFETY
RESEARCH CENTER
www.hsrc.unc.edu

Road Safety and Aging Drivers

North Carolina
Study Commission on Aging
February 25, 2010

David Harkey
UNC Highway Safety Research Center

Presentation Overview

- National and NC Demographics and Safety Facts
- Aging Driver Safety Strategies
- Driver Licensing
- Conclusions

HIGHWAY SAFETY
RESEARCH CENTER

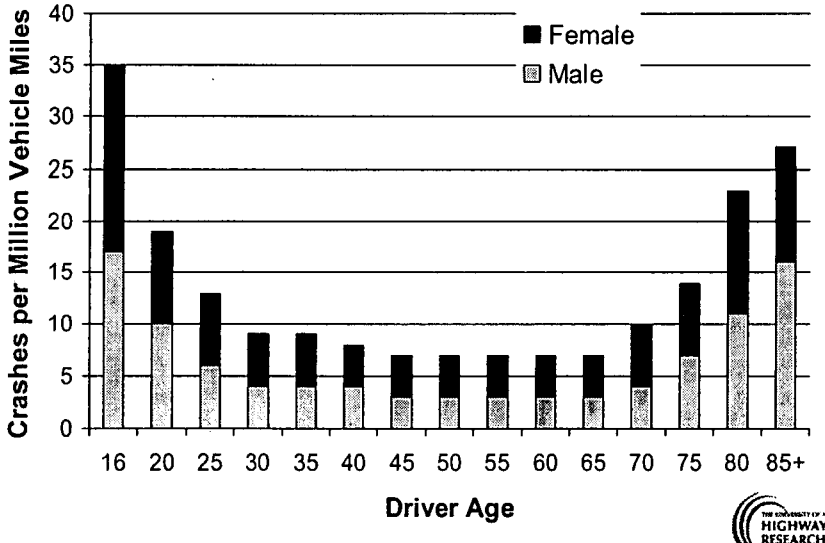
Aging Road User Statistics

Age 65 and older	U.S.	NC
Population	13%	12%
Licensed Drivers	15%	14%
Traffic Fatalities	15%	15%
Traffic Injuries	8%	7%

Sources: NHTSA Traffic Safety Facts (2008), NC Crash Data System (2008 Data), U.S. Census (2008 estimates), Highway Statistics (2008)

HIGHWAY SAFETY RESEARCH CENTER

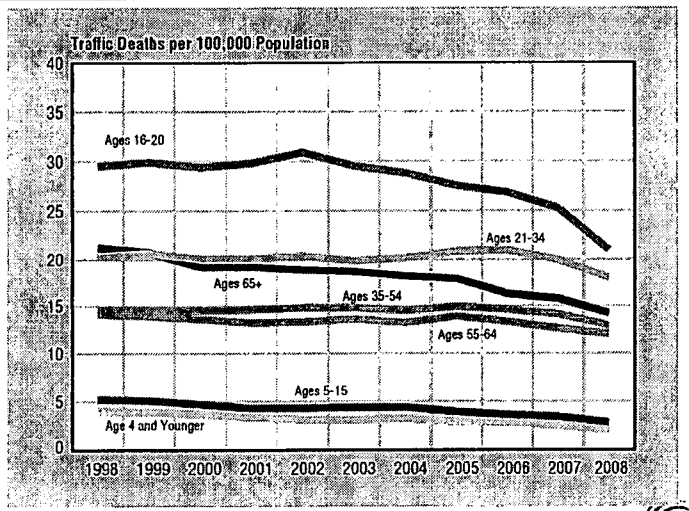
Crashes per Million Miles Traveled



Sources: National Household Travel Survey (2001), FARS (2001)

HIGHWAY SAFETY RESEARCH CENTER

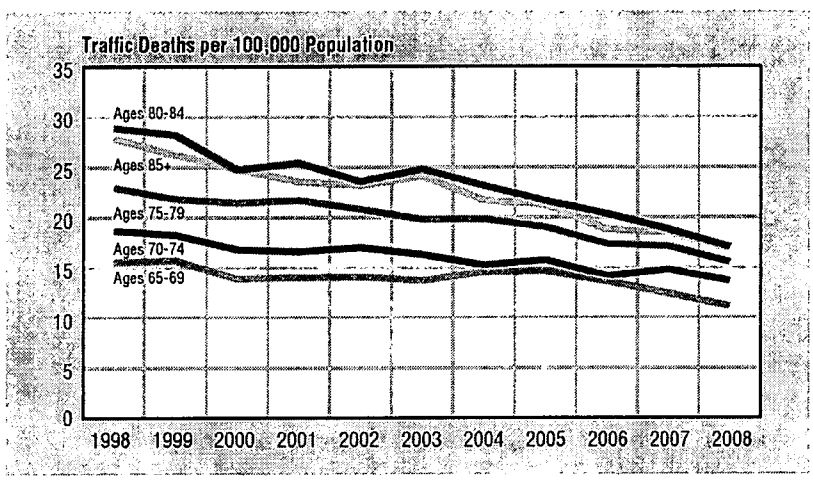
Fatalities per Capita



Source: NHTSA Traffic Safety Facts (2008 Data)

HIGHWAY SAFETY RESEARCH CENTER

Fatalities per Capita



Source: NHTSA Traffic Safety Facts (2008 Data)

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Room for Improvement

- Intersections
  - Turning maneuvers
  - Gap decisions
  - Navigation decisions
- Interchanges
  - Merge and weaving maneuvers
- Pedestrians
  - Walking speeds

Aging Driver Capabilities

- Vision
  - Acuity
  - Contrast sensitivity
  - Dark adaptation
- Physical
  - Range of motion
  - Strength
- Cognitive
  - Working memory
  - Attention

Multiple Partners

- Aging driver
- License examiners
- Law enforcement
- Engineers
- Planners
- Medical profession
- Families

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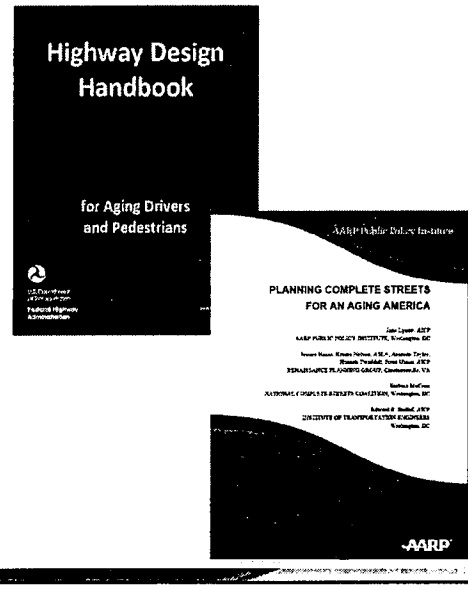
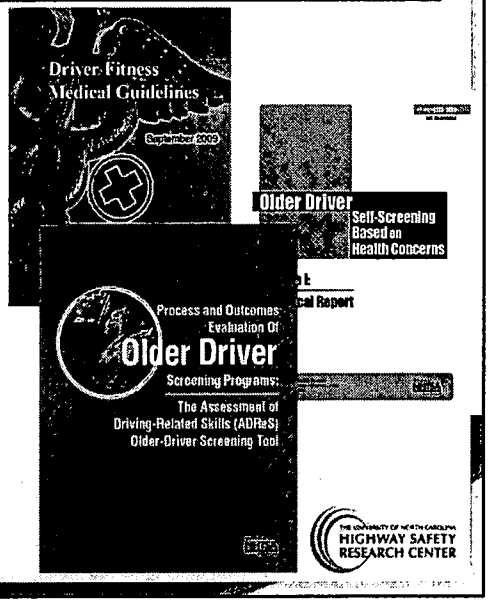
Multiple Strategies

- Plan for aging adult transportation needs
  - Residential development
  - Transit options
  - Community coalitions
- Improve the roadway environment
  - Signs, signals, markings, road design, lighting
  - Professional training



Multiple Strategies

- Identify high-risk drivers and intervene
  - Strengthen medical advisory board roles
  - Fitness to drive procedures
- Improve aging driver competencies
  - Establish community resource centers for training
  - Self-assessment
- Reduce risk of injury
  - Increase enforcement of belt use



Older Driver Licensing

- 18 states require more frequent renewals at various age thresholds (54 – 87)
- 8 states that prohibit/add restrictions to mail or electronic renewals
- 10 states add vision testing at various age levels (40 – 80)
- 2 require on-road testing at age 75+

Source: IIHS, February 2010

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NC Driver Licensing

- More frequent renewals beginning at age 54
- In-person renewals with limited exceptions
- ALL ages required to take the vision and sign tests during license renewals
- ALL ages subject to a road test at the discretion of the examiner

Licensing Policy Research

- 2004 – U.S.
  - 10 yrs fatal crash data
  - 50 states
- In-person license renewal
  - lower fatality rate for drivers aged 85+
- Other age-directed policies not linked to additional benefits
  - On-road testing, vision testing, more frequent renewal cycles

Source: Grabowski, Campbell, and Morrisey, JAMA, 2004

Licensing Policy Research

- 2008 – Australia
  - 10 yrs fatal crash data
  - NSW and Victoria
- State Differences
  - NSW – medical certification (80) and on-road testing (85)
  - Victoria – no age-based assessments
- Conclusion – no demonstrable safety benefits from age-based assessments

Source: Langford et al., AAP, 2008

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Conclusions

- Addressing safety and mobility for aging drivers has been on the national agenda for 20+ years
- Integral part of strategic highway safety plans for many State DOTs (including NC)
  - ECHS Working Group
  - Multiple approaches and partners to achieve success
- Older driver safety is trending in a positive direction
  - Reductions per capita greater than other age groups

Conclusions

- Licensing policy alone is not the answer
  - In-person renewal is the one correlation to a reduction in fatality rate for the oldest age group
  - Already present in NC along with vision testing for all ages
- Policies should not be established on the basis of a few crashes that draw media attention
  - Justifies exploration of the problem
  - Ineffective policies waste limited resources

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OLDER DRIVER WORKING GROUP

[updated 2-12-10]

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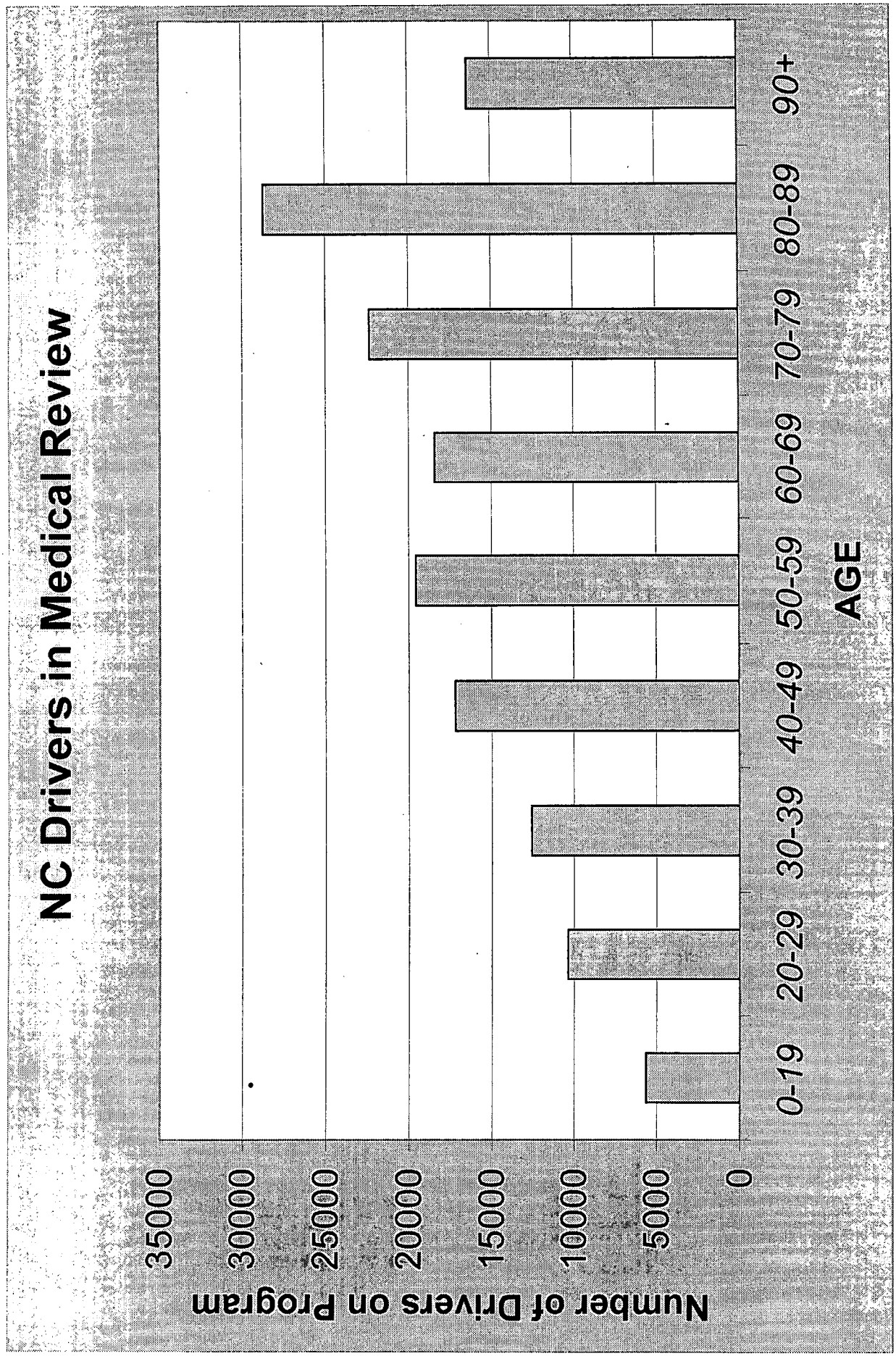

NC Drivers in Medical Review
Number of Drivers on Program
35000
30000
25000
20000
15000
10000
5000
0
0-19
20-29
30-39
40-49
50-59
60-69
70-79
80-89
90+
AGE

What is the N.C. Driver Medical Evaluation Program?

A. The Driver Medical Evaluation (DME) program is administered by the Division of Motor Vehicles (DMV), with medical counsel and individual case recommendations provided by physicians and physician extenders within the Highway Safety Scientific Services Section of the N.C. Department of Health and Human Services (DHHS). Drivers can be referred to DMV by concerned physicians, family members, driver license examiners and law enforcement officers. As a driver, you may be asked to have your personal physician provide information on your medical condition for review by the medical professionals at DHHS and final licensing decision by DMV.

Why are certain medical conditions important to DMV?

A. Injury is one of the leading causes of death in the United States, and most injury deaths result from motor vehicle accidents. In 2008, there were 214,226 vehicular crashes with 112,348 injuries and 1,448 deaths across North Carolina. Medical conditions which affect a person's ability to drive account for about half of all crashes resulting in serious injury or death. Because of this, all 50 states have chosen to restrict or revoke driver licenses on the basis of certain medical conditions by means of a DME program.

What medical conditions are important to DMV?

A. DMV and DHHS are concerned about your safety if you are experiencing medical problems while driving that put you at risk for a motor vehicle crash. In addition, DMV is concerned about the safety of other drivers on the road if you have a motor vehicle crash. DMV needs to know if you are experiencing medical problems such as:

- ❑ seizures;
- ❑ diabetes or blood sugar problems with loss of consciousness spells;
- ❑ blackouts;
- ❑ visual problems (such as cataracts or glaucoma);
- ❑ neuromuscular disorders (such as Parkinson's disease or multiple sclerosis);
- ❑ sleep disorders (such as narcolepsy);
- ❑ serious respiratory conditions requiring oxygen;
- ❑ heart problems (such as irregular rhythms and uncontrolled high blood pressure);
- ❑ a recent stroke;
- ❑ dementia (such as Alzheimer's);
- ❑ mental illnesses (such as schizophrenia); and/or
- ❑ substance abuse disorders (such as alcoholism)

Will I automatically lose my driver license when I get put on the DME program?

A. No, in most cases while you are being evaluated by your physician, you may continue driving as usual. After your doctor completes the DMV forms, DMV may choose to restrict your driving privileges to certain speeds, distances or certain times of day to protect you and other drivers around you, or they may decide you cannot operate a motor vehicle until your medical condition improves. They may require you to have another medical report form completed by your physician in six months to five years later to make sure your medical condition is being controlled in regards to driving.

How can I be released from the medical program?

A. A medical evaluation may indicate that your medical condition has improved, or been brought under control, to the point that you can safely operate a motor vehicle. Certain medical conditions have key factors that medical evaluators review to determine whether the customer should be released from the program. In these circumstances, you may be released from the program, at which point you may renew your license like any other North Carolina Driver.

Q.

What can I do if I don't agree with DMV's decision?

A. You can request a hearing and appeal your case in person to the Medical Review Board, a group of physicians specialized in evaluating medical conditions which affect a person's ability to operate a motor vehicle. At this time you can present other information such as affidavits by other doctors, testimony by witnesses and if you like, you may be represented by legal counsel.

Important points to remember

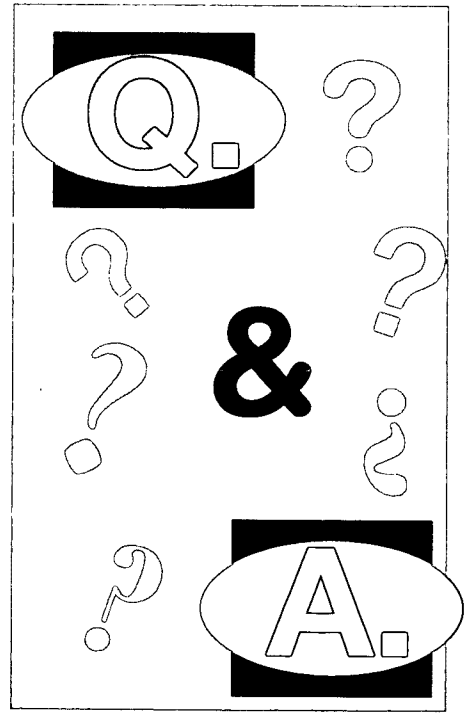
Being in the DME program is not a punishment, nor is it meant to be unfair. Driving in North Carolina is a privilege, and in order to protect that privilege for other North Carolina drivers, DMV has the authority to determine if you are medically "fit" for the privilege of driving. Understanding your medical condition and taking your medications as prescribed are the best ways for you to control further problems when driving. Never drive if you feel symptoms of your condition or if you are under stress, fatigue or the affects of sedating medication or alcohol.

Questions or Comments? Write or Call:

DMV

Division of Motor Vehicles
Driver Medical Evaluation
North Carolina Department of Transportation
3112 Mail Service Center
Raleigh, North Carolina 27699-3112
(919) 861-3809

The North Carolina Driver Medical Evaluation Program



NC EXECUTIVE COMMITTEE FOR HIGHWAY SAFETY
OLDER DRIVER WORKING GROUP

STRATEGIES TO REDUCE HIGHWAY CRASHES, INJURIES, AND FATALITIES INVOLVING OLDER DRIVERS

The Older Driver Working Group of the NC DOT Executive Committee for Highway Safety[1] is one of several technical committees organized around various topics of importance to the state's strategic highway safety plan. The UNC-CH Highway Safety Research Center brought this group together originally as a senior driver safety coalition with the help of a grant from the Governor's Highway Safety Program. The coalition was invited to serve as the Executive Committee's older driver working group in 2005 and to date has developed and begun implementation of seven strategies to reduce crashes and promote older driver safety.

Strategy #1. Improve signs at non-standard interchange approaches.

- The size, letter height, and placement of signs (especially signs placed in advance of non-standard interchanges to give drivers better warning about which lane of traffic to use for entering and exiting roadways) is an important strategy for roadway improvements that benefit older drivers and the general driving public.

- NC DOT adopted a traffic safety design standard for new or replacement signs in 2008, and the new standard has been applied in a few locations since this strategy was written. The availability of funding is a barrier to retrofitting older signs, but the new design standard will be applied to new and replacement signage.

Strategy #2. Identify hazardous intersections and improve their safety for older drivers.

- The Older Driver Working Group established a roadway subcommittee early in its work as a coalition to examine crash data and identify locations where older drivers were involved in a relatively high percentage of the crashes. Twenty intersections statewide were identified where at least 40% of the crashes involved an older driver. Several locations that appeared to have correctable patterns were selected for on-site investigations.

- Regional DOT engineers for the selected locations teamed up with volunteers from the AARP Driver Safety Program to assess ways to make the intersections less dangerous and make recommendations for design or operational changes.

[1] The Executive Committee for Highway Safety is a state level task force formed by NC DOT in 2003 to establish the goals of the state's highway safety plan and promote the development of policies and programs to reduce highway crashes, injuries, and fatalities.

Each location has many factors contributing to its crash history. In some cases the needed countermeasures are costly, and the challenge is to identify funding sources for the needed improvements. Like other highway safety improvements, these recommended changes are being evaluated and prioritized for implementation.

Strategy #3. Build capacity among engineers, planners, and other practitioners to accommodate the needs of older drivers.

- NC DOT periodically offers workshops based on the *Highway Design Handbook for Older Drivers and Pedestrians,* a set of recommendations released by the Federal Highway Administration.

- North Carolina already incorporates some of these recommendations into its standards of practice, but ongoing training for new staff also offers exposure to experienced staff about these concepts for roadway design and traffic operations.

Strategy #4. Strengthen DMV training for identifying drivers at increased risk of crashing, while fostering a positive environment for the testing of older drivers experiencing declines.

- License examiners play a pivotal role in identifying at-risk drivers who should not be licensed to drive or who should have restrictions placed on their licenses. The NC DMV Medical Review Program staff periodically offer training to license examiners to strengthen their ability to recognize drivers at increased risk for crashing while still offering a positive and respectful environment for testing older drivers and their medical fitness to drive.

- Small staffs in DMV examiner stations across the state make attendance at in-service trainings a challenge, but other options such as training CDs are being explored.

- There have been discussions about NC DMV carrying out a pilot project for road testing certain older drivers in their home driving environment when their licenses have restricted them to driving within 5 miles of their homes and the DMV office is located outside that radius.

Strategy #5. Increase public awareness of older driver issues and resources for maintaining safe mobility.

- There is a great need for reliable information about safe mobility in later life. The challenge is to have needed information readily available in a variety of venues and in formats relevant to all the people who may use and share it – older drivers, family members, professionals who work with older adults, and the general public.

- The Older Driver Working Group held workshops in five selected communities (Wilmington, Southern Pines, Waynesville, Greensboro, and the Wake-Durham-Orange area) in 2006 to replicate the idea of bringing together locally a broad-based group of stakeholders like the working group itself. The materials gathered for these forums helped the working group members identify a host of good resources suitable for a variety of audiences.

- The working group also has plans to develop a NC website for the posting of information. Current plans are to house this website with NC DMV, but many members also plan to maintain information on their own websites and have the information linked to the DMV website.

Strategy #6. Engage law enforcement in implementing older driver safety initiatives.

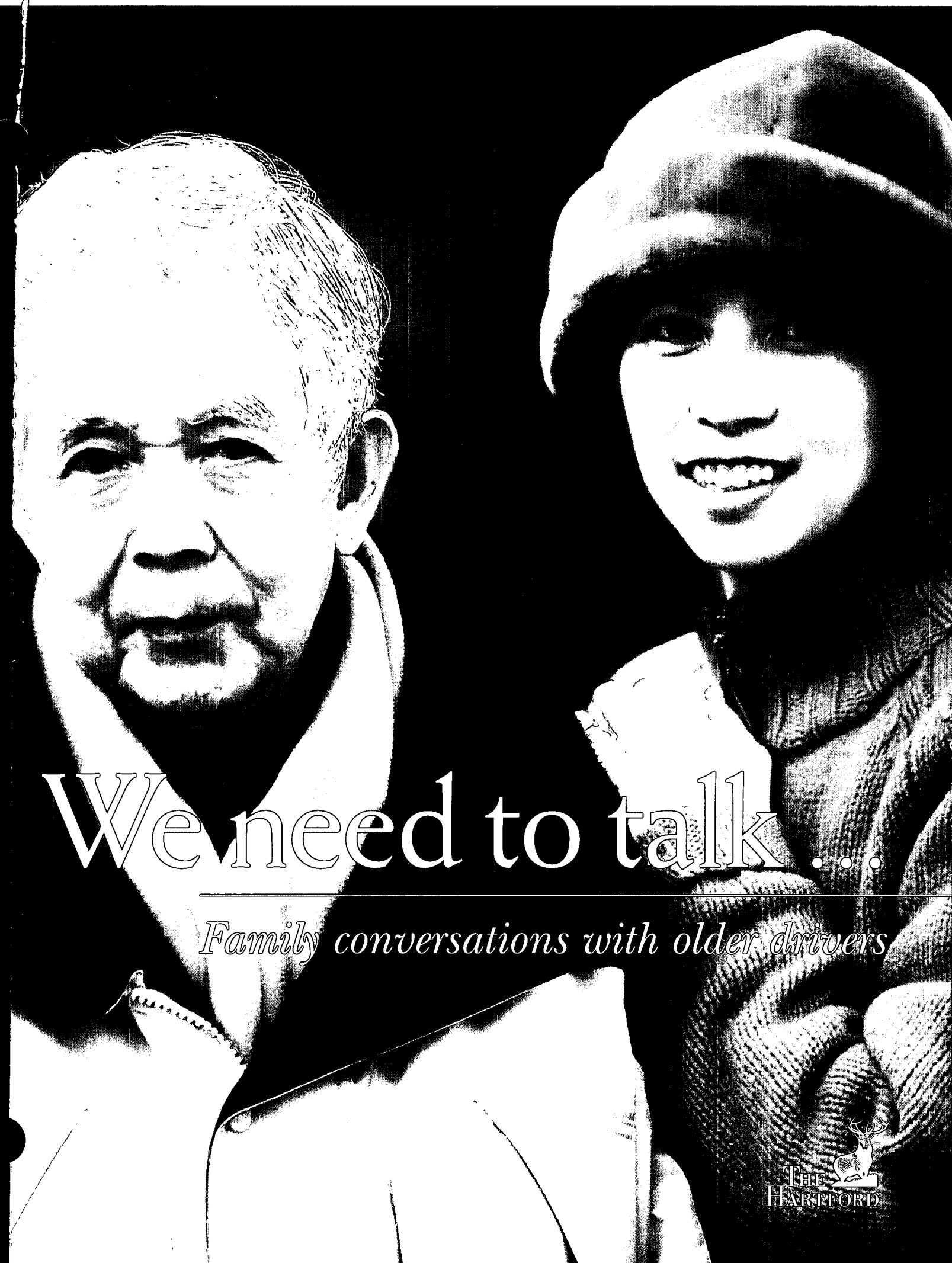
- Law enforcement is a key partner in identifying at-risk drivers. The National Highway Traffic Safety Administration has developed a curriculum to help educate law enforcement on how to recognize unsafe older drivers during traffic stops and crash investigations. The staff of the NC Justice Academy with help from the Older Driver Working Group proposed a version of this curriculum for use in North Carolina. In late 2009 the NC Justice Academy Commission approved a required 4-hour curriculum on older drivers as the topic of choice for the 2011 Commission-mandated officer recertification hours.

- The Older Driver Working Group received a small grant from the National Center on Senior Transportation that is going to allow, among other things, for the printing and lamination of "older driver cue cards" for law enforcement as part of a pilot project. The intent of the proposed pilot is to determine the usefulness of information about older driver safety in this format when officers are making a traffic stop or when an older driver approaches them for assistance.

Strategy #7. Engage physicians and other health care providers in implementing older driver safety initiatives.

- Physicians and other healthcare workers have been identified as a key partner and target group to engage in keeping older drivers using the road safely. This is the Older Driver Working Group's newest strategy. There are many resources already available, including the American Medical Association's guidelines for assessing older drivers. Preliminary discussions are underway with the Wake Area Health Education Center (AHEC) about educational opportunities.

- Physicians have had civil immunity for reporting unsafe drivers to DMV for evaluation of their medical fitness to drive since 1997. As a group, physicians already are one of the major sources of referrals to the Medical Review Branch of DMV, and the Older Driver Working Group hopes to build upon that foundation.



We need to talk . . .

Family conversations with older drivers

THE HARTFORD

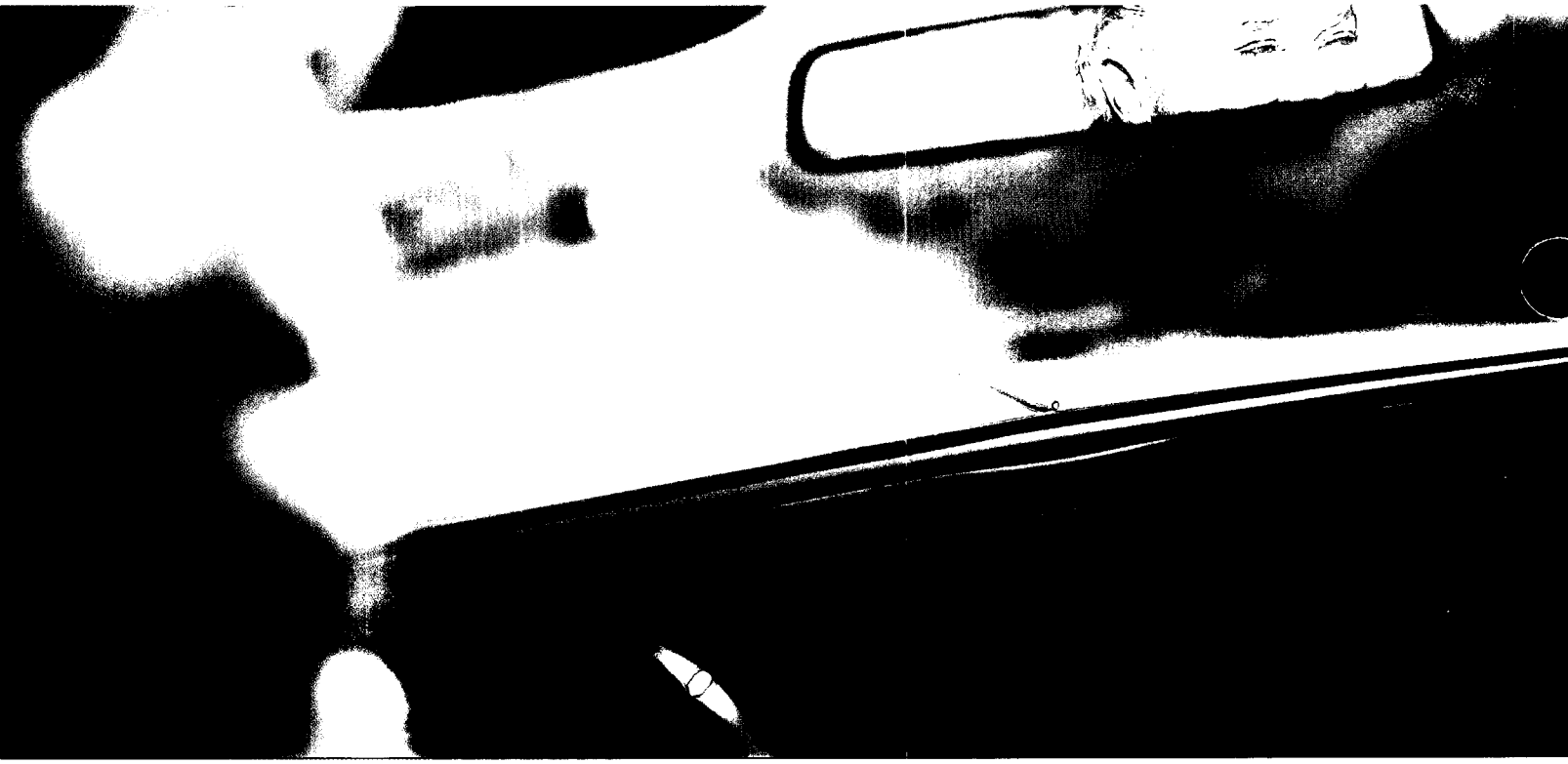
Questions Families Need to Ask About Older Drivers

Accidents involving older drivers often call attention to the issue of older adults and driving safety. The facts alone may seem confusing. Statistics actually indicate that most older adults are safe drivers, with high safety belt use and few citations for speeding, reckless driving or alcohol-related charges. However, medical conditions, medication usage and reduced physical function can increase the risk of accidents and injury among older adults. Factor in the sense of independence that driving represents for older adults, and you can understand why driving safety for older adults is an emotionally charged topic.

The Hartford Financial Services Group, Inc., and the MIT AgeLab developed this guide to help families initiate productive conversations with older adults about driving safety. These suggestions are based on a nationally representative survey of drivers over the age of 50, focus groups with older adults who have modified their driving, and interviews with family caregivers of persons with dementia.

Crafting Caring Conversations

When families discuss driving issues, they must assess the personality of the older driver, driving record, availability of transportation resources, geographic proximity, and long-term family relationships. The following questions and answers can help you assess your family situation and have meaningful conversations about older driver safety.



Are older drivers at risk?

For older drivers, the rate of fatalities increases slightly after age 65 and significantly after age 75. This higher rate is due to the increased inability to withstand the physical trauma that often occurs with age.

As a group, older drivers are typically safe. The actual *number* of accidents involving older drivers decreases as age increases. Experts attribute this decline to self-imposed limitations, such as driving fewer miles and avoiding night driving, rush-hour traffic and other difficult conditions. Therefore, sharing the roadways with older drivers poses a relatively low risk to other drivers.

However, older drivers, especially after age 75, have a higher risk of being involved in a collision for every mile they drive. The rate of risk is nearly equal to the risk of younger drivers age 16 to 24. The rate of fatalities increases slightly after age 65 and significantly after age 75. This higher rate is due to the increased inability to withstand the physical trauma that often occurs with age. Although older persons with health issues can be satisfactory drivers, they have a higher risk of injury or death in an accident, regardless of fault.

These statistics can help you see the risk for older drivers; however, the decision to limit driving depends on each individual. Each family must ask, "Is my older relative safe?" Ongoing discussions and objective assessments will help older drivers and their families evaluate the risks in their unique situations.

Do family conversations make a difference?

Of the older adults surveyed who reported that someone had talked to them about their driving, more than half said they listened to and followed the suggestions of others.

Yes. What you say or don't say influences the decisions of older adults and can make the difference between safety or injury – life or death.

Although unsafe driving may be an uncomfortable subject, these ongoing conversations over time will help older adults weigh decisions and agree to drive less, avoid certain road conditions or stop driving. Of the older adults surveyed who reported that someone had talked with them about their driving, more than half said they followed the suggestions of others. Women generally complied more readily than men.

When faced with a discussion about driving abilities, with whom do older adults choose to talk?

Marital status is a significant factor that determines who should have the conversation with the older driver. The top choice of married drivers (50 percent) is to hear about driving concerns first from their spouses.

Hearing sensitive information from the right person can make a big difference. To increase the chances of success, carefully select the person who will initiate the discussion and have others reinforce decisions about driving. Older adults typically prefer to speak confidentially about driving safety with someone they trust. Often family members can form a united front with doctors and friends to help older drivers make good driving decisions.

When choosing a family member to initiate the discussion, consider the personalities involved and past experience approaching difficult topics. Some families mistakenly assign the most outspoken or authoritative member to deliver their concerns as an ultimatum. Such persons are not ideal to open the early discussions on driving, but may better serve as the enforcer of driving decisions.

The Hartford/MIT survey indicates that older drivers have specific preferences for these conversations that vary based on several factors, such as marital status, gender, health and presence of other supportive individuals. Marital status is a significant factor that determines who should have the conversation with the older driver. The top choice of married drivers (50 percent) is to hear about driving concerns first from their spouses. Older drivers living alone prefer to have these conversations with their doctors, adult children or a close friend. Let's look more closely at each of these groups.

Spouses

Men prefer to hear from a spouse slightly more than do women. Spouses have the advantage of observing driving over time and in different situations, as well as years of experience in dealing with sensitive topics and each other's limitations. Not all married couples choose their spouses for this conversation. More than 15 percent of older men and women said their spouses were their *last* choice for hearing about driving concerns, reinforcing the importance of assessing individual preferences before having conversations about driving.

Doctors

Outside of the family, the opinions of doctors are often valued by older drivers. About 27 percent of those living with spouses and over 40 percent of those living alone said they want to hear first from their doctor. Many older adults think that physicians can precisely determine their ability to drive safely. And people who have health problems are more likely to listen to the advice of a doctor about driving.

However, not all doctors agree that they are the best source for making decisions about driving. Physicians may not be able to detect driving problems based on office visits and physical examinations alone. They can assess diminished visual, cognitive and motor skills, or refer the driver to an assessment program for evaluation. This referral may avoid unnecessary conflict when the doctor, family members, and older driver have differing opinions. Family members should work with doctors and share observations about driving behavior and health issues to help older adults make good driving decisions.

Adult Children

Adult children seem to have more influence with parents over 70 than with younger parents in their 50s and 60s. These differences often correlate to health changes and shifts in parent-child relationships later in life. Older drivers also tend to be more open to adult children who live nearby.

Women are generally more receptive than men to the prospect of hearing from their adult children. Men are slightly more inclined to choose sons over daughters, while women are more likely to choose daughters. Among individuals living alone, almost one third said they would prefer to hear about unsafe driving from their adult children, while nearly 15 percent of men and women living alone ranked their children as the *last* ones from whom they want to hear about driving.

Other Supportive Helpers

Persons other than spouses and adult children may influence driving decisions. Some older adults would be open to hearing from a close friend, a sibling, or an adult child's spouse. Approximately 10 percent of older drivers living alone said they would choose a close friend to initiate the driving conversation. These preferences most likely reflect the quality of their relationships.

Police Officers

More than anyone else, older adults *strongly* prefer not to hear about driving concerns from police officers. While some older adults may not welcome families talking about their driving, they still find it preferable than hearing from police. However, police intervention may be necessary in situations where an older driver is unsafe and unwilling to curtail driving.

How will the older person react to questions about his or her driving?

Older adults may agree with the assessment of their driving ability but feel depressed at the thought of relinquishing driving privileges.

Older drivers may express strong emotions when someone talks to them about their driving. Nearly one-fourth of older adults reported feeling sad or depressed as a result of the conversation. Less than 10 percent reported responding with anger. Older adults in poor health are more likely to have negative reactions. They may even agree with the assessment of their driving ability but feel depressed at the thought of relinquishing driving privileges.

Negative reactions are often more about the message than the messenger. Older adults understand the implications of driving cessation:

- Fewer trips outside the home.
- Increased and permanent dependency on others for transportation.
- Becoming a burden to others.
- Fewer social opportunities.

Families also experience strong emotions. Sometimes family members themselves become angry and frustrated, while others feel guilty for depriving their loved one of the freedom of driving. A calm response will ensure a productive discussion and defuse negative emotions about the topic. Do not postpone the conversation because of fear or guilt. Be prepared to have several conversations to achieve your goal. It is more important to avoid accidents or death than to avoid unpleasant topics.

When is it a good time to begin talking about driving?

Early, occasional and candid conversations establish a pattern of open dialogue and can reinforce driving safety issues without the strain of asking someone to change his or her driving behaviors.

Ideally, the first conversations about safety should occur long before driving becomes a problem.

Early, occasional and candid conversations establish a pattern of open dialogue and can reinforce driving safety issues without the strain of asking someone to change his or her driving behaviors. Discussion at this point allows time for the older adult to consider his or her driving skills and make appropriate modifications. Here are some conversation openers:

"Health and safety first."
When driving is placed within the larger context of other safety concerns, it may take the personal edge off the conversation.

"Driving isn't what it used to be."
Family members of any age can find common ground by talking about road conditions, such as faster, heavier traffic that make driving more stressful. Restricting driving in order to compensate for worsening driving conditions makes sense for everyone, not just someone who may need to compensate for declining abilities.

"Did you hear about the car accident in the news today?"
Use news reports to inform, not scare, older persons. Headline news about accidents that involve older and younger drivers can provide an opportunity to explore your family member's attitudes about unfit drivers and the question of who is responsible for helping them decide when to relinquish the keys.

"How did Granddad stop driving?"
This opener may provide an opportunity to reveal personal feelings about driving and family intervention.

What circumstances create opportunities for conversations about driving restrictions?

According to our survey, car accidents, near misses, self-regulation of driving, and health changes provide opportunities to talk about driving skills.

According to our survey, car accidents, near misses, self-regulation of driving, and health changes provide opportunities to talk about driving skills. Many older adults think that family members *should* talk to them when a potential problem arises. Here are suggestions for starting frank discussions without sensationalizing difficult circumstances:

"I'm glad that you've cut down on night driving. I would never want you to drive when you're not comfortable or feel that it's too risky."
When adults modify their driving in small ways without guidance from others, families should praise self-regulation as a positive step and not discourage the driver's actions. For example, don't dismiss the older adult as a worrier and discourage the driver who is limiting night-driving by leaving a family gathering before dark. Be supportive and express your willingness to support their transportation needs.

"Have you asked your doctor about the effects of your new medication on your driving?"
Many medications have sedative effects that can prevent a person from processing information quickly. About 75 percent of older adults think that a significant change in their health is a legitimate reason to have a discussion about driving.

"That was a close call yesterday. I worry about your safety on the road."
Fifty percent of older adults said that having a serious accident is an opportunity to start a conversation, while about 33 percent said a minor accident or narrowly avoiding an accident should trigger a conversation. In situations where the older driver was not at fault, families might want to discuss diminishing ability to drive defensively. In all cases, these discussions are more productive if they are *not* held at the accident scene.

"I'm worried about your getting lost."
Almost 70 percent of older adults say that getting lost while driving could be cause for conversation. Getting lost in a *familiar* place may suggest potentially serious cognitive health issues that could affect driving skills. This may also be a good time to get a doctor involved in the discussion.

How do I prepare for serious conversations about limiting or stopping driving?

Learn about the warning signs of driving problems, observe the older driver behind the wheel over time, discuss your concerns with a doctor, investigate alternative transportation, and be supportive of the older driver.

Do your homework before you ask a family member to significantly restrict or stop driving.

Get the facts. Learn about the warning signs of driving problems, observe your relative's driving, and look for patterns of warning signs of future problems. In focus groups, people reported being more willing to listen to those who had driven with them. See the Warning Signs for Older Drivers on page 16.

Observe the older driver behind the wheel over time. Has the driver expressed personal concerns about driving safety? Is the older driver limiting where and when he or she drives?

Discuss your concerns with a doctor and determine what information you need to provide, given your relative's medical condition. Some doctors may take an active role in assessing a driver's skills and rendering an opinion; others will refer a concerned patient to a driving rehabilitation specialist for assessment.

Investigate the alternatives for helping an older driver adjust to driving limitations. Consider how to satisfy social and transportation needs when the older adult curtails or ceases driving. The "Getting There" Worksheet on page 17 can help you assess driving alternatives so that the older adult is not left house-bound. The Transportation Cost Worksheet on page 19 can help you calculate the current amount being spent on transportation. Relatives may need to set aside time each week to meet the transportation needs of an older relative. Consider increasing the frequency of visits, outings, phone calls, letters, and e-mails.

Be Supportive. The transition from driver to passenger is not always easy or smooth. Your support and understanding is necessary before, during and after driving changes are made.

Expect to have several conversations to achieve a balance between safety and independence. Men may require more repeat conversations than women. Don't be dissuaded by initial negative reactions. During each conversation, share your genuine safety concerns and desire to protect the driver's best interests.

How can I encourage an older adult to plan for and use alternative transportation?

Effective conversations encourage future planning and show respect for the older adult's ability to make appropriate decisions.

Effective conversations encourage future planning and show respect for the older adult's ability to make appropriate decisions. When you observe the older person modifying his or her driving habits, use these opportunities to explore transportation options together to give the older adult time to adjust to them.

"If you don't want to drive at night, we can arrange for someone to pick you up." Commend the older driver for being cautious and help arrange transportation.

"Let's take the bus so we don't have to deal with the parking downtown." Practice using public transportation together before it becomes a necessity. Remember that public transportation may be difficult or impossible to use for some older adults with physical or cognitive difficulties who must limit their driving. In these cases, families are often the first and only alternative transportation.

"You could save hundreds of dollars if you sold your car." Insurance, maintenance, depreciation, and gasoline costs make owning and operating a car expensive. Even taxi services, which provide door-to-door service, can be more economical. Refer to the Transportation Cost Worksheet on page 19 to understand the costs of driving alternatives.

"What if something happened and you couldn't drive? What would you do?" Ask what-if questions to encourage advance planning.

What if an older driver doesn't realize that his or her driving is a serious problem?

If driving skills continue to deteriorate after self-imposed restrictions, it is necessary to have follow-up conversations. Additional conversations with family members, doctors or law enforcement officials may be necessary.

If driving skills continue to deteriorate after self-imposed restrictions, it is necessary to have follow-up conversations. Additional conversations with family members, doctors or law enforcement officials may be necessary. Here are some more direct appeals to help persuade a high-risk driver:

"Even if you were not at fault in a collision, you could be seriously injured or die."
Regardless of who is at fault, older adults are more likely to be injured or killed because they have less capacity to endure the physical trauma of an accident. Pre-existing medical conditions may complicate recovery or result in death.

"I know you would feel terrible if someone was hurt when you were driving."
Concern for others is often a stronger motivation than concern for self. In addition to physical harm to others, an accident can pose enormous financial and legal risks. Families should tactfully mention this possibility, but not dramatize the point.

"I'm afraid to let the grandchildren ride with you."
An older relative may realize the degree of concern when family members will not ride with them. Protecting lives is more important than protecting feelings.

"Let's talk with your doctor about this."
Blame the poor health, not the driver. Preferably, find out the doctor's opinion before suggesting this step. The doctor might not agree with the family's assessment nor want to assume the role of determining who should drive.

Is there a test that can determine if someone is a safe driver?

There are tests for reflexes, vision, flexibility, and visual attention – all critical skills for driving. Some older adults prefer assessments that give them tips on being a better, safer driver.

There is no single, simple test to determine if someone is a safe driver. However, there are tests for reflexes, vision, flexibility, and visual attention – all critical skills for driving. A doctor may refer the driver to a qualified specialist for an assessment of driving skills. These tests last several hours and often include a road test with an evaluator present.

Administered by rehabilitation centers, hospitals, and Veterans Administration Medical Centers, these tests can cost from $200 to $1,000 and are seldom covered by insurance or Medicare. The Veterans Administration may offer free tests for eligible veterans.

A formal assessment may seem threatening to an older driver, especially if it is either pass or fail. Some older adults prefer assessments that give them tips on being a better, safer driver.

Drivers who pass the test will receive recommendations on improving skills, avoiding certain driving situations, useful equipment (e.g., wide range mirrors, pedal extensions), and an interval for re-testing. The results are shared with the driver and possibly with the driver's physician, if requested. Results are not shared with a licensing authority unless so ordered by the court.

What if the driver has dementia?

Families should be vigilant about observing driving behavior. Firsthand knowledge of driving behavior will help families know if and when they need to intervene.

Some persons in early stages of dementia may have sufficient insight into their driving abilities to make adjustments. They should be given the opportunity to make decisions about driving, if safety is not compromised.

Over time, such individuals will become incapable of accurately assessing their driving skills. In progressive dementia, the disease will eventually rob the driver of skills necessary for safe driving. In these cases, families and doctors must collaborate to protect the individual and may need to take immediate unilateral action.

Families of persons with dementia may not realize that getting lost in familiar places is a serious warning sign. Persons who are confused and forgetful may also lack the ability to respond appropriately to ever-changing road conditions.

Families should be vigilant about observing driving behavior. Firsthand knowledge of driving behavior will help families know if and when they need to intervene. For more information on this topic, see *At the Crossroads: Family Conversations about Alzheimer's Disease, Dementia and Driving* (www.thehartford.com/alzheimers).

What if a high-risk driver refuses to stop driving?

You may have to consider disabling the car, filing down the keys, or removing the car, and speaking with the driver's doctor to schedule a formal driving assessment.

Some older drivers will not respond to constructive conversation. You may have to consider disabling the car, filing down the keys, or taking away the car. Some older drivers, however, find ways to work around these actions, such as calling a mechanic and having a disabled car repaired. Strategies, such as not renewing a driver's license, or canceling registration or insurance, alone may be ineffective. Remember, drivers may continue to drive without a driver's license, car registration or insurance coverage.

If you have not yet done so, speak with the older driver's doctor or schedule a formal driving assessment. Call your state licensing agency or consult the Insurance Institute for Highway Safety Web site (www.hwysafety.org) to learn about testing in your state.

Start the conversations today.

With sensitivity toward the feelings of older drivers, families can help the older driver make safe driving decisions and ensure peace of mind for the entire family.

Limiting or giving up driving is a difficult decision for older adults. Families can help individuals make these difficult decisions by having periodic, frank discussions about driving safety and health. Ideally, the transition from driver to passenger will happen gradually over time, allowing all family members to adjust to new circumstances. Successful family conversations begin with good preparation and caring communication.

With sensitivity toward the feelings of older drivers, families can help the older driver make safe driving decisions and ensure peace of mind for the entire family.

Warning Signs for Older Drivers

The driving behaviors listed below could cause safety problems. They are ranked from minor to serious. Many of the less serious issues may be overcome with changes in driving behavior or physical fitness, while the more serious behaviors may require your immediate action. Since driving ability seldom changes drastically in a short time, you should be able to track changes over time to get a clear picture of overall driving ability.

Here's how to use this list.

- Observe driving over time, keeping notes to help you understand **changes** in driving ability.
- Look for a **pattern** of warning signs and for an increase in the frequency of occurrence.

Driving Behavior Warning Signs – When Noticed, How Often	
1. Decrease in confidence while driving.	16. Uses a "copilot."
2. Difficulty turning to see when backing up.	17. Bad judgment on making left hand turns.
3. Riding the brake.	18. Near misses.
4. Easily distracted while driving.	19. Delayed response to unexpected situations.
5. Other drivers often honk horns.	20. Moving into wrong lane.
6. Incorrect signaling.	21. Difficulty maintaining lane position.
7. Parking inappropriately.	22. Confusion at exits.
8. Hitting curbs.	23. Ticketed moving violations or warnings.
9. Scrapes or dents on the car, mailbox or garage.	24. Getting lost in familiar places.
10. Increased agitation or irritation when driving.	25. Car accident.
11. Failure to notice important activity on the side of the road.	26. Failure to stop at stop sign or red light.
12. Failure to notice traffic signs.	27. Confusing the gas and brake pedals.
13. Trouble navigating turns.	28. Stopping in traffic for no apparent reason.
14. Driving at inappropriate speeds.	29. Other signs:
15. Not anticipating potential dangerous situations.	

"Getting There" Worksheet

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Prior to talking to an older driver about limiting or stopping driving, thought should be given to ways the driver can remain engaged in life's activities. No single method of transportation is likely to meet all needs. This worksheet is designed to help you identify available transportation alternatives in your area.

Family/Friends

Family and friends are the top alternative to driving for older adults. This mode of transportation may seem more familiar, comfortable and social to many older adults. That said, there may be conflicting feelings of burdening or inconveniencing others. Some older adults may want to do something in exchange for the ride.

Questions to Ask

1. Are people available to provide rides at the times required?
2. To what extent are family or friends able or willing to provide rides.
3. Do people provide the rides willingly or do they resent having to adjust their schedules?
4. Is there something the older adult can "trade" for a ride (making dinner, taking the driver to lunch, paying for gas)?

Notes: _____

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Local Programs that Offer Rides

These are locally developed programs, often sponsored by faith-based or non-profit organizations, which provide rides for older adults. They may charge nominal fees or accept donations and often operate with the help of volunteer drivers.

Questions to Ask

1. What programs are available in my area?
2. Is there a cost?
3. What hours and days of the week does the service run?
4. What are the routes or areas of service?
5. Are there limits to the number of rides in a given time period?
6. Is there any assistance available to people with physical or other health constraints?
7. Is there assistance for people with bags, etc.?
8. Is pre-registration with the service required?
9. Are wheelchair lifts available?

Notes: _____

_____

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Demand-Responsive Services or Paratransit

Often referred to as the Dial-a-Ride or Elderly and Disabled Transportation Service, these programs are almost always subsidized by government funds and provide door-to-door service and offer rides by appointment. Fees or donations are common. Many use vans and offer accessible services for riders with special needs.

Questions to Ask

1. Is there a minimum age or other physical or cognitive criteria for using the service?
2. How much does it cost?
3. Can an account be set up in advance with the service?
4. How far in advance do reservations need to be made?

continued ·

"Getting There" Worksheet (cont.)

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Private Program Services

Services such as adult day centers, housing programs, stores, malls, or other businesses may offer transportation for program participants or customers.

Questions to Ask

1. What ride destinations are provided?
2. Is there a cost?
3. What hours does the service run?
4. What are the routes?
5. Is there any assistance available to people with physical or other health constraints?
6. Is there assistance for people with bags, etc.?
7. Is pre-registration with the service required?
8. Are wheelchair lifts available?

Notes: _____

Taxi/Car Service

These private services offer flexible scheduling and charge a fee. Many older adults may perceive these services as "expensive" or "a luxury" but they can cost much less than owning and maintaining a car. Some taxi/car services may be willing to set up accounts that allow other family members to pay for services.

Questions to Ask

1. How much does it cost?
2. How is the cost calculated?
3. How long in advance should I call for a ride?
4. Do you offer any guarantee on response time?
5. Are there geographic limits to where you provide service?
6. Can an account be set up in advance with the service?
7. How are tips handled with an account system?
8. Will drivers provide assistance with bags, packages, etc.?
9. Can the service accommodate wheelchairs?

Notes: _____

Mass Transit

Public transportation, where available, can be an affordable option for some older adults.

Questions to Ask

1. How much does it cost?
2. Are there discounts for older/disabled people?
3. Can an account be set up in advance with the service? Or are there monthly passes?
4. What hours does the service run?
5. What geographic area does the service cover?
6. Will drivers provide assistance with bags, packages, etc.?
7. Can companions accompany the person on the service?
8. Are wheelchair lifts available?
9. Does the older adult have cognitive or physical limitations that prevent him or her from using this mode of transportation?

Notes: _____

Transportation Cost Worksheet

Owning and operating a vehicle can be more expensive than you think! By writing down your actual expenses, you can get an idea of how much money could be available for alternative transportation if you were to stop driving.

To determine the annual expense to own and operate a car, list all the related expenses below. Don't forget to multiply by 12 for monthly expenses, or by 52 for weekly expenses. For less frequent expenses, such as tires, estimate the cost and divide by the number of years between expenses. Once you have the annual expense for owning and operating the vehicle, you can get a better idea of how much you are already spending on transportation.

Vehicle Cost Per Year	Annual Cost
Car/Lease Payment	
Regular Operating Expenses • Gas • Washer Fluid • Parking • Tolls • Other	
Regular Maintenance • Oil Changes • Minor Tune-ups • Wiper Blades • Lights • Car Wash/Wax • Other	
Long-Term Maintenance *(estimate the cost and divide by the number of years between expenses)* • Tires • Brakes • Major Tune-ups • Repair/Replace Parts • Other	
Insurance – Annual Cost	
Motor Club/Roadside Assistance	
Registration/License Plate Fees	
License Fees	
Vehicle Inspection/Emissions Fees	
Total Cost Per Year	**$**

Web Resources

Hartford/MIT *At the Crossroads: Family Conversations about Alzheimer's Disease, Dementia & Driving*
www.thehartford.com/alzheimers

MIT AgeLab
web.mit.edu/agelab

AARP Driver Safety Program
www.aarp.org/drive
1-888-227-7669

National Highway Traffic Safety Administration
www.nhtsa.gov

National Safety Council
www.nsc.org
www.TheDefensiveDrivingSchool.com

Certified Driver Rehabilitation Specialists
www.driver-ed.org

Eldercare Locator
www.eldercare.gov

Insurance Institute for Highway Safety
www.hwysafety.org

American Medical Association Guidelines for Older Drivers
www.ama-assn.org/ama/pub/category/8925.html

American Occupational Therapy Association
www.aota.org

Survey Data Collection

In Spring 2002, we sent written questionnaires to a sample of 7,200 home-dwelling adults aged 50 and older living in the United States. The sample was stratified by age and was selected from a pool of participants in an ongoing consumer marketing panel about whom we had some preliminary demographic information. For the purposes of this study, drivers were considered to be people who were licensed to drive and had driven an automobile at least once in the previous 12 months. Participants were offered a $1 incentive to complete the questionnaire. Of the total questionnaires sent, we had 3,824 returned for a 53 percent response rate.

To correct for some of the differences between the sample and the population as a whole, the data are weighted to 2001 Current Population Study quotas on gender, age, region, household designation, and household size. More precisely, the sample is representative of adult drivers aged 50 and older who live in households headed by someone 50 or older. Results reported here are based on the weighted data.

The Hartford/MIT AgeLab Partnership

MIT AgeLab
Ideas + Technology for Quality Living

In 1999, The Hartford became a founding sponsor of the MIT AgeLab, creating the Safe Driving for a Lifetime partnership. The MIT AgeLab and The Hartford Advance 50 Team (formerly the Corporate Gerontology Group) are committed to producing original research that can expand the understanding of older drivers and their families as they deal with changes in driving abilities. Through professional meetings and public education, the Hartford/MIT AgeLab partnership has successfully reached millions of people in the United States and across the globe with high-quality, meaningful information to guide important decisions about safe driving.

You can also visit us on the Web at:
www.thehartford.com/talkwitholderdrivers

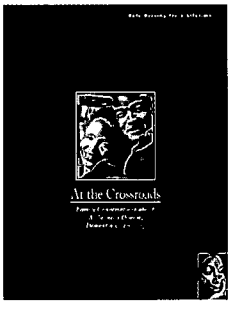
To obtain additional copies of this free brochure, use the convenient order form on the Web site, or write to:

The Hartford
Family Conversations with
Older Drivers
200 Executive Boulevard
Southington, CT 06489

The Web site and publication are also available in Spanish.

For information on dementia and driving, visit **www.thehartford.com/alzheimers**. To obtain a free copy of the *At the Crossroads: Family Conversations about Alzheimer's Disease, Dementia & Driving* brochure, use the convenient order form on the Web site, or write to:

The Hartford
At the Crossroads
200 Executive Boulevard
Southington, CT 06489



This guide is designed to educate readers and assist them in analyzing older driver safety. It is not intended to be an exhaustive source or to relate to any particular driving situation. Readers are advised to consult the necessary professionals to assist them in analyzing their driving situation and to refer to the sources identified in the section entitled "Web Resources" for additional information.

The Hartford is the proud recipient of the 2005 American Society on Aging Business and Aging Award for *We Need to Talk ... Family Conversations with Older Drivers.*

MIT AgeLab

Ideas + Technology for Quality Living

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NORTH CAROLINA STUDY COMMISSION ON AGING

Thursday, March 4, 2010
10:00 am
Legislative Office Building, Room 544

The North Carolina Study Commission on Aging met on Thursday, March 4, 2010, at 10:00 am in Room 544 of the Legislative Office Building. Members present were: Senators Bingham, Dorsett, Forrester, Swindell; Representatives Farmer-Butterfield, England, Pierce, Weiss; Mr. Anthony Peace; Ms. Joan Pellettier; Ms. Jean Reaves; Ms. Maria Spaulding; and Ms. Patricia Sprigg. Staff also in attendance was: Susan Barham, Melanie Bush, Joyce Jones, Sara Kamprath, Theresa Matula, Shawn Parker; and commission assistants Janice Mobley-Bennett and Delta Prince.

Co-chair A.B. Swindell recognized visitors, called the meeting to order and proceeded as follows:

Long-Term Care Partnership (LTCP) Plan, presented by Ms. Carla Obiol, North Carolina Seniors' Health Insurance Information Program, Department of Insurance (DOI) and Ms. Carolyn McClanahan, Chief of Medicaid Eligibility, Division of Medical Assistance, Department of Health and Human Services (DHHS).

Section 10.10 of S.L. 2006-66 authorized DHHS to develop a Long-Term Care Partnership program for North Carolina. It is an alliance between the North Carolina Division of Medical Assistance and the North Carolina Department of Insurance. According to Ms. Obiol, the number one reason for the establishment of this partnership is the increase in the number of baby boomers seeking long-term care and its potential to overwhelm Medicaid's pay-as-you-go financing. In order to understand the need for LTCP one has to understand Long-Term Care Insurance (LTCi), which is a type of private insurance policy that covers various long-term care services such as nursing homes, assisted living, home or community-based care. Ms. Obiol noted that this insurance is designed for middle and upper income individuals who want to protect considerable financial assets and can afford to pay premiums.

The LTCP is a public-private program between state Medicaid agencies and private insurers offering long-term care insurance. These policies protect assets while allowing for access to long-term care benefits through the state Medicaid program. Ms. Obiol also stated that policy holders who exhaust private coverage and still need long-term care benefits can access Medicaid without the usual spend down routes. According to Ms. Obiol, DHHS and DOI support LTCP for the following reasons:

- LTCP provides an additional option for purchasers of LTCi and opens the door to the moderate earner who wants to have control of long-term care services.
- LTCP encourages people to look at future costs and plan for long-term care costs.
- LTCP will reduce the demand for public funds and ultimately save Medicaid dollars.
- LTCP products have rich benefits; therefore, the plans will likely be adequate for covering one's long-term care needs.
- Any delay in a person going on the state Medicaid roster is a savings to the state.

The Omnibus Budget Reconciliation Act (OBRA) of 1993 restricted the ability of additional states to replicate Partnership programs because state laws required states to pursue state recovery of assets protected by the Partnership upon death of beneficiary. The Deficit Reduction Act (DRA) of 2005 lifted restrictions and allowed additional states to participate by permitting states to exempt LTCP benefits from estate recovery as long as the state had a "State Plan Amendment" which provided for a qualified state long-term care partnership. Ms. Obiol noted that the DRA designated dollar-for-dollar as the model new partnership states could implement.

The dollar-for-dollar model offered the following benefits:

- Individuals could purchase an LTCi policy that protects a specified amount of assets.
- Every dollar the insurance company pays out in claims will be deducted from resources counted when considered for Medicaid application – also referred to as Resource Disregard.
- Every dollar of resources protected at estate recovery is equal to the amount of resources disregarded at the point of Medicaid application.

For example, Ms. Obiol said that if $50,000 were paid out in claims, $50,000 of an individual's assets would not be counted when he/she is being considered for Medicaid and is the same amount of resources that will be protected in estate recovery.

Ms. Obiol noted the basic features of LTCP required by DRA as being inflation protection, reciprocity, and tax qualification. Inflation protection requires an increase in benefits over time to ensure that the policy maintains meaningful benefits in the future. Reciprocity allows policy holders to purchase a policy in North Carolina, move to another state, and still receive asset protection from the Medicaid program in their new state of residence. However, policy holders are subject to the reciprocity of the state in which they reside when they use their LTCP policy. Ms. Obiol stated that LTCP recommendations support North Carolina as a state of reciprocity. According to Ms Obiol, the Health Insurance Portability and Accountability Act (HIPAA) of 1996 established that long-term care insurance policies meeting certain standards would be deemed "federally tax qualified" and would offer certain tax advantages. Policy holders can include all or a portion of the premiums as a federal income tax deduction. Ms. Obiol concluded that policy disclosure would be provided at the point of sale and at delivery of the LTCP policy. Policy disclosure explains the benefits associated with the policy and indicates the status of the LTCP.

Ms. Obiol also introduced Ms. Ellen Taylor Atkins, who became an LTCi sales person because of her role as the caregiver of her mother who was diagnosed with Alzheimer's disease. Ms. Atkins' mother had purchased a long-term care insurance policy which would have covered a considerable portion of the cost of her mother's care had she known about the policy earlier and it also would have saved Medicaid a great deal of money. Ms. Atkins' story is attached and made a part of these minutes.

Ms. McClanahan reiterated that Medicaid provides for disregard of resources in determining Medicaid eligibility for cost of care and protects resources at estate recovery. She indicated there are no eligibility system changes needed at this time and North Carolina does not anticipate a fiscal impact for Medicaid. Ms. McClanahan stated the underlying purpose of the LTCP is to

reduce future Medicaid costs for long-term care by delaying or eliminating dependence on Medicaid.

For additional information on these presentations, see **Attachment I** and the **Update to the April 2009 Report and Recommendation**.

Questions and Answers:

Representative Weiss inquired about the tax credit that was reinstated for long-term care and whether or not there has been an increase in purchases since the credit went into effect. Ms. Obiol did not have data supporting purchases prior to the tax credit, but would get that information for the Commission. Representative Weiss also wanted to be sure that the policies being created for long-term care partnerships will protect consumer needs because there is potential for abuse. Ms. Obiol replied that protection is in place by state standards and potential clients are required to complete a suitability worksheet to identify their appropriateness for long-term care insurance. She mentioned that there have been great improvements in the long-term care insurance policies or long-term care partnerships, and rarely do they find inappropriate policies sold. In turn, Representative Weiss emphasized the importance of making sure the policies are consumer friendly and protects the needs of the clients.

Representative Jean Farmer-Butterfield confirmed with Ms. Obiol that North Carolina is a reciprocity state and asked if the Commission could be provided information concerning consumer protection. Representative Farmer-Butterfield also asked if employers in North Carolina offer LTCP for employees. Ms. Obiol noted that there are some employers who offer this type of insurance policy.

Ms. Patricia Sprigg asked if existing long-term care policies automatically fall under the partnerships in North Carolina and if gaps between existing policies and newer policies can be bridged to take advantage of new policy benefits. Ms. Obiol stated that existing policies do not automatically fall under partnership, but must meet all DRA requirements in order to bridge the gaps in benefits. Again Ms. Sprigg asked if premium inflation protection is built into these policies and would LTCP limit, in any way, the consumer's choice of provider. Ms. Obiol replied no to premium protection and no to limiting the choice of provider.

Senator James Forrester asked the Department to ensure that consumers know that Medicare does not cover nursing home long-term care and encourage consumers to look into partnerships because of this.

Ms. Jean Reaves asked if reciprocity transferred from one state to another and if not is there consumer protection for policy recognition from state to state. According to Ms. Obiol, this would fall under proper disclosure requirements that the insurance companies have in their plans and it's also important to understand that policies are portable, but only if you move to a state that has partnership and is a reciprocal state.

Senator Stan Bingham inquired about the advantages of LTCP and criteria for coverage in which Ms. Obiol stated the advantages as savings to Medicaid, protection against self-impoverishment, DRA requirements, and more purchases of private insurance. She also noted that most long-term care insurance companies ask potential clients to complete a medical questionnaire or have a

medical exam, and the amount of coverage is generally based on the health, needs and age of the applicant.

Representative Farmer-Butterfield asked the Department to get information concerning the average age and number of long-term care policy holders in North Carolina. Ms. Maria Spaulding expressed to the Commission that DHHS and DOI have been very careful to look at all of the positive components of this partnership and noted that it does delay the use of Medicaid and it is a product for middle-income people who are interested in protecting their assets. She recommends that this partnership be a recommendation from the Commission. Ms. Reaves also noted that this partnership offers a direct benefit to those constituents who may fall through the cracks (middle-income persons).

Senator Forrester asked if there was a length of time one should live in a state before applying for Medicaid assistance after moving from another state. Ms. McCalanhan stated that federal regulations prohibit Medicaid from establishing a residence requirement in any specified period of time, so the minute someone moves to North Carolina they do establish residency for Medicaid purposes. She also noted that they have no statistics on how many people are moving to North Carolina and then filing for Medicaid.

Mr. Dennis Streets, Director, Division of Aging and Adult Services, distributed the North Carolina Long-Term Care Ombudsman Program Overview which was requested by the Commission during the last meeting. The overview is attached and made a part of these minutes.

Report on Special Care Dentistry, presented by Dr. Kevin Buchholtz, Oral Health Section, Division of Public Health, DHHS and Dr. Bill Milner, Access Dental Care. See **Attachment II**.

Dr. Buchholtz stated S.L. 2009-100 directed DHHS, Division of Public Health, in collaboration with the Division of Medical Assistance, the Division of Aging and Adult Services, the UNC-CH and the ECU Schools of Dentistry, the North Carolina Dental Society and providers of special care dentistry services, to examine the current dental care options for populations requiring special care dentistry and provide suggestions for ways to improve the availability of services to those needing such dental services. The Department was directed to report findings and recommendations to the North Carolina Study Commission on Aging and the Public Health Study Commission.

Dr. Milner defined the special care family as persons with intellectual or developmental disabilities, the frail elderly, those with multiple complex medical diagnoses within a variety of settings, of all ages, and their care takers. The most vulnerable population in North Carolina is around 450,000 according to Dr. Milner. He asked members of the Arc of High Point to stand to be recognized by the Commission.

Recommendations by the advisory group **requiring funding** are as follows:

- **Recommendation #1** – Create a dental program position that is responsible for implementing the recommendations in this report.
- **Recommendation #5** – Expand the successful existing care coordinator services provided by the Community Care of North Carolina/Carolina Access (CCNC/CA) network to ensure oral health services for Medicaid patients with special needs.

- **Recommendation #7** – UNC-CH and ECU Schools of Dentistry, AHEC and Community Colleges that offer dental continuing education should intensify CE efforts for providers interested in treating patients with special needs but lack the necessary training. Training should include Principles of Universal Design.
- **Recommendation #11** – DMA should explore revising the policy limits on the facility code (CDT code 9410) to allow providers to bill for each patient seen on a given day in a nursing home, group home or other long-term care facility.
- **Recommendation #14** – Fund four additional mobile dental programs to provide care for residents in long-term care facilities.
- **Recommendation #15** – Maintain and expand existing dental departments in psychiatric hospitals and developmental and neuron-medical centers that provide care to North Carolina's most vulnerable populations.

Recommendations by the advisory group **not requiring funding** are as follows:

- **Recommendation #2** – Partner with DHHS, Division of Health Service Regulation to ensure that health service standards in nursing homes and other residential facilities are carried out. Enhance dental care services to residents, such as increasing staff devoted to daily oral care and expanding training of direct care personnel.
- **Recommendation #3** – Dentist representative on Commission on Children with Special Health Care Needs. This Commission monitors and evaluates the availability and provision of health services.

A copy of the Special Care Dentistry Advisory Group Executive Summary, dated February 2010, is attached and made a part of these minutes.

Questions and Answers:

Senator Forrester expressed concerns about the medical and dental schools at ECU retaining faculty to teach and students to practice in the eastern part of the state after graduation. It seems everyone is moving to the larger cities across the state for employment said Senator Forrester. Dr. Buchholtz and Dr. Milner understood his concern and noted that ECU has 10 model learning centers in rural areas statewide and the students are expected to rotate through the 10 centers every two years. They also stated that a faculty member would also live and work in the areas as well.

Senator Katie Dorsett asked if there would be any exposure to dental schools in the area of special needs, and Dr. Milner stated that UNC-CH, ECU, and the community colleges currently have rotation programs in place. Senator Dorsett also inquired about the cost of a mobile unit and its continuing costs. Dr. Milner stated that the cost was approximately $400,000, from start to finish. This includes start-up and continuing costs for 10 years noted Dr. Milner.

Ms. Sprigg noted the importance of mobile dental units, especially among the elder population. She also mentioned the potential savings on additional health costs if dental health problems are addressed before causing other health problems in this population group.

Representative Jennifer Weiss wanted to know what can to be done to engage general practitioners in volunteering more of their time and skills towards helping this effort. Dr. Milner

suggested participation in a program such as MOMS, which offers free care over weekends, but they need more practitioners involved in the Medicaid area. Representative Weiss also asked if there are programs in dental schools to encourage students to work in public service positions such as those in law school programs. Dr. Buchholtz's response was not with the requirements of treating particular patients such as special care.

Ms. Reaves asked if there are any incentives to CNAs to add dental care to their certification or to place dental technicians within nursing facilities. Dr. Milner explained that dental care should be inclusive of nursing care. The directors of nursing and administrators should make it known that the mouth is part of the body, noted Dr. Milner.

Dr. Streets noted that DAAS conducted a network survey of 16 different medical and social supported services that needed to be addressed and dental care was at the top of the list.

Representative Farmer-Butterfield asked the Department to take the recommendations presented, prioritize them, and report back to the Commission its recommended needs. Dr. Mark Casey, Dental Director, Division of Medical Assistance spoke on behalf of dental providers who participate in the Medicaid portion of dental care. Dr. Casey noted that since 2001, there has been an increase of about 22% in the number of active billing providers in the Medicaid program.

The Commission will hold a public hearing in Jamestown, North Carolina on Wednesday, March 24, 2010, at 10:00 am. The next regularly scheduled Commission meeting will be on Thursday, April 1, 2010, in Raleigh, North Carolina.

The Visitor Registration Sheets are attached and made a part of these minutes.

This meeting adjourned at 12 noon.

Senator A.B. Swindell
Presiding Co-Chair

Delta F. Prince
Commission Assistant

Agenda

North Carolina Study Commission on Aging

Thursday, March 4, 2010
10:00 a.m.
Legislative Office Building
Room 544

I. Welcome and Comments

Senator A.B. Swindell, Cochair
Representative Jean Farmer-Butterfield, Cochair

II. Long Term Care Partnership Plan

Carla Obiol, NC Seniors' Health Insurance Information Program, Department of Insurance
Carolyn McClanahan, Division of Medical Assistance, DHHS

III. Report on Special Care Dentistry (S.L. 2009-100)

Dr. Kevin Buchholtz, Oral Health Section, Division of Public Health, DHHS
Dr. Bill Milner, Access Dental Care

IV. Next Meeting:

Thursday, April 1, 2010
10:00

Public Hearings:

Wednesday, March 24, 2010
10:00 – 12:00
Jamestown Town Hall
301 E. Main St., Jamestown, NC

April 7, 8, or 22 – Tentative Dates

ATTENDANCE

NORTH CAROLINA STUDY COMMISSION ON AGING

DATES CO-CHAIRS	Jan. 7, 2010	Jan. 21, 2010	Feb. 4, 2010	Feb. 25, 2010	March 4, 2010	April 1, 2010	May 11, 2010								
Senator A. B. Swindell					✓										
Representative J. Farmer-Butterfield					✓										
SENATE MEBERS															
Senator Stan W. Bingham					✓										
Senator Katie G. Dorsett					✓										
Senator James S. Forrester					✓										
Senator Joe Sam Queen															
SENATE PUBLIC MEMBERS															
Mr. Joe Eller															
Mr. Anthony Peace					✓										
Ms. Jean Reaves					✓										
HOUSE MEMBERS															
Representative Alice L. Bordsen															
Representative Bob F. England, MD					✓										
Representative Garland E. Pierce					✓										
Representative Jennifer Weiss					✓										
HOUSE PUBLIC MEMBERS															
Ms. Mary P. Barker															
Ms. Joan M. Pellettier					✓										
Ms. Patricia E. Sprigg					✓										
EX OFFICIO															
Ms. Maria Spaulding					✓										
STAFF															
Ms. Susan Barham					✓										
Ms. Melanie Bush					✓										
Ms. Joyce Jones					✓										
Ms. Sara Kamprath					✓										
Ms. Theresa Matula					✓										
Mr. Shawn Parker					✓										
COMMITTEE ASSISTANTS															
Delta Prince					✓										
Janice O. Mobley-Bennett					✓										

HOUSE PAGES

NAME OF COMMITTEE Study Commission on Aging DATE March 4, 2004

1. Name: _____

County: _____

Sponsor: _____

2. Name: _____

County: _____

Sponsor: _____

3. Name: _____

County: _____

Sponsor: _____

4. Name: _____

County: _____

Sponsor: _____

5. Name: _____

County: _____

Sponsor: _____

HOUSE	SGT-AT-ARM	Senate
1. Name: John Brandon		WADE ANDERS
2. Name: Reginald Sills		STAN JOHNSON
3. Name: Carlton Adams		Curtis Dowd
4. Name:		

VISITOR REGISTRATION SHEET

North Carolina Study Commission on Aging — March 4, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Paula A. Wolf	Friends of Residents in Long Term Care
TED HAMBY	N.C. DOI
ERNEST L. NICKERSON	N. C. DOI
Raleigh S. Lud	R. Lloyd & Assoc.
TRACY COLVARD	AHHC
Karen Bottoni	AARP
Doranna Anderson	NC Oral Health Section
Trista Nance	NCDOI / SHIIP
Melinda Munden	NCDOI / SHIIP
Bill Milner	Access Dental Care
Betsy Lee White	Access Dental Care

VISITOR REGISTRATION SHEET

North Carolina Study Commission on Aging — March 4, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Mary Bethea	AARP NC
Mark Casey	DHHS/ DMA
Kevin Buchholtz	DHHS/ DPH-ORAL Health
JEAN SPRATT	DHHS/DPH-ORAL HEALTH
Madge Cohen	DHHS/DPH/ORAL HEALTH
Don Taylor	AARP NC
Robert Palombo	AARP NC
William Miller	AARP NC
Betty Rising	aarp nc
Richard W Hatch	AARP Oak Island, NC
Anne Daniel	AARP-NC

VISITOR REGISTRATION SHEET

North Carolina Study Commission on Aging — March 4, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
AL KEYES	AARP STATE JACKSONVILLE, NC
James W (Billy) Smith	AARP - STATE 3809 Barbican Ct FUQUAY-VARINA, N.C
Doretha Singley RN / PhD Student	University of South Carolina Columbia, SC
ELLEN TAYLOR ATKINS	INSTITUTE ON AGING CHAPEL HILL, NC
Evelyn Henderson	NCACA; [illegible]
Ann Eller	DHHS
Roxanne Bragg	Franklin County Dept of Aging NC Coalition on Aging
Kristi Huff	NCHCFA
John Bowdish	AstraZeneca
Debbie Brantley	DHHS - Aging + Adult Services
Dennis Streets	DHHS - DAAS

VISITOR REGISTRATION SHEET

North Carolina Study Commission on Aging — March 4, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jesse Goodman	DHHS/DHSR
Rose Williams	NCDOI
Carla Obuchi	NCDOI
Carolyn McClanahan	DHHS/DMA
Johnnie Braxton	Guest
Tabatha Myatt	DMA/FCC
Jeff Mobley	NC Div. Services for the Deaf & Hard of Hearing
Polly Williams	NC Justice Center / Triangle OWL
Judy Brunger	The Carolinas Center for Hospice & End of Life Care
Mary Edwards	DHHS

VISITOR REGISTRATION SHEET

North Carolina Study Commission on Aging — March 4, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Teresa McKee	The Area High Point 153 E. Bellevue Dr HP 27262
Gerette Bednarz	"
Pat Roach	
Kim Smith	"
Ken Melton	
Regina Fe Reden	"
Dee Hayden	AARP
Richard C. Holden	
Max Melton	AARP

Long-Term Care Partnership for North Carolina

nc department of health and human services

Long-Term Care Partnership (LTCP) in North Carolina

- Section 10.10 of SL 2006-66 authorized the Department of Health and Human Services to develop a Long-Term Care Partnership (LTCP) program for North Carolina
- The LTCP is an alliance between the North Carolina Division of Medical Assistance and the North Carolina Department of Insurance
- Both agencies are in support of establishing a LTCP in North Carolina

Why LTCP?

- Increase in number of people (baby boomers) seeking long-term care (LTC)
- Changing nature of retirement resources
  - Shift from defined benefit to defined contribution
  - Rapid expansion of reverse mortgages
  - Low savings rate in 401Ks & IRAs
- Long-term care last major cost over lifecycle
- BOTTOM LINE: The long-term care needs of baby boomers have the potential to overwhelm Medicaid's pay-as-you-go financing

Long-Term Care Insurance (LTCi)

- Type of private insurance policy that covers various long-term care (LTC) services
- Sold individually or through groups such as employers
- Designed for middle and upper income individuals who want to protect considerable financial assets and can afford to pay premiums

Long-Term Care Insurance (LTCi) cont...

- Policy types and premiums can vary by age, health status and gender
- Policies vary by:
  - Length of coverage
  - Types of services covered (i.e. nursing home, assisted living, home or community- based care)
  - Other factors
- Policies reviewed and approved by the NC Department of Insurance (NCDOI)
- NCDOI's SHIIP provides consumer education and counseling

Long-Term Care Partnership (LTCP)

- A public-private program between state Medicaid agencies and private insurers offering LTC insurance
- Designed to encourage the purchase of long-term care insurance
- Aimed at middle and upper-income individuals who:
  - Want to plan for possible long-term care needs
  - Have considerable assets to protect
  - Can afford a long-term care insurance policy
- These policies protect assets while allowing for access to long-term care benefits through the state Medicaid program
- Policy holders who exhaust private coverage and still need LTC benefits can access Medicaid without the usual spend down routes.

DHHS & DOI Support LTCP

•LTCP provides an additional option for purchasers of LTCi especially middle income persons. It opens the door to the moderate earner who wants to have control of long-term care services.

•Encourages persons to look at future costs and plan for long-term care costs. The availability of the product may generate interest and awareness among a broader audience of purchasers.

•LTCP will reduce demand for public funds and ultimately save Medicaid dollars.

•LTCP products have rich benefits therefore the plans will likely be adequate for covering one's long-term care needs.

•Any delay in a person going on the state Medicaid roster is savings to the state.

History of the LTCP

•In 1988, the Robert Wood Johnson Foundation (RWJF) funded its development in four states
- California, Connecticut, Indiana and New York

•Purpose was to expand LTCi options to consumers and slow the growth of Medicaid expenditures

•Omnibus Budget Reconciliation Act (OBRA) of 1993 restricted ability for additional states to replicate Partnership programs because state laws required states to pursue state recovery of assets protected by the Partnership upon death of beneficiary

LTCP Expansion

- Deficit Reduction Act (DRA) of 2005 lifted restrictions and allowed additional states to participate by permitting states to exempt LTCP benefits from estate recovery as long as the state had a "State Plan Amendment" which provided for a qualified state long-term care partnership
- The DRA designated dollar-for-dollar as the model new partnership states could implement
- There are 33 states who have LTCP programs

Dollar-for-Dollar Model

- Allows individuals to buy a LTCi insurance policy that protects a specified amount of assets
- Every dollar the insurance company pays out in claims will be deducted from resources counted when considered for Medicaid application – Also referred to as Resource Disregard
- Every dollar of resources protected at estate recovery is equal to the amount of resources disregarded at the point of Medicaid application
- For example: If $50,000 were paid out in claims, $50,000 of an individual's assets would not be counted when he is being considered for Medicaid and is the same amount of resources that will be protected in estate recovery

LTCP Savings to State

•To date states with LTCP indicate a savings to the state. These savings are a result of the following:
- Delays in Medicaid enrollment
- An increase in insurance purchases
- Improved insurance products

•Medicaid savings
- Connecticut $8,368,918 as of 2nd Quarter 2009 (1992)*
- Indiana $4,759,346 as of 3rd Quarter 2009 (1993)*
- California $21,102,075 as of 3rd Quarter 2009 (1994)*

*Year state implemented LTCP

Basic Features of LTCP required by DRA:

•Inflation Protection

•Reciprocity

•Tax Qualification

Inflation Protection

- Requires an increase in benefits over time to ensure that the policy maintains meaningful benefits in the future
- The DRA requires age-specific inflation protection for Partnership policies
  - Age 60 or younger: annual compound inflation protection
  - Age 61-75: some type of inflation protection
  - Age 76 or older: inflation protection is not required
- NC LTCP will adopt DRA guidelines

Reciprocity

- Allows policyholders to purchase a policy in North Carolina, move to another state, and still receive asset protection from the Medicaid program in their new state of residence however, policyholders are subject to the reciprocity of the state in which they reside when they use their LTCP policy.
- DRA required the development of reciprocity standards
  - Benefits paid under the Partnership policies will be treated the same in all Partnership states
  - States who choose not to be subject to reciprocity standards must opt out of these agreements
  - States can choose to opt in or out of reciprocity agreements at any time
  - 30 new states have reciprocity including 2 original – Connecticut and Indiana
- LTCP recommendations support NC as a state of reciprocity

Tax Qualification

- Health Insurance Portability and Accountability Act (HIPAA) of 1996 established that long-term care insurance policies meeting certain standards would be deemed "federally tax qualified" and would offer certain tax advantages
- Policyholders can include all or a portion of the premiums as a federal income tax deduction
- LTCP plans must be tax qualified

Policy Disclosure

- Will be provided at the point of sale and at delivery of the LTCP policy
- Explains benefits associated with the policy
- Indicates the LTCP status
- References DOI's SHIIP Division for information and assistance

Agent Training

- DOI is ready to adopt standards set by the National Association of Insurance Commissioners (NAIC) for LTCP salespeople

- The NAIC standard includes:
  - Initial 8 hour training
  - 4 hours continuing education

What About Medicaid?

- Provides for disregard of resources in determining Medicaid eligibility for cost of care

- Provides for protection of resources at estate recovery

- Only disregards/protects resources owned by the individual

- Amount protected is equal to the amount of LTCP policy benefits used as date of application for Medicaid

Medicaid Example

- Individual purchases LTC Partnership policy 1/15/2011
  - -$250,000 in assets, policy coverage is $300,000
  - -Enters LTC on 6/20/2013 and begins to use policy benefits
  - -Applies for Medicaid on 5/15/2015
    - Benefits paid out as of 5/15/2015 = $150,000
    - Assets remaining as of 5/15/2015 = $155,000
- As of date of application for Medicaid, $150,000 in benefits have been used on LTC policy
- $150,000 in assets owned by individual will not be counted in determining Medicaid eligibility
  - -Assets of spouse or those in excess of $150,000 are considered
  - -$5,000 will be countable in determining Medicaid eligibility
- $150,000 in assets owned by individual at death will be protected for estate recovery

Medicaid – Fiscal Impact

- NC does not anticipate a fiscal impact for Medicaid
- Other states who recently implemented reported no fiscal impact-budget neutral
- No eligibility system changes needed at this time

Recent Implementations – Surrounding States

•As of December 2009:
- -Virginia – 9/1/07 implementation
- -Tennessee – 10/1/08 implementation
- -South Carolina – 1/1/09 implementation

None of these states have seen Medicaid applicants with LTCP policies to this point

Underlying Purpose

•Individuals who can afford the policies will provide adequately for their care and not rely on Medicaid

•Delays application for Medicaid as these individuals purchase adequate rather than minimal coverage

The time to increase awareness of long-term care planning is now!

Carla S. Obiol, Deputy Commissioner
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Seniors' Health Insurance Information Program (SHIIP)
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Carolyn McClanahan, Chief, Medicaid Eligibility Unit
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nc department of health and human services

Long-Term Care Partnership (LTCP) for North Carolina

Update to the April, 2009 Report and Recommendation

Department of Health and Human Services and Department of Insurance

February, 2010

EXECUTIVE SUMMARY

Section 10.10 of SL. 2006-66 authorized the Department of Health and Human Services to develop a Long-Term Care Partnership (LTCP) program for North Carolina. The Deficit Reduction Act of 2005, Pub.L.109-171 (the "DRA") sets forth federal legislation pertaining to Long-Term Care Insurance Partnership Program (LTCP). In addition, Section 10.10 of SL. 2006-66 also directed the Department of Health and Human Services to submit a proposed Long-Term Care Partnership for the State to the Senate Appropriations Committee on Health and Human Services, the House of Representative Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division prior to submitting the program for federal approval of the necessary State Plan amendment. This document provides a framework for the proposed program in North Carolina.

The purpose of the LTCP is to reduce future Medicaid costs for long-term care by delaying or eliminating dependence on Medicaid. The LTCP offers a private insurance coverage option that reduces Medicaid long-term care costs by encouraging people at risk for "spend down" to buy long-term care insurance (LTCi) instead of relying on Medicaid. It rewards consumers by providing "back-end" protection. Individuals who purchase long-term care insurance policies that meet certain requirements specified by the DRA can apply for Medicaid under special rules for determining financial eligibility and estate recoveries. In the case of group insurance each certificate that meets the DRA's requirements is considered a LTCP.

With rapid increases in Medicaid expenditures for nursing home care and the rapid growth in North Carolina's elderly population, the LTCP option may assist the state in the management of future long-term care expenditures. At present, the only public program providing significant financial relief to individuals unable to pay for long-term care is Medicaid. This option requires individuals to become impoverished in order to qualify and takes away an individual's choice in health care services. Thus, the LTCP is an opportunity to expand the long-term care insurance options in the state and increase the number of people who use private insurance to protect them against the high cost of long-term care rather than Medicaid.

HISTORY

The LTCP concept was introduced in 1987 by the Robert Wood Johnson Foundation and four states, California, Connecticut, Indiana, and New York, implemented this program. The intent was to offer quality long-term care insurance policies to citizens as well as slow the growth of Medicaid expenditures related to long-term care services.

In 2005, the DRA opened the door for the expansion of LTCP by permitting states to exempt long-term care benefits from estate recovery as long the state had a State Plan Amendment (SPA) that provided for a qualified State long-term care insurance partnership. A qualified State LTCP is one in which the amount of the eligibility resource disregard and estate recovery resource protection is equal to the amount of benefits paid out by the LTCP plan prior to Medicaid application. Since the DRA, many states decided to provide LTCP plans to their citizens. To date, thirty-three states offer LTCP plans (See Attachment A). While the most recent states have little experience to date, the original four LTCP states all report a savings to Medicaid. (See Attachment B).

GENERAL INFORMATION

The LTCP program provides incentives for the purchase of private long-term care insurance. The LTCP program is an alliance between the North Carolina Division of Medical Assistance and the North Carolina Department of Insurance. It is a joint effort by State government and private industry to create an option to help individuals plan to meet their future long-term care needs without depleting all resources to pay for care. An individual who purchases a LTCP policy as determined by the Department of Insurance, and has utilized benefits of that policy is allowed a special resource disregard when applying for long-term care Medicaid and resource protection at Estate Recovery.

The amount of the eligibility resource disregard and Estate Recovery resource protection is equal to the amount of benefits paid out by the LTCP policy up to the point of application for long-term care Medicaid. Once the resource disregard is established, the amount never changes. The resource disregard and resource protection only applies to the resources owned by the insured individual. It does not apply to any other person whose resources are included in the eligibility determination, such as a spouse. Individuals who will benefit from the protections of the LTCP include aged, blind and disabled individuals receiving assistance with long-term care costs.

REQUIREMENTS OF LONG TERM CARE PARTNERSHIP

- **Dollar-for-Dollar Model**
  The DRA designated a "Dollar-for-Dollar Model" for the new Partnership states to implement. After the implementation of the LTCP program, when determining long-term care Medicaid eligibility, the amount of resource disregard equals the amount of insurance benefit payments that have been made from a qualified LTCP policy to or on behalf of the individual prior to his application for long-term care Medicaid. For every dollar the LTCP policy pays out in benefits, a dollar of resources can be disregarded during the long-term care Medicaid eligibility determination. Resource disregard only applies to the insured individual. The amount of resource disregard will be the amount of insurance benefits paid out by the insurer at the point of application.

  LTCP policies do not have to be exhausted prior to receiving a resource disregard for long-term care Medicaid. The insured individual may qualify for Medicaid to help with the cost of long-term care if the individual's LTCP policy has paid out enough benefits prior to application for long-term care Medicaid to bring the countable resource total under the limitation amount for long-term care Medicaid. It should be noted that although the LTCP policy may continue to pay benefits, no additional resources can be disregarded or protected after the date of the Medicaid application for long-term care assistance.

  The Deficit Reduction Act of 2005, Public Law 109-171, requires that the amount of resources that can be protected at Estate Recovery is the same amount of resources that was disregarded at the point of the individual's long-term care Medicaid application. This amount remains the same at the time of Estate Recovery even if additional insurance benefits may be received in the future from the LTCP policy from the point of Medicaid approval.

  A Medicaid invoice will be submitted to the executor of the estate for the total amount of services received by the recipient which were paid by Medicaid and are subject to Estate Recovery. The resource amount that was disregarded at the time of the long-term care Medicaid application will be deducted from the total estate resources. Any additional amount of resources

in the estate will be subject to recovery. Resource protection only applies to the insured individual.

Pursuant to Section 1917 of Title XIX of the Social Security Act, codified at 42 U.S.C 1396p, the definition of "estate" is expanded in the case of an individual who has received, or is entitled to receive, benefits under a long-term care partnership policy. In general, States have the option of choosing whether to pursue estate recovery under the definition of "estate" as defined by State probate law, or, alternatively, the expanded definition of "estate" which includes any real or personal property the individual may have had a legal interest in at the time of death, such as assets conveyed through joint tenancy with right of survivorship, life estates, and other similar forms of ownership. For individuals who have received benefits under a long-term care partnership policy, federal law mandates that "estate" include these other forms of ownership. Currently, North Carolina pursues estate recovery under the limited definition of "estate" as defined in Chapter 28A of the General Statutes; however, North Carolina must use the expanded definition when pursuing estate recovery from the estates of individuals who have received long-term care partnership policy benefits.

- **Qualified under Federal Tax Law**-The LTCP must be a qualified long-term care insurance contract, as defined in section 7702B(b) of the Internal Revenue Code of 1986 (26U.S.C.7702B(b). Most long-term care insurance policies currently sold in North Carolina and approved by the North Carolina Department of Insurance meet this requirement.

- **Issue Date**-The Centers for Medicare and Medicaid Services or CMS State Medicaid Director Letter #06-019, dated July 27, 2006, requires that the date of issuance of the LTCP policy must occur on or after the effective date of the North Carolina Long-Term Care Partnership Program. The issue date is the effective date of coverage under the policy.

  Non-partnership long-term care policies issued prior to the state's LTCP effective date may be eligible for partnership status. These policies whether issued as an individual or group plan, must satisfy the federal requirements of a LTCP. The policies must be qualified long-term care insurance contracts, as defined in the Internal Revenue Code of 1986, and provide insurance benefits on a reimbursement, cash benefit basis, indemnity insurance basis or on a per diem or other periodic basis without regard to the expenses incurred during the period to which the payments relate, if it satisfies the DRA requirements applicable to LTCP. In addition a long-term care insurance rider or other provision of an insurance contract such as a rider to a life insurance contract or a rider to an annuity contract that constitutes a qualified long-term care insurance contract will be a LTCP if it satisfies the DRA's other requirements applicable to partnership policies as described in this report. These policies must receive a LTCP policy amendment, rider, endorsement or change in schedule page by the insurer to give the coverage a current effective date on or after the state's LTCP program effective date in order to qualify as a LTCP. Only policy benefits paid after the amendment to the policy will qualify for the resource disregard and/or resource protection.

- **State of Residence**-The LTCP must cover an insured individual who was a resident of the state when coverage first became effective under the policy.

- **Inflation Protection**-Inflation Protection is necessary in order to offset inflationary increases in the cost of care over time and help the benefit amount keep pace with the cost of long-term care services. The Deficit Reduction Act requires the following inflation protection for LTCP policies:

1. For purchasers under 61 years old, the policy must provide compound annual inflation protection. There is no set minimum percentage level.
2. For purchasers 61-75 years old, the policy must provide some level of inflation protection. There is no set minimum percentage level. This may include simple interest or compound inflation protection.
3. For purchasers 76 years or older, inflation protection may be offered but is not required.

- **Reciprocity**-In order to permit portability, North Carolina elects to participate with other states that choose to participate in the national reciprocity agreement. Reciprocity allows an individual to purchase a LTCP in one state, move to another state, and still receive asset protection from the Medicaid program in their new state of residence. The DRA required the development of reciprocity standards, however states can choose not to be subject to reciprocity standards. An individual must purchase their LTCP policy in his state of residence. Although a LTCP policy is purchased in a state that participates in the national reciprocity agreement, Medicaid applicants moving to another LTCP reciprocity state will still need to meet the new state's Medicaid eligibility requirements.

POLICY DISCLOSURE REQUIREMENTS

The policies and amendments associated with a LTCP must be easily identifiable. A disclosure will be provided to individuals at the point of sale of a LTCP policy and provided again with the delivery of the LTCP policy document. The disclosure will explain the benefits associated with the policy and indicate that at the time issued, the policy is a LTCP. The disclosure will provide information that will help the purchasers of these policies to better understand the benefits and limitations with regard to the Medicaid program. The telephone number for the Department of Insurance's Seniors' Health Insurance Information Program (SHIIP) is provided as a contact for any questions. The following is an example of the proposed language of the disclosure:

"At the time of issuance, this long-term care insurance policy qualifies as a North Carolina Long-Term Care Partnership (LTCP) policy. For Medicaid applicants/recipients applying for help with the cost of long-term care services means that an amount of your resources equal to the dollar amount of long-term care insurance benefits paid to you or on your behalf under this policy will be disregarded for purposes of determining your eligibility for long-term care Medicaid services listed above. The amount that will be disregarded at eligibility will be equal to the amount of LTCP policy benefits paid out prior to the time you apply for long-term care Medicaid.
As a result, you may qualify for assistance with the cost for your long-term care needs under Medicaid without first being required to substantially exhaust your personal resources. If you are already a recipient of long-term care Medicaid, this policy will not allow a resource disregard or Estate Recovery resource protection.

Please note that this policy may lose LTCP program status if you move to a different state or you modify the coverage after issuance. This policy may also lose LTCP status due to changes in federal or state laws. Because policies may be changed after they are issued, when an individual applies for Medicaid, they will need to obtain and provide a current notice from the LTCP indicating whether it continues to meet the LTCP requirements, and if so to identify the amount of benefits paid while meeting those requirements.

If you have questions regarding long-term care insurance and the North Carolina Long-Term Care Partnership Program, you may contact the Seniors' Health Insurance Information Program of the Department of Insurance at 1-800-443-9354."

The Department of Insurance will require the insurance carriers to attach the disclosure to all LTCP policies.

AGENT TRAINING

The Department of Insurance's Long Term Care Insurance Model Act requirements provides assurance to the Division of Medical Assistance that anyone who sells a policy under the LTCP will receive adequate training to assure that agents understand LTCP policies and their relationship to public and private coverage of long term care. The national standard set forth by the National Association of Insurance Commissioners (NAIC) requires that an individual may not sell, solicit or negotiate long-term care insurance unless the individual is authorized as an insurance producer for accident and health or sickness and has completed a one-time training course at least one year after the legislation becomes effective and has ongoing training every 24 months thereafter. The NC Department of Insurance requires each producer selling long term care insurance to hold a Medicare Supplement/Long Term Care license in addition to the accident and health or sickness license. The Department of Insurance will require a one-time training course of 8 hours and 4 hours of ongoing training every 24 months. Individuals who are already licensed and selling long term care insurance at the effective date of the Act must complete the 8 hour one time training course within one year of the date of the Act and will complete 4 hours of ongoing training every 24 months thereafter. Newly licensed agents will complete the 8 hour initial training prior to licensure and will complete the 4 hours ongoing training every 24 months thereafter. The NC Department of Insurance will ensure compliance of all resident agents licensed in NC and will approve the course curriculum for both the one-time training and the ongoing training. The agent training will be provided by the education providers who are approved by the North Carolina Department of Insurance.

DATA COLLECTION

The DRA requires that all carriers selling LTCP policies under the LTCP program provide regular reports to the Secretary of the U.S. Department of Health and Human Services. The Secretary, as appropriate, shall provide finalized reports to the states involved in LTCP. Once the LTCP is effective in North Carolina, the Department of Insurance will provide quarterly reports to the Division of Medical Assistance related to the purchasers in the state as well as the benefit payments that have been made in the state. There is a federal reporting requirement stipulating data to be loaded into an integrated database by each insurer. The integrated database will be used to generate individual state level reports that will be used by the states as a monitoring tool and to track the implementation of the LTCP program at the state level. The database will help States anticipate the number of individuals insured who may become eligible for long-term care Medicaid resource disregards and Estate Recovery protection over a projected time period and the amount of benefits remaining under their policy maximums. The existing LTCP states are using the federal reporting system.

CONSUMER PROTECTION

Given the complexity of the long-term care insurance choices and the added intricacy of the LTCP program, the following consumer protection measures shall be included in the State LTCP program.

- Develop a Self-Assessment Guide to help consumers ask the right questions and make the best decision for their situation. The guide could be accessed by consumers on the following websites: Division of Medical Assistance (DMA), Department of Insurance (DOI), Division of Aging and Adult Services (DAAS), and Seniors' Health Insurance Information Program (SHIIP).
- Require insurance companies to issue a 90 day notice prior to exhaustion of a LTCP policy instructing the insured to go to his local Department of Social Services to apply for Medicaid.
- Require designation of a third party to receive premium due notice, in addition to the insured, to prevent loss of benefits due to non-payment.
- Provide a sample of the required "Disclosures" outlined previously in this report to anyone considering the purchase of a LTCP policy as part of an educational brochure.

FISCAL IMPACT

North Carolina does not anticipate a fiscal impact for Medicaid. Surrounding states who recently implemented Long-Term Care Partnership reported budget neutrality. It is anticipated that savings are not realized for several years.

RECOMMENDATIONS

The Department of Health and Human Services convened a technical workgroup to develop the proposed LTCP for North Carolina. The workgroup consisted of the following: North Carolina Division of Medical Assistance, North Carolina Department of Insurance (NCDOI), and North Carolina Seniors' Health Insurance Information Program (SHIIP) of the NCDOI, North Carolina Division of Aging and Adult Services, North Carolina Department of Justice, County Department of Social Services staff, North Carolina Health Care Facilities Association, American Association of Retired Persons (AARP), Insurance Companies, and the North Carolina Bar Association. The consensus of the workgroup is to recommend North Carolina proceed with the development of a LTCP program. Upon passage of state legislation, a State Plan Amendment will be submitted for federal approval to implement the program as provided for in Section 6021 of the Deficit Reduction Act of 2005 (DRA), P.L. 109-171. The program should be effective 8 months after receipt of federal authorization.

In order to be consistent with the 2006 changes in federal law for the LTCP program, legislation to address resource disregard and Estate Recovery resource protection is needed. (Refer to Attachment C)

The legislature may need to consider modifications to some of the statutes in chapter 58, Article 55 of the North Carolina General Statutes pertaining to Long-Term Care Insurance. (LTCP)

The Department of Insurance and the Division of Medicaid Assistance respectfully request that the Study Commission on Aging include the authority to establish the Long-Term Care Partnership in North Carolina in your recommendation to the 2010 Short Session of the General Assembly.

Attachment A

What States Have Approved Long-Term Care Partnership Insurance For Sale?

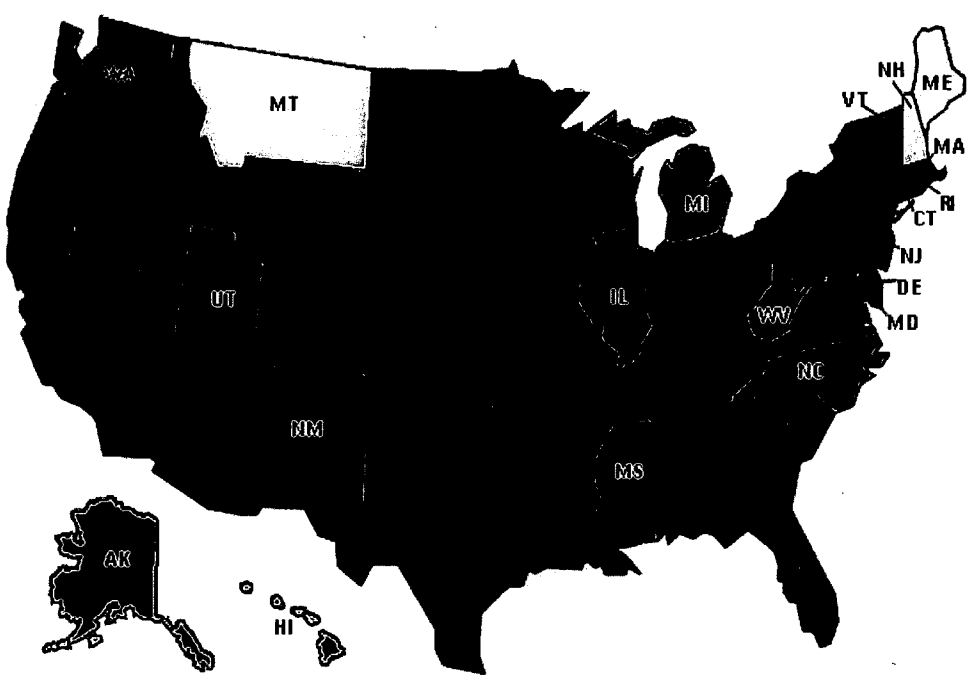
The map below shows states where LTC Partnership plans are currently available for sale

GREEN STATES policies available for sale

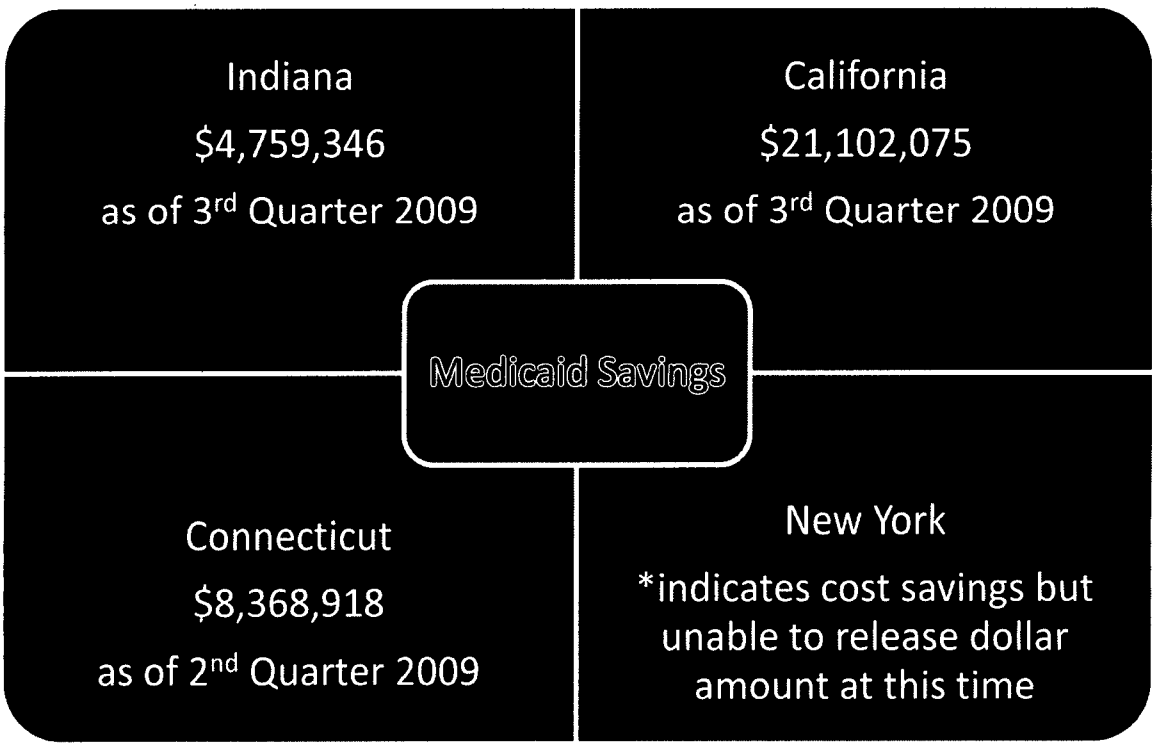
have filed approved State Plan Amendments

RED STATES have filed State plan documents and sale should begin soon

GREY STATES have no documents available for these states



Attachment B



Source of all data:
California Parntership, 3 Qtr 2009 Report
Indiana Partnership, 3 Qtr 2009 Report
Connecticut Partnership, 2 Qtr Report

Attachment C

§ 108A - 70.4. Long Term Care Partnership Program

(a). As used in Section 108A-70.4, unless the context clearly requires otherwise, the term:

(1) "Resource" means cash or its equivalent and/or real or personal property that is available to the applicant/recipient.

(2) "Asset" means resources and income.

(3) "Department" means the Department of Health and Human Services, Division of Medical Assistance.

(4) "Medicaid" means the federal medical assistance program established under title XIX of the Social Security Act.

(5) "Estate Recovery" means the placing of a statutory claim pursuant to 108A-70.5 on the estate of the deceased Medicaid recipient.

(6) "Long Term Care Partnership policy" means a long-term care insurance policy which is approved by the North Carolina Department of Insurance to meet all of the model regulations and requirements of the model Act promulgated by the National Association of Insurance Commissioners.

(7) "Resource Disregard" means the amount of resources owned by the long-term care Medicaid applicant that is equal to the amount of benefits paid by a long-term care partnership policy for the applicant which will not be counted when determining long term care Medicaid eligibility.

(8) "Resource Protection" means an amount equal to the resource disregard given to the recipient at long term care Medicaid eligibility that will be deducted from the total estate value at estate recovery.

(b) Since the Deficit Reduction Act of 2005 repealed the restrictions to resource protection contained in the Omnibus Budget Reconciliation Act of 1993 (public law 103-66, 107 Stat. 312), there shall be established the North Carolina Long-Term Care Partnership program, to be administered by the Department with the assistance of the North Carolina Department of Insurance to do the following:

(1) Provide a mechanism for individuals to qualify for coverage of the cost of their long term care needs under Medicaid without first being required to substantially exhaust their resources;

(2) Provide counseling services to individuals planning for their long term care needs; and

(3) Alleviate the financial burden on the state's medical assistance program by encouraging the pursuit of private initiatives.

(c) In the case of an individual who has received benefits under a long-term care partnership policy, an equal amount of resources shall not be considered by the Department during the determination of the following:

(1) Eligibility for long term care Medicaid;

(2) Any subsequent recovery by the state from a deceased recipient's estate for payment of Medicaid paid services.

(d) The Department shall promulgate necessary rules and amendments to the state plan to allow for resource disregard at long-term care Medicaid eligibility determination and resource protection at estate recovery. To provide resource disregards for purchases of a long-term care partnership policy, the Department shall count insurance benefits paid under the policy prior to the date of the first application for long-term care Medicaid made after the implementation of the program toward resource disregard and resource protection to the extent the payments are for covered services under the long-term care partnership policy.

(e) A qualified long-term care partnership policy after the effective date of this statute shall contain a disclosure detailing in plain language the current law pertaining to resource disregard and resource protection. A duplicate disclosure shall be given to the insured individual with the delivery of the policy document.

(f) The Department will enter into a reciprocal agreement with other states that enter into a national reciprocity agreement to extend the resource disregard and resource protection to residents of the state who purchased or purchased and used a qualified long-term care policy in another state.

(g) The Department and the Department of Insurance are authorized to adopt rules to implement the provisions of this program for its administration.

(h) In the case of an individual who has received benefits under a long-term care partnership policy, the provisions of G.S. 108A-70.5 remain in effect for purposes of estate recovery with the exception of the definition of "estate" under G.S. 108A-70.5(b)(2). In accordance with Title XIX of the Social Security Act, 42 U.S.C. § 1396p(b)(4)(B), the definition of "estate" for an individual who has received benefits under a long-term care partnership policy includes any other real or personal property and other assets in which the individual had any legal title or interest at the time of death (to the extent of such interest), including such assets conveyed to a survivor, heir, or assign of the deceased individual through joint tenancy, tenancy in common, survivorship, life estate, living trust, or other arrangement.

Ladies and Gentlemen of the NC Study Commission on Aging,

A successful realtor in our hometown, our Mother negotiated her world and her career with consummate grace. Then suddenly the lights dimmed and her abilities quickly melted away. It was the winter of 1997 when she was diagnosed with Alzheimer's disease.

Our family got busy and quickly secured a safe environment for Mother in a brand new assisted living in Greensboro, where friends and family could frequently visit and closely supervise her care. We also agreed that it would be best if I moved back home from out of state as my siblings had responsibilities for young families and we knew that caring for Mother would require the best that all of us had to give.

We accepted the cost of Mother's care and planned to pay privately from her assets. But after her move into assisted living, as we began handling her bills, we found that she owned a long term care insurance policy about which we had known nothing at all. She had made the decision on her own - almost visionary for 1994 - at least certainly ahead of the curve.

We filed our first claim and the reimbursements began right away. Over Mother's journey of 8 years in residential care, her insurance company paid out more than $230,000, in return for only three years of premium totaling less than $3000.

At the time of her diagnosis, her estate was worth about $250,000. Had Long Term Care Partnership been in place here in North Carolina, we would have been able to preserve most of our Mother's assets for her grandchildren, just as her will directed us to do. Perhaps she could have received her care in her home. We certainly could have honored her wishes for her estate had Partnership been available to her. Also as we know now, her insurance covered a considerable portion of the cost of her care, so Medicaid would have had only a very small burden. I believe that Mother's acceptance of her possible need for care and her responsible actions to provide for it qualified her for a partnership with our State.

As a long term care insurance agent here in North Carolina, I know that my experience as my Mother's caregiver inspires me to do the work I do. Every day I am driven by a personal commitment to excellence in plan design and client service. I have also come to the firm belief that motivating my peers to take responsibility for their own long term care planning is one of the keys to our own and our State's financial survival as we enter these next critical years of exponential growth in our aging society.

Please join me in bringing this message to NC's leadership and make Long Term Care Insurance Partnership a reality in the upcoming short session of our Legislature.

Respectfully yours,
Ellen Taylor Atkins

Seniors' Health Insurance Information Program

www.ncshiip.com

Facts About Long-Term Care Insurance In North Carolina

Shop Carefully and Avoid Pitfalls

Long-term care insurance is designed to pay some or all the costs of nursing home, community, or home health care when you cannot meet the needs of everyday living on your own. While such insurance is costly and might not cover all your expenses it can help to safeguard your assets and protect your financial stability. It is not for everyone. If your only income is Social Security, it is unwise to buy a long-term care policy.

Long term care insurance has two purposes:

- To protect the lifestyle of your spouse and/or family from the high cost of long-term care
- To protect your assets for your heirs

In general, you should purchase as much coverage as you can reasonably afford. Some policies will provide more coverage than others. Buyers who fail to ask tough questions may learn too late that their policies don't keep pace with the rising cost of care, don't provide all the benefits promised by an agent or advertisement, or are misleading in the coverage provided.

Keep in mind that insurance companies do underwrite their long-term care policies, which means they look at your health history, and there is no guarantee a policy will be issued to you.

NC Requirements for LTC Policies

- There can be no requirement for a prior hospital or skilled nursing home stay as a trigger for benefits.
- All pre-existing conditions must be covered after six months.
- Policies must be issued in a guaranteed renewable basis.
- Portability is required for all group contracts.
- A meaningful inflation protection must be offered.
- Whether expressed or implied no high pressure sales tactics are allowed.
- After age 65, no attained age rating is allowed.
- Policies must provide at least three levels of care for at least 12 months.
- Policies must be issues free of exclusionary riders.
- Policies cannot require that home health care be provided by an RN or LPN.
- All policies must have a 30-day "free-look" provision.
- Clinical diagnosis must be accepted on all organic brain disorders.
- Annual lapse and financial reports must be filed with the Insurance Commissioner.
- Third-party notification is required to prevent loss of coverage.
- Rate revisions must be approved prior to implementation.
- Insurance agents selling long-term care insurance must pass a supplemental exam.
- No new waiting period for pre-existing conditions is required when replacing policies.
- Advertising policies must be accepted by the Insurance Commissioner prior to use.

What is a Federally Tax-Qualified Long-term Care Policy?

The Health Insurance Portability and Accountability Act (HIPAA) of 1996 (effective January 1, 1997) established that long-term care policies meeting certain standards are referred to as federally "tax-qualified" plans and offer certain federal tax income advantages. The Act requires that the policy and the Outline of Coverage both state that the policy is a qualified long-term care insurance contract.

Benefits

In a tax-qualified policy, out-of-pocket long-term care expenses will be allowed as itemized deductions to the extent that they and other unreimbursed medical expenses exceed 7.5 percent of adjusted gross income.

Benefits that you receive and use to pay for long-term care services generally will not be counted as income. For policies that pay benefits using the expense incurred method, benefits that you receive in excess of the long-term care services may be taxable.

Consult with a tax advisor if you have questions about how tax-qualified policies could affect you. Policies approved as long-term care insurance before January 1, 1997 are grandfathered under the Act; therefore, premiums paid for these policies are also subject to favorable tax treatment.

Requirements

To be a federally qualified long-term care plan the contract must meet the following criteria:

- must be guaranteed renewable and cannot have a cash surrender value;
- there must be an offer of a nonforfeiture benefit;
- individuals must be unable to do two activities of daily living (ADL's) without substantial assistance;
- for cognitive impairment to be covered, a person must require substantial supervision; and
- disability must be expected to last for at least 90 days, and verification must be from a certified health care provider.

Consult with a tax advisor if you have questions about how tax-qualified policies could affect you.

Prohibited Practices

Insurance companies and agents may not engage in unfair and deceptive trade practices including:

1. **Twisting** — to knowingly make any misleading representation or comparison causing someone to cancel a policy with one company and buy a replacement from another company,
2. **High Pressure Tactics** — to use force, fright or threat to pressure someone into purchasing a policy, and
3. **Cold Lead Advertising** — to develop sales leads for a policy using deceptive advertising techniques.

Insurers also may not advertise a product as long-term care insurance if it provides less than twelve consecutive months of benefits.

Is Long-Term Care Insurance Right For You?

Premium

The premium for the coverage you are considering will be $_____ per month (or $ _____ per year or a one time single premium of $ _____.)

Have you considered whether you could afford to keep this policy if the premiums were raised, for example by 20 percent?

Income

Where will you get the money to pay each year's premium?

__Income __Savings __Family members

What is your annual income?

__Under $10,000 __$10-20,000 __$20-30,000 __$30-50,000 __Over $50,000

How do you expect your income to change over the next 10 years?

__No change __Increase __Decrease

If you will be paying premiums with money received from your own income, a rule of thumb is that you may not be able to afford this policy if the premiums will be more than seven percent of your income.

Savings and Investments

Not counting your home, what is the approximate value of all of your assets (savings and investments)?

__Under $20,000 __$20-30,000 __$30-50,000 __Over $50,000

How do you expect your assets to change over the next 10 years?

__No change __Increase __Decrease

If you are buying this policy to protect your assets and your assets (excluding the value of your personal residence) are less than $100,000, you may wish to consider other options for financing your long-term care.

Premium Pricing

The initial premium for a long-term care insurance policy is based on:

- your age at policy purchase,
- the elimination period, and
- policy benefits and duration.

AGE - The younger you are when you buy the policy, the less you pay in initial premiums. The premium may increase with age (after age 65 a long-term care insurer cannot use age to increase cost).

ELIMINATION PERIOD - Premiums are lower for longer elimination periods. (The elimination period is the number of days of care you pay for out-of-pocket before the insurance company begins paying benefits for your care.)

BENEFITS - A policy paying $50 per day for three years will cost less than one paying $100 a day for five years.

Ask Before Buying!

- What types of care are covered and in what setting? (A policy is not required to cover every kind of long-term care, nor is it required to cover long-term care in every setting.)
- How much is the daily benefit amount and for how many years will it be paid?
- Does the policy have maximum benefits for each illness or per person, including maximum periods of confinement?
- Does the policy place a lifetime maximum on your benefits? Does collecting benefits for home health care reduce the policy's remaining lifetime benefits amount?
- How long is the elimination period?
- How long is the waiting period before pre-existing conditions are covered?
- What inflation protection is offered?
- How much will the premium increase in the future? Is there a non-forfeiture benefit?

General Shopping Tips

- An agent must give you the long term care policy's "outline of coverage" at the time of application.
- If your income and assets qualify you for Medicaid, you do not need long-term care insurance.
- Talk to several agents and companies, and compare policies.
- Buy locally from an agent you know and trust.
- When buying by mail, see if the company has a local agent or a toll-free number you can call with any questions.
- Never buy a policy on an agent's first visit. Make sure you understand the policy. Have the agent leave a brochure explaining the policy. Ask the agent to return; invite a trusted friend or relative to be present. An ethical agent will not object.
- Never sign a blank application. Be sure to answer all questions truthfully. An insurer can deny a claim or cancel a policy if an answer is incomplete or inaccurate.
- Make checks payable to the insurance company, never to the agent. NEVER PAY CASH. Pay by check or money order and insist on a receipt.
- Don't pay premiums for more than one year at a time. If there is no discount for an annual premium, pay monthly, quarterly or by automatic bank draft.
- Don't wait until retirement to check into long-term care coverage through your company group insurance plan.
- Call the Seniors' Health Insurance Information Program with questions. (1-800-443-9354)

Did You Know?

INFLATION PROTECTION – The NC Department of Insurance requires companies to offer you at least one of three methods of increasing the daily benefit amount to offset the effect of inflation. You may reject or accept the offer. The three methods available are **a)** benefit levels increase annually at a minimum of five percent annually (simple or compounded), **b)** insurer guarantees periodic opportunities to increase benefit level, or **c)** benefit covers a specific percentage of actual reasonable charges. If you reject the inflation protection, it MUST be in writing.

FREE LOOK – All long-term care policies must provide a "free look" period of at least 30 days that will allow you to review your purchase. For a full refund, return the policy before the end of the 30 day period.

DUPLICATE COVERAGE – Do not buy duplicate coverage. Consider increasing current coverage instead. If you replace a policy with another new policy, North Carolina Department of Insurance regulations require agents or insurance companies to **a)** offer to check on all your other policies for possible duplicate coverage, **b)** warn you in writing not to cancel any policy until the "free look" period is over and you are satisfied with the new one and **c)** give credit for time spent under your previous policy toward satisfying pre-existing condition waiting periods.

ELIMINATION PERIODS – An elimination period is the time you must be confined to an eligible facility and must pay for the care you receive before a policy begins to pay benefits. Select the longest elimination period you can afford in order to keep costs down.

HOME HEALTH BENEFITS – Do not confuse at home recovery benefits with more extensive home health care benefits. Recovery benefits often are limited to short periods, usually no longer than your hospital or nursing home stay.

PRE-EXISTING CONDITION – A pre-existing condition is an illness or disability for which you received medical advice or treatment during a period of time before you apply for insurance. Most policies do not pay for these conditions during the waiting period after you become insured. State law limits the long-term care pre-existing policy waiting period to six months.

GUARANTEED RENEWABLE – Long-term care insurance policies sold in North Carolina must be guaranteed renewable. This means you must be allowed to continue in force as long as the premiums are paid. The company may not change policy provisions or refuse to continue your coverage. Premiums, however, may be raised for an entire class of policyholders. Policies issued on or after December 1, 1994 may not increase rates based on attained age after your 65th birthday.

PREMIUM PRICING – Policies with attained age pricing have premiums that start low but increase with the policyholder's age. Policies with issue-age pricing have premiums that do not increase solely due to increasing age.

MENTAL AND NERVOUS DISORDERS – Long- term care policies may limit or exclude coverage of some mental or nervous disorders. However, they must provide coverage of Alzheimer's' disease and related disorders of biologically caused brain diseases and serious mental illness, including progressive dementing illness, organic brain disorders and degenerative brain disorders.

NONFORFEITURE BENEFITS – A non-forfeiture benefit provides that after a policyholder has paid into a policy for a specified period of time, the policyholder continues to have some benefits even if he/she is unable to continue paying premiums. Those benefits take different forms and affect the policy price.

A Shopper's Guide To

Long-Term Care Insurance

NAIC
National Association of Insurance Commissioners

North Carolina Department of Health and Human Services
Division of Aging and Adult Services
2101 Mail Service Center • Raleigh, North Carolina 27699-2101
Tel 919 733-3983 • Fax No. 919 733-0443

Beverly Eaves Perdue, Governor
Lanier M. Cansler, Secretary

Dennis W. Streets
Director

March 2, 2010

Memorandum

To: Representative Jean Farmer-Butterfield, Co-Chairman
Senator A. B. Swindell, Co-Chairman
N. C. Study Commission on Aging

From: Dennis W. Streets Dennis W. Streets

Re: N. C. Long Term Care Ombudsman Program Overview

In response to the recent request from the North Carolina Study Commission on Aging, attached is an overview of the roles and responsibilities of North Carolina's Long Term Care Ombudsman Program. These slides were recently used for a presentation to the NC Institute of Medicine Task Force on the Co-Location of Different Populations in Adult Care Homes, which is chaired by Representative Jean Farmer-Butterfield, Senator John Snow, and Maria Spaulding, DHHS Deputy Secretary for Long Term Care and Family Services.

A review of Federal Fiscal Year 2009 data reveals that the Long Term Care Ombudsman Program handled 3,441 complaints made by or on behalf of individuals residing in nursing homes and adult care homes. Seventy-six percent (76%) or 2,601 complaints were resolved utilizing the informal grievance resolution process, which is significant in two ways. First, it helps provide timely resolution for residents and others involved, and secondly, it avoids more costly and complicated regulatory interventions. Only 218 complaints were referred to a regulatory agency for formal action which represents a tremendous savings to our State. In addition, regional ombudsmen conducted 7,591 visits with residents that were unrelated to complaint investigation activities and provided 8,660 consultations to long-term care providers. The Program also responded to 25,170 requests from the general public, family members, other agencies and residents for technical assistance on a variety of long-term care issues.

In a recent informal review with the U.S. Administration on Aging, North Carolina's Ombudsman Program ranked number one in the nation in providing community education events for families, residents, long-term care providers and the general public. A total of 1,188

workshops, conferences, and other training events were conducted, of which nearly 500 focused on increasing awareness and prevention of elder abuse.

I am proud of the many accomplishments of the Long Term Care Ombudsman Program and the valuable service it provides to vulnerable residents in nursing homes and adult care homes. Please let me know if you have any questions.

North Carolina Long Term Care Ombudsman Program

Sharon C. Wilder
State Long Term Care Ombudsman
NC Division of Aging and Adult Services
Telephone: (919) 733-8395

Ombudswhat??

"An Ombudsman is a professional acting as the advocate for his client in exercising his rights, or in helping him to negotiate the complex rules and regulations of a given bureaucracy"

State Long Term Care Ombudsman
North Carolina Division of Aging and Adult Services

Regional Long Term Care Ombudsman
17 Regional Area Agencies on Aging

County Community Advisory Committees
Local Boards of County Commissioners

A Long Term Care Ombudsman's Client is **ALWAYS** the Resident

Long Term Care Ombudsman Program

* The Long Term Care Ombudsman Program was established in every state through authorizations incorporated into the Older Americans Act of 1978.
* In 1989, North Carolina codified the Long Term Care Ombudsman Program into state law through G. S. 143B-181.15-.25 which mirrors federal laws set forth in the Older Americans Act.

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Laws and Regulations

Older Americans Act, Title VII, Chapter 2

Provides guidance to states in regards to the established roles/responsibilities of the program and the state program responsibilities to establish how the program operates.

NCGS 143B-181.5
Establishes the legal base for program policy in North Carolina.

NCGS 131E-128
Nursing Home Community Advisory Committee

NCGS 131D-31
Adult Care Home Community Advisory Committee

Long Term Care Ombudsman Program

Program mission:

To protect residents' rights and improve the quality of care and life for residents in long term care facilities by providing access and advocacy services that assist residents in protecting their health, safety, welfare, and rights.

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Long Term Care Ombudsman Program Mandated Responsibilities

* Receive and attempt to resolve complaints made by or behalf of residents in long term care facilities.
* Provide information to the general public on long term care issues.
* Promote community involvement with long term care residents and facilities.
* Assist providers with staff training about Residents' Rights.

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Long Term Care Ombudsman Program Mandated Responsibilities

- Train and provide ongoing technical assistance to county-appointed community advisory committee volunteers.
- Collect and report data regarding the number and type of complaints handled and other program activities.
- Carry out activities designed for education and prevention of elder abuse, neglect and exploitation.

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Long Term Care Ombudsman Program Mandated Responsibilities

- Work with long term care providers to resolve issues of common concern
- Provide information to public agencies, legislators, and others on problems impacting the rights of long term care residents as well as make recommendations for resolution of issues identified.

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Long Term Care Ombudsman: Important Principles

The LTC Ombudsman Program's primary mandate is to respond to complaints that are made by or on behalf of a resident.

When a complaint is received, the Regional Ombudsman will generally visit the resident in the facility, as a first step in responding to the situation.

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Long Term Care Ombudsman: Important Principles

Ombudsman law prohibits retaliation, reprisal or discrimination against residents or any person who shares information with the program.

Law also prohibits any entity from obstructing an Ombudsman in performing their duty.

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Long Term Care Ombudsman: Important Principles

Confidentiality is the "backbone" of the Long Term Care Ombudsman Program

Ombudsmen are recognized by HIPAA as healthcare oversight agents; however, per federal/state law, all Ombudsmen use **written informed consent** of the resident or legal representative to access medical records.

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Long Term Care Ombudsman Program 2009 Services Overview

3,441	Complaints processed through the LTC Ombudsman Program
1,661	Complainants assisted by State and Regional LTC Ombudsmen
7,591	Resident visits made in adult care homes and nursing homes
707	Facility licensure surveys observed
230	Resident//Family Council meetings attended
25,170	Individuals provided technical assistance with LTC issues
8,660	Consultations provided to LTC providers
618	Staff training sessions provided in LTC facilities
1,188	Community educational sessions provided
3,616	Training hours committed to community advisory committee volunteers and new ombudsmen.

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Major Roles of a LTC Ombudsman:

Advocate

Individual Level

Facility Level

Systemic Level

Educator

Residents/Families

Facilities

Systemic

Information and Referral

Residents' Rights
Considerations for choosing a facility
Regulatory information
Finding needed resources
Payment sources for long term care
Types of legal authority
Insurance or billing questions

Community Liaison

Volunteer Development

Training/education

Information to the community

Investigator

What do we do with complaints?

Empowerment
Investigation
Mediation and Informal Resolution
Training/Assistance
Resolution or Referral
Follow-Up

Ombudsman Program Parameters

No regulatory authority
Do not investigate abuse
The resident/legal representative directs plan of action
Written Informed Consent
Confidentiality

NORTH CAROLINA ADULT CARE HOME BILL OF RIGHTS

(Condensed Version) N. C. General Statute 131D-21

EVERY RESIDENT SHALL HAVE THE FOLLOWING RIGHTS:

- To be treated with respect, consideration, dignity and full recognition of his or her individuality and right to privacy.
- To receive care and services which are adequate, appropriate and in compliance with relevant federal and state laws and rules and regulations.
- To receive upon admission and during his or her stay a written statement of the services provided by the facility and the charges for these services.
- To be free of mental and physical abuse, neglect and exploitation.
- Except in emergencies, to be free from chemical and physical restraint unless authorized for a specified period of time by a physician according to clear and indicated medical need.

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NORTH CAROLINA ADULT CARE HOME BILL OF RIGHTS

- To have his or her personal and medical record kept confidential and not disclosed without the written consent of the individual or guardian, which consent shall specify to whom disclosure may be made except as required by applicable state or federal statute or regulation or by third party contract.
- To receive a reasonable response to his or her requests from the facility administrator and staff.
- To associate and communicate privately and without restriction with people and groups of his or her own choice on his or her own initiative at any reasonable hour.
- To have access at any reasonable hour to a telephone where he or she may speak privately.
- To send and receive mail promptly and unopened, unless the resident requests that someone open and read mail, and to have access at his or her expense to writing instruments, stationery and postage.
- To be encouraged to exercise his or her rights as a resident and citizen, and to be permitted to make complaints and suggestions without fear of coercion or retaliation.

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NORTH CAROLINA ADULT CARE HOME BILL OF RIGHTS

- To have and use his or her own possessions where reasonable and have an accessible lockable space provided for security of personal valuables. This space shall be accessible only to the residents and the administrator or supervisor in charge.
- To manage his or her personal needs funds unless such authority has been delegated to another. If authority to manage personal needs funds has been delegated to the facility, the resident has the right to examine the account at any time.
- To be notified when the facility is issued a provisional license by the North Carolina Department of Health and Human Services and the basis on which the provisional license was issued. The resident's responsible family member or guardian shall also be notified.
- To have freedom to participate by choice in accessible community activities and in social, political, medical and religious resources and to have freedom to refuse such participation.
- To receive upon admission to the facility a copy of this section.

The Ombudsman is an advocate for those who live in long term care facilities. For more information on resident rights, call the Regional Long Term Care Ombudsman.

Your Regional Ombudsman is:_____Telephone:_____

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RESIDENTS' RIGHTS

- **The Bill of Rights can be divided into the following broad categories**

Rights to:

- Independent decision making
- Dignity & Respect
- Privacy & Confidentiality
- Be fully informed
- Remain in facility
- Raise grievances
- Participate in One's Own Care
- Visitation

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RESIDENTS' RIGHTS

Freedom of Choice

- personal decisions
- accommodation of needs & preferences
- choose a physician
- participate in community activities (resident council)

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RESIDENTS' RIGHTS

Right to Dignity & Respect

- to be treated with consideration, respect & dignity
- to be free from mental & physical abuse, corporal punishment, involuntary seclusion, & physical and chemical restraints
- to secure personal possessions

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RESIDENTS' RIGHTS

Privacy & Confidentiality

- private & unrestricted communication with persons of choice
- privacy during treatment & regarding medical, personal, or financial affairs

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RESIDENTS' RIGHTS

Rights During Transfers & Discharges

- right to remain in facility unless transfer or discharge meets certain criteria
- receive 30 day notice of transfer or discharge (must include reason, effective date, location & appeal rights)

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RESIDENTS' RIGHTS

Right to Complain

- present grievances to staff with prompt efforts by facility to resolve
- to contact ombudsman
- to file a complaint with state survey & certification agency

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RESIDENTS' RIGHTS

Right to Participate in One's Own Care

- receive adequate & appropriate care
- be informed of changes in medical condition
- participate in assessment, care planning, treatment & discharge
- to refuse medication, treatment and chemical or physical restraints

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RESIDENTS' RIGHTS

Right to Visits

- to meet with personal physician, ombudsman, or state survey agency
- to visit with friends, relatives
- to participate in social or religious gathering

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How do I reach an Ombudsman?

Division of Aging and Adult Services

Web page:
http://www.dhhs.nc.state.us/aging/ombud.htm

Local Area Agencies on Aging

Information posted in Long Term Care Facilities

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Special Care Dentistry Advisory Group
Special Care Oral Health Services
A North Carolina Commitment

February 2010

Executive Summary

Charge to the Advisory Group
Session Law 2009-100 directed the NC Department of Health and Human Services (DHHS), Division of Public Health, in collaboration with the Division of Medical Assistance (DMA), the Division of Aging and Adult Services, the University of NC at Chapel Hill and the East Carolina University Schools of Dentistry, the NC Dental Society and current providers of special care dental services, to examine the current dental care options for populations requiring special care dentistry and provide suggestions for ways to improve the availability of services to those needing such dental services. The Department was directed to report findings and recommendations to the NC Study Commission on Aging and the Public Health Study Commission.

Background
NC needs a coordinated systems approach to provide optimum and accessible dental services to populations requiring special care dentistry. To provide the framework for this coordinated systems approach, the Special Care Advisory Group has produced a comprehensive set of recommendations. They are divided into the categories of advocacy, professional development, reimbursement, clinical program expansion and health services research. The sixteen recommendations in this report, if implemented, would go far toward the goal of assuring adequate dental health care for those vulnerable groups in our state who presently suffer the consequences of inadequate access to dental care. The Special Care Advisory Group recognizes the unprecedented budget crisis currently affecting NC. Some of the recommendations could be implemented fairly quickly and would require no additional funding sources. However, many of the recommendations will require additional state funding and the Special Care Advisory Group members hope those will receive considerable attention once the current fiscal climate improves.

RECOMMENDATIONS

ADVOCACY

Recommendation #1:
A State agency or council create and maintain a dental program position that is responsible for implementing the recommendations in this report.

Recommendation #2:
Partner with the Department of Health and Human Services, Division of Health Service Regulation to identify ways to ensure that oral health service standards in nursing homes and other residential facilities are carried out. Explore ways to encourage facilities to enhance dental care services to residents by such means as increasing staff devoted to daily oral care and expanding training of direct care personnel.

Recommendation #3:
Request that a dentist be appointed to the Commission on Children with Special Health Care Needs.

Recommendation #4:
Develop and implement educational, media and social marketing campaigns that target optimal oral health for individuals with special health care needs. Outreach efforts should focus on individuals, families, care providers and service agencies.

Recommendation #5:
Expand the successful existing care coordination services provided by the Community Care of North Carolina/Carolina ACCESS (CCNC/CA) network to ensure oral health services for Medicaid patients with special needs.

PROFESSIONAL DEVELOPMENT

Recommendation #6:
To expand the dental workforce of providers who are comfortable treating patients with special needs, the UNC-CH School of Dentistry, the ECU School of Dentistry, once established, and the NC Community Colleges that offer

educational programs for dental students, dental hygiene students and dental assisting students should require didactic and clinical training on the provision of oral health care for patients with special needs. Topics should include accessible and universally designed dental practices, behavior management skills, management of medically complex conditions and provision of quality oral health services to residents in group homes, long term care facilities, home health, and hospice settings.

Recommendation #7:
The UNC-CH School of Dentistry, the ECU School of Dentistry, once established, the NC AHEC system and the NC Community Colleges that offer educational programs for dentists, dental hygienists and dental assistants should intensify continuing education efforts for those providers who have an interest in providing oral health services to patients with special needs, but lack the necessary training. Included in this training should be information on how practices must, at a minimum, meet the Americans with Disabilities Act Standards for Accessible Design and how to utilize principles of Universal Design.

Recommendation #8:
Request that the North Carolina State Board of Dental Examiners investigate changing the state dental practice act to allow dental, dental hygiene and assisting students to receive training in private nursing homes.

REIMBURSEMENT

Recommendation #9:
Request that the North Carolina General Assembly consider an increase in Medicaid dental reimbursement rates to 80% of the 2008 National Dental Advisory Service (NDAS) 50th percentile rate for each service covered under the Division of Medical Assistance (DMA) dental and orthodontic clinical coverage policies.

Recommendation #10:
Request that the General Assembly consider providing funding to DMA to implement an inflationary rate increase for dental services on an annual basis.

Recommendation #11:
The Division of Medical Assistance should explore the benefits and risks of revising the policy limits on the facility code (CDT code D9410) to allow for providers to bill for each patient seen on a date of service in a nursing home, group home or other long term care facility.

Recommendation #12:
Ensure that Medicaid dental services for adults are preserved and that consideration be given to expanding the services to include reimbursement for evidenced-based chemotherapeutic agents (i.e. fluoride therapies, periodontal therapies, etc.) for "high risk" adults with special health care needs. Funds should be provided to identify or develop a simple risk assessment tool to determine the risk status of these adults.

Recommendation #13:
Increase the base units used to calculate fees for Medicaid dental and oral surgery cases to levels that will ensure adequate reimbursement of anesthesiologists and certified nurse anesthetists for services rendered in the hospital operating room or the outpatient surgical center setting.

CLINICAL PROGRAM EXPANSION

Recommendation #14:
Request state funding for an additional four (4) mobile dental programs, to be phased in one per year, to provide onsite comprehensive dental care for residents in nursing homes, group homes, assisted living centers, adult day health care centers and to certain individuals with special health care needs in the community.

Recommendation #15:
Maintain and expand existing dental departments housed in all the psychiatric hospitals and developmental and neuro-medical centers that provide care to North Carolina's most vulnerable populations. Provide competitive salaries to attract and maintain well-qualified dentists.

HEALTH SERVICES RESEARCH

Recommendation #16:
Provide a research agenda to the UNC Gillings School of Global Public Health, the Cecil G. Sheps Center for Health Services Research and the UNC School of Dentistry to create a health services research agenda for persons with disabilities.

Special Care Oral Health Services: A North Carolina Commitment

Report of The Special Care Dentistry Advisory Group

Presented to
The North Carolina Study Commission on Aging

Dr. Bill Milner
Dr. Kevin Buchholtz

March 4, 2010

Session Law 2009-100

Directed the NC DHHS, Division of Public Health, in collaboration with the Division of Medical Assistance, the Division of Aging and Adult Services, the UNC-CH and the ECU Schools of Dentistry, the NC Dental Society and providers of special care dentistry services, to examine the current dental care options for populations requiring special care dentistry and provide suggestions for ways to improve the availability of services to those needing such dental services.

Thank You Study Commission!

- Program Expansion into Triangle
- Recommendations Study
- Legislative Awareness
- Networking with NC Council on Developmental Disabilities, Senior Tarheel Legislature, Division of Aging and Adult Services and Division of Public Health-Oral Health Section

Meet the Special Care Family

- Persons with intellectual or developmental disabilities
- The frail elderly
- Those with multiple complex medical diagnoses
- All ages
- Variety of settings
- Includes their care takers

The Most Vulnerable Population in North Carolina

~450,000

North Carolina Council on Developmental Disabilities

Building Bridges to Community

Promoting Full Lives in the Community Through . . .

Leadership and Advocacy - Changing Policy/Changing Practice - Building Inclusive Communities

AARP.org BFTA

The Arc of North Carolina

daas

AHEC North Carolina Area Health Education Centers Program

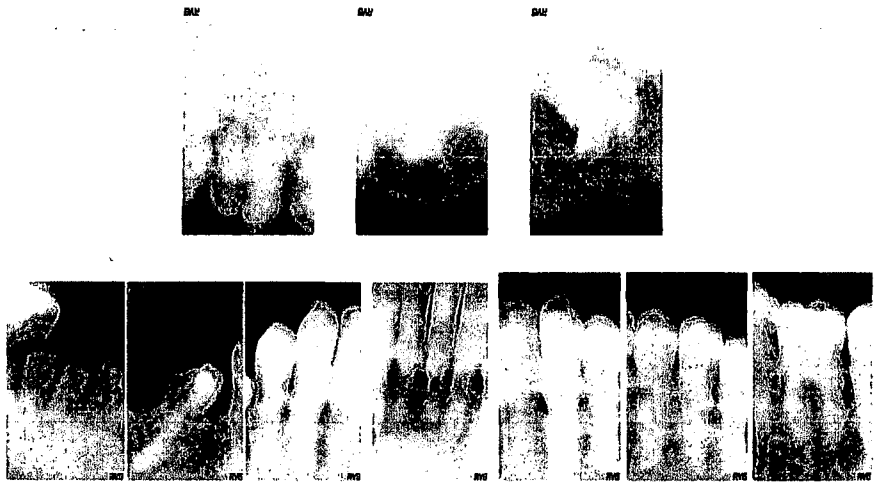
Arc of High Point
Why Are They Here?

1. Are asking for the same dental services that each of us can access everyday.
2. Know that oral health affects their overall general health.
3. Know that they can't find care.
4. Know that they are difficult to treat.

Costly Systemic Issues

1. Physical – Pain/Infection, Heart Disease, Aspiration Pneumonia, Diabetes
2. Access to Care – Limited Services, Transportation, Building Access; Under-treatment; Financial Dependency

This is What Happens When You Don't Receive Dental Care.



Recommendations Requiring Funding

- Statewide coordinator of services (#1)
- Care coordination (#5)
- Educational programs for dental personnel (#7)
- Division of Medical Assistance "Facility Code" reimbursement (#11)
- Fund 4 additional mobile programs (#14)
- Expand dental programs at state psychiatric hospitals, developmental and neuro-medical centers (#15)

Recommendation #1

- *Create a dental program position that is responsible for implementing the recommendations in this report*
  - A person with dental expertise, located in the Division of Public Health, Division of Aging or Council on Developmental Disabilities would provide long-term program leadership and would work to improve the oral health of North Carolinians with special health care needs

Recommendation #5

- *Expand the successful existing care coordination services provided by the Community Care of North Carolina/Carolina ACCESS (CCNC/CA) network to ensure oral health services for Medicaid patients with special needs.*

Recommendation #7

- *UNC-CH & ECU Schools of Dentistry, AHEC and Community Colleges that offer dental continuing education should intensify CE efforts for providers interested in treating patients with special needs, but lack the necessary training. Training should include principles of Universal Design.*

Recommendation #11

- *The Division of Medical Assistance should explore revising the policy limits on the facility code (CDT code 9410) to allow providers to bill for each patient seen on a given day in a nursing home, group home or other long-term care facility.*

Recommendation #14

- *Fund 4 additional mobile dental program to provide care for residents in long-term care facilities.*
  - *Phase in, 1 per year*

Recommendation #15

- *Maintain and expand existing dental departments in psychiatric hospitals and developmental and neuro-medical centers that provide care to NC's most vulnerable populations.*

Recommendations Not Requiring Funding

- Enhance daily oral health care in skilled nursing facilities (#2)
- Dentist representative on Commission on Children with Special Health Care Needs (#3)

Recommendation #2

- *Partner with DHHS Division of Health Service Regulation to ensure that oral health service standards in nursing homes and other residential facilities are carried out. Enhance dental care services to residents, such as increasing staff devoted to daily oral care and expanding training of direct care personnel.*

Recommendation #3

- *Dentist representative on Commission on Children with Special Health Care Needs.*
  - NC Commission on Children with Special Health Care Needs is an 8 member Governor appointed Commission. Commission monitors and evaluates the availability and provision of health services.

Thank You

- North Carolina Study Commission on Aging and staff
- Oral Health Section, NC Department of Health and Human Services
- Study group participants
- Supportive organizations

Special Care Oral Health Services: A North Carolina Commitment

Report from the
Special Care Dentistry Advisory Group

February 2010

SPECIAL CARE DENTISTRY ADVISORY GROUP
SPECIAL CARE ORAL HEALTH SERVICES
A NORTH CAROLINA COMMITMENT

Session Law 2009-100

Presented to

NORTH CAROLINA STUDY COMMISSION ON AGING
&
NORTH CAROLINA PUBLIC HEALTH STUDY COMMISSION

March 1, 2010

Special Care Dentistry Advisory Group
Special Care Oral Health Services
A North Carolina Commitment

March 2010

Charge to the Advisory Group

Session Law 2009-100 directed the North Carolina Department of Health and Human Services, Division of Public Health, Oral Health Section in collaboration with the Division of Medical Assistance, the Division of Aging and Adult Services, the University of North Carolina at Chapel Hill and the East Carolina University Schools of Dentistry, the North Carolina Dental Society and current providers of special care dental services, to examine the current dental care options for populations requiring special care dentistry and provide suggestions for ways to improve the availability of services to those needing such dental services. The Department was directed to report findings and recommendations to the North Carolina Study Commission on Aging and the Public Health Study Commission.

The Oral Health Section of the Division of Public Health, was charged with identifying collaborative partners and coordinating preparation of this report. A Special Care Advisory Group of providers and consumers, individuals and agencies met twice and developed the sixteen (16) recommendations described in this report.

What Are the Oral Health Issues for Patients with Special Needs?

Optimal oral health is an integral component of health and well-being. Patients with special needs are at high risk for developing oral disease, and access to dental care has been recognized nationally as a major unmet health need for these groups. The US Surgeon General's Report on Oral Health (2000) discussed the inequalities that affect vulnerable populations, such as people with disabilities and those who are medically compromised and elderly, concerning untreated dental disease, access to dental care and the use of preventive services. Oral diseases and related problems are more common among these patients, who often require more extensive and complex dental care. Lack of care can have a direct and devastating effect on their health and well-being, leading to decreased systemic health and

resulting expensive treatment of preventable medical conditions. Many individuals are forced to live with gross oral infections that can lead to or complicate illnesses such as aspiration pneumonia, uncontrolled diabetes, wound healing, stroke, prosthetic joint failure and heart disease, resulting in additional expensive medical care. For those with chronic illnesses, lack of dental treatment can lead to oral infection which may then exacerbate their systemic conditions.

Who Are the Patients with Special Needs?

For purposes of this report, we are defining patients with special needs as those with intellectual and/or developmental disabilities, the frail elderly, those with multiple complex medical diagnoses, and the many other individuals with disabilities who do not fit into these categories but also encounter barriers when trying to access dental care in their community. Patients with special needs include all age groups. These individuals may have a variety of complicated intellectual, developmental and physical limitations, such as profound intellectual disability, autism, cerebral palsy, dementia, diabetes, cancer, multi-systems failure, cardiovascular disease, cerebral vascular disorders (stroke), brain injuries, multiple sclerosis and muscular dystrophy.

Quantifying the number of North Carolinians who can be accurately defined as having a disability and requiring special care dentistry services is difficult. Specific definitions of disability have been driven by government agencies to determine eligibility for benefits and services. As a result, disability has been measured in different ways across surveys and censuses, leading to conflicting estimates of the prevalence of disability. However, in North Carolina there are many who are disabled to the extent that they require special care dentistry services, and their numbers are increasing, in part due to the growing elderly population. The following data and table attempt to provide an estimate of those who may require special care dentistry services.

- It is estimated that more than 100,000 people in North Carolina have an intellectual and/or other developmental disabilities (I/DD) (Thompson, 2008). An I/DD manifests itself before age 22 and leads to substantial functional limitations in at least three of the following areas: self-care, receptive and expressive language, learning, mobility, self-direction, the capacity for independent living, or economic self-sufficiency.

- Approximately 180,000 people in North Carolina are living with long-term needs due to a traumatic brain injury (TBI) (Hooper, 2010).

- It is estimated that there are currently 170,000 older adults (age 65 +) in North Carolina living with Alzheimer's disease or other types of dementia (NC Division of Aging and Adult Services, 2010).

Population Definition	Potential numbers of North Carolinians who may require special care dentistry services
Those with intellectual and/or other developmental disabilities (I/DD);	100,000
Those living with long term needs due to a Traumatic Brain Injury (TBI)	180,000
Older adults living with Alzheimer's disease or other types of dementia	170,000
Total	450,000

Another way to gain some insight to the large numbers of adults who may be part of the special care category is to consider information from the North Carolina State Center for Health Statistics' 2008 Behavioral Risk Factor Surveillance System (BRFSS). BRFSS is a random telephone survey of state residents aged 18 and older. When informed that a disability can be physical, mental, emotional, or communication related, 5.3 percent of NC BRFSS surveyed adults (which translates to an estimated 370,000 persons) considered themselves to have a severe disability (BRFSS, NC State Center for Health Statistics, 2008). This is perhaps an underestimate since BRFSS does not reach those who are institutionalized.

What Are the Existing Dental Care Options Available to Patients with Special Needs?

Across the state, a small number of dental facilities and practices exist that employ providers with the knowledge base and skills to provide safe, comprehensive dental services to patients with special health care needs. However, the current capacity doesn't begin to address the need. The responsible parties, usually children or parents, who provide regular support for those patients often search statewide, finding no one, at any price, to treat the dental needs of loved ones.

- State Dental Clinics: State-funded dental clinics are housed in the four psychiatric hospitals, three developmental centers and three neuro-medical centers, with most serving only the patients of those facilities.
- Hospital Inpatient Services: Seven major hospital systems and three Veterans Administration hospitals provide at least some out-patient dental care on a non-emergency basis for their patients undergoing complex care, such as cardiac and cancer patients. Most major hospital systems and some smaller hospitals provide operating room time for dentistry.
- Mobile Programs: Two non-profit mobile programs provide on-site, comprehensive dental care to individuals in nursing homes, group homes, assisted living centers, adult day health care facilities and to individuals living in the community. Collectively these programs provide care to 69 facilities and 5,700 patients in Piedmont North Carolina.
- Local Practitioners/Pediatric Dentists: Pediatric dentists provide care to children and a limited number of adults with special health care needs. They are a natural fit to provide care because they are trained to deal with challenging behaviors and complex medical conditions. There are approximately 150 pediatric dentists in the state, but not all pediatric dentists accept Medicaid. This is an obstacle to care because many children with special needs are dependent upon Medicaid funding. As children with disabilities age out of a pediatric practice, there is often no place to go within the community.
- Local Practitioners/General Dentists: General dentists in private practice treat a limited number of patients with complex special health care needs. There are only a few who serve as a referral source for nursing and group homes, and a small number who visit nursing and group homes on an infrequent basis, providing primarily emergency care.
- Professional Education/Care Provider Institutions: The UNC School of Dentistry has historically been a primary source of referral for patients with special health care needs in North Carolina. This institution has a limited number of faculty who treat patients with special needs and who teach undergraduates, general residents and pediatric graduate students how to provide their care. The ECU School of Dentistry plans to have a suite dedicated to the care of patients with special needs when the school is completed in 2012, where several faculty and dental residents will provide training and exposure to all of its dental students. Residency training programs that provide care for patients with special needs include those located at Pitt Memorial Hospital, Greenville; UNC Health Care System, Chapel Hill; Carolinas HealthCare, Charlotte; Wake Forest Baptist Medical Center, Winston Salem; Mission

Health System, Asheville; Veterans Administration facilities plus three major medical centers also train dental residents.

Overview of the Problems

Challenges for patients with special health care needs receiving compassionate, comprehensive dental care are complex and involve issues related to consumers, providers, payers, and systems.

Consumer Issues

- Advocacy: Patients with limited mobility, medical impairments and complex medical issues are often unable to advocate for themselves. Caregivers and advocates for these patients frequently overlook the need for dental services or do not see dental care as a priority, given other health needs.
- Lack of Access to Care: Although general dentists in private practice provide limited services to some patients with special needs and most pediatric dentists see children and some adults with intellectual and developmental disabilities, many communities have no dental care services for these individuals. This is because general dentists have not been adequately trained to feel competent at managing challenging behaviors and complex medical conditions common to many patients with special needs.
- Physical Access: The traditional dental practice does not work for many patients with special needs; therefore, they have no access to routine dental services. Transportation issues to and from facilities and lack of wheelchair accessible operatory space and other physical barriers keep many out of the dental chair. Some cannot travel to a dental office without the aid of an ambulance or wheelchair transport.
- Deinstitutionalization: Deinstitutionalization from state hospitals and state regional DD centers has placed those with major mental illness and severe or profound intellectual disability in communities without accessible dental care services. These patients are among the most challenging dental patients to treat and often require hospital operating room support.
- Continuity of Care: Many patients who have become fully dependent and non-verbal have received quality preventive and restorative dental care throughout their life, but now live in a situation where their mouths are not cleaned on a daily basis. Many of these individuals must live in constant

pain and/or infection because they cannot communicate their needs and there is no consistent regimen for maintaining and monitoring their oral health.

- Inadequate Treatment: Individuals living in the community are often under-treated by local practitioners because the dentist and staff are not trained to deal with challenging patient behaviors or complex medical conditions. As a result, many individuals are not offered a full or typical array of services, such as root canals, crowns, etc.
- Financial Dependency: Many patients with special needs are totally dependent on strained family resources and public assistance. The lack of dentists accepting Medicaid who are adequately trained to provide care for patients with special needs is a barrier.

Provider/Payer Issues

- Limited State Dental Clinics: Many of the state dental clinics housed in the psychiatric hospitals, developmental and neuro-medical centers are limited to treating only the individuals who are residents in those facilities. Due to limited capacity, these clinics cannot treat patients living in the community. As an example of capacity limitations, there are currently only two full-time hospital dentists currently serving the approximately 1,300 mentally ill in-patients who are being treated within two state psychiatric hospitals and contract dental services are used at the other two state psychiatric hospitals to meet the dental needs of individuals in these facilities.
- Hospital Service Reduction: Many hospital systems are reducing out-patient services. Hospital operating room times for dental procedures are limited, and becoming more so, as administrators divert more operating room time to high revenue generators, none of whom are dentists.
- Limited Mobile Program Capacity: The two existing non-profit mobile programs providing on-site, comprehensive dental care to individuals in nursing homes and related facilities have the capacity to provide services to only a very small percentage of North Carolina's special care population.
- Limited Professional Training: Most communities have no dental care services for patients with special needs because dentists and their staff have not been trained to manage challenging behaviors or complicating medical conditions common to these individuals. The practice of special care dentistry requires expertise beyond that now taught to general dentists or dental hygienists at most dental schools or in dental hygiene programs. Continuing education for interested community practitioners is limited and has not produced a broad population of special care dental providers.

- Limited Financial Compensation: Low Medicaid reimbursement rates, coupled with the additional time it takes to provide dental services for some patients with special needs, serve as barriers to expanding the number of dentists willing to treat patients with special needs. As a result, there are only a limited number of dentists accepting Medicaid who feel competent to treat patients with special needs.

Systems Issues

No infrastructure exists for addressing or coordinating issues surrounding special care dentistry. Special care dentistry needs a home within a state agency or council to create/monitor/facilitate programs that:

- Provide early interception and referral to the appropriate care source.
- Advocate for expanding the capacity of existing state hospital and developmental center dental clinics to serve as regional referral sources.
- Advocate for reasonable compensation for those doing the extraordinary work of special care dentistry.
- Provide consumers a central point of communication to discuss special care dentistry issues.
- Advocate for training the dental and medical team.
- Implement preventive interventions for this rapidly growing population.
- Advocate for a research agenda and data collection for future policy decisions.

A Vision to Address the Gaps

North Carolina needs a coordinated systems approach to provide optimum and accessible dental services to populations requiring special care dentistry. Special care dentistry demands practice flexibility, specific training, multiple delivery systems, consistent case management, care coordination, adequate reimbursement and health systems research. Each program component is interdependent on the other to provide quality, accessible services.

To provide the framework for this coordinated systems approach, the Special Care Advisory Group has produced a comprehensive set of recommendations. These recommendations are divided into the categories of advocacy, professional development, reimbursement, clinical program expansion and health services research. If implemented, these recommendations will make a significant difference for patients with special needs and their families. The Special Care

Advisory Group recognizes the unprecedented budget crisis currently affecting North Carolina. Some of the recommendations could be implemented fairly quickly and would require no additional funding sources. However, many of the recommendations will require additional state funding and hopefully they will receive considerable attention once the current fiscal climate improves.

Conclusion:

As the 1999 report from the NC Institute of Medicine Task Force on Dental Care Access recognized, the issues and problems addressed in this report are multifaceted and complex, requiring multiple strategies and actions by both the public and private sectors. Increasing Medicaid reimbursement rates is a necessary, but not sufficient, response to the problems patients with special health care needs encounter accessing dental services. North Carolina needs to increase the supply of providers trained to treat patients with special needs, build facility capacity for treatment, and educate patients and their caregivers about the importance of oral health and ongoing comprehensive care. In addition, more emphasis must be placed on dental education and prevention strategies to prevent costly and painful dental disease. The sixteen recommendations in this report, if implemented, would go far toward the goal of assuring adequate dental health care for those vulnerable groups in our state who presently suffer the consequences of inadequate access to dental care.

RECOMMENDATIONS

ADVOCACY

Recommendation #1:

A State agency or council create and maintain a dental program position that is responsible for implementing the recommendations in this report.

Special care dentistry needs a central programming focus to implement the recommendations in this report. A person with dental expertise, working through the Division of Public Health, Division of Aging or Council on Developmental Disabilities would provide long term programming leadership. The person hired for this position would improve the oral health of North Carolinians with special health care needs by working to create/monitor/facilitate programs that:

- Provide early interception and referral for patients with special health care needs to the appropriate care source.
- Advocate for expanding the capacity of existing state hospital and developmental center dental clinics to serve as regional referral sources.
- Advocate for reasonable compensation for those doing the extraordinary work of special care dentistry.
- Provide patients with special health care needs and their care-givers a central point of communication to discuss special care dentistry issues.
- Advocate for training the dental and medical team.
- Investigate preventive interventions for this rapidly growing population.
- Advocate for a research agenda and data collection for future policy decisions.

This recommendation would require a new appropriation from the General Assembly.

Recommendation #2:

Partner with the Department of Health and Human Services, Division of Health Service Regulation to identify ways to ensure that oral health service standards in nursing homes and other residential facilities are carried out. Explore ways to encourage facilities to enhance dental care services to residents by such means as increasing staff devoted to daily oral care and expanding training of direct care personnel.

A successful model for minimal oral health service standards already exists, as there are strict Intermediate Care Facility Mental Retardation (ICFMR) guidelines in place for group home dental services. These guidelines are strictly enforced by state surveyors and are taken seriously by both administrators and staff.

The position established through Recommendation #1 should work with interested parties to develop a work group composed of dental care advocates, long-term care facility representatives and representatives of the North Carolina Division of Health Service Regulation to explore ways to encourage facilities to enhance oral health services to residents.

No appropriation is required for this recommendation, assuming the position in Recommendation #1 is funded.

Recommendation #3:

Request that a dentist be appointed to the Commission on Children with Special Health Care Needs.

The North Carolina Commission on Children with Special Health Care Needs is an eight member Governor appointed Commission. The purpose of the Commission is to monitor and evaluate the availability and provision of health services to children with special health care needs in this state, and to monitor and evaluate services provided to children with special health care needs under the Health Insurance Program for Children established under Part 8 of Article 2 of Chapter 108A of the General Statutes.

Because dental care has been cited as the most prevalent unmet health need for children with special health care needs (Lewis, Robertson and Phelps, 2005), the group felt that it was necessary for a dentist to be appointed to the Commission.

The potential appointee should be a North Carolina licensed dentist who serves children with special health care needs, accepts public health insurance, and is identified and recommended by the North Carolina Dental Society.

No appropriation is required for this recommendation.

Recommendation #4:

Develop and implement educational, media and social marketing campaigns that target optimal oral health for individuals with special health care needs. Outreach efforts should focus on individuals, families, care providers and service agencies.

Currently, the North Carolina Commission on Children with Special Health Care Needs' Oral Health Work Group is exploring the possibility of partnering with North Carolina's Family Council for Children and Youth with Special Health Care Needs, Family Voices, and Office on Disability and Health to develop an oral health outreach campaign for individuals and families. These groups should be encouraged to continue identifying and promoting existing resources and supporting educational opportunities among stakeholders and target populations.

This recommendation would require a new appropriation from the General Assembly.

Recommendation #5:

Expand the successful existing care coordination services provided by the Community Care of North Carolina/Carolina ACCESS (CCNC/CA) network to ensure oral health services for Medicaid patients with special needs.

Persons with special health care needs and their caregivers often cite frustration with the inability to locate providers who have the necessary expertise and training to provide comprehensive oral health care. Linking patients to a 'dental home' helps ensure that oral health care is delivered in a comprehensive, continually accessible, coordinated and family centered way. The Special Care Advisory Group felt that additional care coordination to augment the existing services provided by CCNA/CA is needed to provide valuable assistance for persons/patients with special needs and their families, to help them navigate the health care system and to provide guidance and reinforcement on personal oral health issues.

Pediatric dentists are the appropriate dental home for many of the children and some adults identified with special health care needs. The American Academy of Pediatric Dentists (AAPD) recommends the establishment of a dental home as early as 6 months of age, depending on the patient's risk for developing dental disease. Linking infants with pediatric dentists as soon as possible will maximize early intervention strategies to reduce morbidity.

Patients with special needs who receive treatment in the operating room must have care coordination and preventive guidance to avoid future deterioration of their oral health, requiring repeat expensive operating room visits.

This recommendation would require a new appropriation from the General Assembly.

PROFESSIONAL DEVELOPMENT

Recommendation #6:

To expand the dental workforce of providers who are comfortable treating patients with special needs, the UNC-CH School of Dentistry, the ECU School of Dentistry, once established, and the NC Community Colleges that offer educational programs for dental students, dental hygiene students and dental assisting students should require didactic and clinical training on the provision of oral health care for patients with special needs. Topics should include accessible and universally designed dental practices, behavior management skills, management of medically complex conditions and provision of quality oral health services to residents in group homes, long term care facilities, home health, and hospice settings.

With the opening of the East Carolina University School of Dentistry and scheduled increase in the number of dentist graduates at UNC-CH the dental workforce within the state of North Carolina will expand. This expansion alone, however, will not guarantee an increase in the workforce that provides dental care to patients with special health care needs. To accomplish this, the graduates of both North Carolina dental schools must have enough experience and exposure in working with this population to feel confident in providing care. (Wolff, Waldman, Milano and Perlman, 2004) demonstrated that 50% of dental students sampled nationally had no clinical experience and nearly 75% had little to no preparation in providing care to individuals with intellectual disabilities, a subgroup of patients with special needs. In addition, the authors reported that students who gained experience providing care for these patients with special needs while in dental school possessed greater self reported capability working with these patients after graduating from dental school.

With the aging and subsequent retirement of dental school faculty members nationally, along with fewer dental health professionals opting for an academic career, fewer faculty members will be available to provide instruction in special

care dentistry. However, additional faculty will be needed in order to meet the demands of this expanded curriculum. Attempting to increase the numbers of appropriately trained faculty will be a significant challenge in light of shrinking state financial resources. Obtaining a consistent source of funding to support this recommendation must be identified in order to put this recommendation into action.

This recommendation would require a new appropriation from the General Assembly.

Recommendation #7:

The UNC-CH School of Dentistry, the ECU School of Dentistry, once established, the NC AHEC system and the NC Community Colleges that offer educational programs for dentists, dental hygienists and dental assistants should intensify continuing education efforts for those providers who have an interest in providing oral health services to patients with special needs, but lack the necessary training. Included in this training should be information on how practices must, at a minimum, meet the Americans with Disabilities Act Standards for Accessible Design and how to utilize principles of Universal Design.

The North Carolina AHEC system, collaborating with community partners, should develop continuing education programs for dental health professionals and staff and investigate the most appropriate ways to expand delivery of these programs. Community partners would include private practices, hospitals, dental schools, disability service and advocacy organizations, and state agencies. Delivery methods to be considered would include live in-person sessions, webinars and online materials.

This recommendation would require a new appropriation from the General Assembly.

Recommendation #8:

Request that the North Carolina State Board of Dental Examiners investigate changing the state dental practice act to allow dental, dental hygiene and assisting students to receive training in private nursing homes and other facilities.

In the past, student rotation sites have been limited to state/federal institutions, teaching institutions and local health departments. Non-profit special care

dentistry programs are currently restricted from training students in private nursing facilities. All students (dental, dental hygiene and dental assisting) need the onsite experience that these non-profits can provide. Students trained in this setting may provide a valuable manpower pipeline for future practitioners.

This recommendation may require a change in regulations.

REIMBURSEMENT

Recommendation #9:

Request that the North Carolina General Assembly consider an increase in Medicaid dental reimbursement rates to 80% of the 2008 National Dental Advisory Service (NDAS) 50th percentile rate for each service covered under the Division of Medical Assistance (DMA) dental and orthodontic clinical coverage policies.

Licensed dentists in North Carolina often cite low Medicaid dental reimbursement rates that do not cover the cost of providing care as a barrier to more active participation in the Medicaid dental program. Access to care for many Medicaid recipients is affected by the lack of actively participating dental providers. This is particularly true in rural areas. Many Medicaid recipients with special care medical diagnoses are disproportionately affected by a lack of dentists to treat them, as their care is often time consuming and challenging. The Special Care Advisory Group believes that one step that could be taken by the North Carolina General Assembly which would help alleviate the oral health access problem for patients with special needs is to mandate an increase in Medicaid dental reimbursement rates to 80% of the 2008 National Dental Advisory Service (NDAS) 50th percentile rate for each service covered under the Division of Medical Assistance (DMA) dental and orthodontic clinical coverage policies.

The NDAS 50th percentile rate is the benchmark that DMA uses for dental rate setting and is based on a comprehensive national survey of dental fees. An individual rate at the 50th percentile means that 50% of the dentists in the nation charge above that rate and 50% charge below that rate. Raising rates to 80% of the 50th percentile of the 2008 NDAS will require approximately $50 million in State appropriations, or about $140 million in total funding requirements, including both State appropriations and federal matching funds. The requirements do not factor in any funds needed to cover additional expenditures that commonly occur each state fiscal year due to program growth and increased utilization. The section of the NC Medicaid State Plan that details the methodology for determining dental rates

currently allows rates for all covered services to be no higher than 75% of the 50th percentile of the NDAS in current use by DMA. Thus, an increase to 80% of the 50th percentile of the 2008 NDAS will require the Division to develop a State Plan Amendment which must be approved by the Centers for Medicare and Medicaid Services (CMS).

Both the North Carolina Public Health Task Force in its Public Health Improvement Plan 2008 Final Report (recommendation #21) and the North Carolina Institute of Medicine Task Force on Dental Care Access of 1999 (recommendation #1) made this recommendation.

This recommendation would require a new appropriation from the General Assembly.

Recommendation #10:

Request that the General Assembly consider providing funding to DMA to implement an inflationary rate increase for dental services on an annual basis.

The large funding requirements needed to raise Medicaid dental rates to more competitive levels serve notice of how quickly dental costs in the marketplace increase in a short period of time. The Dental Consumer Price Index (CPI) has increased more than 5% a year since 2004. Each year that NC Medicaid dental reimbursement rates are not addressed with at least an inflationary increase of 5% or more is a year when inflation continues to erode away at rates in comparison to other market based benchmarks like the NDAS 50th percentile.

The North Carolina Public Health Task Force in its Public Health Improvement Plan 2008 Final Report made this recommendation (recommendation #21).

This recommendation would require a new appropriation from the General Assembly.

Recommendation #11:

The Division of Medical Assistance should explore the benefits and risks of revising the policy limits on the facility code (CDT code D9410) to allow for providers to bill for each patient seen on a date of service in a nursing home, group home or other long term care facility.

The Special Care Advisory Group recognizes that established mobile dental providers who render services in nursing homes, group homes and other long term care facilities have a unique mission which is difficult to complete without adequate levels of reimbursement that will sustain their viability. The resources needed to bring dental services to patients with special needs who encounter tremendous barriers to obtaining access to care in private practice settings goes well beyond what is required to treat special care patients in fixed dental offices. In addition to the challenges that face all providers who treat patients with special needs, mobile dental providers have additional concerns like travel expenses and labor and capital costs (e.g. – the expense of purchasing portable dental equipment) in excess of those expected in more traditional settings. Currently, NC Medicaid reimburses mobile dental providers for a house/extended care facility call code (D9410) and this is reimbursed one time per visit to the facility per date of service. The current reimbursement for this service is $74.68. Issues to be taken into consideration when examining whether a proposed change in the way the code is applied include the determination of equitable compensation of mobile dental providers for the services that they render in a non-traditional clinical setting and the possibility of over utilization of this code by providers who do not intend to provide comprehensive oral health care services to the residents of long term care facilities. DMA may want to consider limiting the use of the facility code (D9410) to procedures provided in conjunction with services other than diagnostic and preventive codes (i.e.—Current Dental Terminology codes D2000 – D9999).

This recommendation may require a new appropriation from the General Assembly.

Recommendation #12:

Ensure that Medicaid dental services for adults are preserved and that consideration be given to expanding the services to include reimbursement for evidenced-based chemotherapeutic agents (i.e. fluoride therapies, periodontal therapies, etc.) for "high risk" adults with special health care needs. Funds should be provided to identify or develop a simple risk assessment tool to determine the risk status of these adults.

There has been considerable effort through legislation and advocacy to ensure that children identified as patients with special needs have adequate coverage and access to care through Medicaid and Health Choice options. Medicaid dental services are required under the Early Periodic Screening, Diagnosis and Treatment (EPSDT) statutes for children but optional for adults. Children identified as

patients with special needs who are able to obtain dental coverage as children through Medicaid are not necessarily covered once they reach the age of 21.

North Carolina currently provides Medicaid dental coverage for adults. Adult patients with special care needs are at higher risk for dental disease. Some have developmental disabilities or other physical limitations which make routine oral hygiene difficult whereas others have multiple medical diagnoses and are on medications that increase the risk for dental diseases. As the payment source for many adult patients with special care needs, the advisory group felt strongly that adult Medicaid dental services be maintained and that consideration be given to reimburse for evidence-based preventive services to prevent dental disease for those at increased risk for dental disease within this vulnerable population.

A significant challenge is that to date, organizations representing dental professionals have not been able to agree upon a universal definition of a person with special health care needs. Thus, it is difficult to determine the number of Medicaid recipients with special care diagnoses who would be eligible for and would benefit from evidence based preventive services.

This recommendation would require a new appropriation from the General Assembly.

Recommendation #13:

Increase the base units used to calculate fees for Medicaid dental and oral surgery cases to levels that will ensure adequate reimbursement of anesthesiologists and certified nurse anesthetists for services rendered in the hospital operating room or the outpatient surgical center setting.

Dental treatment for the patient who is medically compromised and for the very young patient with early childhood tooth decay is often done under general anesthesia in the operating room of an outpatient surgical center or hospital. The Anesthesiologists and Certified Nurse Anesthetists who administer the anesthesia need to be assured of adequate reimbursement prior to increasing the number of cases that reasonably should be expected to be done in the operating room. Dental procedures tend to take far longer than most surgical cases. Medicaid reimbursement for dental cases is currently 86% of the Medicare physician services rate. Increasing the base units to levels that provide equitable reimbursement will help ensure access to necessary anesthesiology care for persons with special health care needs.

This recommendation would require a new appropriation from the General Assembly.

CLINICAL PROGRAM EXPANSION

Recommendation #14:

Request state funding for an additional four (4) mobile dental programs, to be phased in one per year, to provide onsite comprehensive dental care for residents in nursing homes, group homes, assisted living centers, adult day health care centers and to certain individuals with special health care needs in the community.

There are only two existing non-profit mobile dental programs that provide such care. The existing mobile programs are currently serving 5,700 patients in 69 facilities, which is only a small percentage of the individuals that need special care dental services. Each year, they deliver approximately $187,000 per dental program in uncompensated care.

It takes approximately $400,000 to start a new mobile dental program. These programs require initial funding of capital and operating costs. North Carolina will benefit from four new, geographically distributed programs.
This recommendation would require a new appropriation from the General Assembly.

Recommendation #15:

Maintain and expand existing dental departments housed in all the psychiatric hospitals and developmental and neuro-medical centers that provide care to North Carolina's most vulnerable populations. Provide competitive salaries to attract and maintain well-qualified dentists.

Dentists in the state psychiatric hospitals, developmental, and neuro-medical centers provide compassionate and comprehensive care to approximately 3,800 residents. Due to extensive disabilities and challenging behaviors, these are often the most difficult patients to treat; therefore, many have no opportunity to obtain dental care anywhere else.

The dental departments at some of the facilities are alarmingly understaffed. The J. Iverson Riddle Center in Morganton has been without a fulltime dentist for about a year, and there are currently only two full time hospital dentists serving the

approximately 1,300 patients within two state psychiatric hospitals and contract dental services are used at the other two state psychiatric hospitals to meet the dental needs of individuals in these facilities.

Due to limited capacity, many of the dental programs in the state institutions are limited to treating only the patients or residents in their facilities. If adequately funded and staffed, the dental programs can be expanded to serve as regional treatment centers, serving community residents in addition to their in-house residents.

Providing equitable and competitive salaries to attract and maintain well-qualified dentists is essential. A recent attempt to fill a vacant dental position at Broughton Hospital was unsuccessful due to the low salary that was offered. To ensure that North Carolina's most vulnerable citizens continue to receive quality dental care and to facilitate community expansion, the Advisory Group recommends that salaries approximate those in the private sector.

This recommendation would require a new appropriation from the General Assembly.

HEALTH SERVICES RESEARCH

Recommendation #16:

Provide a research agenda to the UNC Gillings School of Global Public Health, the Cecil G. Sheps Center for Health Services Research and the UNC School of Dentistry to create a health services research agenda for persons with disabilities.

Future policy development depends on good information. This advisory group discovered a noticeable lack of information about:

- Categories and location of persons with disabilities.
- Where those with disabilities seek dental care services and the specific problems they have obtaining services.
- The need for additional fixed site facilities and the location of those facilities.
- The effectiveness of care delivered to this population and how preventive intervention strategies can save public funds.
- The oral health status of residents in nursing and assisted living facilities.
- The standard of care practices for those with disabilities.

- What types of continuing education would allow health professionals to develop a comfort zone when treating those with disabilities.
- How an integrated case management system would support those seeking care.
- How changes in Medicaid funding will affect the oral health status of persons with disabilities.

This recommendation would require a new appropriation from the General Assembly.

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NORTH CAROLINA STUDY COMMISSION ON AGING

Wednesday, March 24, 2010
10:00 am
Jamestown Town Hall

The North Carolina Study Commission on Aging held a public hearing on Wednesday, March 24, 2010, at 10:00 am in the Jamestown Town Hall, Jamestown, North Carolina. This public hearing was hosted by The Piedmont Triad Council of Governments (PTC-G). Members present were: Senators Dorsett, Forrester, Swindell; Representatives Farmer-Butterfield and Pierce; Mr. Anthony Peace; and Ms. Joan Pellettier. Staff also in attendance was: Susan Barham and Theresa Matula; and commission assistants Janice Mobley-Bennett and Delta Prince.

Co-chair A.B. Swindell recognized members of the PGC-G staff, state and local government officials and members of the Commission. He also recognized Senator Katie Dorsett for the many years she has served the State of North Carolina.

Members of the public wishing to speak before the Commission were called individually by the presiding chair in the order they appeared on the sign-up sheets and were given two minutes to address the Commission. A list of the speakers and a copy of some of their statements are attached and made a part of these minutes.

1. Alesia McBrayer, National MS Society, Central North Carolina Chapter
2. Brad Allen, North Carolina Senior Games
3. Len Erker, North Carolina Project CARE
4. Marty Driver, New Horizons Home Care, Inc.
5. Ellen Atkins, Institute on Aging, Home and Community Care Block Grant
6. Jim McCoy, North Carolina Project CARE, Winston-Salem
7. Dick Hatch, AARP-North Carolina, Project CARE, Access Dental Care
8. Trudy Atkins, AARP-North Carolina, Project CARE
9. Marion Manigo, AARP-North Carolina, Home and Community Care Block Grant
10. Mary Bethel, AARP-North Carolina
11. Kathryn Porter, Home and Community Care Block Grant
12. Willie Mae Currin, North Carolina Senior Tar Heel Legislature
13. Angelia Chappell, Davidson County Senior Services
14. Ellen Whitlock, Senior Resources of Guildford County
15. Laura Regan, Alamance Elder Care
16. Alva "Chip" Cromartie, Adult Center for Enrichment, Inc.
17. Jim Weikel, Adult Center for Enrichment, Inc.
18. Robert Wood, Adult Center for Enrichment, Inc.
19. Janice Wassel, Gerontology Program, UNC-Greensboro
20. Laura Wickwar, North Carolina Coalition on Aging, Project CARE
21. Betty Hunt, North Carolina Senior Tar Heel Legislature
22. Margie Moody, Randolph County Senior Center
23. Alma Davis, Project CARE, Mecklenburg County Caregiver
24. Karen Morris, Project CARE, Mecklenburg County Caregiver
25. Jane Rollins, Adult Life Programs
26. Lorrie Roth, Piedmont Triad Community Resource Connection

27. Pat Land, Caregiver, Adult Center for Enrichment, Inc.
28. Emma Ray, Angel Hands Home Care
29. Emily Downs, Project CARE, Personal Care Services
30. Jean Small, Senior Services, Inc., Forsyth County
31. Kim Ketchum, Home and Community Care Block Grant, Personal Care Services
32. Wayne Abraham, Personal Care Services
33. Rebecca Greene, Project CARE, Personal Care Services
34. Ralph Johnson, Concerned Citizen and Candidate for NC House of Representatives
35. Terrence Thomas, Pre-Paid Legal Services, Inc. and US Army retiree

Ms. Kim Dawkins Berry, Director of the Area Agency on Aging, Piedmont Triad Council of Governments made a plea to the Commission to be proactive and innovative when making appropriation decisions that might affect the lives and families of senior citizens in North Carolina. Ms. Berry said we need to protect the health and wellness of our citizens for generations to come.

In closing remarks, Representative Jean Farmer-Butterfield stated the public concerns as follows:

- Preserve optional Medicaid eligibility and services for older and disabled adults
- Promote Long-Term Care Insurance Partnerships
- Increase income level of the Homestead Exemption Act from $25,000 to $35,000
- Protect funding for Project CARE
- Protect funding for Home and Community Care Block Grant
- Expand dental care services for older and disabled adults with special needs
- Revise Rule 10A, NCAC06P.0201, Limitations, to include people in group homes and assisted care facilities as eligible for Adult Day Services
- Support the priorities of the North Carolina Senior Tar Heel Legislature
- Support the priorities of the Adult Center for Enrichment, Inc.
- Support funding for the Gerontology Program at UNC-Greensboro
- Support funding for Personal Care Services and Adult Day Services
- Support funding for the Senior Games Program
- Support drug-free facilities for the elderly
- Support innovative ideas for the health and wellness of senior citizens

Representative Farmer-Butterfield thanked the speakers for sharing their personal experiences and stories with the Commission and told them that the Commission heard them loud and clear.

Co-chair Swindell adjourned this public hearing at 12:10 pm. The next regularly scheduled Commission meeting will be on Thursday, April 1, 2010, in Raleigh, North Carolina.

The Visitor Registration Sheets and Public Hearing Sign-Up Sheets are attached and made a part of these minutes.

Senator A.B. Swindell
Presiding Co-Chair

Delta F. Prince
Commission Assistant

North Carolina
Study Commission on Aging

PRESS RELEASE February 2010

COMMISSION TO HOLD PUBLIC HEARING
ON ISSUES INVOLVING OLDER ADULTS IN
Jamestown, NC

Raleigh – The public is invited to address the North Carolina Study Commission on Aging during a public hearing on issues involving older adults in North Carolina. The hearing will be held from **10:00 a.m. until 12:00 p.m.** on **Wednesday, March 24, 2010**, at the Jamestown Town Hall, located at **301 E. Main St., Jamestown, NC.**

The Commission Co-chairs, Representative Jean Farmer-Butterfield and Senator A.B. Swindell, invite older adults, family caregivers, agency representatives, service providers, and members of the public with experience related to aging issues to attend. The North Carolina Study Commission on Aging was created in 1987 to study and evaluate the system of State services delivered to older adults and to recommend an improved system to meet the present and future needs of older adults in North Carolina. The Commission includes: members of the North Carolina House of Representatives, members of the North Carolina Senate; and providers of health, mental health, and social services to older adults.

Each year the Commission examines a variety of issues and makes recommendations to the General Assembly and the Governor on ways to improve the delivery of services to older adults in North Carolina. As part of the information gathering process, the Commission members are interested in public input on ways to improve the quality and delivery of care for older adults in North Carolina, including: home and community-based long-term care, long-term care facilities, senior centers, adult day care, housing, transportation, and Alzheimer's disease and other forms of dementia. Individuals who wish to address the Commission may sign-up immediately prior to the hearing and are asked to limit comments to two or three minutes. Speakers are also asked to furnish a written copy of their comments if possible.

For more information on the public hearing contact: Theresa Matula, Commission Staff, at 919-733-2578; or Kim Dawkins Berry, Area Agency on Aging Director, Piedmont Triad Council of Governments, at 336-294-4950, ext. 325.

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NORTH CAROLINA GENERAL ASSEMBLY
COMMITTEE MEETING NOTICE
LEGISLATIVE OFFICE BUILDING
RALEIGH, NORTHCAROLINA 27603

February 26, 2010

MEMORANDUM

TO: Members of the North Carolina Study Commission on Aging

FROM: Senator A. B. Swindell, Co-Chair
Representative Jean Farmer-Butterfield, Co-Chair

SUBJECT: Public Hearing Notice

The North Carolina Study Commission on Aging will hold a public hearing on the following date:

DAY: Wednesday
DATE: March 24, 2010
TIME: 10:00 A.M. until 12:00 P.M.
LOCATION: Jamestown Town Hall
301 East Main Street
Jamestown, North Carolina

If you have any questions concerning this public hearing, please contact Theresa Matula, Commission Staff, at 919-733-2578.

Posted: February 26, 2010

cc: Committee Record x
Interested Parties x

NORTH CAROLINA STUDY COMMISSION ON AGING
JAMESTOWN PUBLIC HEARING
MARCH 24, 2010

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SIGN-UP SHEET

PLEASE PRINT CLEARLY

– Kim Dawkins Berry - Welcome – AAA Director

Name of Individual (Please Print)	Name of Association (If Applicable)
1. Alesia McBrayer	National MS Society
2. Brad Allen	NC Senior Games
3. Ken Erker	NC Project CARE
4. Marty Driver	New Horizons Home Care
5. ELLEN ATKINS	INST ON AGING, CHAPEL HILL
6. Jim McCoy	NC Project Care Winston Salem
7. Dick Hatch	AARP - NC
8. Trudy Atkins	AARP - NC
9. Monica Manigo	AARP - NC
10. Mary Bethea	AARP - NC
11. Kathryn Porter	Friendship Adult Day Services, Inc.
12. Willie MAE CURRIN	AUG. CO. PLANNING Com. Jr. T. H. Legis.
13. ~~Monica Manigo~~	~~AARP~~
14. Angelia Chappell	Davidson County Senior Services
15. Ellen Whitlock	Senior Resources of Guilford / NC Association on Aging
16. Lydia Regan	Alamance Elder Care
17. Alva "Chip" Cromartie	Adult Center for Enrichment + NCADSA
18. Kim WELKEL	– – – – – –
19. ROBERT L. WOOD	" " " "
20. JAN WASSEL	UNCG
21. Laura Wickwar	NC Coalition on Aging
22. Betty Hunt	NC Senior Tar. Heel Legislature
23. Marsha Moody	Rand. Co. Senior Center
24. Gina Davis	Mecklenburg County
25. Kaye Morris	Mecklenburg County /
26. Jane Rollins	Adult Life Programs
27. Lorrie Roth	Piedmont Triad Community Resource Connection
28. PAT LAND	
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NORTH CAROLINA STUDY COMMISSION ON AGING
JAMESTOWN PUBLIC HEARING
MARCH 24, 2010

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SIGN-UP SHEET

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	Name of Individual (Please Print)	Name of Association (If Applicable)
28	Emma Kay	Senior Services & Angel Hands Home Care
29	Emily Pound	Bayada Nurses Home Care
30	Joan Smael	Senior Services INC Forsyth Co.
31	Kim Ketchum	Commission on Aging
32	Wayne Abraham	Personal Care IF.
33	Yvonne Schuyler	Care giver NO Show
34	Rebecca Greene	
35	Ralph Johnson	Candidate for NC House 58
36	Ralph Shore	Care One Home Care NO Show
11.		
12.		
13.	Kim Berry	
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NORTH CAROLINA STUDY COMMISSION ON AGING
JAMESTOWN PUBLIC HEARING
MARCH 24, 2010

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SIGN-UP SHEET

PLEASE PRINT CLEARLY

Name of Individual (Please Print)	Name of Association (If Applicable)
37 1. Terrence Thomas	Pre Paid Legal Svcs. Inc.
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SIGN-UP SHEET

To Speak Before the Study Commission on Aging

To: Members of the Public

Those wishing to make remarks should sign-up on the sheets provided at the registration desk. The Presiding Chair will call the names in the order they appear on the list and each individual will have two minutes to address the Commission.

If possible, please furnish hard copies of your remarks to the Commission Assistant.

Thank you for your cooperation.

National
Multiple Sclerosis
Society

Aging Study Commission
Public Hearing
Jamestown, NC
March 24, 2010

Hi, I am Alesia McBrayer, I am a MS Activist for the National MS Society, Central North Carolina Chapter. Thank you to the Chairs and members of the Aging Study Commission, for holding a public hearing in Jamestown today on Aging Issues.

Today, I am representing the National Multiple Sclerosis Society as a person living with MS. I was diagnosed at age 32. I was a paramedic supervisor, single parent, caregiver for my mother and a full time student, and then MS entered my life and changed everything. Multiple Sclerosis is a chronic, often disabling disease that attacks the central nervous system (CNS), which is made up of the brain, spinal cord, and optic nerves. Symptoms may be mild, such as numbness in the limbs, or severe, such as paralysis or loss of vision. The progress, severity, and specific symptoms of MS are unpredictable and vary from one person to another. And like many others living with MS, I was diagnosed in the prime of my life and forced to make life considerations as if I were someone twice my age.

Therefore, the National MS Society joins with many of our counterparts in the Aging Community to request that members of the General Assembly and members of the Aging Study Committee support the following in the short session:

③ Maintain coverage for Optional Medicaid services for aged, blind, and disabled adults in North Carolina. These services -- dental care; eye care; occupational, physical, and speech therapies; hospice; prosthetics and orthotics; podiatrists; community alternative programs; personal care services; mental health services; and rehabilitation services – all are critical to maintain basic health and general well-being.

- In a recent survey of people engaged with MS advocacy, ninety-four percent (93.9%) of the respondents stated that not only is physical therapy essential for rehabilitation, but should be considered maintenance of health issue.

- Maintenance of health is also an oral health issue for those needing medical assistance coverage. Please support the Special Care Dentistry Advisory Group's recommendations to the N.C. Study Commission on Aging to expand the successful existing care coordination services provided by the Community Care of North Carolina/Carolina ACCESS (CCNC/CA) network to ensure oral health services for Medicaid patients with special needs. Also recommended, exploration by the Division of Medical Assistance to revise the policy limits to allow providers to bill for each patient seen on a given day in a nursing home, group home or other long-term care facility.

③ The National MS Society also supports increased funding for the Home and Community Care Block Grant which funds home and community-based services for people 60 years of age and older. Eighteen different home and community-based services can be funded by the Home and Community Care Block Grant, which is administered by the N.C. Division of Aging and Adult Services. Key services funded include in-home aide, home-delivered meals, adult day care/day health care, transportation assistance and respite care for family caregivers.

- The National MS Society is pleased to join with the Division of Aging and Adult Service and many of the organizations represented today to serve on the Lifespan Respite Grant's State Advisory Team. Respite supply to all age and disability groups is at an unreasonable low, and investment in lifespan respite is necessary to address issues such as inadequate access to appropriate levels of care and excessive costs.

- Approximately 50 million family caregivers in the nation are responsible for 80% of long-term care. The value of uncompensated family care giving services keeps growing and is currently estimated at $375 billion a year

Thank you again for providing me this opportunity to share the National Multiple Sclerosis Society's legislative priorities with you.

If you have any questions about the priorities listed, please contact Abby Carter Emanuelson, 919-792-1006 or abby.carter@nct.nmss.org

Exhibit 7

Services Covered by N.C. Medicaid by Mandatory and Optional Categories

MANDATORY

- Ambulance and Other Medical Transportation
- Durable Medical Equipment
- Family Planning
- Federally Qualified Health Centers & Rural Health Centers
- Health Check (EPSDT)
- Hearing Aids (children)
- Home Health
- Hospital Inpatient
- Hospital Outpatient
- Nurse Midwife
- Nurse Practitioner
- Nursing Facility
- Other Laboratory and X-ray
- Physician
- Psychiatric Residential Treatment Facility Services and Residential Services (treatment component only) for under age 21
- Routine Eye Exams & Visual Aids (children)

OPTIONAL

- Case Management
- Chiropractor
- Clinical
- Community Alternatives Programs (CAP)
- Dental and Dentures
- Diagnostic
- Eye Care
- Health Maintenance Organization (HMO) Membership
- Home Infusion Therapy
- Hospice
- Intermediate Care Facilities for the Mentally Retarded
- Mental Health
- Nurse Anesthetist
- Orthotic and Prosthetic Devices (children and adults)
- Personal Care
- Physical and Occupational Therapy and Speech/Language Pathology
- Podiatrist
- Prescription Drugs
- Preventive
- Private Duty Nursing
- Rehabilitative
- Respiratory Therapy (children)
- Routine Eye Exams & Visual Aids (adults)
- Screening
- Transportation

Note: All optional services are available to children under age 21 if they are medically necessary.

Hello I'm Marty Driver, Clinical Nurse Manager from New Horizons Home Care in Yadkin County. We serve over 60 patients with 9 of those being PCS patients.

I have been an RN for almost 34 years, started in Pediatrics and have ended up at the other end of life, Geriatrics.

My years of experience include home health, hospice, and home care in the community I grew up in and reside in. I know the doctors, nurses, and NPs of our patients. Over the last 10 years I have probably done over 2 thousand PCS assessments but will be considered "unqualified" with the addition of the Independent Assessors. I'm very concerned about them not be familiar with our community and the "specialness" of our area.

Unfortunately doctors, families, and patients still do not know the difference between home health care and home care. When they call our office I use it as a time to educate them about resources available in our community. However if these changes take place I will be prohibited from referring them to their doctor for home care assistance. How does that make sense?

At our agency we are usually able to get a patient assessed and begin care within 24 hours after a referral. This will be impossible with all the new steps outlined in the draft. First there is the appointment with a doctor, next an independent assessment with a contracted RN has to be scheduled, after they complete their paperwork it still has to be authorized by DMA. Finally, a care plan is set-up by the provider RN based on the assessment of the IAP and all this could have taken place within 24 hours and only have cost the State $14.16 an hour.

If our CNAs cannot pick up groceries and medications for our elderly and disabled patients then who will? There is not always family nearby or family WILLING to help. Meal preparation is absolutely essential for our patient's well-being. Most of our aides cook extra on Fridays to make sure they have food for the weekend too. Sometimes we are the only person the patient sees for days at a time.

So please, help us continue to serve our elderly and disabled without all these limitations that have been proposed.

March 24, 2010, Jamestown, NC, 10 am

Honorable Ladies and Gentlemen of the Legislative Study Commission on Aging,

First our thank you for coming to our community and extending your search for information from your constituents all over our State.

Our top current priority is clearly the preservation of the precious dollars allocated to Home and Community Care Block Grant. We understand the budget pressures on our State and we accept our responsibility to pay our taxes for them. We ask that you use them wisely so as to make our State as good a place to grow old as it has been to grow up.

Our next priority is our future, so I strongly encourage you to examine the recently proposed Long Term Care Insurance Partnership and thank you for receiving Carla Obiol and Carolyn McClanahan's presentation in Raleigh earlier this month.

You may recall that I was also present, in tribute to my Mother, Virginia Taylor and her battle with Alzheimer's. My Mother would have been a perfect candidate for Partnership and it would have allowed us to preserve at least some of her assets for her grandchildren as was her wish. Please call on me or my colleagues here or in Raleigh or Statewide with the AARP to learn about and support Long Term Care Partnership for North Carolina.

Thank you again for allowing me to speak today.

Ellen Taylor Atkins
2401 Madison Ave
Greensboro, NC 27403
336 706 0281
ltcfromellen@aol.com

Presentation to the N.C. Study Commission on Aging
Dick Hatch, AARP North Carolina

March 24, 2009

I am Dick Hatch, a volunteer with AARP North Carolina from Cary. I also serve as the representative for Access Dental Care to the N.C. Coalition on Aging. I appreciate this opportunity to speak to you today.

I ask for your support of efforts to expand dental care services for older and disabled adults with special care needs in our state. Unfortunately, these needs are not being met.

Last year this Commission recommended that a study be done of what can be done to improve the availability of services to those who need special care dentistry services, and on March 4 this Commission heard a very good report by a Special Care Dentistry Advisory Committee which included recommendations to improve the availability of dental services to those with special care needs.

I have been told that the Advisory Committee has recently prioritized these recommendations and submitted that prioritized list to the Study Commission chairs. The top recommendation is that Medicaid dental services for adults be preserved in this tight budget year. Without dental care services, adults on Medicaid, many of whom are in long-term care facilities, will suffer from oral infections which lead to excruciating pain as well as expensive medical care for illnesses such as aspiration pneumonia, uncontrolled diabetes, wound healing problems, stroke and heart disease.

I ask this Commission to support this top recommendation of the Advisory Committee as well as its additional 16 recommendations, some of which will not require increased state appropriations.

Thank you for the work of this Commission and for allowing me to speak to you today.

Presentation to the N.C. Study Commission on Aging
Trudy Atkins
AARP North Carolina

March 24, 2009

I am Trudy Atkins, a volunteer with AARP North Carolina from Greensboro. Thank you for allowing me to speak with you today.

I come before you today to ask for your support of funding for Project C.A.R.E. I know that all the members of the Commission are familiar with this program as you have heard from the Division of Aging and Adult Services several times about the good things it is doing, therefore, I will not spend time discussing the program or its merits.

I did want you to know that funding for Project C.A.R.E. is one of five priorities for AARP North Carolina for the legislative short session.

The General Assembly was kind enough to appropriate $500,000 in non-recurring funding to support this program in the last legislative session. Recurring state funding is again needed to meet the required federal match requirements as well as to provide funding for traditional respite care services which can no longer be paid for with federal Project C.A.R.E. dollars.

We realize that state dollars will be very tight this legislative session but we ask that the Commission include support for Project C.A.R.E. as one of your recommendations. We need to continue good programs such as this that are working and helping residents of our state who are struggling to keep their family members with dementia in their homes.

Thank you for allowing me the opportunity to speak to you today.

Presentation to the N.C. Study Commission on Aging
Marion Manigo for AARP North Carolina

March 24, 2009

I am Marion Manigo, a volunteer with AARP North Carolina. Thank you for allowing me to speak with you today. I want to take this opportunity to ask for your support for increased funding for the Home and Community Care Block Grant. As members of this Commission , I know that you are well aware of the Block Grant and the important role that it plays in providing community services to people 60 and over in our state. You may also be aware that according to data provided by the N.C. Division of Aging and Adult Services, there are currently over 14,000 unmet service needs for Block Grant services across the state. Services with the largest waiting list are those which serve the most frail including home delivered meals and in-home aid services.

Although there is an increased need for services, the state is losing ground in its effort to help frail older people in the community through the Block Grant. Not only do more people need services, the cost of service delivery continues to increase. Between July 1, 2000 and June 30, 2009, there was almost a 7% reduction in the number of clients served by the Block Grant. Due to the current budget shortfall, funding for the Block Grant was reduced by $500,000 in State Fiscal Year 09-10, adding to the challenges of addressing the unmet needs for services.

On behalf of AARP, I ask that the Commission support increased funding for the Block Grant as one of your recommendations. Thank you.

North Carolina

2010 Issue Briefings

AARP[SM]

2010 Issue Briefing

Increase Funding for Project C.A.R.E. to Support Caregivers of Persons with Dementia

Issue:
One in four adult North Carolinians provide regular care for someone age 60 or older. Almost half are caring for someone with dementia. As a State, we need to provide better support to families caring for older and disabled adults with dementia.

AARP's Position:
AARP supports strengthening programs and services for family caregivers of persons with dementia. We ask the General Assembly to appropriate recurring funding for Project C.A.R.E. (Caregiver Alternatives to Running on Empty), a program administered by the N.C. Division of Aging and Adult Services which provides support, education, training and consumer-directed respite care to caregivers of persons with Alzheimer's disease and other dementias.

Background:
Family caregiving impacts almost every North Carolinian or will impact them in the future. The Rosalyn Carter Institute for Caregiving notes that there are only four kinds of people in the world – those who have been caregivers, those who are currently caregivers, those who will be caregivers, and those who will need caregivers.

According to the 2005 report from the N.C. Division of Aging and Adult Services entitled "Family Caregivers in North Carolina: What Do We Know? What Are We Doing to Help", 1.7 million adult North Carolinians are caring for an older person. This can range from assisting with basic daily activities to providing round-the-clock health care. Family caregivers are the backbone of our State's long-term care system. Families provide at least 80% of all long-term care. According to the U.S. Department of Health and Human Services, older adults receive more and more family care as disability increases. 86% of older adults at greatest risk of nursing home placement live with others and receive an average of 60 hours of unpaid care per week, supplemented by a little over 14 hours of assistance from paid helpers.

Over 40% of North Carolina caregivers take care of someone with a memory disorder such as Alzheimer's disease. Their "caregiving career" is often of long duration – it lasts an average of 8 years, but it may be as long as 20 years.

Although family caregiving can have many rewards, it can take a toll on the care providers. Studies show that caregivers report chronic health problems at nearly twice the rate of non-caregivers and over half of caregivers report they don't have enough time for their family.

For additional information, contact: Mary Bethel – 508-0297, 749-6188, MBethel@aarp.org
Bill Wilson – 508-0299, 271-2838, BiWilson@aarp.org

Nationally and in North Carolina, over half of caregivers work while providing care which can present significant challenges to the worker.

Project C.A.R.E. began as a demonstration grant program in North Carolina in 2001 in 6 counties in the western part of the state. The goal of the program is to increase consultation to families caring for persons with dementia as well as to increase the quality, access, choice and use of respite and support services to families caring for persons with dementia at home. Priority is placed on serving low-income, rural and minority caregivers. The program is operational in 22 counties, primarily in western and eastern North Carolina. In FY 08-09, over 680 families were served by Project C.A.R.E. Approximately 92% of the families served reported that participation in the program allowed them to provide care of their family member at home longer.

In 2008 and again in 2009, the North Carolina General Assembly appropriated $500,000 in non-recurring funding to sustain the existing program sites. On October 1, 2008, the Division of Aging and Adult Services received a new three-year federal grant award to pilot the evidence-based Alzheimer's intervention REACH II (Resources for Enhancing Alzheimer's Caregiver Health) through Project C.A.R.E. This grant provided an additional service option for Project C.A.R.E. families and enabled North Carolina to establish program sites in the eastern part of the state. Recurring state funding is needed to meet the required federal match requirements for this grant. Currently federal funds can not be used to fund traditional respite care services. Therefore, recurring state funds are also critical to ensuring the availability of these services for Project C.A.R.E. families.

Additional Support for Project C.A.R.E. Funding:
The North Carolina Senior Tar Heel Legislature, the Governor's Advisory Council on Aging, the N.C. Coalition on Aging, the N.C. Association of Area Agencies on Aging and the N.C. Association on Aging also support increased state funding for Project C.A.R.E.

For additional information, contact: Mary Bethel – 508-0297, 749-6188, MBethel@aarp.org
Bill Wilson – 508-0299, 271-2838, BiWilson@aarp.org

AARP[SM]

2010 Issue Briefing

Preserve Medicaid Eligibility and Services for Older and Disabled Adults

Issue:

Medicaid is a safety net program for many low-income older and disabled adults in our State. As Medicaid expenditures continue to grow, there are concerns that changes will be made to the Medicaid program which will adversely impact older and disabled persons.

AARP's Position:

AARP supports preserving Medicaid eligibility and services for older and disabled adults in our State.

Background:

Medicaid is a health care program for certain groups of low income persons, including single parent families, persons over age 65 and the disabled. To qualify for Medicaid as an older or disabled adult in our State, a person must have an income less than 100% of the federal poverty level ($10,830 for 2009) and resources of less than $2,000 (note: special provisions apply relative to Medicaid eligibility for persons residing in nursing homes).

In North Carolina, Medicaid is administered by the State and the counties, and is financed with federal and state funds (county match requirement was recently phased out). The Medicaid budget for 2008-09 was $11.74 billion. The federal government typically covers almost two-thirds of the cost of the Medicaid program; however, this figure is currently higher due to the receipt of economic stimulus funding.

Medicaid is a federal entitlement program. Entitlement means that any individual who is found eligible for Medicaid has a legal right to receive services under the Medicaid program and cannot be denied coverage. Mandatory services under the Medicaid program for older and disabled adults include home health services, inpatient and outpatient hospital services, physician services, laboratory and X-ray services, and nursing home care.

States are also allowed to choose optional services they want to provide under the Medicaid program. Optional Medicaid services for aged, blind, and disabled adults in North Carolina, include among others, dental care; eye care and eyeglasses; occupational, physical, and speech therapies; hospice; prosthetics and orthotics; podiatrists; community alternative programs; personal care services; mental health services; and rehabilitation services. Many of these services are critical to an older or disabled adult's health and well-being and impact their ability to maximize their independence.

For additional information, contact: Mary Bethel – 508-0297, 749-6188, MBethel@aarp.org
Bill Wilson – 508-0299, 271-2838, BiWilson@aarp.org

In February 2010, 365,403 older and disabled adults were recipients of Medicaid in our State. Yearly enrollments in Medicaid for the last several years have totaled over 450,000 older and disabled adults. In state fiscal year 2008, aged, blind and disabled adults made up 27 % of Medicaid recipients and accounted for 62% of Medicaid expenditures, many of which were for optional services.

Medicare is the primary payor of health care costs for most older and disabled adults. Medicaid is the secondary payor covering the out-of-pocket costs (premiums, deductibles, and co-pays as well as non-Medicare eligible services) for Medicaid eligible individuals who also have Medicare. Were it not for Medicaid, many low-income aged and disabled adults would be financially strapped to pay for non-Medicare covered health care costs.

Because of Medicaid cost increases and budget deficit concerns, the General Assembly has had discussions in recent years on curtailing the optional services offered through the Medicaid program. Funding for some optional services has been reduced the last several years despite stiff opposition of advocates for older and disabled adults and provider groups.

According to information released in November of 2008, Medicaid is a powerful economic stimulus tool for North Carolina. If Medicaid was cut, it would hurt the economy of our State. For every dollar North Carolina cuts in Medicaid, the state loses $1.82 in federal matching funds. For every dollar North Carolina avoids cutting, $2.82 is put into the state's economy. Jobs are provided and tax revenue is generated for both state and local governments.

Support for Preserving Medicaid Eligibility and Services for Older and Disabled Adults:

In the last several years, almost all aging and disability advocacy groups have advocated for maintaining Medicaid benefits and services for aged, blind, and disabled adults.

For additional information, contact: Mary Bethel – 508-0297, 749-6188, MBethel@aarp.org
Bill Wilson – 508-0299, 271-2838, BiWilson@aarp.org

AARP[SM]

2010 Issue Briefing

Support Increased Funding for the Home and Community Care Block Grant

Issue:

Home and community-based services funded by the Home and Community Care Block Grant help older adults stay in their homes. At this time most counties have large numbers of people, many of them frail and over the age of 85, on the waiting list for services. As the older population in our State continues to grow, the demand for these services also increases.

AARP's Position:

AARP supports increased funding for the Home and Community Care Block Grant which funds home and community-based services for people 60 years of age and older.

Background:

More than a quarter of older North Carolinians living in the community have two or more physical or mental conditions that make it difficult for them to do activities such as walking, dressing, and bathing. Many of these older adults are in need of home and community-based services. Persons in particular need are the 139,000 older adults in the state who are 85 and older and those who are disabled.

In 1992, the N.C. General Assembly established the Home and Community Care Block Grant which focuses on (1) supporting frail older adults at home, (2) improving the physical and mental health of our State's 60+ population, (3) assisting older adults and their families with access to services and information, (4) providing family caregiver relief, and (5) helping older adults remain active.

The Block Grant combines federal Older American Act funding, some funding from the Social Services Block Grant, and state appropriations. There is also a consumer contribution component to the Block Grant. Today, the Block Grant totals $60 million and is the primary funding source for non-Medicaid funded home and community-based services for older adults. State appropriations account for half of the funding for the Block Grant. A funding formula is used to determine the allocation for each county. Counties are required to provide a 10% local match.

Eighteen different home and community-based services can be funded by the Home and Community Care Block Grant, which is administered by the N.C. Division of Aging and Adult Services. Key services funded include in-home aide, home-delivered meals, adult day care/day health care, transportation assistance and respite care for family caregivers. Counties determine which of the 18 services they will fund.

For additional information, contact: Mary Bethel – 508-0297, 749-6188, mbethel@aarp.org
Bill Wilson – 508-0299, 271-2838, biwilson@aarp.org

According to data provided by the Division of Aging and Adult Services, in State Fiscal Year 2008-2009, 48% of persons receiving Block Grant services lived alone, 66% were unable to manage on their own, 58% were age 75 or older, and 44% reported low-income.

Although there is an increased need for home and community-based services, the State is losing ground in its effort to help frail older people in the community through the Block Grant. Not only do more people need services, the cost of service delivery continues to increase. Overall funding for the Home and Community Care Block Grant has increased approximately 20% since 2000 even though there was a non-recurring budget reduction for State Fiscal Year 09-10 of $500,000. Even with this increase, there was a 6.89% reduction in the number of clients served through major Block Grant Services between July 1, 2000 and June 30, 2009. Comparatively, the population age 75+ grew by 18% during this same period.

Many counties in the state report over 200 seniors on waiting lists for key services. As of December 2009, there were an estimated 14,325 unmet service needs in the state. Services with the largest waiting list are those which serve the most frail including home delivered meals and in-home aid services. The Division of Aging and Adult Services estimates that it would take $28.5 million to address the current waiting list for services in the state.

Support for Home and Community Care Block Grant:

Support for expanding the Block Grant has consistently been one of the top requests of aging advocates in the State for the last decade. Numerous state level groups and associations including the Governor's Advisory Council on Aging, the Senior Tar Heel Legislature, the N.C. Association on Aging, the N.C. Association of Area Agencies on Aging, and the N.C. Coalition on Aging support increased funding for the Block Grant.

AARP Poll:

In March of 2007, AARP North Carolina commissioned a poll of registered voters in the State on several issues before the N.C. General Assembly, including recommended increased funding for the Home and Community Care Block Grant. 75% of those polled indicated they were in favor of additional state taxpayer funding for this program.

For additional information, contact: Mary Bethel – 508-0297, 749-6188, mbethel@aarp.org
Bill Wilson – 508-0299, 271-2838, biwilson@aarp.org

AARP[SM]

2010 Issue Briefing

State Long-Term Care Insurance Partnership Program

Issue:

The cost of long-term care services is rising for families as well as for the Medicaid program. Innovative and creative public and private efforts to address the funding of long-term care is needed.

AARP's Position:

AARP North Carolina supports the development of a Long-Term Care Partnership Program which would save state Medicaid dollars and also encourage the purchase of private long-term care insurance to help pay for long-term care expenses.

Background:

Long-term care costs – ranging from care in the home to nursing home care – can be devastating for many people. The cost of nursing home care can exceed $75,000 a year and home care costs can top $19 an hour for a home health aide. It is not uncommon for families to deplete their resources when paying privately for long-term care. Families often turn to Medicaid for help in paying for long-term care and are shocked to find out that they probably don't quality for assistance until they spend almost all of their assets on care.

In 1987 the Robert Wood Johnson Foundation initiated a demonstration program to develop an innovative public-private Long-Term Care Partnership Program. The goals of the Program were to increase the number of middle-income people buying long-term care insurance policies, to help people buy better long-term care insurance policies, and to reduce the cost in Medicaid. Four states initiated Partnership Programs.

Under the Partnership Program, a person who purchases a qualified long-term care insurance policy that provides a certain dollar amount of benefits will be allowed to disregard assets equal to the insurance payout in applying for Medicaid.

The federal Deficit Reduction Act of 2005 allows all states the option to enact Partnership Programs and over 35 states have enacted Programs. Policies in these new Programs must meet specified criteria (federal tax qualifications, identified consumer protections, inflation protection provisions, etc.).

For additional information, contact: Mary Bethel – 508-0297, 749-6188, MBethel@aarp.org
Bill Wilson – 508-0299, 271-2838, BiWilson@aarp.org

In 2006, the N.C. General Assembly passed legislation which authorized the N.C. Department of Health and Human Services to develop a North Carolina Long-Term Care Partnership Program. The purpose of the Program is to reduce future Medicaid costs for long-term care by delaying or eliminating dependence on Medicaid.

In 2007 and 2008, the N.C. Division of Medical Assistance (Medicaid) convened a workgroup to develop recommendations for the Partnership Program. This workgroup developed draft recommendations. In 2009, with no efforts underway to implement a Partnership Program, the N.C. Department of Insurance initiated a workgroup to examine how the state should move forward on adopting a Partnership Program. The workgroup has developed recommendations which will be put forth in the 2010 legislative short session. These recommendations are also supported by the N.C. Department of Health and Human Services.

Although data is just beginning to come in from the pilot Partnership Programs, preliminary data indicates that there is modest savings to the state Medicaid programs due to the Partnership Programs. In addition to the cost savings that may result from Partnership Programs, AARP believes that non-traditional programs such as the Long-Term Care Insurance Partnership Program need to be tried if for no other reason than to get more people to begin to think about planning for their long-term care and to consider the purchase of long-term care insurance policies.

For additional information, contact: Mary Bethel – 508-0297, 749-6188, MBethel@aarp.org
Bill Wilson – 508-0299, 271-2838, BiWilson@aarp.org

AARP[SM]

2010 Issue Briefing

Expand Dental Care Services for Older and Disabled North Carolinians With Special Care Needs

Issue:

Obtaining dental care services is a major problem for many older and disabled residents of our state who have special care needs. This population includes residents of nursing homes, adult care homes, and group homes for developmentally disabled adults, plus community dwelling residents who suffer from conditions such as head injuries, dementia, strokes, multiple sclerosis, and muscular dystrophy.

AARP's Position

AARP supports recommendations made by the Special Care Dentistry Advisory Group in March 2010 to the N.C. Study Commission on Aging and to the N.C. Public Health Study Commission to improve the availability of dental care services to special care populations.

Background:

The traditional dental practice "does not work" for many people with special care needs including frail older and disabled persons. Transportation issues to and from facilities and lack of wheelchair accessible operatory space and other needed accommodations keep many mobility impaired patients out of the dental chair. In addition, most dentists in the State have not been trained to manage behaviors common to intellectually disabled citizens or those with no muscle control. Because of the lack of available care options, many persons with special care needs in North Carolina go without dental care, resulting in oral infections which often lead to expensive medical care for illnesses such as aspiration pneumonia, uncontrolled diabetes, wound healing, stroke and heart disease. A February 2010 survey of local aging network service providers on service access issues for older adults conducted by the N.C. Division of Aging and Adult Services identified access to dental care as the number one access issue for older adults across the state.

There has been long recognition of the fact that dental care services for special population groups in our state are sadly inadequate. The 2005 North Carolina Oral Health Summit on Access to Dental Care called for the development of statewide comprehensive care programs designed to serve North Carolina's special care and difficult-to-serve populations.

Currently there are two non-profit organizations (Carolinas Health Care/Carolinas Mobile Dentistry in Charlotte and Access Dental Care in Greensboro) in the State that provide mobile dental care services to nursing home residents, group home residents, and community dwelling individuals with special needs. These programs have used foundation start-up monies and revenue from private sources and Medicaid fees, and facility retainers for sustaining funding. The General Assembly has also provided several small one-time appropriations in past years to help support these programs. Currently the programs serve approximately 5,700 individuals.

For additional information, contact: Mary Bethel – 508-0297, 749-6188, MBethel@aarp.org
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An additional reason for dental care access problems is that public funding through the Medicaid program which covers the health care costs of many older and disabled persons with special needs is not adequate to cover the cost of providing dental care services to this population. Medicaid dental reimbursement rates are low in general, but added to that is the fact that persons with special needs often require added time and effort which is not reimbursable. Numerous reports, including the 2008 Public Health Task Force Report recommended increasing Medicaid reimbursement to dental care providers to increase access to care.

In response to concerns raised about the inadequacy of dental care services for special care populations, the N.C. General Assembly passed legislation in the 2009 legislative session (Session Law 2009-100) that directed the N.C. Division of Public Health to examine current dental care options for populations requiring special care dentistry and to provide suggestions for ways to improve the availability of services to those needing such dental services. To accomplish this directive, the Division of Public Health convened an advisory group comprised of consumers, providers, advocates for older and disabled adults, dental educators, and policy personnel. The advisory group met to examine this issue and developed a report which contained sixteen (16) recommendations for action. These recommendations are in the areas of advocacy and outreach, professional development of providers, reimbursement for services, expansion of clinical programs, and creation of a health services research agenda.

Support for Dental Care Services:

In addition to AARP North Carolina, numerous aging and disability advocacy groups including the N.C. Dental Society Committee on Aging and the N.C. Coalition on Aging support efforts to expand dental care services for special care populations.

For additional information, contact: Mary Bethel – 508-0297, 749-6188, MBethel@aarp.org
Bill Wilson – 508-0299, 271-2838, BiWilson@aarp.org

Representative Jean Farmer-Butterfield and Senator A. B. Swindell:

Thank you for your service to older adults in North Carolina. I have one comment, desiring that you would take this to the General Assembly and Governor for their consideration as they seek to improve the quality and delivery of care for older adults in North Carolina.

1) Please consider a review revision of Rule 10A NCAC06P.0201 **LIMITATIONS** for the purpose of including people in group homes and Assisted Care facilities as eligible for Adult Day Services.

For review: on July 1, 2007, New Rule went into affect and is published in the Adult Day Care and Adult Day Health Services for Standards for Certification. All Adult Day Care and Day Health program operate under these standards. However, please note that in Rule Section .0200 "Client Eligibility", which defines and limits who can be served, the rule states that state and federal funds may not be used to support the provision of adult day care for individuals in group care beyond a 90 day period of transition in which they may be being placed into group home or Assisted Living type facilities. However, it is our experience that in today's economy and given the economic makeup of Alamance County, this is counterproductive to collaborations of service that promote cost effective service provision. The intent of this Rule was likely prevention of duplication of services, but clearly, Adult Day Services is a different service than group home and Assisted Living. We believe we can be for many aging and disabled people in these residential settings the most appropriate supportive service as we are well versed in aging issues. Additionally, there is prolific information regarding the need for all of us to remain social and stimulated in our aging years for best proactive, preventative health measures that keep personal and state supported health care costs down. It is unlikely that given the staffing ratios and limited resources of group homes and Assisted Living facilities that they can provide the quality of therapeutic and health preventative services that Adult Day Services can. (Individuals in Assisted Living facilities are in a setting where the staff to person served ratio is 1 to12, and staff duties include assistance and supervision with all needs that limit their ability to provide the wealth of cognitive, physical and social large group, small group, and 1:1 Person Centered activities, that Adult Day programs can provide. We provide this for a State reimbursement of $36 /day.) Ratio 1:8 or 1:5.

This request seems to support the Division of Aging Services' encouragement for the disability and aging communities to collaborate and share resources. Today this would be an opportunity to many Alamance County residents. Adult Day Services are interested in provided day services to people who have appropriately been served in Employment Community Rehabilitation programs during their working years, but who have a desire to retire. Yet with the limitations re: who is eligible for services, a great majority of these individuals (who live in group homes and have no private pay resources, and therefore have no means to access our day service) cannot be served by us even though we are the most appropriate link at this stage of their lives.

Additionally, we could be a resource for younger individuals who may through a self determination process want to access us instead of work. State funds have been cut for Mental Health statewide, and in our county 16 people have had to leave the Community Rehabilitation Program, Orange Enterprise. Our Adult Day Service hoped to be a resource for some, but it is not likely that we will be because the individuals live in either an Assisted Living facility or a group home. There is one person retired from Orange Enterprise that lives with family that we are serving well

Kathryn Porter

Public Concern Over Congressional Bailout

The concern of the United States Congress' 700 billion dollar bail-out with no stipulations for use from the U. S. Treasury in October 2008 for banks and automobile companies with already existing national indebtedness surpassing multiple billions of dollars has been constantly addressed to us the delegate and alternate of the N. C. Senior Tar Heel Legislature in our county. Multitudes of senior citizens and others are highly disturbed by the issue! Large numbers of these citizens are living on minimum incomes who believe that this resulting national indebtedness will be paid off by increasing taxes and minimizing or discontinuing services sorely needed by citizens. A report from the recipient companies is constantly being required to reveal the use of these billions of dollars to no avail. All of us, however, are publicly aware of the use of $900,000 for a bank party held only a few days after the bail-out funds were received. We have also become aware of honorariums in the millions being paid to executives of the companies bailed out. One such case we have been made aware of in a neighboring city just across the northern N. C. state line in the retirement of a [redacted] Bank executive just two days after the receipt of the bail-out receiving 1.4 million dollars in an honorarium or bonus!

When the bail-out companies have been requested to report how the bail-out money is being used, the reply has been, "It is none of the public's business and no use of funds report will be made available!" Not only are bail-outs of public monies being made to these two industries, but it is being publicized that other industries in the United States are also considering requests for bail-outs! Where will the indebtedness end and why should we be expected to pay for it?

With the addition of these billions of dollars in bail-outs to the astronomical costs of the wars in Iraq and Afghanistan, it is possible that we as U. S. citizens will be taxed out of existence to clear such deficits. Therefore, as delegates from our county of Alamance, we are proposing the following:

The N. C. Senior Tar Heel Legislature proposes for the monetary benefit of its growing aging population and upcoming generation that Governor Beverly Perdue and the N. C. General Assembly (1) petition the Congress of the United States to discontinue large multi-billion dollar bail-outs to private companies many of whom are indebted because of poor business operations – funding ineligible customers.

Willie Mae Cecil

Obama: How bailout money is spent should be clear

By Philip Elliott
The Associated Press

WASHINGTON — Barack Obama wants to make it easier to monitor how the second $350 billion installment of the financial bailout is spent, and says homeowners and small businesses should get some help.

"We can regain the confidence of both Congress and the American people in that this is not just money that is being given to banks without any strings attached and nobody knows what happens, but rather that it is targeted very specifically at getting credit flowing again to businesses and families," the president-elect said in an interview aired Sunday.

Obama's economic team has been talking with the Bush administration about having Treasury Secretary Henry Paulson ask Congress as early as this week for access to the rest of the bailout fund. If Congress rejected such a request, a presidential veto could still free up the money, unless Congress overrode the veto.

Senate Majority Leader Harry Reid indicated during a rare Senate session Sunday that Bush and Obama officials are near agreement on submitting notice to Congress about using the remaining $350 billion.

"We're waiting to hear from President Bush and or President-elect Obama as to what, if anything, they're going to do," said Reid, D-Nev., "and that's occurring as we speak."

The Congressional Oversight Panel raised detailed questions last week about how banks are spending the first $350 billion, how the money will combat the rising tide of home foreclosures and Treasury's overall strategy for the rescue. In instance after instance, the panel said, the Treasury Department did not offer adequate responses.

In an interview aired Sunday on ABC's "This Week," Obama said he has asked his economic team to develop a set of principles to ensure more openness about how the money

See OBAMA BAILOUT/Page A2

OBAMA BAILOUT

Continued from Page A1

is spent. Under consideration by Obama aides and congressional Democrats are proposals to limit executive pay at institutions that receive the money and to force such institutions to get rid of any private aircraft they may own or lease.

"I think that's when you look at how we have handled the home foreclosure situation and whether we've done enough in terms of helping families on the ground who may have lost their homes because they lost their jobs or because they got sick, we haven't done enough there," he said.

Obama conceded it will be difficult to enforce his pledge to ban congressionally earmarked projects from the nearly $800 billion economic stimulus plan he's negotiating with Congress.

"In a package of this magnitude, there will be projects that potentially don't meet that criteria of helping on health care, energy or education," he told ABC in the interview taped Saturday.

BUT OBAMA SAID inaction carries too great a risk. "We can't afford three, four, five, six more months where we're losing half a million jobs per month. And the estimates are that if we don't do anything, we could see 4 million jobs lost this year."

House Speaker Nancy Pelosi, D-Calif., said that the economic package she negotiated might well mean costing more than $775 billion. Some lawmakers have put the price tag at nearly $1 trillion.

"I think we should do the package that is necessary to turn our economy around," Pelosi said on CNN's "Late Edition." She also pledged that the House version would not contain any earmarks.

With the future of the current bailout fund under discussion, Vice President Dick Cheney said the Bush administration's use of the money has had "significant positive impact" by guaranteeing liquidity in the financial system and adding capital in the banking system.

He would rather see a smaller government, Cheney told CNN in an interview aired Sunday. "But we've always said, and I firmly believe, that you do make exceptions for budget restraint. And those exceptions are wars, for example, national crises."

Obama, who has been receiving daily national security briefings since his election in November, acknowledged that his campaign pledge to close the prison at Guantanamo Bay will be more of a challenge than he anticipated. Many of those held at the military site are suspected terrorists or potential witnesses in cases against them.

The president-elect said that while some evidence against terrorism suspects may be tainted by the tactics used to obtain it, that doesn't change the fact they are "people who are intent on blowing us up."

Speaking in general terms, Obama said the country had made progress in becoming safer since the Sept. 11, 2001, attacks, but dangers persist.

FACT SHEET
North Carolina Senior Tar Heel Legislature
2010 Legislative Priorities

- **Provide funding to sustain Project C.A.R.E. (Caregiver Alternatives to Running on Empty).** Project C.A.R.E. provides information, referral, consultation and linkage to caregivers of persons afflicted with Alzheimer's disease. By helping families keep a loved one in the home longer, less time will be required for institutional care. The resulting savings in public funds are substantial. We recommend that $1,000,000 in recurring funds be appropriated to sustain Project C.A.R.E. in the 18 counties it now serves and to expand it into other counties.

- **Increase funding for home and community based services for older adults by increasing the Home and Community Care Block Grant by $5 million.** Home and community-based services include home-delivered meals, adult day care, health care, in-home aid and other services that help impaired older adults stay in their homes. These services are less costly than institutional care. The rapidly growing population of older adults is increasing the demand for these services. There are thousands of people on the waiting list for Home and Community Block Grant services.

- **Increase funding for senior centers by an additional $2,000,000 in recurring funds for a total of $3,265,316 a year.** Senior centers provide programs and services that enhance the health and wellness of older adults and support their efforts to remain independent. The 163 senior centers currently in operation or under development serve 97 counties. The requested increase in recurring funds would enable these senior centers to expand their services to meet the needs of a growing population of older adults.

- **Establish a cap on the increase in the assessed value of property determined during revaluations for persons over the age of 65, eligible for a Homestead Exemption. Revise the limits of the Act to income of $35,000.** The 2000 census estimates that 12.7% of NC's elderly over 65 have an income below the poverty level. Frequent reassessments of property values have resulted in much greater tax burdens within this population.

- **Mandate pre-employment and random drug testing for employees of nursing and assisted living facilities.** Skilled nursing facilities and adult care homes provide specialized care for frail adults with chronic health problems and disabled persons. The safety of residents is compromised when employees abuse drugs, resulting in decreased productivity, increased liability to the facility and its staff and increased potential crimes such as theft and patient abuse. While some companies require pre-employment and random drug testing for their employees, all companies should have this policy in place.

FACT SHEET

North Carolina Senior Tar Heel Legislature

The North Carolina Senior Tar Heel Legislature was created by the North Carolina General Assembly with the passage of Senate Bill 479 in July of 1993.

The Senior Tar Heel Legislature was created to:

- Provide information to senior citizens on the legislative process and matters being considered by the North Carolina General Assembly.
- Promote citizen involvement and advocacy concerning aging issues before the North Carolina General Assembly.
- Assess the legislative needs of older citizens by convening a forum modeled after the North Carolina General Assembly.

There is one delegate to the Senior Tar Heel Legislature from each of the 100 counties in the state. Most counties also have an alternate delegate. Delegates and alternates must be age 60 or older. The North Carolina Division of Aging and Adult Services provides staff support for the Senior Tar Heel Legislature in cooperation with the 17 Area Agencies on Aging who are responsible for conducting the selection of delegates and alternates. Current officers of the Senior Tar Heel Legislature are: Lamar Moore, Speaker (Davidson); Dr. Delilah Blanks, Speaker Pro Tempore (Bladen); Edwin Deaver, Deputy Speaker Pro Tempore (Cumberland); and Betty Hunt, Secretary (Randolph).

2007 Legislative Priorities

Increase funding for home and community based services for older adults by increasing the Home and Community Care Block Grant by $5 million. Home and community-based services help impaired older adults stay in their homes. Key services include home-delivered meals, adult day care/day health care, in-home aide, and respite care for family caregivers. As the older population continues to grow, so does the demand for services. Those in particular need of services are the over 125,000 older adults in the state who are 85 and older and those who are disabled. More than a quarter of the persons age 65 and older living in the community have two or more physical or mental conditions that make it difficult for them to do such activities as walking, dressing, and bathing. Although there is an increased need for services, the state is losing ground in its effort to help frail older people in the community. There are over 10,700 people on the waiting list for Home and Community Care Block Grant services as of October 12, 2006.

Increase funding for senior centers by $634,684 for a total of $2 million per year. There are 163 senior centers in North Carolina currently operational or under development in 97 counties in the state. These centers provide a variety of programs and services to enhance the health and wellness of older adults and to support their efforts to remain independent in their communities. The current recurring state appropriation for senior centers is limited to $1,365,316. With limited funding, many senior centers are short-staffed and unable to grow their services, activities, space and operating hours, at the time expectations for senior centers have grown (e.g., participation in Medicare Part D education and counseling).

Shift the cost of Medicaid from counties to the State. Counties are currently contributing $450 million, annually, to pay for Medicaid benefits with much of this going to pay for frail and elderly North Carolina citizens. This has created a significant economic burden on counties. The Senior Tar Heel Legislature recommends that the State of North Carolina assume the entire cost of Medicaid, thereby relieving the counties of that burden. In addition, the State's assumption of Medicaid responsibility should not alter the current tax allocation to the counties while maintaining current state levels of services.

Provide Prescription Drug Assistance for low-income persons age 65 and over. Although older adults are now eligible to be a part of Medicare Part D Prescription Drug Plans, there are significant gaps in services that leave North Carolina older adults again choosing between medicine and food. Even with the Extra Help program and the new NCRx program, many older people still need help with lack of coverage during the "doughnut hole." The Senior Tar Heel Legislature recommends that North Carolina reinstitute a program to serve as a "wrap around" for the Medicare Part D program. These funds should be used for 1). Persons 65 and over who are not eligible for the full federal "Extra Help" subsidy; 2). Persons whose income is not more than 175% of the federal poverty level; and 3). Persons who need assistance during the "doughnut hole" coverage period of Medicare Part D.

Provide Dental Care for Older Adults with Special Needs and in Rural Areas. The Senior Tar Heel Legislature recommends that $1.35 million be allocated to the Office of Rural Health and Community Care to recruit dentists for underserved areas in North Carolina including dentists that would focus on providing care in long-term care facilities. The Division of Public Health and the Office of Rural Health and Community Care would use the model of existing mobile dental clinics to provide access to care for residents residing in long-term care facilities, as well as seniors and the disabled living at home. Additional funding should also be appropriated to the existing loan program that the Office of Rural Health and Community Care operates. The loan program assists with loan payments of dentists willing to serve persons over age 65 who are not eligible for full Medicaid benefits, Medicaid eligible persons, persons whose income is not more than 150% of the federal poverty level and seniors needing mobile dental services. However, the loan program is not funded.

FACT SHEET

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The Senior Tar Heel Legislature was created to:

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- Promote citizen involvement and advocacy concerning aging issues before the North Carolina General Assembly.
- Assess the legislative needs of older citizens by convening a forum modeled after the North Carolina General Assembly.

There is one delegate to the Senior Tar Heel Legislature from each of the 100 counties in the state. Most counties also have an alternate delegate. Delegates and alternates must be age 60 or older. The North Carolina Division of Aging and Adult Services provides staff support for the Senior Tar Heel Legislature in cooperation with the 17 Area Agencies on Aging who are responsible for conducting the selection of delegates and alternates. Current officers of the Senior Tar Heel Legislature are: Charles Dickens, Speaker (Buncombe); Edwin Deaver, Speaker Pro Tempore (Cumberland); Betty Hunt, Deputy Speaker Pro Tempore (Randolph); and Clara Fountain, Secretary (Surry).

2008 Legislative Priorities

Increase funding for home and community based services for older adults by increasing the Home and Community Care Block Grant by $5 million. Home and community-based services help impaired older adults stay in their homes. Key services include home-delivered meals, adult day care/day health care, in-home aide, and respite care for family caregivers. As the older population continues to grow, so does the demand for services. Those in particular need of services are the over 125,000 older adults in the state who are 85 and older and those who are disabled. More than a quarter of the persons age 65 and older living in the community have two or more physical or mental conditions that make it difficult for them to do such activities as walking, dressing, and bathing. Although there is an increased need for services, the state is losing ground in its effort to help frail older people in the community. There are over 11,000 people on the waiting list for Home and Community Care Block Grant services.

Increase funding for senior centers by $634,684 for a total of $2 million per year. There are 163 senior centers in North Carolina currently operational or under development in 97 counties in the state. These centers provide a variety of programs and services to enhance the health and wellness of older adults and to support their efforts to remain independent in their communities. The current recurring state appropriation for senior centers is limited to $1,365,316. With limited funding, many senior centers are short-staffed and unable to grow their services, activities, space

and operating hours, at the time expectations for senior centers have grown (e.g., participation in Medicare Part D education and counseling).

Appropriate an additional $15,000 in Recurring Funds for the operation of the Senior Tar Heel Legislature. The Senior Tar Heel Legislature currently receives $3,000 per year to cover the expenses of the Senior Tar Heel Legislature. However, the costs of the meeting space, breaks, mailings, and a meal are approximately $6,000 per meeting or $18,000 per year. The Senior Tar Heel Legislature requests an additional $15,000 be appropriated from the General Fund to the Division of Aging and Adult Services to cover the costs of the Senior Tar Heel Legislature's three scheduled meetings per year.

Provide Dental Care for Older Adults with Special Needs and in Rural Areas. The Senior Tar Heel Legislature recommends that $1.35 million be allocated to the Office of Rural Health and Community Care to recruit dentists for underserved areas in North Carolina including dentists that would focus on providing care in long-term care facilities. The Division of Public Health and the Office of Rural Health and Community Care would use the model of existing mobile dental clinics to provide access to care for residents residing in long-term care facilities, as well as seniors and the disabled living at home.

Provide funding to sustain Project C.A.R.E. (Caregiver Alternatives to Running on Empty). The Senior Tar Heel Legislature recommends that $500,000 in recurring funds be appropriated from the General Fund to the Division of Aging and Adult Services to sustain Project C.A.R.E., which currently serves 14 counties, and to expand it into other counties.

FACT SHEET
STHL 2009 Legislative Priorities with Results

- **Provide funding to sustain Project C.A.R.E. (Caregiver Alternatives to Running on Empty).** Project C.A.R.E. provides information, referral, consultation and linkage to caregivers of persons afflicted with Alzheimer's disease. By helping families keep a loved one in the home longer, less time will be required for institutional care. The resulting savings in public funds are substantial. We recommend that $1,000,000 in recurring funds be appropriated to sustain Project C.A.R.E. in the 18 counties it now serves and to expand it into other counties.

- **Result**: The General Assembly appropriated $500,000 in each year of the two-year budget for Project C.A.R.E.

- **Increase funding for home and community based services for older adults by increasing the Home and Community Care Block Grant by $5 million.** Home and community-based services include home-delivered meals, adult day care, healthcare, in-home aid and other services that help impaired older adults stay in their homes. These services are less costly than institutional care. The rapidly growing population of older adults is increasing the demand for these services. There are thousands of people on the waiting list for Home and Community Block Grant services.

- **Result:** Funding for HCCBG was reduced by $500,000 in each of the two years of the budget. This funding will be restored for 2010-2011. Funding for HCCBG was reduced by $1,384,392 in fiscal year 2009-2010, but will be restored in 2010-2011. This reduction was associated with $2,768,783 in federal recovery funds that North Carolina has received for elderly nutrition services.

- **Increase funding for senior centers by an additional $2,000,000 in recurring funds for a total of $3,265,316 a year.** Senior centers provide programs and services that enhance the health and wellness of older adults and support their efforts to remain independent. The 163 senior centers currently in operation or under development serve 97 counties. The requested increase in recurring funds would enable these senior centers to expand their services to meet the needs of a growing population of older adults.

- **Result:** $100,000 was eliminated in State funding for the Senior Center Outreach Program.

- **Implement practical and cost-effective steps to address concerns related to the mixing of populations, including younger adults with mental illness and frail older persons residing in long term care facilities. These steps would include specialized health training for facility personnel.** Approximately 40% of persons residing in adult care homes have a diagnosis of mental illness. With the recent focus on mental health reform, deinstitutionalization, and the placement of persons with mental illness in the least restrictive environment, many problems related to the mixing of populations exist in long-term care facilities.

- **Result:** The North Carolina Institute of Medicine was appropriated funds to study short-term and long-term strategies to address issues within adult care homes that provide residence to persons who are frail and elderly and to persons suffering from mental illness.

- **Establish a cap on the increase in the assessed value of property determined during revaluations for persons over the age of 65, eligible for a Homestead Exemption. Revise the limits of the Act to income of $35,000.** The 2000 census estimates that 12.7% of NC's elderly over 65 have an income below the poverty level. Frequent reassessments of property values have resulted in much greater tax burdens within this population.

- **Result:** No action.

Committee	Title	Rank
Crime/Safety/Security	Funds to enact a pilot program to assess proposed changes to APS statutes	
Crime/Safety/Security	Mandate pre-employment and random drug testing for skilled employees of nursing and assisted living facilities	
Crime/Safety/Security	Strengthen elder abuse and guardianship laws	
Enrichment Opportunities	Funding for Senior Centers	
Enrichment Opportunities	Recurring support for a retirement migration initiative of UNC Institute on Aging to be housed at ECU School of Medicine.	
Enrichment Opportunities	To develop volunteer leadership classes for seniors to serve all counties through the community college system in North Carolina	
General Legislation	To increase the homestead exemption and provide property tax relief for senior citizens (As one of the final five resolutions, this was reworded as follows: "Establish a cap on the increase in the assessed value of property determined druing revaluations for persons over the age of 65, eligible for a Homestead Exemption. Revise the limits of the Act to income of $35,000."	
General Legislation	Recurring funding for STHL	
Health	Strengthen consumer protections in sales of Medicare Part D plans.	
Health	Expand mobile dental services	
Health	Prescription drug assistance for low income persons over age 65	
Long-Term Care	Appropriate placement for individuals with mental illness	
Long-Term Care	Provide funds for the expansion and creation of accessible group respite and/or adult day care services in all 100 counties	
Long-Term Care	Funding for Project C.A.R.E..	
Service Access	Increase funding for home and community care block grant	
Service Access	Expand the Aging and Disability Resource Connection Program	
Service Access	Support for Area Agencies on Aging	

Prospectus
North Carolina Insight
The Art of Aging: Our Elders, Our State

1. The Demographics of Our Aging Population

Currently, those 65 and older constitute about 12% of our population of more than 8 million. But by the year 2030, our 65 and older population will likely more than double to almost 2.2 million and constitute almost 18% of our population. The number of people 65 and over in North Carolina will explode in 2011 when the first of the Baby Boomers turn 65. North Carolina ranks third behind Arizona and Florida in the in-migration of persons over 65 years of age. Globally, by 2050, the number of elderly will exceed the number of children for the first time in human history. What are the demographics of this population in North Carolina? Are the numbers reliable? Which demographic trends are important for state policy? By John Quinterno, policy analyst

2. The Caretakers of Our Aging

North Carolina is estimated to need 9,000 more nurses by 2015. This number alone illustrates our critical need for a larger work force to provide high-quality care to the growing elderly population. How can our state increase its capacity to train an adequate number of professional and allied personnel in geriatrics, including medicine, nursing, social work, mental health, pharmacy, dentistry, physical therapy, public health, and other related fields? How can this state attract people to these fields? How can public and private colleges and universities and the community college system help our state cope with these shortages? By Clark Barrineau, Center intern

3. Medicaid: A Key State Program Serving the Elderly

The fastest growing part of the state budget is the Medicaid program, which pays for a large number of services for the elderly. Ten years ago, the Medicaid program was 8% of the total state budget, and today it is 16% of the $18.9 billion state budget. While the elderly represent 13.9% of Medicaid recipients, they receive 27.4% of the Medicaid resources: What are trends in and implications for the state Medicaid budget as state demographics change? What should state Medicaid policies affecting the elderly be for the future? By Christine Kushner, policy analyst

4. The Positive Contributions of the Aging in North Carolina

Our aging population has more education and more discretionary income, and they are more engaged in civic life. Should the state shift its policies for the aging from a medical model to one that builds on the strengths, skills, and expertise of older adults? How could the aging contribute in an age-integrated society? Could some of the costs of an older population be offset by involving them more in our society? What are the strengths and weaknesses of the state's efforts to create livable and senior-friendly communities? This article will assess voter turnout, jury duty, volunteering, charitable contributions, education levels, and other positive indicators of community involvement for this segment of our society. By Lauren Law Akers, Center intern

5. **Long-Term Care and In-Home Care**

From 1990 to 2000, North Carolina's long-term care spending for older adults increased from approximately $486 million to $1.38 billion. North Carolina is considering various incentives to individuals to encourage them to purchase long-term care insurance. Should the state offer a tax credit to those who purchase long-term care insurance? Or, as suggested by the long-term care insurance partnership program, should individuals who purchase a qualifying policy be allowed dollar-for-dollar asset protection so they do not have to become impoverished in order to qualify for Medicaid? How are different groups of the aging population affected by the various options? How much will the long-term care options cost? In North Carolina, families provide at least 80% of all long-term care for the elderly. Some 1.7 million adult North Carolinians are caring for an older person -- more than 28% of our adult population. The value of family care in our state in 2003 was estimated to exceed $7.5 billion. If one goal is to provide appropriate, cost-effective care for the aging in the least restrictive setting, then in-home care of our seniors needs to be studied. Is a public funding shift toward home and community care warranted? By Donald Taylor, assistant professor of public policy at Duke University

6. **Elder Fraud**

The stories of elder fraud reaching the Office of the N.C. Attorney General in North Carolina are rampant and appalling. In one county, a minister arrived at a nursing home with copies of durable powers of attorney, health care powers of attorney, and real estate deeds for an elderly man on his deathbed to sign. The sheriff was called, the documents were shredded, the minister was chased out of the county, and Medicare fraud charges were filed. But the elderly man in the nursing home died, and his wife was incompetent to testify, so the charges were dropped. In other locales, unethical solicitors get the elderly to send money to fraudulent charitable causes. Tragically, stories like these are common. What duty does the state have to protect its elders? How can the state protect them better? What are other states doing to protect the aging? By Allison Gray, attorney

7. **Living Better, Living Longer: Preventive Care and Healthy Behaviors**

Despite having health insurance, 5.9% of the elderly in North Carolina do not have a personal doctor, and 6% say they cannot see a doctor because of the cost. Furthermore, large gaps in the quality of care for the elderly need to be addressed in screening for colo-rectal cancer, treatment for depression, and control of high blood pressure and high cholesterol. Potentially preventable hospitalizations have increased for certain conditions, as have recorded rates of adverse events or complications of care in the hospital. Disparities and unjustified variations in care also appear to be an issue for the elderly, despite near-universal health coverage by Medicare, and these problems may be even worse for minority and low-income elders. Desirable health behaviors -- better nutrition, less smoking, and more exercise, for example -- are related to continued independence and better health in seniors. Heart disease is the leading cause of death among older adults in North Carolina, followed by cancer and stroke. In particular, the coastal plains region of North Carolina has the fourth highest stroke death rate in the nation and is labeled by some as the Buckle of the Stroke Belt. African Americans are at a substantially higher risk for certain chronic conditions such as heart disease, stroke, and diabetes. At 40%, seniors in North Carolina are ranked third from the bottom in the proportion of the older population that participates in physical activities. In a statewide survey, more than one-third of our seniors said that their general health status was fair or poor. Are there appropriate ways for state policies to encourage healthy behaviors among the elderly? By Rah Bickley, freelance writer

8. **An Aging Policy Plan**

In 1986, the Center conducted its first study of issues affecting the elderly in North Carolina. Our research led to legislation requiring the development of a state Aging Policy Plan. Twenty-one years later, these issues are more important than ever for our state. Does our state have an adequate policy plan to keep up with the growth in this population expected over the next 20 years? This article will summarize our research findings in a way designed to improve and shape future state Aging Policy Plans. By Mebane Rash Whitman and Ran Coble

many do not have life line furnished by ARMC @ $14 per month.

A Resolution Requesting a County - wide Program of Daily Care to Provide Security to Senior Adults Desiring Such Services

Whereas:

Three Alamance County Municipal Police Departments in Graham, Haw-River and Mebane have instituted programs such as "Are You O.K.?" to verify the safety of certain elderly in jurisdictional limits on a full-time and intermittent bases and with other municipalities presently investingating the possibility of providing such services and

Whereas:

Many residents in rural areas of Alamance County outside the municipal jurisdiction of the police department have requested such services and

Whereas:

The anticipated dramatic increase in the numbers of senior adults in the county who would benefit from such services particularly in rural areas.

Now therefore:

The Alamance County Planning Committee for Services to the Elderly and the SALT Council request that the County Commissioners investegate and implement such a program for county residents outside municipal boundaries through either the Alamance County Sheriff Department or the Central Communication System.

Alamance County Planning
Committee for Services to the Elderly

Willie Mae D. Currin

Willie Mae D. Currin, Chairman

Program initiated through SALT Program in Alamance County when I was chair! Carrie

Times-News
Region
C SECTION

Program helps check on seniors

Five area police departments use 'Are You OK' system

By Kadi Hodges
Times-News

Sara Mitchell says she knows the police have a good system for checking on her.

A few years ago, Mitchell went out of town for one night. She called the Graham Police Department to let them know she would be traveling. But somehow her message was misplaced.

Mitchell receives a call from the police every morning. When she didn't answer her phone that morning, an officer showed up at her door promptly. A neighbor let him in, and they were able to verify that Mitchell was all right.

"So it works," Mitchell said.

The Burlington, Graham, Gibsonville, Mebane, and Haw River police departments all have a system to call people who would like a daily check-in. The programs are primarily used by the elderly or others who live alone and have medical problems.

Larger departments, including Graham and Burlington, have a computer-operated program called "Are You OK" that makes the calls. Recipients decide what time they want to be called, and they can have multiple calls per day if they'd like.

Smaller departments, including Mebane and Gibsonville, have dispatchers call personally.

If the participant doesn't answer the phone, an officer goes to the house to make a personal check-up.

Mitchell said when she moved to Alamance County 60 years ago, she felt as though she was the only person around who didn't have relatives here.

The 85-year-old signed up to receive calls when the Graham Police Department first began offering them five years ago. She said the

See **CHECK**/Page C2

Continued from Page C1

daily call makes her feel safer, and it gives her the sense that if she needed officers' attention for any reason, they would already know her name.

Despite the positive outcomes for the free service, the number of people signed up to receive calls has dwindled in recent years. Officers encourage elderly and homebound people who live alone to enroll.

The sheriff's departmen does not make calls for peopl who live outside of cities, bu spokesman Randy Jones sai the department is puttin together a program tha should be available soon.

Contact the police depar ment in your city for mor information about the pro gram and how to sign up.

Kadi Hodges can be reached at kadi_hodges@link.freedom.com

Program helps check on seniors

Kadi Hodges
Times-News

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Contact the police department in your city for more information about the program and how to sign up.

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NASCAR

Senior Tar Heel delegates brought this to Alamance County Planning Committee for Elderly who approved it and calling it to Co. Commissioners who approved it as stated below!

RESOLUTION OF SUPPORT FOR NORTH CAROLINA HOUSE BILL 423 WITH AN INCREASE IN THE PROPOSED EXEMPTION TO $35,000.00 PER YEAR

WHEREAS, the North Carolina House Bill 423 was introduced in the 2009 Session of the North Carolina General Assembly; and

WHEREAS, the House Bill 423 proposed raising the income eligibility limit from the current twenty five thousand dollars ($25,000.00) to thirty thousand dollars ($30,000.00) for taxable years beginning on or after July 1, 2010; and

WHEREAS, the Alamance County Planning Committee for Services to the Elderly has recommended that the income eligibility limit be raised to thirty five thousand dollars ($35,000.00) in light of the increases in the cost of living, decreasing income for seniors, and frequent assessments of property value that have resulted in greater tax burdens on the senior population; and

WHEREAS, the Board of Commissioners of Alamance County fully supports raising the income eligibility limit in House Bill 423 to thirty five thousand dollars ($35,000.00) and moving House Bill 423 as amended out of committee to a vote.

NOW THEREFORE, BE IT RESOLVED BY THE ALAMANCE COUNTY BOARD OF COMMISSIONERS

1. That Alamance County shall support raising the income eligibility limit set forth in House Bill 423 to thirty five thousand dollars ($35,000.00).

2. That Alamance County shall continue to fully support the efforts of the Alamance County Planning Committee for Services to the Elderly to raise the income eligibility limit and otherwise provide for the needs of disabled persons and those individuals at least 65 years of age who wish to remain living independently.

3. That this resolution shall become effective upon its adoption.

Read, approved, and adopted this 1st day of March, 2010.

Linda Massey
Chair

William Bill Lashley
Commissioner

Eddie Boswell
Vice Chair

Commissioner

Commissioner

Alamance County Planning Committee for Services to Older Adults

Report to the County Commissioners, March 2009 March 2010 Again in separate package & file H. 423

Barbara Garrison, Chairperson
Willie Mae Currin, Vice Chairperson
Misty Fleming, Secretary

Staffed by the Piedmont Triad Council of Governments Area Agency on Aging

I. Introduction

Thank you for the opportunity to address you on behalf of the Alamance County Planning Committee for Services to the Elderly. We are grateful for the county's support in matching existing funds for aging services. We hope to encourage you to increase the current county funding for these vital services. Our county continues to see a growing need for services and supports among our elderly county residents and their caregivers.

As the chairperson of this Committee, I want to remind you that our voting members are appointed by you and report to you. The Planning Committee was created to:

- Determine the need for services for Alamance County's older adults and educate the public about those needs.
- Identify gaps in long-term care and community-based services for seniors and identify resources and opportunities to fill those gaps.
- Involve the county communities in planning and implementing options and opportunities for seniors which will foster the independence of adults 60+ living in the community and in facilities.
- Make recommendations about Home and Community Care Block Grant funding allocations based on what we identify countywide.

You can find the current funding for Home and Community Based Service Funding in your packages, as form DOA-731.

II. NC and Alamance County Aging Statistics & Demographics[1]

- 28% of NC Counties have more adults over age 60 than people under age 18.
- 13% of Alamance County's residents are 65+.
- 12% of North Carolina's residents are 65+.
- By 2030, Alamance County's 65+ population will increase 70% to 31,371 people, or 17% of the county population.
- By 2030, NC's 65+ population will increase 106% to 2,178,062 people, or 18% of the state population.

Also, enclosed in your package you will find, the North Carolina Roadmap for Healthy Aging 2008 and Alamance County's latest demographics on aging.

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[1] The North Carolina Roadmap for Healthy Aging 2008.
http://www.aging.unc.edu/roadmap/NCHealthyAgingRoadmap.pdf

III. Alamance County Planning Committee Activity in 2008-09

- The Planning Committee developed, and is in the process of implementing, a strategic four-year plan for aging services in Alamance County.
    - Top needs identified:
        - Information & Access to Aging Services.
        - Caregiver & Respite Options.
        - Transportation for Seniors.
    - Top strengths identified:
        - Family-Based Support & Care.
        - Faith Community Assistance.
        - Cooperation of Key Resource Agencies.
- The Planning Committee has raised awareness about national trends and issues affecting Alamance County's aging population including:
    - Digital TV transition.
    - Medicare open enrollment dates.
    - Impact of current economic crisis on local seniors and aging service providers.
    - Senior scams and frauds.

IV. Conclusion

Alamance County's 60+ population is growing at an unprecedented rate. It is of the utmost importance that you, the Alamance County Commissioners, remain aware of the needs of our county's seniors and use your elected positions to make wise decisions that will help our communities meet those needs.

In closing, I thank you again for the opportunity to address you this evening. Speaking on behalf of the Alamance County Planning Committee for Services to the Elderly, we appreciate your time and attention. We also appreciate The Honorable Bobby Stanley's dedicated attendance at our monthly meetings and his valuable contributions to our efforts to plan strategically for the county's elderly adults. The last item in your package is a list of the participants in your Planning Committee for Aging, voting and non-voting.

Ms. Willie Mae Currin, Alamance County's delegate to the NC Senior Tar Heel Legislature, Planning Committee member, and extreme advocate for our county's older adults, would also like to share a few items regarding adults 60 and better in Alamance County.

Barbara Garrison, Chair
Alamance County Planning Committee for Services to the Elderly and Disabled
1526 Stoney Creek Church Road
Burlington, NC 27217
(336) 228-9711

February 9, 2010

Dear NC Honorable House Representative Dan Ingle, NC Honorable House Representative Alice Bordsen, and Senate Legislator Tony Foriest:

The Alamance County Planning Committee for Services to the Elderly is requesting your support for NC House Bill 423, which was introduced in March 2009. The Alamance County Planning Committee is charged to identify the needs of the adults 60 and better, their caregivers, and individuals with disabilities in Alamance County and make recommendations for funding through the Home and Community Care Block Grant. Older adults, professionals, Senior Tar Heel Legislators, and volunteers are the membership of this committee with appointment by the Alamance County Board of Commissioners.

NC House Bill 423 was introduced to change the Homestead Exemption Act as amended by NC House Bill 1499, in 2007. The current income eligibility limit is $25,000 per taxable year. The exemption level for income has to increase from $30,000 to $35,000 annually to follow the current recommendation of the North Carolina Senior Tar Heel Legislature. NC House Bill 423 also clarifies the definition of income for disabled persons and individuals who are at least 65 years of age. The Alamance County Planning Committee for Services to the Elderly would like to see this Bill passed into law in the approaching short session.

With the cost of living increasing and incomes decreasing or remaining unchanged, the current legislation is a counter-productive to seniors whose primary goal is to remain independent. The 2000 census estimates that 12.7% of NC's adults over 65 have a fixed income below the poverty level. Frequent assessments of property value have resulted in much greater tax burdens within this population adding to the worry of remaining independent.

The Alamance County Planning Committee for Services to the Elderly would like you to join us in supporting a positive change for all of North Carolina's senior citizens and support NC House Bill 423 increasing the income eligibility from $25,000 to $35,000.

Yours truly,

Alamance County Planning Committee

Cc: Alamance County Board of Commissioners
Senator Stan Bingham
Senator Katie Dorsett
Theresa Matula, NC Study Commission on Aging Staff

Attached: Committee Members in attendance on February 9, 2010

North Carolina Senior Tar Heel Legislature
Fact Sheet
Strengthening Consumer Protections for Seniors

The Senior Tar Heel Legislature is recommending that the General Assembly pass legislation to strengthen consumer protections for citizens of North Carolina with special focus on the areas of telemarketing fraud, identity theft, credit practices and home repair scams and that the General Assembly study increasing civil and criminal penalties for those who financially exploit seniors.

Background

Consumer fraud that targets seniors is a growing problem, not just in North Carolina, but nationwide. Consumers lose billions of dollars each year as a result of fraud and scams. Identity theft is one of the fastest growing types of consumer fraud. It is projected that 1 in 3 individuals will become a victim.

In 1998, the Division joined forces with AARP and the Attorney General's Office to establish the NC Senior Consumer Fraud Task Force. Federal, state and local law enforcement agencies, consumer advocates, the aging network, state and local Better Business Bureaus and crime prevention agencies formed an alliance to fight consumer fraud in North Carolina.

Facts

- In 1999, North Carolina passed the NC Predatory Lending Law of 1999 which is one of the toughest consumer protection pieces of legislation in the country.

- Because of the fast growth of businesses that use telemarketing, hundreds of thousands of telemarketing operations have started nationwide. It is estimated that over 140,000 telemarketing firms are now in operation in the United States. Ten percent of those are believed to be illegal "Boiler Room" which steal an estimated $10-$40 billion nationwide each year from consumers. It is estimated that consumers in North Carolina lose around $200-$300 million to fraud.

- While fraudulent telemarketers prey on all ages and occupations, they seem to target seniors. Losses per victim of between $50,000 and $100,000 are not uncommon. In a one-week period, the Telemarketing Fraud Prevention Project in the Attorney General's Office detected eight different telemarketing fraud "hits" on seniors with total payments amounting to $145,000.

- There have been over 350 successful felony false pretenses prosecutions (NC General Statute 14-100) against 53 members of a North Carolina-based home repair fraud ring since 1996. The SBI and local law enforcement officials and prosecutors in 11 prosecutorial districts brought charges. There were at least four

North Carolina victims of this home repair fraud who lost more than $200,000. A 92-year old blind retired army colonel lost $267,000 to this group. At least six victims lost over $100,000 apiece.

- The home repair fraud ring targeted elderly homeowners almost exclusively.

- Deceptive trade practices cases brought before the Attorney General in state civil court under the Deceptive Trade Practices Act (G.S. 75 -1.l) are limited to civil penalties up to a maximum of $5000 per violation. For the most part, there is no distinction made for scams that target seniors when it comes to civil penalty amounts. The Telephonic Seller Registration and Bonding Act of 1997 (NC General Statute 66--260 et seq.) is one of the only statutes that enables a judge to increase the civil penalty amount to a much high figure, $25,000 for certain scams targeting elderly consumers.

- Identity theft victims spend two or more years removing an average of $18,000 in charges from their credit reports.

- Last year, the Social Security Administration received more than 30,000 complaints about the misuse of Social Security numbers.

- Several web sites claim they can obtain anyone's Social Security number for as low as $49.

This article was printed in its entirety in the N.C. Senior Citizens Voice, the publication of N.C. Senior Citizens Association which is received by thousands members throughout North Carolina. 2008

Alamance County Citizens Confront Local Medical Waste Incinerator Operation

When state and national concern is being avidly addressed about environmental pollution through debate and proposed legislation, the citizens of Alamance County have become aware of what is believed to have been the best kept secret in the area – the presence of the largest medical waste incinerator, Stericycle, in the southeastern United States. Located on Interstate 85-40 in the city limits of Graham, the county seat, the facility incinerates medical waste from eighteen states transported to the site in a fleet of tractor trailers. The city council of Graham awards a special use permit to the facility and recently approved a two million dollar addition of a support structure for two cooling towers with scrubber and absorbers needed to comply with state clean air regulations. The two incinerators burn twenty-four hours a day or 17,520 hours a year at a state approved rate of 33,480,720 pounds of waste a year. The state permit also provides an Air Quality Permit which includes self-monitoring activities on one of the two incinerators every 24 to 26 months and defines emission limits for toxic air pollutants. Among these are chromium VI, arsenic, cadmium, hydrogen chloride, two high carcinogenic dioxins, mercury, chlorine, beryllium, nickel, hydrogen fluoride, and manganese as well as particulate totaling 145,795 pounds of emissions per year for each incinerator, or a total of 291,590 pounds for the two. The emissions then are found in the air, water, and soil.

Permitted incinerator wastes consist of Type O and 4 wastes, including isolation wastes, cultures of stocks of etiological agents, blood and blood products, pathological wastes and other wastes from human surgery and autopsies, contaminated laboratory wastes, sharps, diagnostic unit wastes, animal carcasses and body parts, animal bedding

and wastes from animal rooms, chewing tobacco, spent and off spec pharmaceuticals, discarded biological and contaminated food products, and contaminated equipment generated by Acute Care Hospitals, Acute Psychiatric Hospitals, Skilled Nursing and Intermediate Care Facilities, Veterinary and Physician Clinics, Pharmaceutical Companies and Suppliers, and USDA regulated facilities. Less than 15% of the waste is sterilized prior to transportation to the site.

Within a three mile radius of the facility are twelve public and private schools, the Alamance Community College, over 12,000 school adults and children, five or more dairy and beef cattle farms, five municipalities, the Graham, Mebane City Lake, the Cape Fear River Basin tributaries and the Hawfields Presbyterian Home for Seniors, and Vencor Rehabilitation Center.

Concerned residents of the immediate area and from adjoining counties have met in ~~four~~ six public informational sessions to study and analyze the industry because of the high prevalence of cancer, diabetes, asthma, allergic reactions, birth defects, pulmonary illnesses, and other physical maladies of residents of the surrounding area. Tests have been requested on incinerator air quality with the cooperation of the Alamance County Health Department, the Blue Ridge Environment Defense League and the N. C. Department of Environment and Natural Resource. An epidemiological study to determine if the operation is hazardous to the residents of the county and the state has also been requested.

The citizenry will persist in endeavors to monitor the activities of the plant and to ~~seek~~ alternative disposal methods of medical wastes which will not contaminate the air, water, and soil upon which it is rightfully dependent.

Thérèse Mae D. Cuccia
August 2001

Times-News
Burlington, North Carolina
www.TheTimesNews.com
FRIDAY, September 29, 2006
50 cents

Absolutely necessary - Care in advance to prevent

Weather
High 71, Low 44

Details/Page B6

N.C. reviews long-term care housing

State considers separating elderly and mentally ill patients

From staff and wire reports

CHARLOTTE — Responding to problems in the state's adult-care homes, North Carolina health officials have announced a plan to house aggressive mentally ill patients in a facility separate from rest homes designed for senior citizens.

Plans for the new type of facility are being drafted, Health and Human Services Secretary Carmen Hooker Odom announced Wednesday. The move comes after a series of high-profile cases involving adult-care residents who wandered away from their care centers. One resident died.

More to the story

- Group promotes mental health awareness week /Page D1

State rules allow the mentally ill to be placed in rest homes, but the practice has been criticized for years. Critics complain the rules endanger frail geriatric residents and place mentally ill people in facilities that lack trained staff to properly care for them.

Rest homes have been a convenient place to house mentally ill patients when they move out of large mental hospitals under a state mental health reform plan.

In the last two months, two residents have wandered away from the Unique Living home in Cleveland County outside Charlotte. The first resident, who suffered from dementia, was found dead in nearby woods. The second, who has schizophrenia, was found alive but hungry 100 miles away in Maggie Valley.

In June 2005, Alamance County authorities said 25-year-old Anthony Michael Zichi stabbed 88-year-old

See REVIEWS HOUSING/Page A2

REVIEWS HOUSING

Continued from Page A1

Ruth Bowman Terrell to death. The two were residents at Evans Forever Young Family Care Home near Ossipee.

Zichi has been indicted on a first-degree murder charge, but it hasn't been determined whether he is mentally competent to stand trial.

Hooker Odom has made finding a solution a priority, Assistant Health and Human Services Secretary Jackie Sheppard said.

"Given the critical nature of this issue, and what we see day after day about people (wandering) and other issues, she decided it was too important not to take on," Sheppard said during a meeting Wednesday of the North Carolina Study Commission on Aging in Raleigh.

Sheppard said the state health department has "cobbled together" the $600,000 expected to be the minimum needed for a long-range study on housing options for mentally ill patients, including those who have a high potential for aggression.

Health department officials also told commissioners they've made progress toward improving screening of patients who are entering rest homes.

Lawmakers on the study commission said they were pleased with the effort but noted it has been a decade since the state Legislature, the health department and rest home industry officials started debating how to help mental health patients who need long-term care.

Rep. Jennifer Weiss, D-Wake, questioned why the state has been moving people out of mental hospitals with no plan on where to put them.

"I'm kind of distressed, shocked and appalled that now, in 2006, we're being told we need a study to figure out where we need to put these folks," Weiss said.

Sheppard agreed.

"We share your frustration, and (we) don't take this issue lightly. People's lives are at stake," she said.

Serving the mentally ill requires larger staffs and specialized training for workers who handle patients' drugs and possible outbursts, experts say.

A STATE STUDY completed two years ago estimated that as much as $198 million in additional local, state and federal dollars would be needed to fully train and staff care homes to meet the needs of all North Carolina residents.

"We have been asking for (solutions) for 12 years," said Rep. Debbie Clary, R-Cleveland. "The problem with it is the money."

Recommendations To Improve Care For
Residents in
Long Term Care Facilities

1. There is not enough staff to adequately meet the needs of residents. Proper supervision and care is especially sparse on weekends and holidays.

2. Families would like for facilities to maintain a daily log of services rendered i.e. bathing, grooming, meal assistance, etc. This daily journal would help family members and other caregivers to know exactly the type and quantity of care their loved one is receiving.

3. All therapists used in the facilities should be licensed, registered therapist, for all types of therapy (physical, occupational and speech). The State needs to set a basic salary for each hour a therapist works with a patient.

4. Each patient pays for room and board. (Private pay-Medicare or Medicaid). The facility should pay for the liquid food some patients are on and not expect the private patients' medicare and Medicaid to pay extra for the liquid food.

5. Every patient or patient's family should get an itemized statement each month.

6. Every facility with ten or more patients, should have a Family Council meeting every month. The facilities are not supporting Family Council meetings to enhance the care of residents and offer support to family members.

7. Finally, more and more families have to supplement the care their loved ones are receiving in long-term care facilities. By this we mean families or paid caregivers are feeding, bathing, transferring and providing general care to residents because facility staff is not providing this service as needed.

N.C. bill would restrict eminent domain

Lawmakers hope to calm public fears

By Gary D. Robertson
The Associated Press

RALEIGH — Legislators should pass a law during the coming session that would prevent local governments from using eminent domain authority to clear the way for private economic development projects, a state House committee decided Tuesday.

The practice is not common in North Carolina, but such a law would calm public worries arising from a U.S. Supreme Court decision that said the practice was legal, according to members of the House Select Committee on Eminent Domain Powers. The committee stopped short of asking the General Assembly to approve a proposed constitutional amendment that would limit government power to acquire homes and businesses for private projects.

North Carolina law already limits local governments to nine conditions in which cities and counties can condemn private land, but some towns and cities have received exemptions over the years for economic projects. Committee members have said they believe the existing law is pretty strong, but have proposed a law that would close any loopholes.

The bill would limit eminent domain exclusively to public uses already set out in law.

"I don't think we need to be messing with the (state) constitution," said Rep. Bruce Goforth, D-Buncombe, a committee co-chairman. "I think we can solve the problem and I don't see that anybody should have a concern."

Eminent domain gives government the authority to take private property for public use, usually in exchange for compensation to the property owner. The U.S. and state constitutions provide for eminent domain.

The panel began meeting three months ago in response a Supreme Court ruling last year that allowed the town of New London, Conn., to take houses on property that would be used for a hotel and convention center.

North Carolina and other states responded to the case by examining how to prevent a similar situation within their jurisdictions. At least five states have passed laws restrict-

See **EMINENT DOMAIN**/Page A2

Wednesday, April 26, 2006

EMINENT DOMAIN

Continued from Page A1

ing eminent domain for private development and South Carolina lawmakers are considering a constitutional amendment limiting government power to take private land.

The bill recommended to the Legislature by the House panel would limit eminent domain exclusively to public uses already set out in law, such as the creation or expansion of roads, parks, sewer lines and government buildings.

ANY LAWS GRANTING

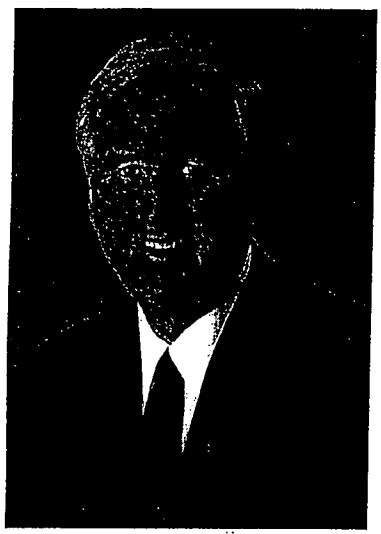
tional condemnation authority to specific local governments beyond the statewide restrictions would be repealed July 1 unless condemnation proceedings were ongoing.

About 10 so-called local eminent domain laws have been passed since 1981, mainly for economic development projects such as industrial or business parks, according to legislative researchers. The proposed bill would prohibit towns and cities from condemning land for such parks in some cases.

Critics of the proposal argue any bill will be insufficient since the General Assembly could repeal the law later.

Problem still remains for homeowners

Property Rights, Wronged



Larry Wooten
NCFB President

FARM BUREAU NORTH CAROLINA

North Carolina Farm Bureau

One of the great freedoms enjoyed in America is the right to own property. In the country's early history, the need for land drove thousands of European settlers to risk everything and cross the ocean to reach places like North Carolina to obtain property and build homesteads.

Today, however, the rights of property owners are being tested in the courts as some local governments use eminent domain laws to take property for use by private developers that should enhance tax values.

Last summer, the U.S. Supreme Court examined such a case in Kelo v. City of New London, offering an opinion that lit a firestorm of negative response from citizens groups and organizations such as Farm Bureau.

In the Kelo case, the government of New London, Connecticut wanted to sell private homeowners' properties to a developer, expecting greater tax revenue when condominiums and a shopping mall were built where people's homes used to stand. Homeowners disagreed. The Supreme Court heard the case last summer, and a divided court ruled in favor of the city.

Protest Response

The court decision was viewed as setting a chilling precedent in regard to the future rights of property owners. Monmouth University surveyed residents of New Jersey after the decision and found 90 percent opposed the taking of low-value homes by government to build shopping centers. Another poll conducted by NBC News and the Wall Street Journal found that people were more concerned about Supreme Court rulings concerning property rights than any other issue the court was likely to examine.

Farm Bureau leaders across the country have voiced objections to the court's ruling. In addition, one of the nation's top 10 banks, headquartered in North Carolina, has joined the effort by refusing to loan money to developers that obtain private property through the forced sale by local governments. In an Associated Press article, the bank's CEO said the court's position was "misguided and wrong."

Eminent Domain

There is good reason why local governments are given the right to take land by eminent domain. This legal authority allows the purchase of private property by the government if it is needed for public works projects, such as new roads, water and sewer lines or if a property is a public health hazard or blight.

The new twist seen in the use of eminent domain laws by local governments in some states, involves a profit motive. The Virginia-based Institute for Justice notes more than 400 cases in Ohio of threatened or actual property condemnation (for private profit) between 1998 and 2002.

The institute also named Farm Bureau as one of the nation's top supporters of private property rights, and we will continue to be a vocal supporter against the unfair seizure of private property for commercial gain. FB

Alva "Chip" Cromartie
Executive Director
Adult Center for Enrichment, Inc.
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(336) 274-3559
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Adult Center for Enrichment, Inc.

The mission of the Adult Center for Enrichment (ACE) is to enrich the lives of frail and impaired adults, their families, and the community through specialized adult day services, respite care, education and support. We offer 3 Adult Day Centers, 3 Group Respite Sites, CarePartners at Home, and Caregiver Education programs in Guilford County. Both the Adult Day Centers and Group Respite sites engage participants in on-site activities such as art and music, providing fun and friendship while encouraging their independence in a safe environment. CarePartners at Home, an in-home volunteer respite program, gives the caregivers invaluable time and expands the life of their loved one in a familiar setting. Caregiver Education focuses on providing the caregivers with the information they need to best help themselves and their loved ones live up to their potential.

Support Family Caregivers

According to the NC Department of Health and Human Services, families provide 80% of all long-term care and almost everyone can expect to become a family caregiver at some point in their lives. These caregivers are an at risk population facing an increased threat to their mental and physical health (Family Caregiver Alliance, 2007). In a study conducted by the Commonwealth Fund caregivers reported chronic conditions at nearly twice the rate of non-caregivers (45% vs. 24%). The frail and impaired adults that are being cared for are also at risk for hospitalization or premature nursing home placement if their chronic disease(s) are not managed properly. A one-month delay in nursing home placement for persons with Alzheimer's disease is estimated to save Medicare $1 billion (NC DHHS, 2006). The overall outlook of frail and impaired adults and their caregivers can be improved by offering respite and education.

Support **Adult Day Care, Adult Day Health, Group Respite** as well as other services that provide a break to family caregivers. Also support **Caregiver Education** programs.

Home and Community Care Block Grant (HCCBG)

Home and Community Care Block Grant (HCCBG) funding is specifically for those individuals over the age of 60 who have a need for community-based services that are not otherwise paid for by Medicaid. A waiting list continues to exist and the number of North

Carolinians over the age of 60 continues to grow. HCCBG funding is critical to get people the basic supports that they need and provide these supports in the way they want – at home, in the community. HCCBG funds are available to each county and can fund 18 different programs including Adult Day Care, Adult Day Health, and Group Respite.

Restore Medicaid CAP Reimbursement Rates

Adult day programs were already losing more than $13 per client per day by serving publicly funded clients. The average daily cost (open avg. 10 hours per day) is more than $53 per day compared to reimbursement rates that dropped from $41.51 to $39.32 per day.

Reduce Medicaid Expenditures by Including Adult Day Health in Medicaid State Plan

Given a choice, frail elders and persons with disabilities prefer to stay at home in their community for as long as possible. The problem is that regular Medicaid will pay for a nursing home but those funds cannot be used to pay for adult day services. According to a 2009 Genworth Financial Long Term Cost of Care Study an Adult Day Health Center costs $12,415 per year (5 days a week) compared to $60,225 per year for a semi-private room in a nursing home.

THE UNIVERSITY *of* NORTH CAROLINA
GREENSBORO

Gerontology Program

124 McIver Building
PO Box 26170, Greensboro, NC 27402-6170
336.256.1020 *Phone* 336.334.4113 *Fax*
uncg.edu/gro

Good Morning,

I am Dr. Janice I. Wassel, Director of The UNCG Gerontology Program, a graduate program that delivers leaders in the profession with the highest quality transdisciplinary education in gerontology, We prepare students for academic and professional careers serving age-related markets nationwide. At UNCG, we have an established research network of 50+ scholars who are highly respected in North Carolina, nationally and internationally.

As a member of the North Carolina Commission on Aging, you are aware of the vast number of issues related to aging. Today, I wish to bring to your attention the critical state of gerontology and geriatric programs. They are declining, both in number and in size. Between 2000 and 2009, the number of national programs at all levels of training deceased from 670 to 450, a 33% decline. I have prepared a handout from my research regarding the decline of programs that I will leave with my remarks.

The reason, in my opinion and based on my research, for this decline is the lack of funding designated to professional programs in gerontology, such as the program at UNCG. Recruiting students to the aging field at the undergraduate level is difficult when competing with courses attractive to 18 to 21 year-old students. Courses such as early childhood education, criminology or deviant behavior are easy to fill and make money for the department. After all, most of us find toddlers loveable and who here doesn't find CSI interesting or follow interesting court cases? Courses on aging are not as attractive to these young adults who have been, in general, exposed to the well-established negative stereotypes of aging, have little exposure to issues in aging or the richness of opportunities and careers in the field. Consequently, courses on aging do not fill becoming costly to a department. Thus, courses and programs are being cancelled. As a result, fewer undergraduates are exposed to curriculum in aging, fewer learn of careers in aging or move into graduate programs.

Fortunately at UNCG our gerontology graduate program has university support, but remains underfunded. The UNCG gerontology program is the largest master gerontology program in NC. Our graduates are moving into excellent career positions. We are respected nationally and our international reputation is growing. However, resources at our State level designated to aging do not 'find' UNCG. Each of us here are aware that North Carolina needs educated professionals at the Bachelor and Master level to meet the demand of our aging population. UNCG is best suited to provide these professionals I respectfully request the Commission on Aging to review The UNCG Gerontology graduate program and consider our potential when allocating resources directed for aging issues. Thank you for your attention.

Janice I. Wassel, Ph.D., RFG
Director, The UNCG Gerontology Prgraom
Co-Director, The UNCG Dual Degree MS in Gerontology-MBA Program
336.256.1020 (ph)
jiwassel@uncg.edu

Data calculated from Association for Gerontology in Higher Education. 2000 and 2009. *Directory of Educational Programs in Gerontology and Geriatrics*

- Number of Institutions
  - In 2000, there were *433*
  - In 2009, there were *273*

- Difference of 160 institutions
- Decrease of 37%

Percent Change in Programs

Data calculated from Association for Gerontology in Higher Education.
2000 and 2009. *Directory of Educational Programs in Gerontology and Geriatrics*

Program Level	2000	2009		% Difference
Associate	61	20		37%
Bachelor	213	147		67%
Master	183	130		31%
Doctoral	80	57		29%
Medical Doctoral	27	13		52%
Total	564	367		35%
Post-Doc - Residency	20	7		65%
Post-Doc Fellowship	42	26		38%
Other	44	50		14%
Total	106	83		22%
Combined Total	**670**	**450**		33%

FACT SHEET
North Carolina Senior Tar Heel Legislature
2010 Legislative Priorities

- **Provide funding to sustain Project C.A.R.E. (Caregiver Alternatives to Running on Empty).** Project C.A.R.E. provides respite care, family consultation and linkage to caregivers of persons afflicted with Alzheimer's disease. By helping families keep a loved one in the home longer, less time will be required for institutional care. The resulting savings in public funds are substantial. We recommend that $1,000,000 in recurring funds be appropriated to sustain Project C.A.R.E. in the 21 counties it now serves and to expand it into other counties.

- **Increase funding for home and community based services for older adults by increasing the Home and Community Care Block Grant by $5 million.** Home and community-based services include home-delivered meals, adult day care, health care, in-home aid and other services that help impaired older adults stay in their homes. These services are less costly than institutional care. The rapidly growing population of older adults is increasing the demand for these services. There are thousands of people on the waiting list for Home and Community Block Grant services.

- **Increase funding for senior centers by an additional $2,000,000 in recurring funds for a total of $3,265,316 a year.** Senior centers provide programs and services that enhance the health and wellness of older adults and support their efforts to remain independent. The 163 senior centers currently in operation or under development serve 98 counties. The requested increase in recurring funds would enable these senior centers to expand their services to meet the needs of a growing population of older adults.

- **Establish a cap on the increase in the assessed value of property determined during revaluations for persons over the age of 65, eligible for a Homestead Exemption. Revise the limits of the Act to income of $35,000.** The 2000 census estimates that 12.7% of NC's elderly over 65 have an income below the poverty level. Frequent reassessments of property values have resulted in much greater tax burdens within this population.

- **Mandate pre-employment and random drug testing for employees of nursing and assisted living facilities.** Skilled nursing facilities and adult care homes provide specialized care for frail adults with chronic health problems and disabled persons. The safety of residents is compromised when employees abuse drugs, resulting in decreased productivity, increased liability to the facility and its staff and increased potential crimes such as theft and patient abuse. While some companies require pre-employment and random drug testing for their employees, all companies should have this policy in place.

FACT SHEET
North Carolina Senior Tar Heel Legislature

The North Carolina Senior Tar Heel Legislature was created by the North Carolina General Assembly with the passage of Senate Bill 479 in July of 1993.

The Senior Tar Heel Legislature was created to:

- Provide information to senior citizens on the legislative process and matters being considered by the North Carolina General Assembly.
- Promote citizen involvement and advocacy concerning aging issues before the North Carolina General Assembly.
- Assess the legislative needs of older citizens by convening a forum modeled after the North Carolina General Assembly.

Each of the 100 North Carolina counties is entitled to one delegate to the Senior Tar Heel Legislature. Most counties also have an alternate delegate. Delegates and alternates must be age 60 or older. The North Carolina Division of Aging and Adult Services provides staff support for the Senior Tar Heel Legislature in cooperation with the 17 Area Agencies on Aging, which are responsible for conducting the selection of delegates and alternates.

Mary Edwards of the Division of Aging and Adult Services is the principal staff aide.

For more information about the North Carolina Senior Tar Heel Legislature, please contact your county's Delegate or Alternate or the following members:

Speaker

Betty Hunt
Randolph County
1206 Ben Lambeth Road
Asheboro, NC 27205

Speaker Pro Tempore

John Thompson
Carteret County
108 Buena Vista Drive
Newport, NC 28570

Deputy Speaker Pro Tempore

Herb Harris
Person County
211 Carrington Lane
Roxboro, Nc 27573

Secretary

Marge Zima
Onslow County
574 Rhodestown Road
Jacksonville, NC 28540

What the Senior Center means to me..... March 23,2010

It means Life.... If I did not come to the center ,my day would be: get up in the morning have coffee and some kind of cake and then do chours around the house.

Then at lunch I'd have some kind of sandwich or something sweet with pepsi, the off to watch TV until later.

For dinner,out for a burger or some quick thing and back home to TV.

I love coming to the center to fellowship with my our seniors.Because something has happened doing the night to share.

We play games,do puzzles,lots of things to keep our minds working.Somedays if it wasn't for the center there are times that I would not see or talk to another person.

Our meals are very good and have the things that we need in them. And they are most likely the only meal that some of use eat that day.

I'm thankful for the center and its employee. They are there to help of us if we every need them

Margie Moody
Asheboro,N.C.

March 24. 2010

NORTH CAROLINA GENERAL ASSEMBLY
COMMITTEE MEETING

REF: The North Carolina Study Commission on Aging
Senator A. B. Swindell, Co-Chair
Representative Jean Farmer-Butterfield, Co-Chair

INTRODUCTION

Concisely anyone at some point in our lives can become a caregiver. Caregivers are husbands, sons, daughters, grandchildren, nieces, nephews, partners, church family and friends.

My definition for caregiver would be one who constantly gives their whole life for the sake of another.

PERSONAL EXPERIENCE

On December 18, 2006 my mother was diagnosed with moderate to severe Alzheimer's and she came to live with me, in Charlotte NC. My mother was 87 years old, I did not know what I was going to do, and I did not have a plan. The news of her diagnosis was devastating, I was the only relative she had in the state and I had a husband and a 14 year old son. ~ we became the sandwich generation. I was on vacation at the time and was due back to work on January 2nd. I knew I had a very large task to deal with that was overwhelming for me. After praying for a couple of days and trying to get some administrative things in place. I called a co-worker who had been through what I was about to encounter and she told me to call Social Services. I made the call and spoke with a Social Worker; I told her my situation and through a program she introduced to me called **PROJECT C.A.R.E. CARGIVER ALTERNATIVES TO RUNNING ON EMPTY.** The worker informed me that the program could assist me with respite or adult day care services for a while. At that moment my spirits were lifted and I knew that God heard my prayer and doors began to open for me. The placement arrangements were made and my mother was enrolled and attending adult day care by Dec. 30th. I poured out tears of joy knowing that in the time of such great need, there was something and someone was there to help me. Usually there is no help for the ~~**Middle Class,**~~ but this time I was surprised, **PROJECT C.A.R.E.** was the needed resources that help save my job, family and put my mind at peace.

CONCLUSION

The need for caregiver's support is **vital** and of great essence. Family caregivers play a major role in maximizing the health and quality of life of more than **30 million** individuals with acute and chronic illness.

The caregiver role is not only a positive factor to a love one, but it **decreases** the rates of patient hospitalization and institutionalization. Evidence shows that caregiver support delays or prevents nursing home placement. People with moderate dementia have been able to defer placement by nearly **1.5 years** when their families receive caregiver services.

FACT: my mother was only institutionalized for the last (7) months of her life. She was placed in a skilled nursing facility in April 2008 and died Nov. 27, 2008.

Due to the multi-faceted role that family caregivers play, they need a range of **support services** to remain healthy, improve their care giving skills and to maintain their role. With the dramatic aging of the population, we will be relying even more on families to provide care for our love ones. A person

with moderate to severe Alzheimer's, requires 24/7 care. Without supportive services, like **PROJECT C.A.R.E.,** these enormous pressures and risks of family care giving will lead to burnout, compromised health, depression, financial exhaustion and even death of caregivers.
I **beseech** you to please do not take these services from the so many caregivers, in need. If these services are eliminated it will be total destitution for family caregivers.

Thank you,

Alma Parker-Davis
Caregiver
704-432-6333
Mecklenburg CO.

Project Care works at
The Elizabeth and Tab Williams Adult Day Center
Jean Small, Director

Many organizations and facilities that serve Seniors have the word CARE in their name. That does not insure that you can actually find care when you seek help from them. **Project Care** is about care and caring for persons in our community who are Caregivers for someone with Alzheimer's Disease or a related dementia.

For five years we have been able to find help for Caregivers through the **Project Care** program. This grant provides a Case manager/Family Consultant to work with exhausted and exasperated Caregivers and find appropriate respite. This is a wonderful source of information and encouragement. Often the Caregiver gets a grant to help them afford respite for rest and renewal. It also helps them become aware of community resources to help them on the long journey.

Because of **Project Care**, Caregivers are able to see how they can use these new found resources to avoid placement. It would be difficult to put a dollar value on the cost saving of this grant to the State. Caregivers see how they can continue with some support and financial assistance. Often the **Project Care** grant is the first help a family has received and they begin to attend support Groups or Caregiver training classes. This helps them be better Caregivers and have confidence in their decision making.

This Adult Day Center is a referral source to **Project Care**. We have been able to offer respite quickly and efficiently. The Family Consultant understands crises situations and works promptly to give not only assistance but also hope. During the past year thirty three Caregivers have found help and hope through **Project Care.** After the grant is used, we have been able to work with recipients to find a way to continue to give some respite relief.

Project Care made it possible for Jim to continue his courier run even though his wife has progressed and experiences terrible sundowning. Jim says it is his outlet and helps him be able to continue to care for her.

Project Care was there when Polly's sister threw up her hands and cried," I can't do this anymore."

Mary's Caregiver died suddenly and her daughter had to add this to her household and to her responsibilities, with assets tied up in legal matters. Mary's daughter has a disabled child, a demanding job, and now her Mother with Alzheimer's dementia. **Project Care** was there for her.

There are thiry more stories with endings of help and hope through **Project Care**.

The Elizabeth and Tab Williams Center has benefited greatly from the help of the grant and our community in helping fulfill our mission to help persons with dementia live at home and live with dignity. Our Caregivers and Participants have received care. A recent note from a husband, "the kindness, loving care, and compassion showed during this most difficult time were truly a blessing to both of us."

Project Care is a wonderful, caring way to help North Carolina Caregivers.

/Users/jean/Desktop

special Needs Dentistry

Thank you for improved funding.
Some great results for those who cannot see a Dentist in an office setting.

We see results like better nutrution, better health, and better SMILES.

Jean Small, Director
The Elizabeth and Tab Williams Adult Day Center

Exhibit 7

Services Covered by N.C. Medicaid by Mandatory and Optional Categories

MANDATORY	OPTIONAL
■ Ambulance and Other Medical Transportation	■ Case Management
■ Durable Medical Equipment	■ Chiropractor
■ Family Planning	■ Clinical
■ Federally Qualified Health Centers & Rural Health Centers	■ Community Alternatives Programs (CAP)
■ Health Check (EPSDT)	■ Dental and Dentures
■ Hearing Aids (children)	■ Diagnostic
■ Home Health	■ Eye Care
■ Hospital Inpatient	■ Health Maintenance Organization (HMO) Membership
■ Hospital Outpatient	■ Home Infusion Therapy
■ Nurse Midwife	■ Hospice
■ Nurse Practitioner	■ Intermediate Care Facilities for the Mentally Retarded
■ Nursing Facility	■ Mental Health
■ Other Laboratory and X-ray	■ Nurse Anesthetist
■ Physician	■ Orthotic and Prosthetic Devices (children and adults)
■ Psychiatric Residential Treatment Facility Services and Residential Services (treatment component only) for under age 21	■ Personal Care
■ Routine Eye Exams & Visual Aids (children)	■ Physical and Occupational Therapy and Speech/Language Pathology
	■ Podiatrist
	■ Prescription Drugs
	■ Preventive
	■ Private Duty Nursing
	■ Rehabilitative
	■ Respiratory Therapy (children)
	■ Routine Eye Exams & Visual Aids (adults)
	■ Screening
	■ Transportation

Note: All optional services are available to children under age 21 if they are medically necessary.

Wayne Abraham?

To:

COMMISSION TO HOLD PUBLIC HEARING

ON ISSUES INVOLVING OLDER ADULTS IN

5. In section 4.3 c) regarding non-hands on assistance. Our patients need help with meal preparation and housekeeping. Some patients have problems with toileting which would require soiled laundry to get washed regularly. Patients often rely on their aides to pick up their prescriptions or get them some groceries once a week.

6. In section 5.2 c) The new referral process will cause a delay in patients receiving care. Some patients require immediate care at home not 2-3 weeks later.

Jermaine R. Reed, GM

Maxim Healthcare Services

4411 W. Market St. Ste 304

Greensboro, NC 27407

NORTH CAROLINA STUDY COMMISSION ON AGING

Thursday, April 1, 2010
10:00 am
Legislative Office Building, Room 544

The North Carolina Study Commission on Aging met on Thursday, April 1, 2010, at 10:00 am in Room 544 of the Legislative Office Building. Members present were: Senators Bingham and Swindell; Representatives Farmer-Butterfield, Pierce and Weiss; Mr. Anthony Peace; Ms. Joan Pellettier; and Ms. Jean Reaves. Staff also in attendance was: Susan Barham, Melanie Bush, Joyce Jones, Sara Kamprath, Theresa Matula, Shawn Parker; and commission assistants Janice Mobley-Bennett and Delta Prince.

Co-chair Jean Farmer-Butterfield recognized visitors, called the meeting to order and proceeded as follows:

Interim Report on Preparing for Older Adults was presented by Mr. Dennis Streets, Director, Division of Aging and Adult Services (DAAS), Department of Health and Human Services (DHHS). Consistent with SB 195 (Session Law 2009-407), DAAS and the University of North Carolina Institute on Aging (IOA) are working together to help the state prepare for the aging of the baby boomer population and the growing number of in-migrating retirees. As part of this effort, DAAS and IOA created a joint team of key staff and leadership in August 2009 to develop a series of strategies to support increased preparedness. Mr. Streets noted the following key activities and progress to date:

- Since August 2009, the DAAS/IOA team has contributed significant personnel resources and time. DAAS has worked closely with the Governor's Office and the Governor's Advisory Council on Aging in outlining and planning the roles and tasks. The IOA team has contributed expertise in survey design, sampling, and program planning and evaluation.
- The DAAS/IOA team has conferred with various stakeholders to obtain their views on how best to proceed. The stakeholders include faculty of the UNC School of Government known to have relevant interests and expertise, directors of the state's 17 Area Agencies on Aging, and staff of the North Carolina Association of County Commissioners.
- The DAAS/IOA team is constructing a survey instrument, based on input from the other states and suggestions of state agency representatives who serve on the Governor's Advisory Council on Aging. The instrument will assess the level of awareness and preparation for North Carolina's aging population across state government agencies in several domains: workforce, built environment, programs, and services.
- The DAAS/IOA team has also partnered with the Governor's Office, area agencies on aging, local providers, and other organizations to plan six regional roundtables across the state. The primary purpose of the roundtables is identification by the participants of major issues and best practices in such topical areas as lifelong engagement and contributions; safe communities; homes and neighborhoods; health and aging; access and choice in services and support; and the workforce and economics of aging.

- In an effort to continue tracking the effect of the state's economic situation on local aging and adult services, DAAS repeated a web-based survey of local home and community service providers in September 2009 and produced an Issue Brief of the findings. The reestablishment of the North Carolina Commission on Volunteerism and Community Service has provided an excellent opportunity to reexamine the importance of volunteerism and community and civic engagement connected to seniors and aging programs. In addition, the North Carolina Center for Public Policy Research continued its research and policy analysis vis-à-vis the implications of North Carolina's aging population.

Mr. Streets announced the Governor's Executive Order No. 54, Assessment of State's Readiness for Aging Population. Under an overall theme of "Building a Livable and Senior-Friendly North Carolina," the regional roundtables will take place from April to June and will lead to a Governor's Policy Conference on Aging to be held October 13-15, 2010, Research Triangle Park. The roundtables are free, but pre-registration is required. The link for registrations is: http://www.aging.unc.edu/nccoa/2010roundtables/index.html. A copy of this executive order and an overview of agencies aging readiness is attached and made a part of these minutes.

Mr. Streets also presented a summary of facts from the Haywood Community Connections, a toolkit designed to enable communities to tap into the rich resources available through the senior population. Community programs such as these are expected to create life-enhancing relationships and increase knowledge of the county's resources, increase volunteerism and retention, provide local resources for participants, and increase supportive services and fill gaps in these services. The summary is attached and made a part of these minutes.

Mr. Streets presented a draft amendment to General Statute 143B-181.3 (Statement of Principles), 143B-181.5 (Long-Term Care Policy), and 143B-181.6 (Purpose and Intent). He noted that the purpose of these changes is to help North Carolina move forward in obtaining state and federal funding for long-term care. Mr. Streets also stated that North Carolina has received $1 million in federal funds in support of the Living Healthy Program. A copy of this draft is attached and made a part of these minutes.

Mr. Streets noted that although DHHS has requirements concerning criminal background checks of adult day care employers or employees, DAAS does not see the results for the checks. He asked that the Commission consider making changes to this policy. Ms. Theresa Johnson, Executive Director, North Carolina Adult Day Services Association, is supportive of any policies that hinder the exploitation of clients in state facilities.

Questions and Answers:
Senator Stan Bingham confirmed with Mr. Streets that DAAS does not have authority to see the results of criminal background checks and there is no reprimand from the state.

Ms. Jean Reaves reiterated that fact that there is nothing in the statutes that says a director cannot hire a person found to have infractions on his/her record prior to hiring. She also noted that this policy is not limited only to adult day care centers. Mr. Streets noted that there is some authority with child care services that gives directors the authority to deny someone from operating a child care program with the information found. Ms. Joan Pellettier expressed her approval of these

changes and thanked Mr. Streets for all of the hard work DAAS has done in preparation for long-term care.

Senator Bingham asked Mr. Streets to explain the Chronic Disease Self-Management Program. Mr. Streets stated that the program is designed to help people with chronic conditions understand how taking medicine as prescribed, good nutrition, exercise, etc. is important to their overall health.

Senator Swindell asked Mr. Streets if he currently knows of issues in the new Health Care Bill that will affect senior citizens in North Carolina. Mr. Streets noted that there is an issue with Medicaid Part D (prescription drugs and the donut hole) and a few other things that he could not clearly state at this time, but would provide a handout to members as soon as possible.

Presentation, Discussion, and Vote on Draft Recommendations was presented by Ms. Theresa Matula, Commission on Aging Staff. Ms. Matula first thanked Mr. Streets for the excellent work DAAS has done in addressing Senate Bill 195 and in taking the leadership role in helping North Carolina prepare for the increased number of older adults. As a follow-up to questions and concerns related to various aspects of Long-Term Care Partnership Program, Ms. Matula presented a letter from the North Carolina Department of Insurance addressing these concerns. The letter is attached and made a part of these minutes.

The draft recommendations to the North Carolina Study Commission on Aging were presented and explained by Ms. Matula as follows:

- Recommendation 1: Maintain HCCBG Funding
- Recommendation 2: Maintain Funding for Senior Centers, Project CARE, and Other Vital Support Programs and Services
- Recommendation 3: Coordinate a Hearing Loss Treatment Task Force
- Recommendation 4: Coordinate a Review of Nurse Aide Training Requirements
- Recommendation 5: Enact Legislation to Develop a Long-Term Care Partnership Program
- Recommendation 6: Include a Dentist on the Commission on Children with Special Health Care Needs
- Recommendation 7: Develop a Special Needs Dental Care Workforce
- Recommendation 8: Maintain Medicaid Dental Services
- Recommendation 9: Purchase Additional Mobile Dental Units
- Recommendation 10: Refine Aging and Long-Term Care Statutes in North Carolina
- Recommendation 11: Strengthen Adult Day Care Participation Protection

A more detailed explanation of these recommendations are attached and made a part of these minutes.

Questions and Answers:
Senator Bingham, referring to Recommendation 1, asked if local control meant local expenses. Ms. Matula replied this only meant that the funds (federal, state, local, consumer contribution) for HCCBG allow county commissioners the authority to decide which of the 18 services offered

they would provide in their counties. Senator Bingham also wanted to know if there is a waiting list for HCCBG funds, in which Mr. Streets replied yes, but not required.

Senator Bingham, referring to Recommendation 2, asked if there is some kind of oversight in the evaluation of senior centers across the state. Ms. Matula explained that there are recognition services/awards, peer reviews, and training for senior center managers.

Senator Bingham, referring to Recommendation 4, asked if the home health aide and the nurse aid are the same and will additional training for CNAs entail a pay increase which might also be a burden on the facility. Ms. Matula noted the additional training as the difference and was not sure about the pay issue, but stated that the training is necessary.

Senator Bingham, referring to a video presented by Mr. Streets, asked for a breakdown on the 35% of funding paid by the state to Medicaid. Ms. Melanie Bush, Fiscal Research Division, stated that traditionally the state pays 35% of every dollar spent on Medicaid and federal government spends 65% on every dollar. Currently, under the American Recovery and Reinvestment Act North Carolina is receiving 75% federal and 25% state. The funding is expected to last until June 2011 according to Ms. Bush.

Ms. Jean Reaves, referring to Recommendation 4, noted that this is a timely recommendation for those seeking assistance in training requirements. Ms. Reaves also asked the Commission to take its time in looking at the big picture on criminal background checks of employees and employers. We do not want to act too quickly and find ourselves looking at unintended consequences several months down the road, she noted.

The Commission unanimously voted to approve the 11 recommendations as outlined by staff.

Members and visitors were asked to pause for a moment of silence for Representative Maggie Jeffus in the passing of her daughter and Ms. Theresa Matula in the passing of her father.

Review and Approval of Minutes – The Commission unanimously voted to approve minutes from the February 25, 2010 and the March 4, 2010 meetings.

The Visitor Registration Sheets are attached and made a part of these minutes.

The Commission will meet again on Tuesday, May 11, 2010. This meeting adjourned at 12 noon.

Senator A.B. Swindell
Presiding Co-Chair

Delta F. Prince
Commission Assistant

Agenda

North Carolina Study Commission on Aging

Thursday, April 1, 2010
10:00 a.m.
Legislative Office Building
Room 544

I. Welcome and Comments

Representative Jean Farmer-Butterfield, Cochair
Senator A.B. Swindell, Cochair

II. Interim Report on Preparing for Older Adults (S.L. 2009-407)

Dennis Streets, Director, Division of Aging and Adult Services

III. Presentation of Draft Recommendations

Theresa Matula, COA Staff

IV. Discussion and Vote on Recommendations

V. Review and Approval of Minutes

VI. Next Meeting:

Tuesday, May 11, 2010
10:00

Public Hearing: April 22, 2010
1:00p.m. – 3:00p.m.

Tyvola Senior Center
2225 Tyvola Road
Charlotte, NC

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

SESSION LAW 2009-407
SENATE BILL 195

AN ACT TO DIRECT THE UNIVERSITY OF NORTH CAROLINA INSTITUTE ON AGING, AND THE DIVISION OF AGING AND ADULT SERVICES, DEPARTMENT OF HEALTH AND HUMAN SERVICES, TO TAKE A LEADERSHIP ROLE IN HELPING NORTH CAROLINA PREPARE FOR INCREASED NUMBERS OF OLDER ADULTS, AS RECOMMENDED BY THE NORTH CAROLINA STUDY COMMISSION ON AGING.

The General Assembly of North Carolina enacts:

SECTION 1. The University of North Carolina Institute on Aging, and the Division of Aging and Adult Services, Department of Health and Human Services, shall help the State prepare for increased numbers of older adults, due to the aging of the baby boomer generation and the influx of elderly retirees into the State. Activities shall include, but are not limited to, the following:

(1) Organizing and facilitating meetings of gerontologists, researchers, county representatives, directors of area agencies on aging, and providers of State services, to collectively identify and prioritize issues for the State to address.

(2) Working with the North Carolina Association of County Commissioners, the University of North Carolina School of Government, higher education departments of municipal and regional planning and their partners, and area agencies on aging to establish a Web site containing:

a. Information on fostering retiree and volunteer involvement, and

b. Models of local planning efforts, in order to assist municipalities in addressing accessibility and service delivery for increasing numbers of older adults.

SECTION 2. The University of North Carolina Institute on Aging, and the Division of Aging and Adult Services, Department of Health and Human Services, shall make progress reports on the activities required by this act to the Governor and to the North Carolina Study Commission on Aging on or before March 1, 2010, and on or before November 1, 2010.

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 27th day of July, 2009.

s/ Walter H. Dalton
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 2:07 p.m. this 5th day of August, 2009

Streets

North Carolina Department of Health and Human Services
Division of Aging and Adult Services
2101 Mail Service Center • Raleigh, North Carolina 27699-2101
Tel 919 733-3983 • Fax No. 919 733-0443

Beverly Eaves Perdue, Governor
Lanier M. Cansler, Secretary

Dennis W. Streets
Director

March 1, 2010

The Honorable Jean Farmer-Butterfield
Co-Chair
Study Commission on Aging
North Carolina General Assembly
Room 528, Legislative Office Bldg.
Raleigh, NC 27603

The Honorable A.B. Swindell
Co-Chair
Study Commission on Aging
North Carolina General Assembly
Room 629, Legislative Office Bldg.
Raleigh, NC 27603

Dear Representative Farmer-Butterfield and Senator Swindell:

Consistent with Senate Bill 195 (Session Law 2009-407), the Division of Aging and Adult Services (DAAS) and the University of North Carolina Institute on Aging (IOA) are working together to help the state prepare for the aging of the baby boomer population and the growing number of in-migrating retirees. As part of this effort, DAAS and IOA created a joint team of key staff and leadership in August 2009, to develop a series of strategies to support increased preparedness. Below is a summary of some of this work.

Key Activities and Progress to Date:

1. Since August, the DAAS/IOA team has contributed significant personnel resources and time. We have met frequently in full and subgroup work sessions, led by senior management from both DAAS and IOA. DAAS has worked closely with the Governor's Office and the Governor's Advisory Council on Aging in outlining and planning the roles and tasks. The IOA team members have contributed their expertise in survey design, sampling, and program planning and evaluation.

2. The DAAS/IOA Team has conferred with various stakeholders to obtain their views on how best to proceed. These stakeholders included faculty of the UNC School of Government known to have relevant interests and expertise, directors of the state's 17 Area Agencies on Aging, and staff of the North Carolina Association of County Commissioners. One of the challenges to our assigned mission of planning and undertaking activities to solicit input about priority issues from gerontologists, researchers, county representatives, service providers, and others has been the constraints created by limited local and state budgets.

3. The DAAS/IOA Team built upon a previous report prepared by DAAS for the General Assembly that had recommended a survey of the readiness of North Carolina at the state and local levels (see www.dhhs.state.nc.us/aging/demographic/agingstudy.htm). This report also identified other states that had undertaken readiness surveys. The team reviewed the aging readiness studies conducted by these states including New York, Arizona, Indiana, and Texas. Key staff members in states identified as having the strongest approaches were interviewed to better understand processes used in planning and the impact planning had on state readiness. The IOA also created a list serve and website to enhance communication and to document the progress of this effort survey effort. The website is located at: http://www.aging.unc.edu/infocenter/boomerprep/multi.html.

The DAAS/IOA team is constructing a survey instrument, based on input from the other states and suggestions of state agency representatives who serve on the Governor's Advisory Council on Aging. The instrument will assess the level of awareness and preparation for NC's aging population across state government agencies in several domains: 1) workforce, 2) built environment, 3) programs; and 4) services. The aging readiness survey should also help in gathering some information on efforts to foster retiree and volunteer civic or community involvement, models of local planning efforts, existing collaborations, and priority issues as identified by participating state agencies. The survey is being piloted and will likely be implemented in March 2010, with analysis finalized by mid-summer. The team has coordinated the plans for the state readiness assessment with the Governor's Office and her Advisory Council on Aging.

4. The DAAS/IOA Team has also partnered with the Governor's Office, area agencies on aging, local providers, and other organizations to plan six regional roundtables across the state. The primary purpose of the roundtables is identification by the participants of major issues and best practices in such topical areas as lifelong engagement and contributions; safe communities; homes and neighborhoods; health and aging; access and choice in services and supports; and the workforce and economics of aging. Under an overall theme of "Building a Livable and Senior-Friendly North Carolina," these regional roundtables—endorsed by Governor Perdue—will take place from April to June and will lead to a Governor's Policy Conference on Aging to be held October 13-15, 2010, in the Research Triangle Park. At the Governor's Conference, attendees will be invited to participate in a systematic process to further identify strategies to strengthen North Carolina's response to its aging population. The information generated by the survey assessment, regional roundtables, and conference will be used by DAAS in preparing the next State Aging Plan for 2011-2015, as required by NCGS 143B-181.1A. In addition, information obtained through the aging readiness survey and regional roundtables will be posted on the Internet.

5. As the above mentioned activities were underway, several other concurrent related activities occurred to help inform the assessment and planning process. First, in an effort to continue tracking the effect of the state's economic situation on local aging and adult services, DAAS repeated a web-based survey of local home and community service providers in September 2009, and produced an Issue Brief of the findings—see www.ncdhhs.gov/aging/IssueBrief_ImpactEconomicCrisis_HCCBG_Sept2009.pdf. This survey included a section on Adult Protective Services, from which DAAS produced a companion Issue Brief on the status of this important program provided through County Departments of Social Services—see www.ncdhhs.gov/aging/IssueBrief_ImpactEconomicCrisis_APS_Sept2009.pdf. Further, the

Governor's reestablishment of the North Carolina Commission on Volunteerism and Community Service has provided an excellent opportunity to reexamine the importance of volunteerism and community and civic engagement connected to seniors and aging programs. In addition, the North Carolina Center for Public Policy Research continued its research and policy analysis vis-à-vis the implications of North Carolina's aging population. The DAAS/IOA Team is using this analysis to help prepare for these roundtables and the Governor's Conference.

The DAAS/IOA Team looks forward to sharing the results of these efforts in its final Senate Bill 195 report, due by November 1, 2010. Should you have any questions regarding the progress of our work, please contact Joyce Massey-Smith, Budget, Planning and System Support Chief of the Division of Aging and Adult Services at 733-8400 (Joyce.Massey-Smith@dhhs.nc.gov), and Bill Lamb, Associate Director for Public Services at the UNC Institute on Aging at 966-9444 (bill_lamb@unc.edu).

Sincerely,

Dennis W. Streets

Dennis W. Streets, Director
N.C. Division of Aging and Adult Services

Dr. Mary A. Altpeter, Interim Co-Director
UNC Institute on Aging

Dr. Peggye Dilworth-Anderson, Interim Co-Director
UNC Institute on Aging

Dr. Mary H. Palmer, Interim Co-Director
UNC Institute on Aging

§ 143B-181.3. Statement of principles.

To utilize effectively the resources of our State, to enhance the ~~provide a better~~ quality of life of ~~for our senior~~ older ~~citizens~~ North Carolinians, and to assure ~~older adults~~ them the right of choosing where and how they want to live, the following principles are hereby endorsed:

(1) Older people should be able to live as ~~normal a life~~ independently as possible, and be free of abuse, neglect and exploitation.

(2) Older adults should have a choice of life styles which will allow them to remain contributing members of society for as long as possible.

(3) Preventive and primary health care are necessary to keep older adults active and contributing members of society.

(4) Appropriate training in gerontology and geriatrics should be developed for individuals serving older adults.

(5) Transportation to meet daily needs and to make accessible a broad range of services should be provided so that older persons may realize their full potential.

(6) Services for older adults should be person-centered and coordinated so that all their needs can be served efficiently, ~~and~~ effectively, and in the least restrictive environment.

(7) Person-centered information on all services for older ~~citizens~~ adults and advocacy for these services should be available and accessible in each county.

(8) Increased employment opportunities for older adults should be made available.

(9) Options in housing should be made available.

(10) Planning for programs for older ~~citizens~~ adults should always be done in consultation with them and be person-centered.

(11) The State should assist ~~aid~~ older people to help themselves and should encourage and support families in caring for their older members. (1979, c 983, s1)

§ 143B-181.5. Long-term care policy.

The North Carolina General Assembly finds that the aging of the population and advanced medical technology have resulted in a growing number of persons who require ~~assistance~~ long-term services and supports. The primary resource for this long-term ~~care provision of this~~ assistance continues to be the family and friends. However, these traditional caregivers are increasingly employed outside the home. There is growing demand for improvement and expansion of home and community-based long-term care services to support and complement the services provided by these informal caregivers.

The North Carolina General Assembly further finds that the public interest would best be served by a broad array of long-term ~~care~~ services and supports that ~~support~~ enable persons who need such services to remain in the home or in the community whenever practicable, and that promote individual autonomy, and dignity as they exercise choice and control over their lives.

The North Carolina General Assembly finds that as other long-term care options become more available, the ~~relative~~ need for institutional care will stabilize or decline relative to the growing ~~aging~~ population of older adults and people living with disabilities. The General Assembly recognizes, however, that institutional care will continue to be a critical part of the State's long-term care options and that such services should promote individual dignity, autonomy, and a home-like environment. (1981, c. 675, s. 1; 1995 (Reg. Sess., 1996), c. 583, s. 2.)

The North Carolina General Assembly is committed to having North Carolina be a leader in its support of long-term services and supports. This includes building on such federal and state supported person-centered initiatives as aging and disability resource centers, evidence-based health promotion, lifespan respite, Alzheimer's disease support, consumer-directed care, transitional care, and promotion of community living for persons who might otherwise become Medicaid eligible if placed in a nursing facility.

§ 143B-181.6. Purpose and intent.

It is the North Carolina General Assembly's intent in the State's development and implementation of policies for ~~long-term care~~ long-term services and supports ~~policies~~ that:

(1) Long-term ~~care~~ services and supports administered by the Department of Health and Human Services and other State and local agencies shall include a balanced array of health, social, and supportive services that are well coordinated to promote individual choice, dignity, and the highest practicable level of independence;

(2) Home and community-based services shall be developed, expanded, or maintained in order to meet the needs of consumers in the least confusing and least restrictive manner and be based on the desires of the ~~elderly~~ older adults, people with disabilities, their families and others supporting them;

(3) All services shall be responsive and appropriate to individual need and shall be delivered through a ~~seamless~~ uniform and seamless system that is flexible and responsive regardless of funding source, with the effective use of Community Resource Connections as these develop within the state;

(4) Services shall be available to all ~~elderly~~ persons who need them but targeted primarily to the most frail~~,~~ and needy ~~elderly~~;

(5) State and local agencies shall establish a fee system for persons who have the ability to pay in order to maximize the use of limited resources ~~by establishing a fee system for persons who have the ability to pay;~~

(6) State and local agencies shall invest in supports for families and other informal caregivers of persons requiring assistance over the long term to maximize further the use of limited resources;

(7) ~~Institutional~~ Care provided in facilities shall be ~~provided~~ offered in such a manner and in such an environment as to promote the maintenance of health and ~~or~~ enhancement of the quality of life of

each resident and timely discharge to a less restrictive care setting when appropriate; ~~and~~

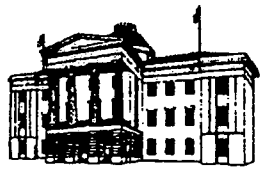
(8) Emphasis shall be placed on offering evidence-based activities to promote healthy aging, prevent injuries, and manage chronic diseases and conditions;

(9) Individuals and families shall be encouraged and supported in planning for and financing their own future needs for long-term services and supports; and

(10) State health planning for institutional bed supply shall take into account increased availability of other home and community-based services options. (1981, c. 675, ss. 1, 2; 1995 (Reg. Sess., 1996), c. 583, s. 2; 1997-443, s. 11A.118(a).)

5 shuts

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 54

ASSESSMENT OF STATE'S READINESS FOR AGING POPULATION

WHEREAS, North Carolina is undergoing a major demographic shift with the aging of its population; and

WHEREAS, North Carolina's 2.4 million "baby boomers" represent more than a quarter of our present population; and

WHEREAS, 30 of North Carolina's counties today have more persons age 60 and older than persons age 17 and younger, and many more counties are expected to face this circumstance by 2029; and

WHEREAS, the aging of North Carolina's workforce may result in skill and labor shortages; and

WHEREAS, it is vitally important that North Carolina be well prepared to meet the challenges and realize the opportunities of an aging population.

NOW, THEREFORE, by the power vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED:**

Section 1. Purpose and Administration of Assessment

Cabinet agencies will assess their readiness to serve our aging population and will develop strategies and proposals to strengthen their preparedness for and response to our aging population. The Division of Aging and Adult Services, Department of Health and Human Services and the Governor's Policy Office will work with the University of North Carolina Institute on Aging and the Governor's Advisory Council on Aging (hereinafter collectively referred to as the "Aging Assessment Team") to plan, prepare, administer and report on this assessment.

Section 2. Scope of Assessment

The assessment should include a review of the following:

a. existing and proposed policies, programs and services specifically targeted toward older adults;

b. other documents and initiatives that have examined the effect of an aging population on policies and programs;

c. the participation of older adults, their families and caregivers in shaping relevant programs, policies or services;

d. the participation of the private sector and local government in shaping relevant programs and policies; and

e. other relevant items identified by the Aging Assessment Team.

Section 3. Participation by Other State Agencies

Other state agencies under the authority of The Board of Governors of the University of North Carolina System, the State Board of Community Colleges, the State Board of Education, and the Council of State that are requested to participate in the assessment are encouraged to do so.

Section 4. Participation by Local Government Entities

Upon completion of the statewide assessment, the Aging Assessment Team will work with local government entities to assess their readiness to serve the aging population. Local government entities that are requested to participate in the assessment are encouraged to do so.

Section 5. Effect and Duration

This Executive Order is effective immediately and shall remain in effect until December 31, 2012, unless earlier rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this thirtieth day of March in the year of our Lord two thousand and ten, and of the Independence of the United States of America the two hundred and thirty-fourth.

Beverly Eaves Perdue
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

April 1, 2010

Aging Readiness Overview

What Is This?

Through an Executive Order, Governor Perdue has called on state agencies to assess their preparedness for North Carolina's growing aging population. The NC Division of Aging and Adult Services, in partnership with the UNC Institute on Aging, will survey state agencies to assess their readiness. Some of the areas to be examined include:

- ✓ how aging of population is influencing plans, policies, programs, and resources, and how the views of older persons are being considered;
- ✓ aging workforce and the potential loss of critical skills and knowledge within the agency and among local partners—including possible use of older volunteers and effective use of technology in the workplace;
- ✓ potential for further collaboration across agencies in planning for and responding to the aging population;
- ✓ use of adaptive and smart technologies and improvements in the built environment (e.g., walkways, parking, home/office modifications) to better meet the varied and special needs of older adults to promote their health and independence; and
- ✓ major issues and best practices.

Why Is It Important?

This will be the first time that a North Carolina Governor has called upon state agencies to examine our readiness to meet the opportunities and challenges of an aging population.

- This initiative is consistent with the Governor's goal of *Setting Government Straight* in that it will help identify opportunities for collaboration and further citizen input, gaps in our services and programs, and our state of readiness to meet future needs.
- The initiative will also help identify ways to support the Governor's vision for North Carolina as it pertains to jobs and economic recovery, education and lifelong learning, and safe communities.
- The initiative is consistent with recommendations of the Legislative Study Commission on Aging, the North Carolina Center for Public Policy Research, and the Governor's Advisory Council on Aging.
- Based on the experience of other states that have undertaken similar assessments, we can anticipate a number of changes in programs and policies that will benefit older persons and their families across North Carolina. The attached list gives a few examples of what other states have reported from their assessment and response.

How Will the Information Be Used?

Information from the assessment will be put to immediate use and also will continue to aid future work at the state and local levels.

- The full report of the assessment will be reviewed with the Governor and her Governor's Advisory Council on Aging.
- It will be highlighted at the Governor's Conference on Aging scheduled for October 13-15, 2010, in the Research Triangle Park, and will contribute substantially to the next State Aging Plan for 2011-2015, which is due to the General Assembly in March 2011.
- Information from the assessment will be used in creating a public web-hub for use by consumers, public officials, the business community, and other community leaders.
- It is expected that the communication channels established among participating state agencies will continue to grow in the future as North Carolina better realizes the implications of an aging population.

What Lessons Have Been Learned from Other States?

Issue	NC Response
High level support is vital	Governor issues Executive Order
Sustaining interest and momentum over time is essential to realizing benefit of effort	Strengthen membership and involvement of Governor's Advisory Council Establish corps of Aging Liaisons who can continue to serve as communication link
Provide easy way to participate in assessment	Hold orientation for Aging Liaisons Use web-based and tested survey tool

A Review of What Some Other States Have Learned and Done

Utah

- The Utah Department of Transportation is retrofitting intersections of sidewalks with curb cutouts, enhancing lighting on some urban freeways, enhanced reflectivity on roadway signage, new intersection traffic signals that are brighter and easier to see, and improved pedestrian buttons.
- The Utah Department of Corrections is addressing the growing number of elderly and infirm prisoners who need assisted living and long-term care and the serious community concerns about releasing prisoners with a history of violence and sex offenses. Utah's response includes: developing an accurate prediction of anticipated older offender population growth; considering the expansion of sex offender treatment resources; planning for a long-term care/assisted living unit to house elderly and inform inmates [*NC has a 55-bed unit at its Randolph Correctional Center that is designated for long-term care inmates who are not ready to be housed in the general population because of medical problems.]*; and projecting older inmates' medical costs and identifying ways to offset these costs through budget reductions or increased revenue.
- The Utah Department of Natural Resources anticipates an increase in the number of Senior Adventure Passes and discounted entrance fees, which may affect revenue. Recognizing that this visitor group may enjoy specialized programming, the Department is now offering a reduced fee for anglers who fish Tuesday through Thursday—well targeted toward senior retirees.

New York

- Multiple agencies are examining how the shifting age composition of the population will refashion the state's overall revenue picture, affecting a variety of public and private entities, consumers, and the state's economy.
- Some New York agencies are creating aging-specific consultants or bureaus to assure adequate and appropriate attention to aging issues.
- New York reports that its initiative has encouraged sharing and collaborating among groups that had not occurred before and that has led to new ideas and strategies to maximize the opportunities and challenges of the state's changing demographics.
- The State's Geriatric Mental Health Act created a Geriatric Mental Health Planning Council to develop strategies to improve care and treatment of older adults with co-morbid health and mental health conditions and establish program demonstrations.
- The Department of Environmental Conservation completed 140 accessibility projects on state lands—through public-private collaboration—to provide further opportunities for outdoor recreation for older adults and people of all ages with disabilities.
- The Department of Insurance launched a long-term care insurance awareness and education campaign that included a web-site: www.planaheadny.com.

- The Department of Agriculture and Markets has strengthened such programs as *Farmlink* to match older farmers without family members interested in farming with young, prospective farm operators.
- The Department of Correctional Services and Office of Mental Health developed a new cognitive disorder unit for inmates with Alzheimer's.

Arizona

- Arizona affirmed that many partners who are key to helping prepare the state for an aging population remained on the fringes of the system—left out of mainstream discussions and systemic planning. Under the direction of the Governor's Office, state agencies now meet quarterly to report their progress, accomplishments, and barriers encountered while implementing their strategies.

California

- Health data is now centralized with appropriate privacy protections, allowing consumers and their care providers to access the patient's complete medical history and avoid conflicting treatment regimens. This data system has also facilitated using aggregate data to track changing health patterns, treatment efficacy, epidemiological data, and other key health indicators.

Building a Livable and Senior Friendly North Carolina Governor's Policy Roundtables

HEALTH AND AGING

April 22, 2010
1 pm - 4 pm
Jarvis Memorial Methodist Church, Family Life Center, 510 South Washington Street, Greenville
Partnering AAAs: Regions L, Q, and R

As the population of older North Carolinians continues to grow, the implications for health and the continuum of care continue to expand both in terms of health promotion and wellness services and services needed to address acute and chronic health care conditions of older people. Issues in this area might focus on management of chronic conditions, getting healthy, staying healthy and the services and supports needed to assist older adults in this endeavor, and the critical role that family caregivers play in addressing the needs of older adults.

ECONOMICS OF AGING

April 28, 2010
9 am - 12 pm
Greensboro Downtown Marriott, 304 N. Greene Street
Greensboro
Partnering AAAs: Regions G, I, and J

The economy plays a large part in shaping the lives of older people, and the aging population has important impacts on the economy. Issues in this area might address the changing nature of retirement and its timing, human resources management issues of an aging workforce, job training and employment opportunities for older adults, savings and investment dilemmas and strategies, the professional and paraprofessional workforce needed in the future to serve older adults, and the business opportunities available to address the growing older adult consumer market.

Access and Choice in Services and Supports

May 10, 2010
1 pm - 4 pm
Land-of-Sky Regional Council, 339 New Leicester Highway, Suite 140
Asheville
Partnering AAAs: Regions A, B, and C

The aging of the population has broad implications for the development of our systems of care, financing, and structure of services and supports. In addition to systems of care, financing and structure of services and supports, issues in this area might address issues in the provision of home and community based services, efforts to integrate access and services to meet the needs of older adults and non-elderly adults with disabilities, and reform measures being taken to improve care provided in residential long term care settings.

Lifelong Engagement and Contributions

May 19, 2010
10 am - 1 pm
Grandfather meeting room, LaQuinta Inn & Suites, 165 HWY 105
Boone
Partnering AAAs: Regions D and E

Livable and senior-friendly communities value the engagement and contributions of elders. With increased longevity and expectation of years of good health, today's seniors and Boomers will seek ways to be meaningfully engaged in their families and communities, as well as to leave a legacy to the larger society and younger generations. Issues in this area might explore how to capture the strengths, talents, needs, and motivations of the generations, in ways that will help us plan for and keep up with changing ways of aging. Attention might be placed on how community institutions can encourage and support seniors as leaders, volunteers, mentors and role models. Topics may also include engagement of seniors in lifelong learning, civic engagement, recreation, spiritual life, the arts, other creative expressive pursuits and intergenerational activities.

HOMES AND NEIGHBORHOODS

May 25, 2010
9am - 12pm
Friendship Missionary Baptist Church, 3400 Beatties Ford Road
Charlotte
Partnering AAAs: Regions F and N

A livable and senior-friendly community is dedicated to improving the lives of people of all ages, especially seniors. The basic building block of community is homes and neighborhoods. Issues in this area might address topics like safe and accessible housing, affordable housing, continuing care retirement communities, naturally occurring retirement communities (NORCs), impact of gentrification on older neighborhoods, smart growth and its impact on older people, reverse mortgages, and tax relief programs. The transportation needs of older people will also be included in this area--meeting transportation needs and issues facing the older driver.

SAFE COMMUNITIES

June 2, 2010
9:30 am - 12:30 pm
New Hanover Department on Aging, 2222 South College Road
Wilmington
Partnering AAAs: Regions N, O, and P

A safe community comes together to promote safe and healthy behaviors that protect people from hurt and harm in all aspects of their lives. Issues in this track might highlight programs or initiatives that promote safety, reduce injuries, and prepare citizens for natural and man-made disasters. Safe communities should also provide a comprehensive system of elder rights. Elder rights topics might include elder law, consumer protection, protective services, abuse, neglect and exploitation, law enforcement, and guardianship.

Attendance is free, but pre-registration is required. The link for registration is http://www.aging.unc.edu/nccoa/2010roundtables/index.html In addition, you cannot attend a particular event but still want your thoughts considered in the identification of issues to be addressed, you can complete the web-survey on the area(s) of concern to you.

North Carolina
DEPARTMENT OF INSURANCE

Wayne Goodwin | Commissioner of Insurance

SENIORS' HEALTH INSURANCE INFORMATION PROGRAM

March 23, 2010

The Honorable A.B Swindell
North Carolina Senate
300 N. Salisbury Street, Room 629
Raleigh, North Carolina 27603-5925

The Honorable Jean Farmer-Butterfield
North Carolina House of Representatives
300 N. Salisbury Street, Room 528
Raleigh, North Carolina 27603-5925

Dear Senator Swindell and Representative Farmer-Butterfield:

It was a pleasure to speak to the Study Commission on Aging on March 4th regarding the Long-Term Care Partnership (LTCP) recommendation for North Carolina. Insurance Commissioner Wayne Goodwin and the Department of Insurance staff are eager to assist in any way to move forward legislation which would approve the offering of long-term care partnership plans to citizens of our state.

The purpose of this letter is to follow up with the Commission on questions and concerns raised at the March meeting related to various aspects of LTCP plans including consumer protections and agent training. In most cases there are federal laws that address these issues, and the LTCP recommendation would require North Carolina to apply these federal guidelines.

To comply with federal requirements a LTCP policy must be a qualified long-term care insurance policy as defined in section 7702B(B) of the Internal Revenue Code of 1986. In addition, the policy must meet the requirements of the long-term care insurance model regulation and Long-Term Care Insurance Model Act put forth by the National Association of Insurance Commissioners of which has been adopted in North Carolina. Today's long-term care insurance policies being sold in the state include many important consumer protection features which would be required in a LTCP plan. The following rules apply to all long-term care insurance policies:

- Coverage cannot be cancelled or not renewed as long as the consumer continues to pay premiums as they are due and has not used up the maximum policy benefits.
- Purchasers have 30 days after receiving the policy to return it for a full refund. The agent who sold the policy typically delivers it and gets a delivery receipt showing the date the policy was received by the consumer. The person then has 30 days from that date to examine the policy and has the option to return it for a full refund of any premiums paid.
- The consumer has the right to designate another person (a "third party designee") to receive notice of premiums due and payments missed so s/he won't accidentally miss a payment.
- An individual considering purchase of long-term care insurance must be given a personal worksheet or suitability form to fill out prior to purchase.
- The consumer has between 60-65 days after the date a premium payment is due to make payment– depending on the method in which their premium is paid. Coverage cannot be cancelled for non-payment until after the applicable grace period and until the third party designee has also been notified.
- If coverage lapses for non-payment because of the consumer's cognitive impairment or the loss of functional capacity at the time, s/he can restore coverage within five months of the missed premium due date.
- Consumers who purchase a group policy through an employer or other association can continue that coverage, unchanged, if they leave the group but want to maintain the coverage.

- A spouse insured through an employer group plan may maintain coverage even after the insured member dies or there is a divorce.
- An individual cannot be singled out for a rate increase. Premiums are designed to remain level over the lifetime of coverage, and are based on the age when the consumer first bought the policy. The insurer can change rates on a group or class basis, but the change must apply to an entire group or class following proper notification.
- A rate increase must be filed with and approved by the North Carolina Department of Insurance.

Regarding agent training in North Carolina, an individual may not sell, solicit or negotiate long-term care insurance unless the individual holds two licenses, one for accident, health or sickness and one for long-term care/Medicare supplement. All North Carolina resident agents currently holding these two licenses will be required to complete a one-time partnership training course of 8 hours within a year of the effective date of the partnership program in North Carolina and will be required to complete 4 hours of partnership continuing education every 24 months thereafter. Those individuals making an application for an agent's license after the partnership program is effective in North Carolina will be required to complete 20 hours of pre-licensing education for the accident, health or sickness license and 10 hours of pre-licensing education for the long-term care/Medicare supplement. The applicant must also pass the state examinations for both license types. In addition, the license applicant must take the one time partnership training course of 8 hours prior to licensure and will be required to complete 4 hours of partnership continuing education every 24 months thereafter. Training shall cover the following topics: long-term care insurance, long-term care services, Qualified Partnerships, and the relationship between Qualified Partnerships and other public and private coverage of long-term care.

Once the LTCP is effective in our state, if the Department receives complaints about agents relative to the partnership products, the Department will investigate these complaints of harm to the consumer and agents found to be using improper and unlawful marketing techniques will be subject to adverse disciplinary and licensure proceedings. The regulatory authority over insurance agents who are selling and marketing insurance products in North Carolina would fall under the jurisdiction of the Department of Insurance pursuant to North Carolina General Statutes 58-33-5; 58-33-10; 58-33-26; 58-33-46; 58-33-120 and other applicable laws and regulations.

Another question raised at the meeting pertained to the average age of people who buy long-term care insurance. Per the American Association of Long-Term Care 2009 Sourcebook, the age spread for buyers in 2008 is as follows: 35-44/5%; 45-54/24%; 55-64/53%; 65-74/15% and 75 and older 1%.

Finally, statutory changes DOI thinks need to be made will be sent to the committee shortly. Included are DHHS's proposed changes.

Please let me know if there are additional questions regarding LTCP plans in North Carolina. As you can see the long-term care insurance marketplace is sufficiently regulated in our state and there are regulations in place that provide safeguards for the consumers. Most people buy long-term care insurance directly from an insurance agent, financial planner or broker. Our state regulates which companies can sell long-term care insurance and the products they can sell. We will continue to provide oversight to long-term care insurance companies and the LTCP plans they sell upon availability in the state.

Very truly yours,

Carla Obiol, Deputy Commissioner
Seniors' Health Insurance Information Program (SHIIP)

cc: Wayne Goodwin, Commissioner of Insurance

Enclosure

Attachment A

§ 108A - 70.4. Long Term Care Partnership Program

(a). As used in Section 108A-70.4, unless the context clearly requires otherwise, the term:

(1) "Resource" means cash or its equivalent and/or real or personal property that is available to the applicant/recipient.

(2) "Asset" means resources and income.

(3) "Department" means the Department of Health and Human Services, Division of Medical Assistance.

(4) "Medicaid" means the federal medical assistance program established under title XIX of the Social Security Act.

(5) "Estate Recovery" means the placing of a statutory claim pursuant to 108A-70.5 on the estate of the deceased Medicaid recipient.

(6) "Long Term Care Partnership policy" means a long-term care insurance policy which is approved by the North Carolina Department of Insurance to meet all of the model regulations and requirements of the model Act promulgated by the National Association of Insurance Commissioners.

(7) "Resource Disregard" means the amount of resources owned by the long-term care Medicaid applicant that is equal to the amount of benefits paid by a long-term care partnership policy for the applicant which will not be counted when determining long term care Medicaid eligibility.

(8) "Resource Protection" means an amount equal to the resource disregard given to the recipient at long term care Medicaid eligibility that will be deducted from the total estate value at estate recovery.

(b) Since the Deficit Reduction Act of 2005 repealed the restrictions to resource protection contained in the Omnibus Budget Reconciliation Act of 1993 (public law 103-66, 107 Stat. 312), there shall be established the North Carolina Long-Term Care Partnership program, to be administered by the Department with the assistance of the North Carolina Department of Insurance to do the following:

(1) Provide a mechanism for individuals to qualify for coverage of the cost of their long term care needs under Medicaid without first being required to substantially exhaust their resources;

(2) Provide counseling services to individuals planning for their long term care needs; and

(3) Alleviate the financial burden on the state's medical assistance program by encouraging the pursuit of private initiatives.

(c) In the case of an individual who has received benefits under a long-term care partnership policy, an equal amount of resources shall not be considered by the Department during the determination of the following:

(1) Eligibility for long term care Medicaid;

(2) Any subsequent recovery by the state from a deceased recipient's estate for payment of Medicaid paid services.

(d) The Department shall promulgate necessary rules and amendments to the state plan to allow for resource disregard at long-term care Medicaid eligibility determination and resource protection at estate recovery. To provide resource disregards for purchases of a long-term care partnership policy, the Department shall count insurance benefits paid under the policy prior to the date of the first application for long-term care Medicaid made after the implementation of the program toward resource disregard and resource protection to the extent the payments are for covered services under the long-term care partnership policy.

(e) A qualified long-term care partnership policy after the effective date of this statute shall contain a disclosure detailing in plain language the current law pertaining to resource disregard and resource protection. A duplicate disclosure shall be given to the insured individual with the delivery of the policy document.

(f) The Department will enter into a reciprocal agreement with other states that enter into a national reciprocity agreement to extend the resource disregard and resource protection to residents of the state who purchased or purchased and used a qualified long-term care policy in another state.

(g) The Department and the Department of Insurance are authorized to adopt rules to implement the provisions of this program for its administration.

(h) In the case of an individual who has received benefits under a long-term care partnership policy, the provisions of G.S. 108A-70.5 remain in effect for purposes of estate recovery with the exception of the definition of "estate" under G.S. 108A-70.5(b)(2). In accordance with Title XIX of the Social Security Act, 42 U.S.C. § 1396p(b)(4)(B), the definition of "estate" for an individual who has received benefits under a long-term care partnership policy includes any other real or personal property and other assets in which the individual had any legal title or interest at the time of death (to the extent of such interest), including such assets conveyed to a survivor, heir, or assign of the deceased individual through joint tenancy, tenancy in common, survivorship, life estate, living trust, or other arrangement.

Sheets

Senior Leadership Program - A Fact Sheet

Background: Believing that seniors and Baby Boomers represent an extraordinary pool of social and human capital which can be mobilized to tackle social problems and enrich community life, Haywood Community Connections has developed a non-traditional civic engagement model that marshals these individuals and their gifts to benefit their respective communities and the people who live there. Our toolkit will enable your community to tap into the rich resources available through your senior population.

Unique Approach: Standard volunteer programs recruit volunteers and plug them into any available opening, which often is like trying to put a square peg in a round hole. This results in approximately 1/3 of volunteers quitting in the first year because their position brings them no satisfaction. With our approach you get to know the volunteers and help them recognize their strengths. You train, equip, and empower them. **Only then** do you provide them with a venue (Senior Resource Teams) through which they can use their strengths and gifts in a way that is uniquely satisfying to them and beneficial to their community.

Two Program Components:

1. **SENIOR LEADERSHIP PROGRAM:** ***Training & Tools***
   In collaboration with Haywood Community College, we have trained over **75 older adults in a non-traditional and experiential format.** Participants travel throughout the county and learn first-hand about the programs and services available to seniors. They develop leadership skills and receive tools to assist them in the field. Tools include a resource manual, training in 2-1-1, and access to a website with a Directory of Senior Services.
2. **SENIOR RESOURCE TEAMS:** ***Voice & Venue***
   Resource Teams give team members a voice in their community and a venue through which they can use their gifts. **Teams are established in 13 communities across the county to meet needs at a grassroots level.** Teams receive ongoing support and education through Haywood Community Connections, a partnership of 14 governmental and human service agencies. The teams are self-directed. Team members elect their own facilitator and choose their own projects. Teams create ownership and investment in the well-being of each community and its residents.

Outcomes:

- Participants create life-enhancing relationships and increase their knowledge of the county's resources.
- Volunteerism increases and volunteer retention improves.
- Communities have a local resource (their resource team members) they can go to for information.
- Gaps in service are filled and options for supportive services are increased.

Accomplishments:

The program has received an "Acts of Caring Award" from the **National Association of Counties.** It has also received recognition as a potential national model from the **National Council on Aging and the Administration on Aging** through their Multi-generational and Civic Engagement Initiative.

Program Dissemination:

A **replication tool kit, including training and assistance** is available to enable other counties in NC and regions across the country to use this successful approach to mobilize seniors to improve communities.

Program Costs:

- Haywood Community Connections spent just over $3,000 for marketing, supplies, food, transportation and partial staff costs for each of the 15-week leadership classes.
- Haywood Community College spent approximately $3,410 on instruction and supplies but earned FTEs which offset the expenses.

Senior Leadership Program - A Fact Sheet
Contact Information

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Examples of Senior Resource Team projects in 2009

It is important to note that the Senior Leadership classes have been in existence for only 3 years. The first year there was only class, two more were added the second year and two the following year. Once one graduates from this class they join their community's Senior Resource Team. Some of the projects these Seniors Resource Teams have completed are listed below.

In addition to group projects, individual team members have given one-on-one assistance to many Haywood County seniors to help them find and connect to the services they needed.

One team established a Community Kitchen in the east end of the county where none existed.

Another team established a food pantry at a local low-income senior housing complex. They also furnish the pantry with food on an ongoing basis.

All teams distributed 10,000 Vials of Life across the county.

Another team collaborated with the Community College to garner senior assistance in a community beautification project.

Teams distributed 400 "green" bags containing information on senior programs and services in Haywood County.

Upon the grand opening of the renovated courthouse, team volunteers directed patrons to the various offices within the facility for the first month.

Two teams collaborated to establish a Caregivers' Library

Two teams collaborated to establish a new Caregiver/Alzheimers Support Group (totaling two support groups) conducted by Senior Resource Team members.

In collaboration with the Town of Waynesville and the Waynesville Fire Department, the Waynesville Team sponsored a Senior Safety Day in their town's new firehouse.

One team collaborated with the Crabtree Ironduff Community Club and featured a Senior Emergency Preparedness Event at their local firehouse.

All teams advocated for a Senior Enrichment Center (waiting on results)

All teams successfully advocated for the establishment of Project C.A.R.E. (a respite program) in our area and later successfully collaborated with the Senior Tar Heel Legislature to fund the project.

Another team member collaborated with all teams to develop a senior mentoring program at the local community college which is presently very successful.

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Attachment II

DRAFT

Recommendations from the NC Study Commission on Aging

Draft 3/31/10

Recommendation 1: Maintain HCCBG Funding

The Study Commission on Aging recommends the General Assembly and the Governor maintain funding levels appropriated for FY 2010-2011 to the Department of Health and Human Services for the Home and Community Care Block Grant (HCCBG).

Recommendation 2: Maintain Funding for Senior Centers, Project C.A.R.E., and Other Vital Support Programs and Services

The Study Commission on Aging recommends the General Assembly and the Governor maintain current funding levels for senior centers and Project C.A.R.E. as well as many other vital programs that provide aging services and support systems for older adults and their families.

Recommendation 3: Hearing Loss Treatment Task Force

The Study Commission on Aging recommends the General Assembly direct the Hearing Aid Dealers and Fitters Board to coordinate a task force including representatives of the Division of Services for the Deaf and Hard of Hearing in the Department of Health and Human Services, the Consumer Protection Division of the Office of Attorney General, and other interested stakeholders, to: 1) develop recommended guidelines for consumers seeking assistance in the treatment of hearing loss, 2) make recommendations on the best way to disseminate these guidelines, and 3) report to the Study Commission on Aging on or before October 15, 2010.

Recommendation 4: Review of Nurse Aide Training Requirements

The Study Commission on Aging recommends the General Assembly direct the Division of Health Service Regulation, Department of Health and Human Services (DHHS), to coordinate a review involving an equal number of representatives from the Division of Aging and Adult Services, DHHS; the NC Board of Nursing; the Direct Care Workers Association; NC Health Care Facilities Association; NC Hospital Association; NC Home and Hospice Care Association; and representatives of residents in long-term care; to assess the current training requirements for nurse aides and to recommend any necessary changes to the Study Commission on Aging on or before November 1, 2010.

Recommendation 5: Long-Term Care Partnership Program

The Study Commission on Aging recommends the General Assembly enact legislation to develop a Long-Term Care Partnership (LTCP) program for North Carolina and direct the Division of Medical Assistance, Department of Health and Human Services, to pursue a State Plan amendment allowing the operation of the LTCP program.

Recommendation 6: Include Dentist on the Commission on Children with Special Health Care Needs

The Study Commission on Aging recommends the General Assembly expand the membership of the Commission on Children with Special Health Care Needs to include a dentist.

Recommendation 7: Special Needs Dental Care Workforce Development

The Study Commission on Aging recommends the General Assembly direct the North Carolina Area Health Education Centers (AHEC) Program to: 1) work with the dental schools at The University of North Carolina – Chapel Hill and East Carolina University, the North Carolina Community College System, and current special care dental providers to increase the available workforce willing to treat North Carolina special care populations; 2) work with the NC State Board of Dental Examiners to explore the feasibility of allowing dental students, dental hygiene students, and assisting students the opportunity to receive training in long-term care facilities under the direction of non-profit special care dental organizations; and 3) report to the Study Commission on Aging on or before August 1, 2011.

Recommendation 8: Medicaid Dental Services

The Study Commission on Aging recommends the General Assembly maintain Medicaid funding for dental services and direct the Division of Medical Assistance and the Division of Public Health to: 1) explore the feasibility of expanding Medicaid dental services to include reimbursement for evidenced-based fluoride and periodontal therapies for high risk adults with special health care needs, 2) explore the implementation of facility code policies that would allow certified providers to bill for each patient seen in a long-term care facility or group home on the date of service, and 3) report on or before November 15, 2011 to the Study Commission on Aging.

Recommendation 9: Additional Mobile Dental Units

The Study Commission on Aging recommends the Department of Health and Human Services and the special care mobile dental providers explore private grants and public federal government funding options for the purchase of additional mobile dental units to serve special care populations.

Recommendation 10: Refining Aging and Long-Term Care Statutes in NC

The Study Commission on Aging recommends the General Assembly update and refine North Carolina's General Statutes on aging and long-term care.

Recommendation 11: Adult Day Care Participant Protection

The Study Commission on Aging recommends the General Assembly amend North Carolina's General Statutes to strengthen the authority of the Department of Health and Human Services to ensure that unfit individuals are prohibited from operating or working in adult day care programs.

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Background on Recommendations from the Study Commission on Aging

3/31/10

Recommendation 1: Maintain HCCBG Funding

Recommendation 1: Maintain HCCBG Funding

The Study Commission on Aging recommends the General Assembly and the Governor maintain funding levels appropriated for FY 2010-2011 to the Department of Health and Human Services for the Home and Community Care Block Grant (HCCBG).

Background 1: Maintain HCCBG Funding

During the meeting on January 21, 2010, the Commission heard a presentation from Dennis Streets, Director, Division of Aging and Adult Services, DHHS, on the status of Aging Services and Programs. Mr. Streets mentioned that the service system is stressed as service needs grow. One of the areas mentioned was the growth of the wait list for home and community services. With regard to home and community services, Mr. Streets pointed out the following:

- Access to and intensity of services has weakened
- Service needs and wait lists are substantial
- Providers are frugal, stressed, conscientious, and innovative
- Clients are becoming more vulnerable.

Mr. Streets provided the following status on the Home and Community Care Block Grant (HCCBG):

- Overall funding has increased about 20% over the past 10 years – taking into account non-recurring reductions for SFY 2009-10.
- The Statewide utilization/expenditure rate remains very high – 99.8% in SFY 2008-09.
- Service costs have increased.
- There was a decrease in the number of clients served (6.9%) and in total service units (14.1%) between July 1, 2000 and June 30, 2009. During this period, the NC population age 60+ and 75+ grew by 29% and 18%.

The HCCBG, established by G.S.143B-181.1(a)(11), includes federal funds, State funds, local funds, and a consumer contribution component. It gives counties discretion, flexibility, and authority in determining services, service levels, and service providers; and streamlines and simplifies the administration of services. The focus of the HCCBG is to support the frail elderly that are cared for at home; improve and maintain the physical and mental health of older adults; assist older adults and their caregivers with accessing services and information; provide relief to family caregivers so that they can continue their caregiving; and allow older adults to remain actively engaged with their communities.

With input from older adults, County Commissioners approve an annual funding plan that defines services to be provided, the funding levels for these services, and the community service agencies to provide these services. Counties can select from among 18 eligible services including: Adult Day Care, Adult Day Health Care, Care Management, Congregate Nutrition, Group Respite, Health Promotion and Disease Prevention, Health Screening, Home Delivered Meals, Housing and Home Improvement, Information and Assistance, In-Home Aide, Institutional Respite Care, Mental Health Counseling, Senior Center Operations, Senior Companion, Skilled Home (Health) Care, Transportation, and Volunteer Program Development. Counties decide which services to provide, however congregate nutrition and home-delivered meals are provided in almost every county under the HCCBG.

The Study Commission on Aging recommends that the General Assembly and the Governor maintain funding levels appropriated for FY 2010-2011 for the Home and Community Care Block Grant (HCCBG). The Governor's Advisory Council on Aging and the Senior Tar Heel Legislature both support funding for the HCCBG.

Recommendation 2: Maintain Funding for Senior Centers, Project C.A.R.E. and Other Vital Support Programs and Services

Recommendation 2: Maintain Funding for Senior Centers, Project C.A.R.E., and Other Vital Support Programs and Services

The Study Commission on Aging recommends the General Assembly and the Governor maintain current funding levels for senior centers and Project C.A.R.E. as well as many other vital programs that provide aging services and support systems for older adults and their families.

Background 2: Maintain Funding for Senior Centers, Project C.A.R.E., and Other Vital Support Programs and Services

During the January 21, 2010 meeting, the Commission heard a presentation from Dennis Streets, Director, Division of Aging and Adult Services, DHHS. During this presentation Mr. Streets shared information on items that are essential to future systems for aging services and supports. His points were as follows:

1. Easy and reliable access to information and assistance to facilitate personal responsibility.
    - Efforts include: North Carolina's "No Wrong Door" approach, nccarelink.gov, senior centers, and Community Resource Connections for aging and disabilities.
2. Effective holistic and collaborative management of chronic conditions.
    - Efforts include: Community Care Connections, Programs of All-Inclusive Care for the Elderly (PACE), person-centered and consumer-directed approaches to chronic care, pursuing a stronger connection with the Veterans Administration, following the NC Roadmap for Healthy Aging, and falls prevention programs.
3. Timely protection and intervention for vulnerable individuals.
    - Efforts include: adult protective services reform, the Institute of Medicine Task Force on co-locating different populations in adult care homes, Relay for Extra Help, and Project C.A.R.E. (Caregiver Alternatives to Running on Empty). (Project C.A.R.E. provides the following assistance to caregivers of people with dementia: in-home needs assessments; counseling; information; assistance finding and selecting respite; funds for in-home personal care, adult day services, and respite; training and educational resources; and connections with Area Agencies on Aging and Alzheimer's Association Chapters.)
4. An awareness that successful aging involves more than health and human services.
    - Efforts include: Enactment of S.L. 2009-407 (SB 195) Preparations for Aging Baby Boomers, strengthening the Governor's Advisory Council on Aging, aging video on careers in aging services, NC Center for Public Policy Research, NC Complete Count (2010 Census), and 2011 Reauthorization of the Older Americans Act.

The Study Commission on Aging recommends that the General Assembly and the Governor maintain current funding levels for senior centers, Project C.A.R.E., and other vital programs that provide aging services and support systems for older adults and their families. The Governor's Advisory Council on Aging and the Senior Tar Heel Legislature both support funding for the Project C.A.R.E. and Senior Centers.

Recommendation 3: Hearing Loss Treatment Task Force

Recommendation 3: Hearing Loss Treatment Task Force

The Study Commission on Aging recommends the General Assembly direct the Hearing Aid Dealers and Fitters Board to coordinate a task force including representatives of the Division of Services for the Deaf and Hard of Hearing in the Department of Health and Human Services, the Consumer Protection Division of the Office of Attorney General, and other interested stakeholders, to: 1) develop recommended guidelines for consumers seeking assistance in the treatment of hearing loss, 2) make recommendations on the best way to disseminate these guidelines, and 3) report to the Study Commission on Aging on or before October 15, 2010.

Background 3: Hearing Loss Treatment Task Force

S.L. 2008-181, Sec. 12.1, directed the Department of Health and Human Services (DHHS) to study the impact of hearing loss on North Carolina's older adult population and to report to the Commission.

On February 4, 2010, Jane Withers, Director, Division of Services for the Deaf and Hard of Hearing, DHHS presented a report to the Commission. The report pointed out that, "Hearing loss in an older adult tends to happen gradually and is not always identified, and less often treated." While hearing aids are one of the most effective treatments, the report points out that they range in price from $1,400 to $5,000, and that they are not normally covered by health insurance. Based on the study, the Division of Services to the Deaf and Hard of Hearing, DHHS, recommended: establishing a task force to assess the feasibility of developing and implementing a system to evaluate hearing aid services; requiring all hearing aid dispensers provide a 30-day trial period; and asking the General Assembly to require health insurance providers to cover hearing aids.

With regard to trial periods, the report provided the following:

> "The Federal Trade Commission which monitors the business practices of hearing aid dispensers allows trial period mandates to be determined by each state. In the State of North Carolina, there is not a 30-day trial period mandated. Most dispensers in the state do provide a minimum 30-day trial period as a gesture of good customer service though no law requires them to do so."

While the current economic climate would make required health insurance coverage of hearing aids a challenge for the State and for many employers, the Commission does recognize the importance of hearing aid availability, proper fit, and consumer education. As such the Commission believes that the most feasible option at this time is to direct the Hearing Aid Dealers and Fitters Board to coordinate a task force that will develop recommended guidelines for consumers seeking assistance in the treatment of hearing loss, to make recommendations on the best way to disseminate the guidelines, and to report to the NC Study Commission on Aging. The task force should include representatives from the Division of Services for the Deaf and Hard of Hearing (DHHS), the Consumer Protection Division of the Office of Attorney General, and other interested stakeholders.

Recommendation 4: Review of Nurse Aide Training Requirements

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The Study Commission on Aging recommends the General Assembly direct the Division of Health Service Regulation, Department of Health and Human Services (DHHS), to coordinate a review involving an equal number of representatives from the Division of Aging and Adult Services, DHHS; the NC Board of Nursing; the Direct Care Workers Association; NC Health Care Facilities Association; NC Hospital Association; NC Home and Hospice Care Association; and representatives of residents in long-term care; to assess the current training requirements for nurse aides and to recommend any necessary changes to the Study Commission on Aging on or before November 1, 2010.

Recommendation 4: Review of Nurse Aide Training Requirements

On February 25, 2010, the Commission heard a presentation by the Division of Health Service Regulation on types of aides, current requirements, locations of employment, and other related information. The Division presented the following information: federally defined definition of a nurse aide, the State and federal requirements for Nurse Aide I registry listing, the federally required content for Nurse Aide I Training Programs, information on State approved training programs, federal requirements for competency evaluation, passing rates by test taker groupings, supply and demand for nurse aides, and the typical duties of a nurse aide. According to the Division of Health Service Regulation, the majority of Home Health Aides, Personal and Home Care Aides, are also Nurse Aides. In 2006, there were 72,130 Home Health Aides employed, 21,780 Nurse Aides, and 18,350 Personal and Home Care Aides. Over the next ten years, the demand for aides employed in each of these three categories is anticipated to increase: 30% for Nurse Aides, 39% for Home Health Aides, and 76% for Personal and Home Care Aides.

The Division also reported the following Nurse Aide I employment breakdown by employment setting:

- Home Health/Home Care - 24%
- Private Duty, Military/VA, Schools, Adult Day Care, Rehab, Native American Reservations – 21%
- Nursing Homes – 20%
- Hospital/Hospice/Mental Health – 15%
- Not Employed in Health Care – 10%
- Adult/Family Care Home – 6%
- Clinics – 3%

During the February meeting, the Commission also heard presentations from representatives of the Direct Care Workers Association of NC, NC Board of Nursing, and Friends of Residents in Long-Term Care.

- The Direct Care Workers Association presented information on their Association, collaborative efforts to provide a conference aimed at reducing turnover and increasing job satisfaction, and the benefits of a career lattice approach.
- The NC Board of Nursing presented the following information on the Nurse Aide II: qualifications, task lists, education programs, and employment settings. In addition they presented information on Medication Aide qualifications, tasks, and education programs.
- Representatives from Friends of Residents in Long-Term Care presented information on federal regulations for training programs, information that more than half of the states have training requirements that exceed the federal regulations, and the citations for nurse aide training requirements for all 50 states and the District of Columbia.

The Study Commission on Aging recognizes the importance of nurse aides, the care they provide, and the anticipated labor market shortages. The Commission recommends a review of the current training requirements for nurse aides and requests recommendations on the appropriateness of training requirements. The review should be coordinated by the Division of Health Service Regulation, (DHHS), and should include an equal number of representatives from the Division of Aging and Adult Services, DHHS; the NC Board of Nursing; the Direct Care Workers Association; NC Health Care Facilities Association; NC Hospital Association; NC Home and Hospice Care Association; and representatives of residents in long-term care.

Recommendation 5: Long-Term Care Partnership Program

The Study Commission on Aging recommends the General Assembly enact legislation to develop a Long-Term Care Partnership (LTCP) program for North Carolina and direct the Division of Medical Assistance, Department of Health and Human Services, to pursue a State Plan amendment allowing the operation of the LTCP program.

Background 5: Long-Term Care Partnership Program

S.L. 2006-66, Sec. 10.10, directed the Department of Health and Human Services (DHHS) to develop a North Carolina Long-Term Care Partnership Program. The program was to be developed in accordance with section 1917(b) of the Social Security Act (42 USC § 1396p(c)), as amended by Public Law 109-171 effective January 1, 2007. The purpose of the program is to reduce future Medicaid costs for long-term care by delaying or eliminating dependence on Medicaid. The goal of the program is to offer incentives to individuals to ensure against the substantial costs of providing for their long-term care needs. DHHS was required to submit a report to the General Assembly.

During the meeting on March 4, 2010, the Commission heard a presentation on a Long-Term Care Partnership (LTCP) program in North Carolina provided by representatives of the Seniors' Health Insurance Information Program (SHIIP), located in the Department of Insurance, and the Division of Medical Assistance, in the Department of Health and Human Services. The presentation explained that a LTCP program allows a special resource disregard and resource protection at Estate Recovery for an individual who: 1) purchases a LTCP policy, 2) utilizes the benefits of the policy, and 3) applies for Medicaid. The amount of resource disregard and the Estate Recovery resource protection is equal to the amount of benefits paid out by the LTCP policy prior to the application for Medicaid. The presentation and the report covered: 1) requirements of long-term care partnership, 2) policy disclosure requirements, 3) agent training, 4) data collection, 5) consumer protection, 6) fiscal impact, and 7) recommendations.

The Department of Insurance and the Department of Health and Human Services requested the Commission recommend establishment of a Long-Term Care Partnership program in North Carolina to the General Assembly. The report and subsequent conversations with the Department of Health and Human Services have indicated no anticipated fiscal impact.

The Study Commission on Aging believes that it is in the best interest of the State and its citizens to encourage personal responsibility and planning for long-term care. As such, the Study Commission on Aging recommends the General Assembly enact legislation to develop a Long-Term Care Partnership program and direct the Division of Medical Assistance, Department of Health and Human Services, to pursue a State Plan amendment allowing the operation of the LTCP program.

Recommendations 6, 7, 8, 9: Special Care Dentistry Issues

Recommendation 6: Include Dentist on the Commission on Children with Special Health Care Needs

The Study Commission on Aging recommends the General Assembly expand the membership of the Commission on Children with Special Health Care Needs to include a dentist.

Recommendation 7: Special Needs Dental Care Workforce Development

The Study Commission on Aging recommends the General Assembly direct the North Carolina Area Health Education Centers (AHEC) Program to: 1) work with the dental schools at The University of North Carolina – Chapel Hill and East Carolina University, the North Carolina Community College System, and current special care dental providers to increase the available workforce willing to treat North Carolina special care populations; 2) work with the NC State Board of Dental Examiners to explore the feasibility of allowing dental students, dental hygiene students, and assisting students the opportunity to receive training in long-term care facilities under the direction of non-profit special care dental organizations; and 3) report to the Study Commission on Aging on or before August 1, 2011.

Recommendation 8: Medicaid Dental Services

The Study Commission on Aging recommends the General Assembly maintain Medicaid funding for dental services and direct the Division of Medical Assistance and the Division of Public Health to: 1) explore the feasibility of expanding Medicaid dental services to include reimbursement for evidenced-based fluoride and periodontal therapies for high risk adults with special health care needs, 2) explore the implementation of facility code policies that would allow certified providers to bill for each patient seen in a long-term care facility or group home on the date of service, and 3) report on or before November 15, 2011 to the Study Commission on Aging.

Recommendation 9: Additional Mobile Dental Units

The Study Commission on Aging recommends the Department of Health and Human Services and the special care mobile dental providers explore private grants and public federal government funding options for the purchase of additional mobile dental units to serve special care populations.

Background 6, 7, 8, 9: Special Care Dentistry Issues

S.L. 2009-100 was a recommendation from the Commission and required the Division of Public Health, DHHS, to collaborate with the Division of Medical Assistance, the Division of Aging and Adult Services, the University of North Carolina at Chapel Hill and the East Carolina University Schools of Dentistry, the North Carolina Dental Society, and current providers of special care dentistry services, to examine current dental care options for special care populations. The collaboration of these groups and the report they prepared was presented to the Commission on March 4, 2010.

The report estimated that NC may be the home of 450,000 individuals requiring special care dentistry services. This number includes individuals with intellectual and/or other developmental disabilities, those with long term needs due to a Traumatic Brain Injury, and older adults living with Alzheimer's disease or other types of dementia. However, the report estimates there are only a small number of dental facilities and practices that employ providers with the skills and abilities to safely serve dental patients with special health care needs. The range of service providers includes: State dental clinics serving primarily patients of psychiatric hospitals, developmental centers, and neuro-medical centers, hospital inpatient services, two non-profit mobile programs, approximately 150 pediatric dentists that may accept Medicaid, a limited number of general dentists that treat patients with special needs, UNC School of Dentistry, and the ECU School of Dentistry which will have a suite dedicated to patients with special needs in the year 2012. Barriers to care are significant and include access to care, financial dependency, inadequate care, limited capacity, limited professional training, limited financial compensation, and no special care dentistry infrastructure to address concerns.

The presentation to the Commission highlighted a number of the recommendations. On March 4th, the presenters were asked to prioritize recommendations for the Commission. These prioritized recommendations are the basis for the special care dentistry recommendations from the Study Commission on Aging to the 2010 Session of the General Assembly.

Recommendation 10: Refining Aging and Long-Term Care Statutes in NC

The Study Commission on Aging recommends the General Assembly update and refine North Carolina's General Statutes on aging and long-term care.

Background 10: Refining Aging and Long-Term Care Statutes in NC

At the Commission's meeting on April 1, 2010, members received suggestions for updating and refining language in the North Carolina Statutes that provides a statement of principles and policy for long-term care and the programs and services for older adults. The information provided by the Department focused on amendments to Chapter 143B, Article 3, Part 14A. Policy Act for the Aging, and Part 14B. Long-term Care. The current statutes are provided below.

Part 14A. Policy Act for the Aging.

§ 143B-181.3. Statement of principles.

To utilize effectively the resources of our State, to provide a better quality of life for our senior citizens, and to assure older adults the right of choosing where and how they want to live, the following principles are hereby endorsed:

(1) Older people should be able to live as normal a life as possible.
(2) Older adults should have a choice of life styles which will allow them to remain contributing members of society for as long as possible.
(3) Preventive and primary health care are necessary to keep older adults active and contributing members of society.
(4) Appropriate training in gerontology and geriatrics should be developed for individuals serving older adults.
(5) Transportation to meet daily needs and to make accessible a broad range of services should be provided so that older persons may realize their full potential.
(6) Services for older adults should be coordinated so that all their needs can be served efficiently and effectively.
(7) Information on all services for older citizens and advocacy for these services should be available in each county.
(8) Increased employment opportunities for older adults should be made available.
(9) Options in housing should be made available.
(10) Planning for programs for older citizens should always be done in consultation with them.
(11) The State should aid older people to help themselves and should encourage families in caring for their older members.

§ 143B-181.4. Responsibility for policy.

Responsibility for developing policy to carry out the purpose of this Part is vested in the Secretary of the Department of Health and Human Services as provided in G.S. 143B-181.1 who may assign responsibility to the Assistant Secretary for Aging. The Assistant Secretary for Aging shall, at the request of the Secretary, be the bridge between the federal and local level and shall review policies that affect the well being of older people with the goal of providing a balance in State programs to meet the social welfare and health needs of the total population. Responsibilities may include:

(1) Serving as chief advocate for older adults;
(2) Developing the State plan which will aid in the coordination of all programs for older people;
(3) Providing information and research to identify gaps in existing services;
(4) Promoting the development and expansion of services;
(5) Evaluation of programs;
(6) Bringing together the public and private sectors to provide services for older people.

Part 14B. Long-Term Care.

§ 143B-181.5. Long-term care policy.

The North Carolina General Assembly finds that the aging of the population and advanced medical technology have resulted in a growing number of persons who require assistance. The primary resource for long-term care provision continues to be the family and friends. However, these traditional caregivers are increasingly employed outside the home. There is growing demand for improvement and expansion of home and community-based long-term care services to support and complement the services provided by these informal caregivers.

The North Carolina General Assembly further finds that the public interest would best be served by a broad array of long-term care services that support persons who need such services in the home or in the community whenever practicable and that promote individual autonomy, dignity, and choice.

The North Carolina General Assembly finds that as other long-term care options become more available, the relative need for institutional care will stabilize or decline relative to the growing aging population. The General Assembly recognizes,

however, that institutional care will continue to be a critical part of the State's long-term care options and that such services should promote individual dignity, autonomy, and a home-like environment.

§ 143B-181.6. Purpose and intent.

It is the North Carolina General Assembly's intent in the State's development and implementation of long-term care policies that:

(1) Long-term care services administered by the Department of Health and Human Services and other State and local agencies shall include a balanced array of health, social, and supportive services that promote individual choice, dignity, and the highest practicable level of independence;

(2) Home and community-based services shall be developed, expanded, or maintained in order to meet the needs of consumers in the least confusing manner and based on the desires of the elderly and their families;

(3) All services shall be responsive and appropriate to individual need and shall be delivered through a seamless system that is flexible and responsive regardless of funding source;

(4) Services shall be available to all elderly who need them but targeted primarily to the most frail, needy elderly;

(5) State and local agencies shall maximize the use of limited resources by establishing a fee system for persons who have the ability to pay;

(6) Institutional care shall be provided in such a manner and in such an environment as to promote maintenance or enhancement of the quality of life of each resident and timely discharge to a less restrictive care setting when appropriate; and

(7) State health planning for institutional bed supply shall take into account increased availability of other home and community-based services options.

The Study Commission on Aging supports efforts to ensure that statutory language supports service and program delivery goals and efforts.

Recommendation 11: Adult Day Care Participant Protection

Recommendation 11: Adult Day Care Participant Protection

The Study Commission on Aging recommends the General Assembly amend North Carolina's General Statutes to strengthen the authority of the Department of Health and Human Services to ensure that unfit individuals are prohibited from operating or working in adult day care programs.

Background 11: Adult Day Care Participant Protection

On April 1, 2010, the Commission received information on the need to strengthen the Department's authority to safeguard adult day care and adult day health care program participants.

G.S. 131D-6 provides for the certification of adult day care programs. G.S. 131D-6(b) defines an adult day care program as the provision of group care and supervision in a place other than their usual place of abode on a less than 24-hour basis to adults who may be physically or mentally disabled. On an annual basis, the Department of Health and Human Services is required to inspect and certify all adult day care programs under the rules adopted by the Social Services Commission.

G.S. 131D-6(b) requires the Social Services Commission to adopt rules to protect the health, safety, and welfare of persons in adult day care programs. The rules are required to include minimum standards relating to management of the programs, staffing requirements, building requirements, fire safety, sanitation, nutrition, and program activities.

- Administrative Rule, 10A NCAC 06R .0305(a)(3), requires a statewide criminal history records search of all newly-hired employees of adult day programs for the past five years conducted by an agency approved by the North Carolina Administrative Office of the Courts.
- Administrative Rule, 10A NCAC 06R .0508(b)(8)(B) requires an adult day care program to keep individual personnel records on all staff members including evidence of a state criminal history check on each employee providing direct care for a minimum of six years.

G.S. 131D-6(c) permits the Secretary to impose a civil penalty not to exceed one hundred dollars($100) for each violation on a person, firm, agency, or corporation who willfully violates any provision of the section or any rule adopted by the Social Services Commission.

The Study Commission on Aging supports thorough background checks and other efforts to ensure the safety of elderly and disabled residents and recommends the General Assembly strengthen the statutes accordingly.

State of North Carolina

BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 54

ASSESSMENT OF STATE'S READINESS FOR AGING POPULATION

WHEREAS, North Carolina is undergoing a major demographic shift with the aging of its population; and

WHEREAS, North Carolina's 2.4 million "baby boomers" represent more than a quarter of our present population; and

WHEREAS, 30 of North Carolina's counties today have more persons age 60 and older than persons age 17 and younger, and many more counties are expected to face this circumstance by 2029; and

WHEREAS, the aging of North Carolina's workforce may result in skill and labor shortages; and

WHEREAS, it is vitally important that North Carolina be well prepared to meet the challenges and realize the opportunities of an aging population.

NOW, THEREFORE, by the power vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED:**

Section 1. Purpose and Administration of Assessment

Cabinet agencies will assess their readiness to serve our aging population and will develop strategies and proposals to strengthen their preparedness for and response to our aging population. The Division of Aging and Adult Services, Department of Health and Human Services and the Governor's Policy Office will work with the University of North Carolina Institute on Aging and the Governor's Advisory Council on Aging (hereinafter collectively referred to as the "Aging Assessment Team") to plan, prepare, administer and report on this assessment.

Section 2. Scope of Assessment

The assessment should include a review of the following:

a. existing and proposed policies, programs and services specifically targeted toward older adults;

b. other documents and initiatives that have examined the effect of an aging population on policies and programs;

c. the participation of older adults, their families and caregivers in shaping relevant programs, policies or services;

d. the participation of the private sector and local government in shaping relevant programs and policies; and

e. other relevant items identified by the Aging Assessment Team.

Section 3. Participation by Other State Agencies

Other state agencies under the authority of The Board of Governors of the University of North Carolina System, the State Board of Community Colleges, the State Board of Education, and the Council of State that are requested to participate in the assessment are encouraged to do so.

Section 4. Participation by Local Government Entities

Upon completion of the statewide assessment, the Aging Assessment Team will work with local government entities to assess their readiness to serve the aging population. Local government entities that are requested to participate in the assessment are encouraged to do so.

Section 5. Effect and Duration

This Executive Order is effective immediately and shall remain in effect until December 31, 2012, unless earlier rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this thirtieth day of March in the year of our Lord two thousand and ten, and of the Independence of the United States of America the two hundred and thirty-fourth.

Beverly Eaves Perdue
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

SESSION LAW 2009-407
SENATE BILL 195

AN ACT TO DIRECT THE UNIVERSITY OF NORTH CAROLINA INSTITUTE ON AGING, AND THE DIVISION OF AGING AND ADULT SERVICES, DEPARTMENT OF HEALTH AND HUMAN SERVICES, TO TAKE A LEADERSHIP ROLE IN HELPING NORTH CAROLINA PREPARE FOR INCREASED NUMBERS OF OLDER ADULTS, AS RECOMMENDED BY THE NORTH CAROLINA STUDY COMMISSION ON AGING.

The General Assembly of North Carolina enacts:

SECTION 1. The University of North Carolina Institute on Aging, and the Division of Aging and Adult Services, Department of Health and Human Services, shall help the State prepare for increased numbers of older adults, due to the aging of the baby boomer generation and the influx of elderly retirees into the State. Activities shall include, but are not limited to, the following:

(1) Organizing and facilitating meetings of gerontologists, researchers, county representatives, directors of area agencies on aging, and providers of State services, to collectively identify and prioritize issues for the State to address.

(2) Working with the North Carolina Association of County Commissioners, the University of North Carolina School of Government, higher education departments of municipal and regional planning and their partners, and area agencies on aging to establish a Web site containing:

a. Information on fostering retiree and volunteer involvement, and

b. Models of local planning efforts, in order to assist municipalities in addressing accessibility and service delivery for increasing numbers of older adults.

SECTION 2. The University of North Carolina Institute on Aging, and the Division of Aging and Adult Services, Department of Health and Human Services, shall make progress reports on the activities required by this act to the Governor and to the North Carolina Study Commission on Aging on or before March 1, 2010, and on or before November 1, 2010.

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 27th day of July, 2009.

s/ Walter H. Dalton
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 2:07 p.m. this 5th day of August, 2009

NORTH CAROLINA STUDY COMMISSION ON AGING
PUBLIC HEARING

Thursday, April 22, 2010
1:00 pm
Tyvola Senior Center
Charlotte, North Carolina

The North Carolina Study Commission on Aging held a public hearing on Thursday, April 22, 2010, at 1:00 pm at the Tyvola Senior Center, Charlotte, North Carolina. Members present were: Senator Forrester; Representatives England and Pierce; Ms. Mary Barker; Mr. John Eller; Ms. Joan Pellettier; and Ms Maria Spaulding. Staff also in attendance was: Susan Barham and Sara Kamprath; Sgt.-At-Arms Carlton Adams, Charles Harper, Reginald Sills and Chester White; and commission assistants Janice Mobley-Bennett and Delta Prince.

In the absence of the co-chairs, Representative Bob England called the public hearing to order, acknowledged visiting legislators (Senator Graham, Representatives Carney, Earle, Mackey, Samuelson) and local officials and candidates from Mecklenburg County. Representative Beverly Earle gave an overview or history of the Commission on Aging.

Members of the public wishing to speak before the Commission were called individually by the presiding chair in the order they appeared on the sign-up sheets and were given two minutes to address the Commission. A list of the speakers and a copy of some of their statements are attached and made a part of these minutes.

1. Doris Sturdivant, North Carolina Project CARE
2. Cindy Harry, Gaston County Hospice Care
3. Charles Dickens, North Carolina Senior Tar Heel Legislature, North Carolina Project CARE
4. Suzanne Bach, North Carolina Project CARE
5. Carol Remley, North Carolina Senior Games
6. Bill Wilson, AARP-North Carolina
7. Cheryl Evans, Caregiver, Liability Insurance for Adult Care Facilities
8. Helen Milleson, Randolph County CAP Community Case Manager
9. Minerva Mack, North Carolina Project CARE
10. Tom Hobgood, North Carolina Federation of NARFE
11. Kether Abeles, North Carolina Project CARE
12. Herb Van Roekel, North Carolina Project CARE
13. Nate Huggins, North Carolina Project CARE, Home and Community Care Block Grant
14. Marilyn Morenz, Hospice Care
15. Desmond Sowells, Home Health Care, Personal Care Services
16. Debi Lee, Centralina Area Agency on Aging
17. Rodney Adams, Adult Protective Services, Mecklenburg County Department of Social Services
18. Samantha Towns, Union County Caregiver
19. Debora Sparks, Charlotte-Mecklenburg Council on Aging
20. Terry Evans, Personal Care Services
21. Joe Seidel, Personal Care Services
22. Gayla Woody, Centralina Area Agency on Aging, Home and Community Care Block Grant
23. Larry Huelsman, North Carolina Senior Games
24. Joyce Freeman, Adult Day Health Care Association

25. Alan Winstead, North Carolina Association on Aging, Meals on Wheels of Wake County

Ms. Marty Garges, Director, Tyvola Senior Center, thanked the Commission for hearing the concerns of senior citizens and their families in Mecklenburg and surrounding counties.

In closing, Representative England thanked the speakers for sharing their concerns, which were as follows:

- Protect funding for Home and Community Care Block Grant
- Protect funding for Project CARE
- Promote Long-Term Care Insurance Partnerships
- Support optional Medicaid eligibility and services for older and disabled adults
- Expand dental care services for older and disabled adults with special needs
- Support the priorities of the North Carolina Senior Tar Heel Legislature
- Support funding for the Senior Games Program
- Encourage adult health care facilities to purchase liability insurance
- Support safer facilities for the elderly
- Protect the retirement benefits of Federal employees and their families
- Support stronger regulations on providers of Personal Care Services
- Support funding for Personal Care Services and Adult Day Services
- Support incentive programs that might assist or match Federal funds spent to keep individuals in non-institutional facilities
- Support recommendation to refine aging and long-term care statutes in North Carolina

Announcements:

- Legislative Study Commission on Children and Youth Public Hearing, April 27, 2010, Charlotte
- Senior Citizen Information Forum on Aging, April 28, 2010, Charlotte
- Annual Mecklenburg County Adult Day Care Symposium, April 30, 2010, Charlotte
- Governor's Policy Roundtables:
  - Health and Aging, April 22, 2010, Greenville
  - Economics of Aging, April 28, 2010, Greensboro
  - Access and Choice in Services and Supports, May 10, 2010, Asheville
  - Lifelong Engagement and Contribution, May 19, 2010, Boone
  - Homes and Neighborhoods, May 25, 2010, Charlotte
  - Safe Communities, June 2, 2010, Wilmington

This public hearing adjourned at 3:00 pm. The next regularly scheduled Commission meeting will be on Tuesday, May 11, 2010, in Raleigh, North Carolina.

The Visitor Registration Sheets and Public Hearing Sign-Up Sheets are attached and made a part of these minutes.

Representative Bob England
Presiding Chair

Delta F. Prince
Commission Assistant

Delta Prince (Senate LA Office)

From: Janice Mobley Bennett (Rep. Mobley)
Sent: Tuesday, April 13, 2010 2:08 PM
To: Janice Mobley Bennett (Rep. Mobley)
Subject: North Carolina Study Commission on Aging Public Hearing Notice (Thursday, April 22, 2010, 1:00 - 3:00 PM, Charlotte, NC)

NORTH CAROLINA GENERAL ASSEMBLY
COMMITTEE MEETING NOTICE
LEGISLATIVE OFFICE BUILDING
RALEIGH, NORTHCAROLINA 27603

April 13, 2010

MEMORANDUM

TO: **Members of the North Carolina Study Commission on Aging**

FROM: **Representative Jean Farmer-Butterfield, Co-Chair**
Senator A. B. Swindell, Co-Chair

SUBJECT: **Public Hearing Notice**

The North Carolina Study Commission on Aging will hold a public hearing on the following date:

DAY: **Thursday**
DATE: **April 22, 2010**
TIME: **1:00 P.M. until 3:00 P.M.**
LOCATION: **Tyvola Senior Center**
225 Tyvola Road
Charlotte, North Carolina

If you have any questions concerning this public hearing, please contact Sara Kamprath, Commission Staff, at 919-733-2578.

Posted: April 1, 2010

cc: Committee Record x
Interested Parties x

ATTENDANCE

NORTH CAROLINA STUDY COMMISSION ON AGING

DATES CO-CHAIRS	Jan. 7, 2010	Jan. 21, 2010	Feb. 4, 2010	Feb. 25, 2010	March 4, 2010	April 1, 2010	May 11, 2010		04-22-10						
Senator A. B. Swindell															
Representative J. Farmer-Butterfield															
SENATE MEBERS															
Senator Stan W. Bingham									~~✓~~						
Senator Katie G. Dorsett															
Senator James S. Forrester									✓	/	①				
Senator Joe Sam Queen															
SENATE PUBLIC MEMBERS															
Mr. ~~Joe~~ John Eller									✓	NO					
Mr. Anthony Peace															
Ms. Jean Reaves															
HOUSE MEMBERS															
Representative Alice L. Bordsen															
Representative Bob F. England, MD									✓	/	②	– need Sig			
Representative Garland E. Pierce									✓	/	③				
Representative Jennifer Weiss															
HOUSE PUBLIC MEMBERS															
Ms. Mary P. Barker									✓	/	④				
Ms. Joan M. Pellettier									✓	/	⑤				
Ms. Patricia E. Sprigg															
EX OFFICIO															
Ms. Maria Spaulding									✓	ND					
STAFF															
Ms. Susan Barham									✓	x					
Ms. Melanie Bush															
Ms. Joyce Jones															
Ms. Sara Kamprath									✓	x					
Ms. Theresa Matula															
Mr. Shawn Parker															
COMMITTEE ASSISTANTS															
Delta Prince									✓	x					
Janice O. Mobley-Bennett									✓	x					

~~VISITOR REGISTRATION SHEET~~

SPEAKERS — 4-22-10

Name of Committee — Date

SPEAKERS

~~VISITORS~~: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS	
Doris Sturdivant	Project Care	
CINDY HARRY	Gaston Hospice	
CHARLES DICKENS	SENIOR TAR HEEL LEGISLATURE	
Suzanne Bach	Project Care	
Carol Kemley	NC. Senior Games	
Bill Wilson	AARP	
Cheryl Evans	Self	
Helen Milleson	Randolph Hospital Asheboro, NC	Cap Comm Coordinator
Minerva T. Mack	Project Care	
Tom Hobgood	NC Federation of NARFE & The 4th Branch	RALEIGH
Kether Abeles	NC PROJECT CARE	

(2)

VISITOR REGISTRATION SHEET

Name of Committee: Speakers

Date:

~~VISITORS:~~ **PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

NAME	FIRM OR AGENCY AND ADDRESS
Herb VAN Roeke	Project Care
Nate Huggins	Blessed Assurance Adult Day Care
Marilyn Morenz	Hospice + Palliative Care Charlotte Region
Desmond Sowells	ResCare HomeCare
Debi Lee	Centralina Area Agency on Aging
Rodney Adams	Meck Cty DSS
SAMANTHA TOWNS	SELF

(3)

VISITOR REGISTRATION SHEET

Name of Committee: Speakers

Date:

~~VISITORS~~: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Debora Sparks ✓	Council on Aging / Director ✓
Terry Evans ✓	Prov. Home Health Care ✓
Joe Seidel ✓	Bayada Nurses ✓
Carla Woody ✓	Centraline AAA

VISITOR REGISTRATION SHEET

Name of Committee: Speakers

Date:

~~VISITORS~~: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
[illegible] Sullivan	CM Senior Gams

VISITOR REGISTRATION SHEET

Name of Committee | Date

Speaker
~~VISITORS~~: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Joyce D. Freeman	Loving Touch ADHC 1302 Beatties Ford Rd., Char., N.C. 28216

VISITOR REGISTRATION SHEET

Name of Committee _____ Date _____

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Alan Winstead	NC Association on Aging

VISITOR REGISTRATION SHEET

North Carolina Study Commission on Aging — April 22, 2010
Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Bill Wilson	AARP
Myra Green	Shamrock Senior Center
Cheryl Evans	
Helen D. Milleson	Randolph Hospital Asheboro, NC
Mary D Mock	
Carol B. Remley	N. C. Senior Games
K. S. Remley	" " "
Danasha Walker	Shamrock Senior Center
Katie Kutcher	COA
Karol Kalaw	COA
Len Erken	Land of Sky Regional Council

2.

VISITOR REGISTRATION SHEET

North Carolina Study Commission on Aging — April 22, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Roslyn Bernet	SELF
Jean Foley	1203 Elder Moore Rd, 27344
B Gail Buell	Harris YMCA
Dean Spruce	SELF
Nate Huggins	Blessed Assurance Adult Day Care
Darwin Adams	Self
Marilyn Morenz	Hospice + Palliative Care 1420 E. 7th St. Chas. NC 28204 Charlotte Region
Terri Frith	2112 Charlotte Dr. Charlotte NC 28203
Evynn Hatem	CM Senior Centers
Sandy Turner	Advanced Diabetic Solutions
[illegible]	Centralina AAA

3

VISITOR REGISTRATION SHEET

North Carolina Study Commission on Aging — April 22, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Hillary Naylor	Centralina Area Agency on Aging PO Box 35008 Chlt, NC 28235
Heather Armstrong	Centralina Area Agency on Aging
Ruth Samuelson	NC General Assembly/Legislator
Tsala McSwain	Cleveland Co. D.S.S.
Tom Ersley	Cleveland Co. DSS
JEREMY LAMB	United Way of Central Carolinas
Mary Edwards	DHHS
Barry Treasure	CPA
Nina M Anderson	Mecklenburg Co. DSS-Ser. for Adults
D'Lapp Ries	11
Melissa Gracia	SENATE

4

VISITOR REGISTRATION SHEET

North Carolina Study Commission on Aging — April 22, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Barbara Cezair	5405 Myrica Lane 28213
Ruby Works	Rae's Playze Adc 5010 Albemarle Char, NC 28205
Rodney Adams	Mecklenburg DSS
Debora Sparks	Council on Aging
Shirley Wiggins	Sen. Tarleed Leg
James Bradshaw	2824 Wilmont Rd. - Sen. Tarlee
Karen Freeman-Moore	Exhilaration! Fitness!
Stacy Lynch	"
Rodney W. Moore	Charlotte Housing Authority
Sue Hanchariek	Mecklenburg DSS
Peggy McDonald	Char/Meck Senior Games

(5)

VISITOR REGISTRATION SHEET

North Carolina Study Commission on Aging — April 22, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Caveri Weathers	Meck. County DSS - FCG Support
Doris Stuedivant	
Suzanne Back	Shining Stars Day Respite 1844 Sterling Rd., Charlotte 28209
Marsha McElroy	Meck Co DSS - FGSP
Cindy Harvey	PO Box 3984 Gaston Hospice Gastonia 28054
CHARLES DICKENS	4 ARROW PLACE ASHEVILLE, NC 28805-9748
JANE DICKENS	SAME
Marilyn Morenz	Hospice + Palliative Care Charlotte Region 1420 E. 7th St. Char, NC 28204
Lynda Kuehni	All About Seniors Charlotte NC
Tomelya Johnson	Providence Home Healthcare Agency
Joe Seidl	Bayada Nurses

VISITOR REGISTRATION SHEET

North Carolina Study Commission on Aging — April 22, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Dawn Garman	Centralina AAA
Bernie Simmons	Private Citizen
Jeff Carpenter	Hendrick Home Care

VISITOR REGISTRATION SHEET

North Carolina Study Commission on Aging — April 22, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Emily Zobel	Meck. Co Sr. Citizen Nutrition Program
Rocky Bailey	House of Rep Caucus
Dorothy Jackson	421 Stone Post Rd - Charlotte, NC
W. Beatrice Colson	P.O. Box 302 Wingate, NC Union County STHL
Evelyn Newman	Council of Aging
Lawrence Hulsey	CM Senior Games Board
Jackie Hayward	DSS Just Call. 301 Billingsley Rd Charlotte NC 28211

VISITOR REGISTRATION SHEET

North Carolina Study Commission on Aging — April 22, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Joyce D. Freeman	Loving Touch Adult Day Health Care 1302 Beatties Ford Rd, Char, N.C. 28216
Alan Winstead	NC Association on Aging
Anja	
Bart Millsaps	The UMC Western NC Conference
Yvette Somerville	Providence Home Health Care 5500 Executive Center Dr Suite 235

Governor's Policy Roundtables

Building a Livable and Senior Friendly North Carolina

Governor Beverly Perdue, the NC Division of Aging and Adult Services, the UNC Institute on Aging (IoA) and North Carolina's Area Agencies on Aging are hosting a series of policy forums (roundtables) across our state. **The goal** is to identify, discuss and debate issues faced by aging North Carolinians. Governor Perdue is calling on experts, consumers, and advocates to define what issues we must address now for the future of our aging citizens and their families. This discussion of issues is vital to helping the public and the private sectors work together to determine effective strategies. The results will be reviewed by the Governor and policy teams at a statewide conference in October 2010. Each of the six round tables will be devoted to a different set of topics.

The events are free, however pre-registration is required. For more details and to register, go to:

http://www.aging.unc.edu/nccoa/2010roundtables/index.html

Health & Aging
April 22, 2010
Greenville, NC

Economics of Aging
April 28, 2010, 9:00am – 12:00pm
Downtown Marriott – 304 N Greene St
Greensboro, NC

Access & Choice in Services & Supports
May 10, 2010
Asheville, NC

Lifelong Engagement & Contribution
May 19, 2010
Boone, NC

Homes & Neighborhoods
May 25, 2010
Charlotte, NC

Safe Communities
June 2, 2010
Wilmington, NC

111th CONGRESS

1st Session

H. R. 3043

To amend title XVIII of the Social Security Act to provide for coverage of substitute adult day care services under the Medicare Program.

IN THE HOUSE OF REPRESENTATIVES

June 25, 2009

Ms. LINDA T. SANCHEZ of California introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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A BILL

To amend title XVIII of the Social Security Act to provide for coverage of substitute adult day care services under the Medicare Program.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `Medicare Adult Day Care Services Act of 2009'.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Adult day care can offer services, including medical care, rehabilitation therapies, dignified assistance with activities of daily living, nutrition therapy, health monitoring, social interaction, stimulating activities, and transportation, to seniors and people with disabilities at no extra cost to the Medicare Program.

(2) The care given at adult day care facilities provides seniors, people with disabilities, and their familial caregivers with more care hours and additional services that are critical to keeping patients healthier and in the home.

(3) More than 50,000,000 people provide care for a chronically ill, disabled or aged family member or friend during any given year. In 2002, almost half of workers in the United States provided some form of caregiving.

(4) Caregivers, the majority of whom are women, provide an estimated $306,000,000,000 in `free' services annually. The pool of potential family caregivers is dwindling, from 11 potential caregivers for each person needing care today to a projected 4 to 1 ratio in 2050.

(5) Caregiving families tend to have lower incomes than non-caregiving families, and the average intensive caregiver loses $659,139 in wages, pension benefits, and Social Security benefits over a lifetime. At least 6 out of 10 employed caregivers reported that they had made some work-related

Remarks to the
North Carolina Study Commission on Aging
April 22, 2010
Charlotte, NC

I am Alan Winstead, Executive Director for Meals on Wheels of Wake County. Today, I represent the North Carolina Association on Aging. Our Association represents more than 120 aging service providers in 96 counties where more than 1,500,000 senior adults live. Individually and collectively, we provide daily services that allow seniors to delay or avoid an institutional placement (often at a higher public cost). These services include nutritional support, information and referral, opportunities for socialization to reduce isolation and prevent depression, participation in senior centers, and home health services. We also see a growing demand for these services now because of the economy and in the future because of the growing number of older adults calling North Carolina home. It is our responsibility as leaders in the Aging Community to develop an infrastructure that will insure healthy, successful aging in our state. While service providers cobble together budgets in the same economy that the General Assembly operates, on behalf of senior adults in North Carolina, we respectfully request:

(1) Increase home and community based funding in an effort to maintain the current service level and reduce lengthy waiting lists. Federal Recovery Dollars are not available beyond the current year, which makes adequate home community block grant funding all the more critical.

(2) General Purpose Funding for Senior Centers must be re-instituted. Senior Centers are frequently the front line contact with our aging residents and their caregivers. We must adequately fund these programs and encourage the focus on healthy aging through participation in activities such as the most successful Senior Games Program.

(3) Project Care should receive reoccurring funding to provide continuing support for family caregivers of persons with Alzheimer's disease and other dementias. We endorse the Governor's budget for expanding funding for this initiative.

We look forward to working with the Institute on Aging and the Division of Aging and Adult Services to hear from stakeholders from across the state as we focus on Senate Bill 195 to determine what we need to do to prepare for the influx of seniors anticipated and to develop an agenda for service delivery at the Institute's conference this fall.

Thank you for supporting aging issues in the past, currently during these difficult funding decisions, and in the future.

On behalf of the North Carolina Association on Aging, I pledge our support to working in partnership with you to insure that North Carolina is a great place to grow older now and in the future.

I. Welcome

II. Items of Interest

a. Funding for Adult Protective Services and Aging Services

Description: A clearinghouse model has been developed that would broaden the scope of Adult Protective Services and would allow local departments of social services to intervene in the safety and well-being of our senior population. Although the model has been developed, it has yet to be funded.

MCDSS encourages the state to seek federal funds made available through the Elder Justice Act for APS demonstration projects in order to implement the Clearinghouse Model.

b. Funding for Guardianship Services

Description: The Social Services Block Grant (SSBG) revenue provides approximately 1/4 - 1/3 of the social work salaries and once it is drawn down, the social worker activities are 100% county dollars. In addition, any costs MCDSS incurs on behalf of the wards, such as emergency housing, medications, clothing, etc., which cannot be paid for out of that individuals benefits or personal funds, must be paid for out of county dollars.

III. Mecklenburg County Adult Services Data

a. See handout

April 22, 2010

Extending The Bailey - Patton Settlement

Currently, North Carolina operates under a court settlement that exempts certain military, federal, state and local government retirees from paying state income taxes on government pensions and annuities. The court ruling, called the Bailey - Patton Settlement, exempted retirees with 5-plus years of creditable service as of August 12, 1989. This means that those retiring on or after August 13, 2004 with 20 years of service are excluded. The General Assembly is being asked to correct this inequity with the introduction of House Bill 345 and Senate Bill 233. The bills are entitled "Equal Tax Treatment of Government Retiree Benefits." In the "long" session the bills reached the Finance Committee in the House and Senate. Then they were forwarded to the Revenue Laws Study Committee and included in the Studies Act of 2009

Recognizing that the legislature would be reluctant to support a bill that could be a loss in revenue, it was believed that exempting retiree annuities from state income taxes has a positive side. It would be, for example, an incentive for retirees to remain in North Carolina or move here rather than to other states. Living in the state, the retiree would pay both real and personal property and sales taxes and make little demand on community services and school systems. Furthermore, many would continue in second careers and pay state income taxes.

Studies addressing the economic impact of retirees in general have been done in several states. To our knowledge, none focused specifically on military and government retirees. Needing information and data in support of the positive economic effects of government retirees, a study was commissioned by The 4th Branch and The Federal Retiree Task Force. Results of the study are published in a booklet entitled "*Investing in North Carolina's Future: The Positive Economic Impact of Extending the Bailey Settlement to all Government Employees.*" In the published booklet are reports on **data collected from a large scaled survey** of retirees, **a major literature review** and **an economic multiplier analysis** that supported the study findings.

Results of the study show in the multiplier analysis that for every **one dollar cost to the state there will be 2.5 dollars in return benefits**. Government retirees, as pointed out in the study, contribute to their communities and the state in many tangible ways, and continuing efforts should be made to retain and/or attract government and military retirees to North Carolina. Our request to the Study Commission on Aging is to consider supporting the passage of these bills.

Tom Hobgood, Past President, NC Federation of NARFE and
(919-787-8426) Federal Co-Chair of The 4th Branch

NC Study Commission on Aging

Public Hearing

Charlotte, NC

April 22, 2010

Comments from the Mecklenburg County Department of Social Services

Presented by: Rodney Adams, Services for Adults Division Director

NC Study Commission on Aging Comments

Good afternoon;

My name is Rodney Adams, and I am the Division Director for the Services for Adults Division of the Mecklenburg County Department of Social Services.

On behalf of Ms. Mary Wilson and the entire staff of the Mecklenburg County DSS, we welcome the members of the NC Study Commission on Aging to Mecklenburg County,

And extend our support for the Study Commission's recommendations approved on April 1, 2010,

With particular reference to Recommendation # 10: "Refining Aging and Long-Term Care Statutes in NC".

We believe that the items identified in this Recommendation will support Mecklenburg County in maintaining a safe environment for seniors and persons with disabilities to continue to age-in-place in their community.

Since FY 2007 and 2008 respectively, Mecklenburg County has experienced a 17% increase in Adult Protective Services referrals as well as a 14% increase in persons placed in Guardianship.

We have submitted this documentation for your review and appreciate your consideration of this information in your decision making.

Once again, welcome to Mecklenburg County and we thank you for your time.

Senior Games to reflect strong suburban flavor

Charlotte Mecklenburg Senior Games and SilverArts competitions kick off this week.

Celeste Smith
cesmith@charlotteobserver.com
Posted: Sunday, Apr. 18, 2010

It took Jean Grayson of Mint Hill a bit of time to try the sports she always wanted to do in high school.

And once she got started, she found even more she wanted to do. Plenty more.

She's registered for 16 events in the Charlotte Mecklenburg Senior Games, which that kick off this week and end June 12. The local games, which began in the 1980s, are for the 55-and-better set who compete in sports and in the arts, known as the SilverArts competition.

The local games will have a heavy southern Mecklenburg presence, from participants to venues. Levine Senior Center in Matthews hosts the opening ceremonies and performing arts show on May 6. Park Road Park is site of the softball tournament on June 12. Crews Road Recreation Center in Matthews hosts the 3-on-3 basketball tournament May 11.

"In high school, I worked. I was never able to play basketball or be a cheerleader," said Grayson, 72, who now does both.

"I always wanted to do more competitive activities. When I found out about Senior Games, I started volunteering for that."

She also started preparing to participate "when I got old enough."

With 324 participants, this year may be some of the most diverse games ever, said Peggy McDonald, chair of the local games.

Here's why: It's the first time the local games aren't restricted by region - anyone who has lived anywhere in North Carolina for at least three months can participate. (That opens the door for participants from neighboring Union County, for example.)

Plus, people who followed family members to Charlotte also have boosted the games with new

talent, McDonald said.

"We have such an influx of people from all over the country, and out of the country, and so many of these people are very healthy seniors," said McDonald, 75. She was one of the organizers of the original local games in 1983.

This year's oldest participant is 91, McDonald said. Top competitors can qualify for the N.C. Senior Games in Raleigh.

Participants say what's fun about it all is they can be as competitive or noncompetitive as they want. The games are also about camaraderie and trying new things.

"I just liked to keep active," said South Charlotte resident Bill Woods, who turns 85 in June. "I like to compete, although I'm not really a competitor. I just like the idea of it and I like to do different things."

He gets with family members every year for the annual Cooper River Bridge 10K event Charleston. Family joined Woods a decade ago, too, when they parachuted over Chester County, S.C., to mark his 75th birthday.

Woods will do the games' cycling events, held on the track at Charlotte Motor Speedway. He also entered the shot put and the football throw, "which I haven't done in 70 years."

Grayson started participating 17 years ago, after seven years of volunteering with the games. She got hooked.

She taught her grandson and next-door neighbor, Kyle Campbell, how to play basketball when he was 3. He's now 15, and Grayson credits him with keeping her in playing shape. They'll practice moves on her driveway court before Grayson works out with her 3-on-3 team.

In addition to basketball and cheerleading, her events this year includes horseshoes, various track and field events, croquet, football throw, basketball throw, softball throw, bocce, and shuffleboard.

She's also an ambassador who helps recruit others - perhaps her most favorite event of all.

"I think that's why I'm enjoying it so much," Grayson said. "I enjoy helping other people to do their thing."

BAYADA NURSES
Home Care Specialists

Support Medicaid Waiver Programs including Personal Care Services (PCS), Community Alternatives Program (CAP), and Private Duty Nursing (PDN).

Study Commission on Aging Committee Presentation, April 22, 2010

Speaker: Joe Seidel, Director Bayada Nurses, Inc.

Bayada Nurses would like to thank the Study Commission on Aging for its past support of the Medicaid Optional Programs and to encourage continued funding of these vital services for our elderly and disabled citizens.

We are all feeling these tough economic times. It is therefore, critical that every dollar spent on healthcare is scrutinized to ensure our state is getting **value** for that dollar. The Medicaid Waiver Programs, such as personal care services (PCS) and the community alternative program (CAP), offer services that are **less expensive** than institutional care while keeping families and communities together.

Bayada Nurses is concerned with how Secretary Lanier Cansler and Governor Beverly Purdue are managing our health care dollars! With the release of the Governor's budget and the Health and Human Services' recommendation last week to the Joint Appropriations Committee by Secretary Cansler, almost 60,000 elderly, frail, chronically ill, and disabled Medicaid recipients are in **jeopardy of losing the care they need and deserve.** Eliminating or reducing these cost-effective community programs will not only deny patients the care they need, but will ultimately increase the state's healthcare expenditure. The average cost per month for PCS is **$750** compared to $1,800 for Adult Care Homes. For CAP the cost is capped at **$1,900** per month compared to $3,500 for nursing home care.

Bayada encourages the Study Commission on Aging to continue to support and fully fund the PCS, CAP, and private duty nursing (PDN). They are a vital part of our health care continuum and allow nearly 60,000 of our elderly, frail, chronically ill, and disabled citizens to remain at safely at home.

PCS	• 37,000 recipients • Assistance with personal care services such as bathing, toiling, eating • Average cost per month: **$750** compared to $1,800 for Adult Care Home
CAP	• 15,000 recipients • Institutional level of care needs • Cost is capped at **$1,900** per month compared to $3,500 for nursing home care
PDN	• 441 recipients • Medically complex, acutely ill with traumatic brain injury, ventilator- and tracheostomy-dependent recipient

Lee Dobson, M.PA, CPHQ, Director, Government Affairs & Health Policy
Email: LDobson@Bayada.com Mobile: 919-523-2992

Why You Should Oppose Cuts to the PCS, PDN, CAP Program:

- Patients and Families should come first!

- The cuts may adversely affect the health of the elderly and disabled individuals who rely on the waiver program to get the care they need in the home
    - 37,000 North Carolinians are served monthly by the Medicaid in-home aide program, Personal Care Services
    - 15,000 nursing-level of care need individuals are served under Community Alternatives Program
    - 400 Medically complex, acutely ill with traumatic brain injury, ventilator- and tracheostomy-dependent recipients are served under Private Duty Nursing

- The Department & Governor are targeting cost-effective in home programs which may force thousands of disabled and elderly individuals into more costly facility settings

- There may be violations of the Americans with Disabilities Act. These violations could show a backward trend and are in clear violation of the US Supreme Court's Olmstead Decision under the Americans with Disabilities Act, which calls for keeping people in the least restrictive, most cost-effective setting whenever possible.

- This budget recommendation transitions adult private duty nursing recipients to a new Community Alternatives Program (CAP) technology waiver without any details. The program will continue to serve children; however, it is recommended that independent assessments be conducted for children that receive the service.

- Home care and Hospice employs 100,000 people statewide; 20,000 voters with these jobs work directly in PCS and PDN. Most of these jobs will be eliminated if the General Assembly decided to agree with the recommendations.

- Home care keeps families and communities together while encouraging independence for seniors and the disabled.

Medicaid Waiver Programs are a vital programs for our elderly, frail, chronically ill, and disabled citizen!

Lee Dobson, M.PA, CPHQ, Director, Government Affairs & Health Policy
Email: LDobson@Bayada.com Mobile: 919-523-2992

Adult Protective Services

Statewide Data: The North Carolina Division of Aging and Adult Services reported more than a 20 percent increase in APS reports from 2007 to 2009.

Corresponding Data for Mecklenburg County Data:
Mecklenburg County experienced a 17 percent increase in APS reports from 2007 to 2009. There were 227 more individual APS reports in FY 2009 than in FY 2007.

Statewide Data: The North Carolina Division of Aging and Adult Services reported that two-thirds of county DSSs are seeing increase in first time [APS] reports."

Corresponding Data for Mecklenburg County:
Mecklenburg County reports an 11 percent increase in first time reports in FY 2009 when compared to FY 2007. There were 103 more customers with first time reports in FY 2009 than in FY 2007.

Statewide Data: The North Carolina Division of Aging and Adult Services reported that more than half [of NC Counties] are seeing more repeat APS reports."

Corresponding Data for Mecklenburg County:
There was a 12 percent increase in repeat APS reports from 2007 to 2009.

Statewide Data: The North Carolina Division of Aging and Adult Services reported that more than 1 in 5 [NC Counties] have increased intake resources, reassigned staff, and utilized supervisors."

Corresponding Data for Mecklenburg County:
As a result of increased demand for Adult Services, the Mecklenburg County Department of Social Services has added two additional APS staff members since July 2009.

Statewide Data: The North Carolina Division of Aging and Adult Services reported that more than half [of NC Counties] are experiencing reduced funding for their own essential services and nearly half are finding fewer Home and Community Care Block Grant (HCCBG) services available."

Corresponding Data for Mecklenburg County:

- There has been a decrease in funding from the County for voluntary services such as Adult Daycare and In-Home Aide Services.

- HCCBG services have been closed due to budget restraints; however, we make exceptions for clients who need APS as part of their plan of protection and are allowed to access services even if services are closed.

Guardianship

Statewide Data: The North Carolina Division of Aging and Adult Services reported that there was a 10 percent increase in the number of wards from 2008 to 2009."

Corresponding Data for Mecklenburg for County:
In June of FY 2008 Mecklenburg County had 224 guardianship wards and in July FY 2009 Mecklenburg County had 251 guardianship wards, which represents a 14 percent increase in guardianship wards.

Statewide Data: As of January 2010, the North Carolina Division of Aging and Adult Services reported that the current number of wards is 3,532.

Corresponding Data for Mecklenburg County:
At the end of March 2010 the number of wards in Mecklenburg County was 263.

Statewide Data: The North Carolina Division of Aging and Adult Services reported that most of the cases involve service as Guardianship of the Person.

Corresponding Data for Mecklenburg County:
All of Mecklenburg County cases involve service as Guardianship of the Person.

Alzheimer's and Other Dementia

Statewide Data: The North Carolina Division of Aging and Adult Services reported that Alzheimer's is the sixth leading cause of death for people of all ages and the 5th leading cause for those 65+.

Corresponding Data for Mecklenburg County:
As of 2008, Alzheimer's disease was the fourth leading cause of death in Mecklenburg County. Data indicates from 2004-2008 there were 1,519 deaths in Mecklenburg County due to Alzheimer's disease.

Statewide Data: Over 170,000 older adults in NC currently have Alzheimer's or other dementia. By 2030, this number is projected to increase to more than 288,000.

Corresponding Data for Mecklenburg County:
Mecklenburg County is projecting that it will have 10,783 residents with Alzheimer's by July 2010.

Statewide Data: The North Carolina Division of Aging and Adult Services reported that for 2009, nearly one-third of Adult Care Home residents reportedly had Alzheimer's or some type of dementia (about 12% of those in Family Care Homes).

Corresponding Data for Mecklenburg County:
Mecklenburg County data is not available on the number of Alzheimer's disease patients in Nursing Home and/or Adult Care homes.

Statewide Data: The North Carolina Division of Aging and Adult Services reported that for 2009, 19 percent of Nursing Home residents had Alzheimer's diagnosis and 38 percent had dementia other than Alzheimer's.

Corresponding Data for Mecklenburg County:
Mecklenburg County DSS Adult Home Specialist has records of the facilities that have "Special Care Units". These units house residents that are classified as "memory impaired". However, there may be other residents in those same facilities who have Alzheimer's/dementia but may not require the care of the special care unit. There are 17 facilities in Mecklenburg County that have "Special Care Units". Two of these facilities are strictly special care only (the entire population is "memory impaired").

Status of Home and Community Care Block Grant

Statewide Data: The North Carolina Division of Aging and Adult Services reported that overall funding has increased about 20 percent over past 10 years—taking into account nonrecurring reductions for SFY 2009-10.

Corresponding Data for Mecklenburg County:
Mecklenburg County HCCBG funding has increased by 35 percent between FY 2001 and FY 2009.

Statewide Data: The North Carolina Division of Aging and Adult Services reported that statewide utilization/expenditure rate remains very high—99.8 percent in SFY 2008-09.

Corresponding Data for Mecklenburg County:
The Mecklenburg County utilization rate was 100 percent for FY 2009.

Statewide Data: The North Carolina Division of Aging and Adult Services reported that service unit costs have increased.

Corresponding Data for Mecklenburg County:
Service Unit Cost in Mecklenburg County has also increased.

Statewide Data: The North Carolina Division of Aging and Adult Services reported that there has been a decrease in clients served (6.9%) and total service units (14.1%) between
July 1, 2000- June 30, 2009; while NC population age 60+ and 75+ grew by 29 percent and 18 percent.

Corresponding Data for Mecklenburg County:
There was a 15 percent decrease in clients served from FY 2007 through FY 2009. Total service units data is not available. This information is tracked in a system that only tracks current information and not the historical frequency of service.

AGING STUDY COMMISSION PUBLIC HEARING
THURSDAY APRIL 22, 2010
Debi L. Lee, Lead Regional Ombudsman

Good afternoon, my name is Debi Lee, Lead Regional Ombudsman from Centralina Area Agency on Aging in Charlotte, N.C. and I am speaking with regard to the N.C. Regional Long Term Care Ombudsman State-based Legislative Priorities.

1. **Legislative Priority: Support labor enhancements for direct care workers in long term care facilities to improve recruitment, retention, development and job satisfaction, thereby improving the quality of care, continuity of care and quality of life of long term care facility residents. Labor enhancements include but are not limited to enhanced wages, benefits, shift differentials, career ladders and child care options.**

   Staffing is the single most important aspect of getting good care for residents who live in any type of communal setting. The following is from the N.C. Direct Care Workers Association Website (last updated more than 3 years ago)

   "The demand for direct care workers is growing while the worker pool is shrinking. There is a shortage of direct care workers in North Carolina as there is across the country. As the population ages, the state will need more direct care workers. Nationwide estimates put the cost of lost business productivity related to Caregiving issues of employees-including stress and absenteeism-at more than $11 billion.

   An estimated 400,000 North Carolinians today need personal care assistance, based on the state's population and the percentage of all Americans who need such care.

   In countless cases, direct care workers mean the difference between a family caregiver keeping a job-maybe with your organization-and staying home.

   Direct care workers are leaving the field. For nurse aides alone, in the year that ended June 30, 2003, more than 15,000 people eligible to work as nurse aides did not renew their listing in the North Carolina Nurse Aide Registry

2. Nursing home residents continue to have a lower personal needs allowance than those who live in assisted living. The $30.00 allowance for N.C. has not been increased in more than 20 years despite the cost of living increases experienced all across N.C. We encourage the Aging Study Commission to **support a bill that would increase Medicaid nursing home residents' personal needs allowance in nursing homes from $30 per month to $50 per month to adequately clothe, and purchase items not covered under the Medicaid program that enhances their quality of life.**

3. **Legislative Priority: Support the enhancement and provision of new dental services in long term care facilities.** Research shows that much of chronic illness can be traced to poor dental hygiene, and Medicaid pays poorly for preventative services now. The Charlotte Observer reported on just yesterday that Gov. Perdue's budget proposes cuts to the Medicaid covered dental services leaving tax payers open to paying the higher costs of chronic illness, and more expensive surgeries for individuals of all ages related to the lack of basic prevention and cost effective professional cleaning.

4. Once considered a luxury, air conditioning is now standard in most new homes and automobiles. However, there are many older adult care and nursing homes that do not have a way to condition the air for the benefit of staff or residents. Conditioned air does more than offer comfort, it reduces potential mold, allergens and other factors that might contribute to both worker and resident discomfort and disease. I encourage the Aging Study Commission to the **legislative priority to: support a study of the need for requiring air conditioning in adult care homes due to changing weather patterns. The study should include a determination of the number of facilities across the state currently without air conditioning, as well as the medical implications and impact on quality of life associated with exposure of residents to increasingly hot temperatures.**

5. **Legislative Priority: North Carolina's Guardianship law needs to be updated to protect the rights of incompetent adults. The NCLTCOA supports revising the Guardianship Law as recommended by the 2006 House Study Commission on Aging.**

6. **Legislative Priority: The N.C. State Adult Protective Services Task Force has recommended the funding of a Pilot Program to improve the APS response to growing numbers of abuse, neglected, or exploited adults who are older or disabled. This would be a comprehensive, multifaceted, community based system of protection and response, including provisions for information and referral, outreach and intervention services.**

Thank you for your time and attention to these issues. Tremendous improvements in delivery and reimbursement of services to older adults have occurred over the years as a result of the hard work and recommendations of the Aging Study Commission based on public input.

N.C. REGIONAL LONG TERM CARE OMBUDSMAN ASSOCIATION LEGISLATIVE PRIORITIES

2010 STATE PRIORITIES

1. Continue to support efforts to address concerns related to mixed populations in adult care homes.

2. Support a bill that would increase Medicaid nursing home residents' personal needs allowance in **nursing homes** from $30 per month to $50 per month.

3. Support the enhancement and provision of new dental services in long term care facilities.

4. Support a study of the need for requiring air conditioning in adult care homes due to changing weather patterns. The study should include a determination of the number of facilities across the state currently without air conditioning, as well as the medical implications and impact on quality of life associated with exposure of residents to increasingly hot temperatures.

5. Support labor enhancements for direct care workers in long term care facilities to improve recruitment, retention, development and job satisfaction, thereby improving the quality of care, continuity of care and quality of life of long term care facility residents. Labor enhancements include but are not limited to enhanced wages, benefits, shift differentials, career ladders and child care options.

6. North Carolina's Guardianship law needs to be updated to protect the rights of incompetent adults. The NCLTCOA supports revising the Guardianship Law as recommended by the 2006 House Study Commission on Aging.

7. The N.C. State Adult Protective Services Task Force has recommended the funding of a Pilot Program to improve the APS response to growing numbers of abuse, neglected, or exploited adults who are older or disabled. This would be a comprehensive, multifaceted, community based system of protection and response, including provisions for information and referral, outreach and intervention services.

Our regional locations . . .

HOSPICE & PALLIATIVE CARE CHARLOTTE REGION – UPTOWN

HOSPICE & PALLIATIVE CHARLOTTE REGION – SOUTH

HOSPICE & PALLIATIVE CARE LAKE NORMAN

HOSPICE & PALLIATIVE CARE LINCOLN COUNTY

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PROFESSIONAL & COMMUNITY EDUCATION

Remarks to the North Carolina Study Commission on Aging
Charlotte, N.C.
April 22, 2010

Good morning, I am Marilyn Morenz, Education & Resource Manager for Hospice & Palliative Care Charlotte Region. We have had the privilege of serving patients and families in Mecklenburg and surrounding counties since 1978.

Hospice care is highly valued and is being increasingly utilized locally, in North Carolina, and throughout the country. In fact, from 1979 to 2007, the number of North Carolina patients served by hospice has grown from several hundred to over 37,000. In 2008, hospice served almost 35% of the deaths in our state.

So it's fairly easy to see that hospice care is becoming part of the solution to our healthcare crisis. Not only is it less expensive than hospital stays and other traditional forms of care, it is considered to be the most *appropriate* care when curative treatment is no longer feasible.

It is critical that all people are able to receive hospice care, even if they cannot afford it. And it is especially important that the frail and medically indigent to be able to receive hospice care in their personal residence or in any setting they call home, such as an assisted living facility or nursing home.

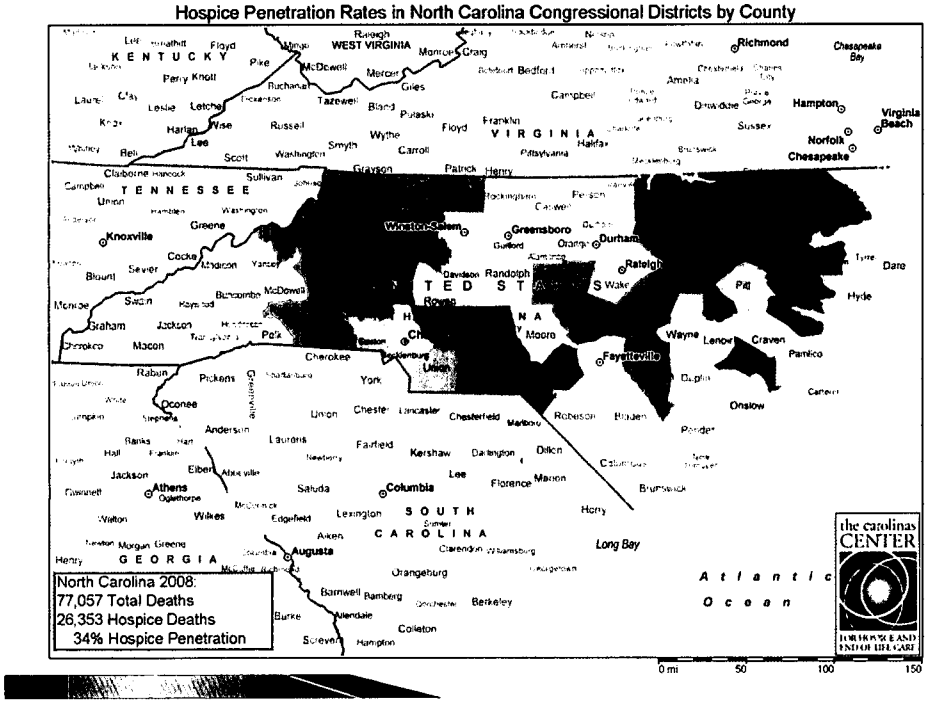
Although the Medicaid Hospice Benefit is considered an "optional benefit", it is actually quite essential for these most fragile patients. The added benefit of matching federal funds enables these folks to have the same access to end-of-life support through hospice as those who are fortunate enough to have Medicare or private insurance.

We encourage the Commission and our legislators to ensure that hospice care is sustained for all citizens of North Carolina.

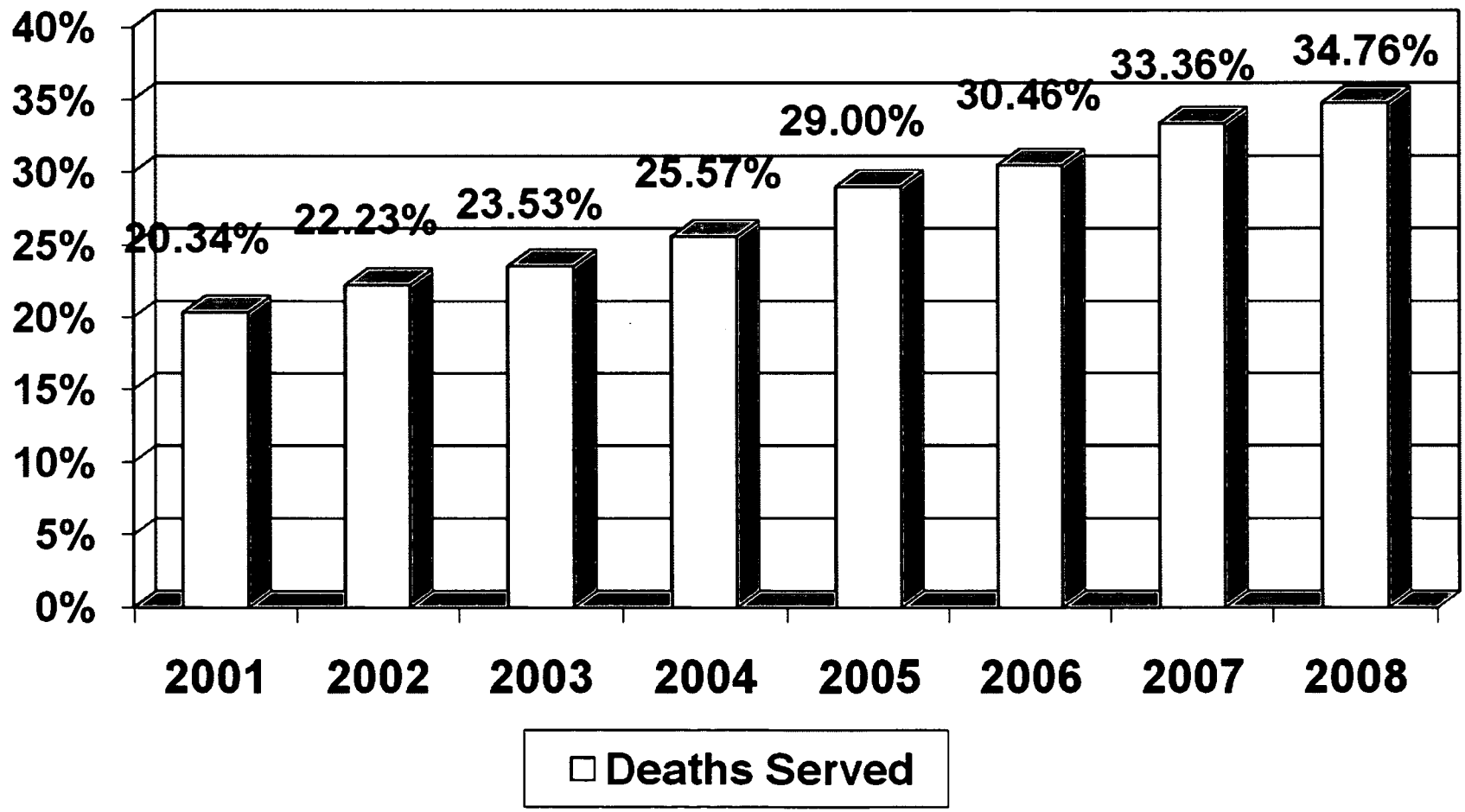
We also want to thank the N.C. legislators for crafting and passing House Bill 634 / Session Law 2007-502 an "Act to Clarify the Rights to Make Advance Directives and to Designate Health Care Agents and to Improve and Simplify the Means of Making these Directives and Designations."

This legislation, passed on October 1, 2007, improves the rights of North Carolina residents to make choices about end of life care and decision making. With this bill, and the improvements to our advance directives, and the addition of the Medical Orders for Scope of Treatment form (MOST), North Carolina is placed among the top states in the country for advance care planning.

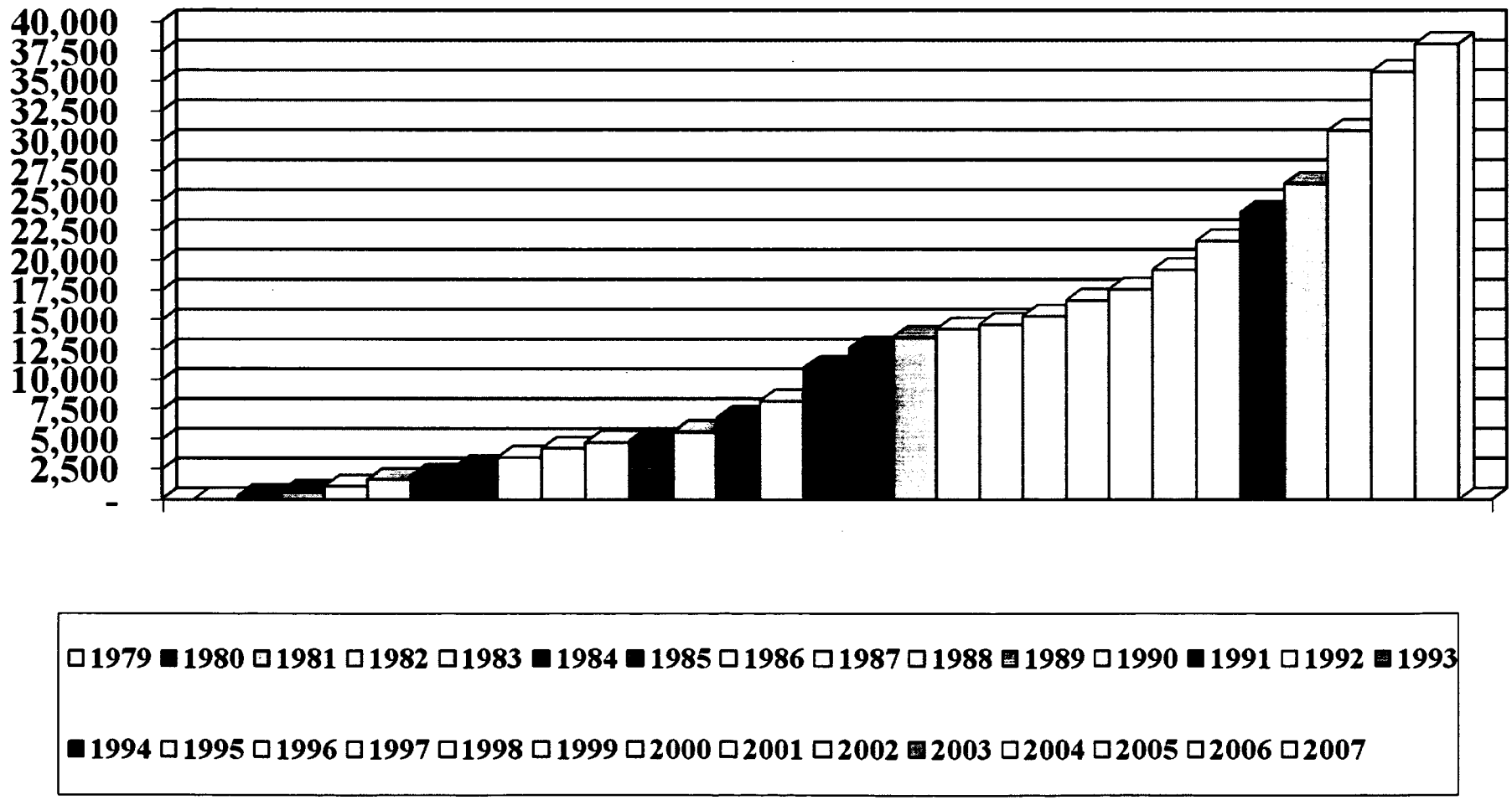
Hospice Penetration Rates in North Carolina Congressional Districts by County



North Carolina Deaths Served by Hospice As a Percent of Total Deaths 2001 - 2008



North Carolina Patients Served by All Hospices 1979-2007



Good Afternoon, April 22, 2010

I'm glad to be here today. My name is Minerva Mack. The way I became introduced to Project Care was in September 2009. My mother was released from a nursing facility after recovering from a fractured right ankle last summer. I was concerned about how I would help her continue to recover and thrive at home. The nursing staff provided me with a contact phone number which allowed me to be introduced to Mr. Harry Griffin, who was helpful and does his job with great care and compassion. Mr. Griffin carefully explained Project Care to me and asked if it might interest me as a caregiver?

My family is very important to me and I enjoy caring for them. My mother Margaret Logan is 69 and is a 3 time stoke victim, and my son Logan is 12, Honor Roll student at Ranson Middle School. Project Care plays a vital roll in our daily lives. It allows respite from the busy and sometimes demanding responbilties of being a caregiver. Project Care is by far the most beneficial program offered to me since I moved to North Carolina nearly four years ago. Being from the state of Washington, we didn't know anyone in this area, which made it very difficult to trust anyone to receive respite when needed. I worked a full time job and took care of my young son and mother. And as a private paying client, it was very difficult to afford quality in home care and or adult daycare services. At times the demands of care giving would require me to be at home instead of work. This unfortunately took a toll on my employer and I was soon relieved of my position. Since then, the funding from Project Care has helped provided support and peace of mind to me by allowing my mother to attend University Adult Daycare full-time, which has given me the power and confidence to seek full-time employment again. The Project Care program is an asset to me and my family by allowing my mother to interact socially with other daily. It has helped me become an even more caring provider which further enriched all of our lives.

Minerva T Mack
5030 Acorn Forest Lane
Charlotte NC 28269

980-253-3218 Cell
704-599-0027 Home

Statement before the NC Study Commission on Aging – 4/22/10

Good afternoon. My name is Kether Abeles and I have worked as a Family Consultant with Project C.A.R.E for the past 4 ½ years. My work responsibility includes bringing a wide range of respite support and services to caregivers of persons with dementia, who live in 7 counties of Western North Carolina. My work includes assessing and enrolling eligible caregivers into our program, as well as providing information and referral to all caregivers who call. On average, I manage the respite grants of about 115 families each year.

The majority of the dementia caregivers I speak to are the either the spouse or adult child of the person with dementia and have been the primary caregiver for an average of 8 years. During their caregiving careers, most families receive little or no assistance, in many cases, limited help from family members and can not afford to pay for respite services on their own limited and fixed incomes. Not surprisingly, an overwhelming majority of caregivers have emotional, health and financial problems.

Project C.A.R.E. provides respite for dementia caregivers in the form of in-home care, adult day care, temporary overnight respite or a combination of all three. Family consultants, like me, go into the home, assess the specific and unique needs of the caregiver and tailor the management of their case to fit those needs. We provide linkage to other community resources, guidance, support and education on dementia and caregiving. We always seek to empower the caregiver and encourage them to care for themselves. We find that our work often entails advocating for the respite needs of families as they encounter very complicated, unaccommodating health care systems.

I can't tell you how many homes I go into where the caregiver is in worse health than the person that they're caring for. There are no proper words to describe what dementia caregiving is like and the toll it takes. Watching your wife or husband slowly fade away to point where they don't recognize you anymore. Having to bathe and dress your mother or father. Needing to watch your loved one all the time, so they don't wander out of the house or choke on their food because they don't remember how to swallow. It's emotional, it's physical and it's constant. And most people do it by themselves, with no help from anyone. But they do it, because, like all of us, they want to keep their loved ones at home.

Our job, as family consultants, is to take care of the caregiver so they are better equipped to care for their loved one. To these families, just having someone there to listen to their story means so much. But having a few hours of respite from caregiving, having some time to themselves, is invaluable.

Every year, we send a survey to our caregivers to get their feedback on their situations as well as how Project C.A.R.E. is meeting their needs. According to these surveys, 100% of enrolled caregivers say that Project C.A.R.E. helped them keep their loved ones at home longer and provided relief and hope for their particular situations. Our program keeps people with dementia at home for a fraction of what it would cost, per person, to place them in long-term care.

I'd like to close with a quote from one of our caregivers enrolled in the program:
"All I know is that they came into my life when I was desperate. The Family Consultant provided so much more than just much-needed financial support. She offered emotional support, a shoulder to cry on and much useful information. They seemed to care about my loved one and our circumstances. They restored my hope that we could do this."

Thank you for your time and consideration.

Affordable health care for seniors....Senior Games!!!

Senior Games is a very **inexpensive** prescription for a healthy, motivated and active lifestyle that saves our limited health care dollars.

Senior Games keeps us healthy!

The games have made a big difference in our lives.....married 51 years; compete in badminton and archery; been NCSG Ambassadors for 1year

The games offer over 64 different activities for adults 55 years of age and better. There **is** something for everybody: individual sports, team sports and cheerleading squads. In the Silver Arts, photography and life experience are the most popular. Often this is the first that talented artists have had the opportunity to compete and show off their fine work.

In the 2009 state finals in Raleigh, the age range of participants was 55 to 97 with 22 participants 90 years of age or better.

There are 5 year age increments for the sports competitions to make them more fair .....55 to 59... K - 75 this year - youngster

Senior Games participants have a higher ***PERCEIVED*** health status than the general population - they know they have a problem but it doesn't get them down, for long.

For the same amount of money it costs to keep **3** people in a skilled nursing facility, Senior Games can serve over 60,000 participants in N.C. each year!

The games continue to grow and spread the message that "***prevention is a wise investment***" and **will save** on future health care expenditures.

People of all ages are impacted in our communities by the this program. We set examples of "staying active and involved" to our children, grandchildren, friends and spectators.

North Carolina has the largest Senior Games program in the nation serving all 100 counties with over 60,000 participants.

N.C. is lucky to have this program and we thank the **General Assembly** and the **Division of Aging and Adult Services** for their support of this statewide health promotion program.

To the Study Commission: we realize that these are hard times but we are ever so grateful for your support. Thank you.

AARP North Carolina
225 Hillsborough Street
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TTY 1-877-434-7598
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Bill Wilson – Associate State Director

AARP North Carolina – BiWilson@aarp.org – 919.508.0299

On behalf of AARP North Carolina's 1 million-plus members age 50 and over, I am pleased to provide these remarks to the N.C. Study Commission on Aging. I want to briefly mention our five legislative priorities for the Short Session and make a few comments regarding Governor Perdue's budget released two days ago.

Our top five priorities for the 2010 Short Session are:

1. Expand funding for the Home and Community Care Block Grant to address the waiting list for in-home and community-based services for older adults.
2. Increase funding for Project CARE (Caregiver Alternative to Running on Empty) to provide respite care and support to caregivers of persons with Alzheimer's disease.
3. Preserve Medicaid eligibility and services for older and disabled adults.
4. Expand dental care services for older and disabled adults, including special populations, such as nursing home and adult care home residents, and persons with dementia.
5. Approve a State Long-Term Care Partnership Program to encourage people to take greater responsibility for their long-term care needs.

We appreciate that four of these items are included in the Commission's recommendations.

AARP is also pleased to see that Governor Perdue included $1 million in her budget for Project CARE. We do have some concerns about four items in the Health and Human Services portion of her budget proposal:

- The Governor proposes to save $204,716 by Medicaid no longer covering high-tech adult orthotics and prosthetics when lower-tech alternatives exist or when not demanded by medical necessity. We are concerned that cost rather than reasonable alternatives, or what may be in the best interest of the recipient, will be the deciding factor.
- Her budget proposes savings of $4.3 million by limiting Medicaid optional services. We do not think that reducing the maximum number of visits for adult speech therapy, physical therapy, occupational therapy and respiratory therapy to three a year is appropriate or adequate.
- The budget reduces by $11.6 million services for adult dental care. While emergency services are still allowed, providing non-emergency services should reduce the need for emergency services and improve dental health of those served. Dental care is a key ingredient to the overall health of older adults and the lack of this care can negatively impact their overall health.
- The $59.8 million reduction in personal care services (PCS) also concerns AARP. Personal care services are critical for those with high Activities of Daily Living (ADL) needs, whether they are at the PCS-Plus level or not. Those served also need to have an adequate number of hours of services – it does not help someone very much if they need 80 hours of services a month, but the program is only budgeted for 10 or 20 hours. It seems that virtually all the funding for adult PCS is removed from the budget which would not allow for inclusion of individuals needing services in the PCS-Plus program that currently serves only about 2,000 individuals. The Department of Health and Human Services estimated that 43,502 individuals would be impacted by this budget reduction.

Thank you for the opportunity to speak with you today. We appreciate the work and dedication of the Commission members to the needs of older adults in North Carolina.

RANDOLPH HOSPITAL

My name is Helen Milleson and I am a CAP/Community Case Manager for Randolph Hospital in Asheboro, NC. Thank you for the opportunity to share concerns regarding the budget cuts made to the CAP/DA and CAP/C programs. I have been a CAP Case Manager for almost 19 years and the past few months have been quite upsetting. Presently, we are not able to admit new clients until we have lost 11 slots due to slot reduction for each county. No longer can case management be tailored to the needs of the clients. We can only bill 3 hours of case management per month regardless if the case is high acuity. Also, reimbursement rates for case management have been reduced. The Case Management aspect has been essential in controlling expenses for program services. These reductions have resulted in one of my co-workers losing her job and another co-worker working part time with CAP and part time with another job in the hospital.

I am concerned that individuals on our long waiting list have to look at other placement options because we are no longer able to admit CAP clients. One of the options is that a Nursing Home with a one star rating in Randolph County does have an opening. Medicaid would have to pay $1, 781.99 more a month than if the client was on CAP. Why are cuts being made to a proven cost effective program that assists families in caring for their loved ones at home? Home is where people want to be!

Helen D. Milleson
(336)302-2839

My name is Cindy Harry; I am the Social Work Manager for Gaston Hospice in Gastonia, NC. I have worked there for 12 years and have been in hundreds of Gaston County homes and facilities. Gaston Hospice is the "hometown" hospice of Gaston County, having served as the primary provider of quality end of life care since 1981. In 2009, we served 1088 patients, with an average daily census of 150 patients. NC.

Of the 1088 patients served last year, 64 were covered under Medicaid. These Medicaid patients are very sick, many with multiple co-morbidities. Often times their caregivers may be almost as debilitated as the patient. Besides facing end of life issues-a huge life event for all involved-they struggle with low income, housing and food issues, limited family caregivers and sometimes societal pressures such as substance abuse.

Our hospice is about even with national standards on serving people with cancer and heart disease, but in Gaston County and North Carolina the incidence of lung disease and dementia is significantly higher. These are both disease that come with hefty healthcare costs.

Patients with COPD make multiple trips to the ED-sometimes 2-3 a month. Fear of not be able to breath is very scary for the patient and their loved one. Once at the hospital they may spend hours sitting in the ED or may be admitted for several days for very expensive treatments and tests. My mother had COPD and had pneumonia 4 times in one year. She had panic attacks and hyper-ventilated if she wandered off a little too far and had to walk more than a few steps. She continued to smoke, as many patients do, which only contributes to increased symptoms and costs.

For end stage COPD, Hospice not only provides for the medications and symptom controls, but ongoing education to both the patient and family, our goals include helping patients stay in their homes, where they are most comfortable-aging in place. Our nurses, social workers, chaplains, CNAs, counselors and volunteers come to them-We partner with them to give control back, to assist them in maintaining a sense of independence and decision making, to relieve some of the stress of the caregiver, who often times has their own health problems. Hospice does not require a patient to be home bound, so they can go to lunch at Wendy's with friends or their grandchildren-to enjoy the time left and in the process have a better quality of life, which also translates to benefits for their caregivers-better coping skills, better healthcare for them during their loved ones illness and help with grief services after the death, allows them to have a healthier experience-which ends of costing less in healthcare dollars for that person too.

We provide services that help a family keep their loved ones in the community. The Medicaid daily rate is $142.00 for hospice care. Compare that to the cost of one hospital admission-also paid by Medicaid. This is a "holistic approach to care with a collaborative management of chronic disease. Hospice offers more than what you can put a dollar amount on-Our services cascade into the community with long range benefits for many-these are benefits that are priceless.

The 2010 Legislative Priorities of the North Carolina Senior Tar Heel Legislature

Presented by Charles H. Dickens, Buncombe County Delegate, NCSTHL

Charlotte, April 22, 2010

I am Charles Dickens, the Buncombe County Delegate and former Speaker of the North Carolina Senior Tar Heel Legislature. Thank you for holding this public hearing. The Senior Tar Heel Legislature recommends five legislative priorities to the General Assembly.

The great majority of older adults want to age in place—that is, they want to live in their own homes as long as possible. Should the day come when they must move into a long term care facility, they want to receive affordable, quality care in a safe environment provided by properly trained staff members whose backgrounds and education have been verified. Our recommendations support these goals.

Programs that help older adults age in place have the added benefit of slowing the growth in public expenditures for the care of elderly persons in nursing homes, adult care homes, and other health care facilities. These economic considerations take on even greater importance under current conditions when public revenues are reduced and the number of senior citizens is increasing. The nation will reach a notable milestone on January 1, 2011, when the oldest of the Boomers start turning age 65 and thus become eligible for Medicare.

We request $1 million in <u>recurring</u> funds for Project C.A.R.E. (Caregiver Alternatives to Running on Empty). This program now operates in 22 counties—soon to be 23 counties. Additional funds are necessary to expand Project C.A.R.E. into other counties to meet needs of family caregivers for respite. An estimated 170,000 Tar Heels, age 65 and older, have Alzheimer's and related dementias, and the Alzheimer's Association projects that number will grow to 210,000 by 2025. On average, there are two unpaid caregivers for every person with Alzheimer's and related dementias.

We are delighted that Governor Bev Perdue's budget, released on April 20, recommends expansion of Project C.A.R.E. with a new appropriation of $1 million in recurring funds. The Governor's request is in addition to the $500,000 in nonrecurring funds that the General Assembly has already provided. This $500,000 is essential to sustain the program in the counties where it is now delivering services.

The Governor's budget states: "Project C.A.R.E. is a nationally recognized respite care program for caregivers of people with dementia. The program targets rural,

elderly, and minority families and is a cost effective alternative to institutional care. These funds will expand the program to approximately 20 counties and provide consultation, referral, and respite care for more than 500 additional families." This new $1 million will bring us a giant step closer to the goal of extending Project C.A.R.E. to all 100 counties.

We request the General Assembly to provide additional <u>recurring</u> funds for the Home and Community Care Block Grant. The need continues to grow. Over 14,000 people are on the waiting list for these home and community based services.

We request additional funds for senior centers and note that no new funds were provided for the current year. As the older population grows, so does the demand for senior center services.

We urge the General Assembly to provide greater property tax relief for low income older persons. Rising real estate assessments result in unsustainable tax burdens.

We urge the General Assembly to protect frail older adults with chronic health problems and disabled persons by mandating pre-employment and random drug testing for employees of nursing and assisted living facilities.

I thank you for providing this opportunity to tell you the 2010 legislative priorities of the Senior Tar Heel Legislature.

Attachment

FACT SHEET
North Carolina Senior Tar Heel Legislature
2010 Legislative Priorities

- **Provide funding to sustain Project C.A.R.E. (Caregiver Alternatives to Running on Empty).** Project C.A.R.E. provides information, referral, consultation and linkage to caregivers of persons afflicted with Alzheimer's disease. By helping families keep a loved one in the home longer, less time will be required for institutional care. The resulting savings in public funds are substantial. We recommend that $1,000,000 in recurring funds be appropriated to sustain Project C.A.R.E. in the 21 counties it now serves and to expand it into other counties.

- **Increase funding for home and community based services for older adults by increasing the Home and Community Care Block Grant by $5 million.** Home and community-based services include home-delivered meals, adult day care, health care, in-home aid and other services that help impaired older adults stay in their homes. These services are less costly than institutional care. The rapidly growing population of older adults is increasing the demand for these services. There are thousands of people on the waiting list for Home and Community Block Grant services.

- **Increase funding for senior centers by an additional $2,000,000 in recurring funds for a total of $3,265,316 a year.** Senior centers provide programs and services that enhance the health and wellness of older adults and support their efforts to remain independent. The 163 senior centers currently in operation or under development serve 97 counties. The requested increase in recurring funds would enable these senior centers to expand their services to meet the needs of a growing population of older adults.

- **Establish a cap on the increase in the assessed value of property determined during revaluations for persons over the age of 65, eligible for a Homestead Exemption. Revise the limits of the Act to income of $35,000.** The 2000 census estimates that 12.7% of NC's elderly over 65 have an income below the poverty level. Frequent reassessments of property values have resulted in much greater tax burdens within this population.

- **Mandate pre-employment and random drug testing for employees of nursing and assisted living facilities.** Skilled nursing facilities and adult care homes provide specialized care for frail adults with chronic health problems and disabled persons. The safety of residents is compromised when employees abuse drugs, resulting in decreased productivity, increased liability to the facility and its staff and increased potential crimes such as theft and patient abuse. While some companies require pre-employment and random drug testing for their employees, all companies should have this policy in place.

FACT SHEET
North Carolina Senior Tar Heel Legislature

The North Carolina Senior Tar Heel Legislature was created by the North Carolina General Assembly with the passage of Senate Bill 479 in July of 1993.

The Senior Tar Heel Legislature was created to:

- Provide information to senior citizens on the legislative process and matters being considered by the North Carolina General Assembly.
- Promote citizen involvement and advocacy concerning aging issues before the North Carolina General Assembly.
- Assess the legislative needs of older citizens by convening a forum modeled after the North Carolina General Assembly.

Each of the 100 North Carolina counties is entitled to one delegate to the Senior Tar Heel Legislature. Most counties also have an alternate delegate. Delegates and alternates must be age 60 or older. The North Carolina Division of Aging and Adult Services provides staff support for the Senior Tar Heel Legislature in cooperation with the 17 Area Agencies on Aging, which are responsible for conducting the selection of delegates and alternates.

Current officers of the Senior Tar Heel Legislature are: Betty Hunt, Speaker (Randolph County); John Thompson, Speaker Pro Tempore (Carteret County); Herbert Harris, Deputy Speaker Pro Tempore (Person County); and Marge Zima, Secretary (Onslow County). Mary Edwards of the Division of Aging and Adult Services is the principal staff aide.

For more information about the North Carolina Senior Tar Heel Legislature, please contact your county's Delegate or Alternate or the following members:

Buncombe County Delegate
Charles Dickens
4 Arrow Place
Asheville, NC 28805
(828) 298-7501

Buncombe County Alternate
Donald Lilenfeld
14 New Cross South
Asheville, NC 28805
(828) 299-4942

Madison County Delegate
Jack Roberts
649 Bailey Branch Road
Mars Hill, NC 28754
(828) 689-2871

Madison County Alternate
Mary Evans
P. O. Box 573
Marshall, NC 28753
(828) 649-1157

Henderson County Delegate
Calvin Titus
1 North Charles Lane
Hendersonville, NC 28792
(828) 696-9181

Transylvania County Delegate
Delores Stroup
290 Pine Mountain Trail
Brevard, NC 28712
(828) 862-8500

MINUTES
NORTH CAROLINA STUDY COMMISSION ON AGING

Wednesday, May 11, 2010
10:00 am
Legislative Office Building, Room 544

The North Carolina Study Commission on Aging met on Wednesday, May 11, 2010, at 10:00 am in Room 544 of the Legislative Office Building, Raleigh, North Carolina. Members present were: Senators Bingham, Dorsett, Forrester and Queen; Representatives Bordsen, England, Pierce and Weiss; Mr. John Eller; Mr. Anthony Peace; Ms. Joan Pellettier; Ms. Jean Reaves; Ms Maria Spaulding and Ms. Patricia Sprigg. Staff also in attendance was Susan Barham, Joyce Jones, Sara Kamprath, Theresa Matula, Mr. Shawn Parker; and commission assistants Delta Prince and Wanda Kay.

In the absence of joint chairs, Senator Katie Dorsett performed the duties of the presiding chair for this meeting.

Ms. Susan Barham, Research Staff, gave a summary of the public hearings held in Jamestown on March 24, 2010 and in Charlotte on April 22, 2010. The issues mentioned with the greatest frequency at both public hearings were:

- Maintain/Increase Home and Community Care Block Grant Funds (21 favor)
- Maintain/Increase Funding for Project C.A.R.E (21 favor)
- Increase Funds/Support for Adult Day Care (11 favor)

All three of these issues were incorporated into the recommendations from the Commission.

Ms. Joan Pellettier asked if, in the future, public hearings could be held prior to drafting of the report so as to reflect all of the issues heard at the hearings.

Ms. Theresa Matula explained the pink handout and purple ribbon concerning the 2010 Elder Abuse Awareness Campaign. According to the information provided, in 2009 more than 17,000 reports of abuse, neglect, or exploitation of vulnerable and older adults were made to North Carolina's 100 county departments of social services.

Ms. Matula also noted the information from the Division of Aging and Adult Services concerning Health Care Reform as it relates to seniors and aging services. This information was requested by the Commission from a prior Aging meeting.

Next, Ms. Matula reviewed the report and the proposed recommendations with corresponding bill drafts as follows:

- Recommendations #1 and #2 do not require bill drafts
- Recommendation #3 – Hearing Aid Purchases (2009-SHz-20[v.2])
- Recommendation #4 – Nurse Aide Training (2009-SHz-21[v.2])
- Recommendation #5 – Implement LTC Partnership (2009-SHz-25[v.7])
- Recommendation #6 – Children with Special Needs-Dentist (2009-SHz-22[v.1])
- Recommendation #7 – Develop Special Needs Dental Care Workforce (2009-SHz-23[v.1])
- Recommendation #8 – Medicaid Dental/Special Needs (2009-SHz-24[v.2])

- Recommendation #9 does not require a bill draft
- Recommendation #10 – Update Long-Term Care Statutes (2009-SHz-26[v.5])
- Recommendation #11 – Adult Day Care Criminal Record Check (2009-SHz-27[v.4])

Senator James Forrester asked if drug screening tests are performed along with criminal record checks. Ms. Matula responded not to her knowledge. Senator Forrester also wanted to know how much money has been received from the Medicaid Estate Recovery Plan for which Ms. Matula replied that she would have someone from the Fiscal Research Division or DHHS contact him with that information.

Ms. Jean Reeves wanted to know what procedures the Commission could instate that would expedite the transition of licensed nurse aides from another state into North Carolina, including the military personnel. Representative Jennifer Weiss shared Ms. Reeves concerns. Ms. Matula noted that the language in the proposed study of nurse aides bill was drafted broadly enough to include these issues.

Senator Dorsett asked if the Area Health Education Centers (AHEC) Program could include private schools the same opportunity as UNC-CH, UNC-ECU, community college systems, and current dental providers as participants. Ms. Matula said the bill could be amended to include private schools if needed.

Senator Stan Bingham expressed concerns about individuals getting the assistance needed to wisely choose a private insurer for long-term care coverage.

Senator Forrester inquired about the cost of premiums for young adults ages 24-26 under the new health care plan. Ms. Matula responded that she could not speak to the costs of the state's health plan.

Senator Forrester also wanted to know if nurse aides will be able to do more under the proposed legislation versus the current law. Ms. Matula stated that this proposed bill would simply require the Division of Health Service Regulation to review the education and training requirements for nurse aides, it does not make changes, but requires a report back to the North Carolina Study Commission on Aging on recommendations resulting from the study.

Representative Alice Bordsen asked a question about the origin of the content for Recommendation #6 and the corresponding bill draft. Ms. Matula explained that the North Carolina Dental Society recommended the placement of a licensed dentist on the Commission on Children with Special Health Care Needs.

Mr. John Eller inquired about information concerning adult protective services and guardianship. Mr. Dennis Street, Director, Division of Aging and Adult Services, noted that there has been an increase in the exploitation of the elderly population due to economic stress and issues of guardianship due to mental health changes.

Senator Sam Joe Queen invited the Commission to hold a meeting in the Haywood County area at its earliest convenience and thanked the Commission for a job well done.

The Draft Report to the Governor and the 2010 Legislative Session was unanimously approved by the Commission and is a part of these minutes. The Commission also approved the minutes from the March 24 public hearing in Jamestown, the April 1 meeting in Raleigh, and the April 22 public hearing in Charlotte.

This meeting adjourned at 11:40 am.

The Visitor Registration Sheets are also attached and made a part of these minutes.

Senator Katie Dorsett
Presiding Chair

Delta F. Prince
Commission Assistant

NORTH CAROLINA GENERAL ASSEMBLY
COMMITTEE MEETING NOTICE
LEGISLATIVE OFFICE BUILDING
RALEIGH, NORTHCAROLINA 27603

April 27, 2010

MEMORANDUM

TO: Members of the North Carolina Study Commission on Aging

FROM: Senator A. B. Swindell, Co-Chair
Representative Jean Farmer-Butterfield, Co-Chair

SUBJECT: Meeting Notice

The North Carolina Study Commission on Aging will meet on the following date:

DAY: Tuesday
DATE: May 11, 2010
TIME: 10:00 A.M.
LOCATION: Legislative Office Building, Room 544

Parking for non-legislative members of the committee/commission is available in the visitor parking deck #75 located on Salisbury Street across from the Legislative Office Building. Parking is also available in the parking lot across Jones Street from the State Library/Archives (see attached map). The cost for visitor parking is $1.00 per hour or $8.00 per day and may be reimbursed with a parking receipt submitted with your travel reimbursement form.

If you have any questions concerning this meeting, please contact Janice O. Mobley-Bennett, Committee Assistant, at (919) 733-5780 or email mobleyla@ncleg.net.

Posted: April 27, 2010

cc: Committee Record x
Interested Parties x

Agenda

North Carolina Study Commission on Aging

Tuesday, May 11, 2010
10:00 a.m.
Legislative Office Building
Room 544

I. Welcome and Comments

Senator A.B. Swindell, Cochair
Representative Jean Farmer-Butterfield, Cochair

II. Summary of Public Hearing Comments

Susan Barham, COA Staff

III. Presentation of Draft Report

Theresa Matula, COA Staff

IV. Discussion and Vote on Report

V. Review and Approval of Minutes

May is Older Americans Month

The federal Administration on Aging (AoA) has declared this year's theme as: "*Age Strong! Live Long!*" According to the AoA, this year's theme recognizes the diversity and vitality of today's older Americans who span three generations.

ATTENDANCE

NORTH CAROLINA STUDY COMMISSION ON AGING

DATES CO-CHAIRS	Jan. 7, 2010	Jan. 21, 2010	Feb. 4, 2010	Feb. 25, 2010	March 4, 2010	April 1, 2010	May 11, 2010								
Senator A. B. Swindell							X								
Representative J. Farmer-Butterfield							X								
SENATE MEBERS															
Senator Stan W. Bingham							✓								
Senator Katie G. Dorsett							✓								
Senator James S. Forrester							✓								
Senator Joe Sam Queen							✓								
SENATE PUBLIC MEMBERS															
Mr. Joe Eller							✓								
Mr. Anthony Peace							✓								
Ms. Jean Reaves							✓								
HOUSE MEMBERS															
Representative Alice L. Bordsen							✓								
Representative Bob F. England, MD							✓								
Representative Garland E. Pierce							✓								
Representative Jennifer Weiss							✓								
HOUSE PUBLIC MEMBERS															
Ms. Mary P. Barker															
Ms. Joan M. Pellettier							✓								
Ms. Patricia E. Sprigg							✓								
EX OFFICIO															
Ms. Maria Spaulding							✓								
STAFF															
Ms. Susan Barham							✓								
Ms. Melanie Bush															
Ms. Joyce Jones							✓								
Ms. Sara Kamprath							✓								
Ms. Theresa Matula							✓								
Mr. Shawn Parker							✓								
COMMITTEE ASSISTANTS															
Delta Prince							✓								
~~Janice O. Mobley-Bennett~~ WANDA KAY							✓								

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N.C. Study Comm. On Aging — 5/11/10

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Lu-Ann C Dugan	NCANPHA
Kristi Huff	NCHCFA
Lyn Mark	NC ALTCF
[illegible]	Bar Assn.
Polly Williams	NC Justice Center / Triangle Older Women's League
Marie McBride	Senior Tarheel Legislature
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Mary Edwards	DAAS
Glenda Artis	NC Division of Aging + Adult Services
Heather Carter	DHHS - DAAS

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Jerry Hardesty	Feeding America Food Banks
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TRACY COLVARD	AHHC
Paula Wolf	Friends of Residents
Tresa Johnson	FORLTC, NCAOSA
Jeff Mabley	NC Services for Deaf & Hard of Hearing
Linda Shawsheene	DHHR
Dick Hatch	AARP, NCCOA, NCSTHL
Dee Hatch	AARP
Carla Obiol	NCDOI - SHIIP
Mary Bethea	NAAP-NC
Ann Eller	DHHS

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Annaliese Dixon	DRNC

HOUSE PAGES

NC Study Comm on Aging
NAME OF COMMITTEE _____ DATE 5-11-10

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NORTH CAROLINA

STUDY COMMISSION ON AGING

DRAFT

REPORT TO THE GOVERNOR AND THE 2010 REGULAR SESSION OF THE 2009 GENERAL ASSEMBLY

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North Carolina
Study Commission On Aging

May 11, 2010

To: Governor Beverly Perdue
Lieutenant Governor Walter Dalton, President of the North Carolina Senate
Senator Marc Basnight, President Pro Tempore of the North Carolina Senate
Representative Joe Hackney, Speaker of the North Carolina House of Representatives
Members of the 2010 Regular Session of the 2009 General Assembly

Attached is a report from the North Carolina Study Commission on Aging submitted pursuant to North Carolina General Statute §120-187. The report contains recommendations and proposed legislation from the North Carolina Study Commission on Aging based on study conducted after the adjournment of the 2009 Regular Session of the General Assembly.

Respectfully submitted,

Senator A.B. Swindell, IV
Co-Chair

Representative Jean Farmer-Butterfield
Co-Chair

North Carolina Study Commission On Aging

2009-2010 Membership List

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Senator Katie Dorsett

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2009-SHZ-26 AN ACT TO UPDATE AND CLARIFY NORTH CAROLINA'S GENERAL STATUTES ON OLDER ADULTS AND LONG-TERM SERVICES AND SUPPORTS, AS RECOMMENDED BY THE NORTH CAROLINA STUDY COMMISSION ON AGING.

2009-SHZ-27 AN ACT TO DIRECT THE DIVISION OF AGING AND ADULT SERVICES, DEPARTMENT OF HEALTH AND HUMAN SERVICES, TO STUDY THE ISSUE OF CRIMINAL HISTORY RECORD CHECKS FOR CURRENT AND PROSPECTIVE OWNERS, OPERATORS, AND VOLUNTEERS OF ADULT DAY CARE PROGRAMS AND ADULT DAY HEALTH SERVICES PROGRAMS, AS RECOMMENDED BY THE NORTH CAROLINA STUDY COMMISSION ON AGING.

PREFACE

Chapter 120, Article 21, of the North Carolina General Statutes, charges the North Carolina Study Commission on Aging with studying and evaluating the existing system of delivery of State services to older adults and recommending an improved system of delivery to meet the present and future needs of older adults. The Commission consists of 17 members. Of these members, eight are appointed by the Speaker of the House of Representatives, and eight are appointed by the President Pro Tempore of the Senate. The Secretary of the Department of Health and Human Services, or the Secretary's designee, serves as an ex officio, non-voting member.

This report represents the work of the North Carolina Study Commission on Aging during the 2009-2010 interim. The Commission met on seven occasions and held public hearings in Jamestown, and Charlotte. The public hearings were conducted during March and April and provided citizens with an opportunity to speak to Commission members about programs and services for older adults. Based on reports and presentations received by the Commission, and comments expressed by citizens, the Study Commission on Aging presents the recommendations contained in this report.

EXECUTIVE SUMMARY

The North Carolina Study Commission on Aging met seven times and conducted two public hearings during the 2009-2010 interim. In response to the study and evaluation of services to older adults, the North Carolina Study Commission on Aging makes the following recommendations to the Governor and the 2010 Session of the 2009 General Assembly:

Recommendation 1: Maintain HCCBG Funding

The Study Commission on Aging recommends the General Assembly and the Governor maintain funding levels appropriated for FY 2010-2011 to the Department of Health and Human Services for the Home and Community Care Block Grant (HCCBG).

Recommendation 2: Maintain Funding for Senior Centers, Project C.A.R.E., and Other Vital Support Programs and Services

The Study Commission on Aging recommends the General Assembly and the Governor maintain current funding levels for senior centers and Project C.A.R.E. as well as many other vital programs that provide aging services and support systems for older adults and their families.

Recommendation 3: Hearing Loss Treatment Task Force

The Study Commission on Aging recommends the General Assembly direct the Hearing Aid Dealers and Fitters Board to coordinate a task force including representatives of the Division of Services for the Deaf and Hard of Hearing in the Department of Health and Human Services, the Consumer Protection Division of the Office of Attorney General, and other interested stakeholders, to: 1) develop recommended guidelines for consumers seeking assistance in the treatment of hearing loss, 2) make recommendations on the best way to disseminate these guidelines, and 3) report to the Study Commission on Aging on or before October 15, 2010.

Recommendation 4: Review of Nurse Aide Training Requirements

The Study Commission on Aging recommends the General Assembly direct the Division of Health Service Regulation, Department of Health and Human Services (DHHS), to coordinate a review involving an equal number of representatives from the Division of Aging and Adult Services, DHHS; the NC Board of Nursing; the Direct Care Workers Association; NC Health Care Facilities Association; NC Hospital Association; NC Home and Hospice Care Association; and representatives of residents in long-term care; to assess the current training requirements for nurse aides and to recommend any necessary changes to the Study Commission on Aging on or before November 1, 2010.

Recommendation 5: Long-Term Care Partnership Program

The Study Commission on Aging recommends the General Assembly enact legislation to develop a Long-Term Care Partnership (LTCP) program for North Carolina and direct the Division of Medical Assistance, Department of Health and Human Services, to pursue a State Plan amendment allowing the operation of the LTCP program.

Recommendation 6: Include Dentist on the Commission on Children with Special Health Care Needs

The Study Commission on Aging recommends the General Assembly expand the membership of the Commission on Children with Special Health Care Needs to include a dentist.

Recommendation 7: Special Needs Dental Care Workforce Development

The Study Commission on Aging recommends the General Assembly direct the North Carolina Area Health Education Centers (AHEC) Program to: 1) work with the dental schools at The University of North Carolina – Chapel Hill and East Carolina University, the North Carolina Community College System, and current special care dental providers to increase the available workforce willing to treat North Carolina special care populations; 2) work with the NC State Board of Dental Examiners to explore the feasibility of allowing dental students, dental hygiene students, and assisting students the opportunity to receive training in long-term care facilities under the direction of non-profit special care dental organizations; and 3) report to the Study Commission on Aging on or before August 1, 2011.

Recommendation 8: Medicaid Dental Services

The Study Commission on Aging recommends the General Assembly maintain Medicaid funding for dental services and direct the Division of Medical Assistance and the Division of Public Health to: 1) explore the feasibility of expanding Medicaid dental services to include reimbursement for evidenced-based fluoride and periodontal therapies for high risk adults with special health care needs, 2) explore the implementation of facility code policies that would allow certified providers to bill for each patient seen in a long-term care facility or group home on the date of service, and 3) report on or before November 15, 2011 to the Study Commission on Aging.

Recommendation 9: Additional Mobile Dental Units

The Study Commission on Aging recommends the Department of Health and Human Services and the special care mobile dental providers explore private grants and public federal government funding options for the purchase of additional mobile dental units to serve special care populations.

Recommendation 10: Refining Aging and Long-Term Care Statutes in NC

The Study Commission on Aging recommends the General Assembly update and refine North Carolina's General Statutes on aging and long-term care.

Recommendation 11: Adult Day Care Participant Protection

The Study Commission on Aging recommends the General Assembly amend North Carolina's General Statutes to strengthen the authority of the Department of Health and Human Services to ensure that unfit individuals are prohibited from operating or working in adult day care programs.

AGING NORTH CAROLINA:
The 2008 Profile, Updated

Prepared by the Department of Health and Human Services, Division of Aging and Adult Services

North Carolina's Demographic Shift: North Carolina remains in the midst of a significant demographic change as the State's 2.3 million baby boomers (those born between 1946 and 1964) are beginning to enter retirement age. Today, the proportion of the State's population who are seniors, ages 65 and older, is 12.3 percent. By 2029, when the youngest baby boomers are retirement age, the proportion should reach 15.2 percent or 1.9 million older North Carolinians, including the surviving boomers who will be between ages 65 and 83. Figure A shows the milestones of the baby boomers expressed in terms of some major federal and State age-related programs (eligibility age in parenthesis). For example in 2006, the oldest boomers (i.e., born in 1946) became eligible to receive services under the Older Americans Act, and as of January of 2008, some of the oldest boomers began receiving their first Social Security payments.

Figure A: Baby Boomer Milestones

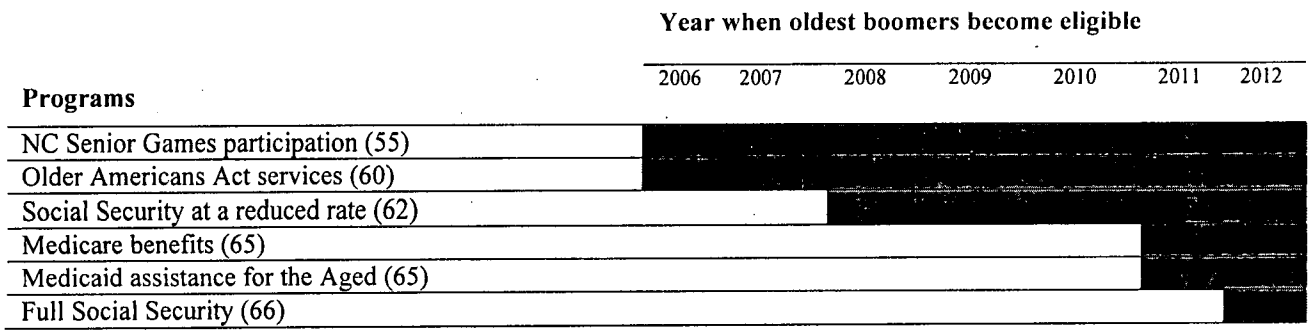
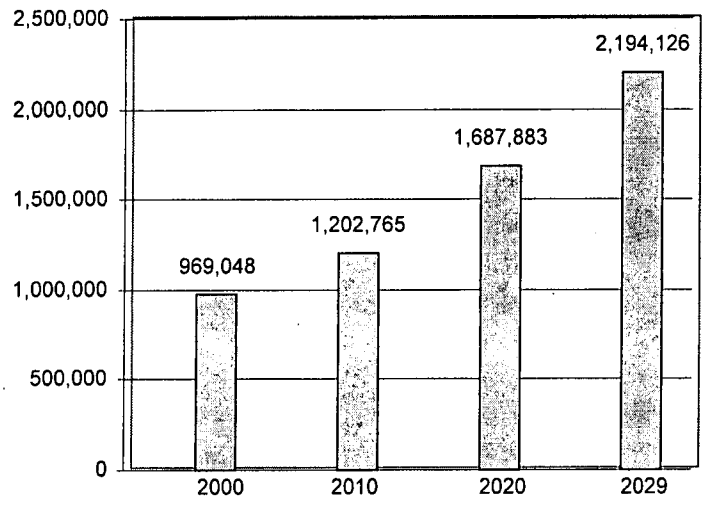


Figure B: Growth of Older North Carolinians Age 65+ (2000-2029)

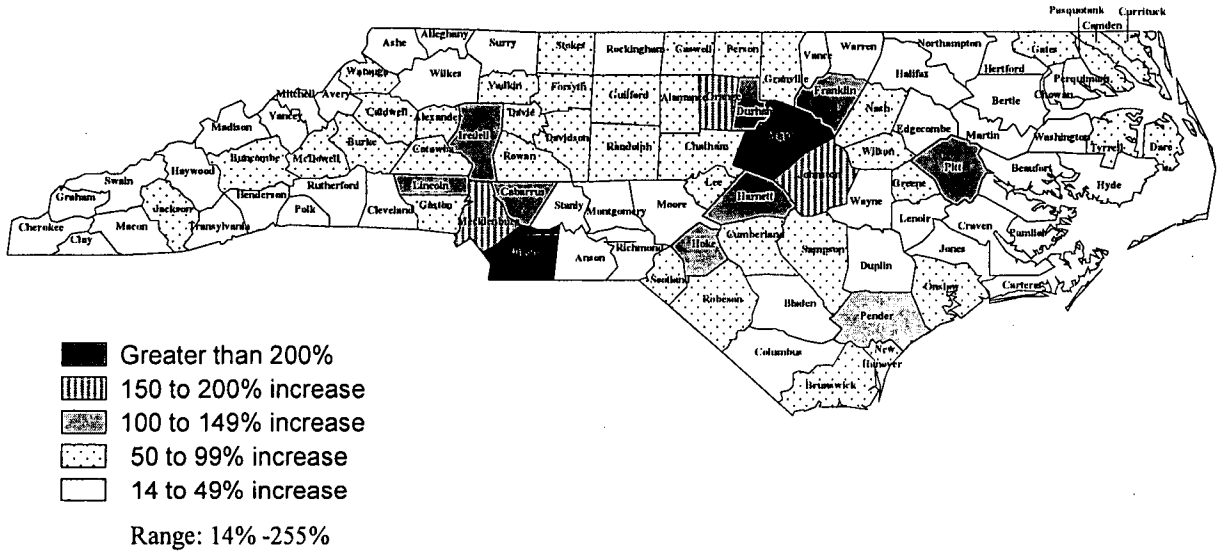


Based on 2008, Demographic Unit, Office of State Budget and Management, projections April 2000-July 2029

The impact of the aging baby boomers is clearly indicated in the projected growth of North Carolinians age 65+ between 2010 and 2029 as shown in Figure B. [1]

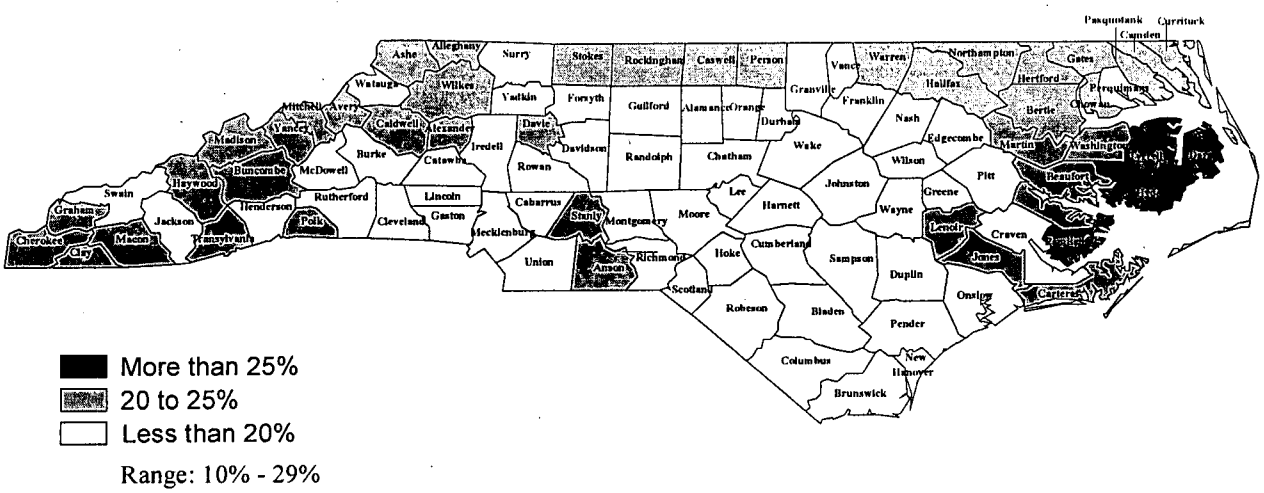
Figure C shows the projected growth of the older population by county between 2008 and 2029. During this period, growth for the State as a whole is projected at 38 percent, while the population 65 and older is expected to grow 93 percent, and the population 85 and older, 54 percent. [1] The two counties with more than 200 percent growth, Wake, and Union, and the three counties with 150 to 161 percent growth, Johnston, Mecklenburg, and Orange are experiencing rapid growth in their overall population as expanding parts of metropolitan areas.

Figure C. Projected Growth of Population Ages 65 and Older from 2008 to 2029



Source: Based on 2008 and 2029 projections from Office of State Budget and Management, September 2009

Figure D. Percent of County Population Projected to be Ages 65 and Older in 2029



Source: Based on 2029 projections from Office of State Budget and Management, September 2009

Figure D shows the counties that will have the largest concentration of older adults in 2029. The proportion of the State population made up of older adults aged 65+ for the State is 17%. Most of them are in areas attractive to retirees, but many are also counties that will continue to lose younger residents because of modest economic opportunities.

Although decreases in both fertility and mortality are the major factors in the aging of the State's population, migration also plays a key role. Several factors contribute to the different rates of aging of the State's 100 counties.

- Rural-to-urban migration of young adults continues to age rural counties.
- Large metropolitan counties attract large numbers of persons from outside the State, as well as from rural counties, and are experiencing greater growth.
- A large number of older adults with higher incomes are retiring in some western and coastal counties and other counties with attractions to specific groups of older adults (e.g., golf courses).
- Some of the counties are also experiencing an increase in the immigrant and refugee population. [2]

Along with other Sunbelt states (Florida, South Carolina, Texas, Tennessee, Georgia, and Virginia), North Carolina remains a popular destination for people of all ages, including seniors. [3]

The table below compares later-life migrants, both those native to North Carolina and those born outside the State, to resident seniors. Later-life migrants are non-institutionalized persons over the

age of 60 who reportedly have moved across state lines. In 2006, among non-institutionalized North Carolinians aged 60 and older, an estimated 27,606 had arrived from out of State within the previous year. The data suggest that later-life migrants born outside North Carolina are somewhat younger, less likely to be disabled, nearly twice as likely to have a college degree, and report substantially higher family income. [4]

Table 1. Demographic Profile of Later-Life Migrants and Resident Seniors for North Carolina as a Whole, 2006

	Aged 60-64	Aged 65-74	Aged 75 and older	Diabled	Married	College Degree	White	Homeowner	Median Family Income
Later-life Migrants, non-natives	30.8%	42.8%	26.4%	37.5%	49.2%	34.5%	84.1%	48.4%	$56,800
Later-life Migrants, NC natives	50.8%	33.7%	15.4%	34.4%	41.1%	25.4%	64.3%	68.0%	$42,000
Resident Seniors	28.8%	39.5%	31.7%	39.4%	59.4%	19.0%	82.1%	80.8%	$45,000
Source: 2006 American Community Survey Public Use Microdata Sample (PUMS)									

The contributions of Dr. Don Bradley from East Carolina University to this report highlight aspects of later-life migration and suggest important implications for North Carolina of retirees moving to our State and within our State.

According to the most recent life tables from the NC State Center for Health Statistics, if age-specific mortality remains unchanged, babies born today in North Carolina are expected to live, on average, to the age of 77.1 years. The North Carolinians who are age 60 today are expected to live, on average, an additional 22.2 years to almost 82 years old. Generally, women live longer than men and whites live longer than persons of other racial groups. However, at the oldest ages, African Americans, in particular, have a life expectancy that is the same or slightly greater than that of whites. This is known as the "crossover effect." [5]

Table 2. Life Expectancies (in Years) by Age Group, Gender, and Race

Age Groups	NC Combined	White		African-American	
		Male	Female	Male	Female
(At Birth)	77.1	75.3	80.5	69.8	76.7
60-64	22.2	20.8	24.0	18.1	22.3
65-69	18.4	17.1	19.9	15.1	18.7
70-74	15.0	13.7	16.1	12.4	15.5
75-79	11.9	10.8	12.7	10.1	12.4
80-84	9.2	8.4	9.6	8.3	9.8
85+	7.1	6.6	7.2	6.9	7.7

Source: NC Center for Health Statistics. *Life Expectancy in North Carolina, 2005-2007*

What Are the Implications of This Shift? The aging of the population is a national and international trend, and North Carolina, like the rest of the world, must be prepared to reap the benefits and face the challenges of an older population. Government faces decisions about the

allocation of public resources from a tax base that may experience slowed growth, especially in many aging rural counties. People must consider living and caregiving arrangements in light of smaller nuclear and extended families. The health, human service, employment, and education systems must adapt to the changing needs and interests of the seniors of today and tomorrow. The business and faith communities as well as others must identify and respond to the challenges and opportunities of these demographic shifts.

In the 2003-2007 State Aging Services Plan, the NC Division of Aging and Adult Services introduced a new initiative–Livable and Senior-Friendly Communities–to raise awareness of the aging of our population. The initiative was also designed to encourage North Carolina's communities toward becoming more senior-friendly as well as livable for all people through collaboration among citizens, agencies, organizations, and programs, in both the public and private arenas. This initiative formed the core around which the 2007–2011 State Aging Services Plan was organized. A livable and senior-friendly community in North Carolina will draw on the talents and resources of active seniors while enhancing services for those who are vulnerable because of their health, economic hardships, social isolation, or other conditions. A livable and senior-friendly community will work to address a wide range of issues and concerns (e.g., air quality, housing, long-term services and supports, employment, enrichment opportunities) that, as a whole, affect the quality of life of seniors and others in the community. Also, a livable and senior-friendly community will assure good stewardship of its resources to meet the needs of today's seniors, while helping baby boomers and younger generations prepare for the future.

Demographic Highlights

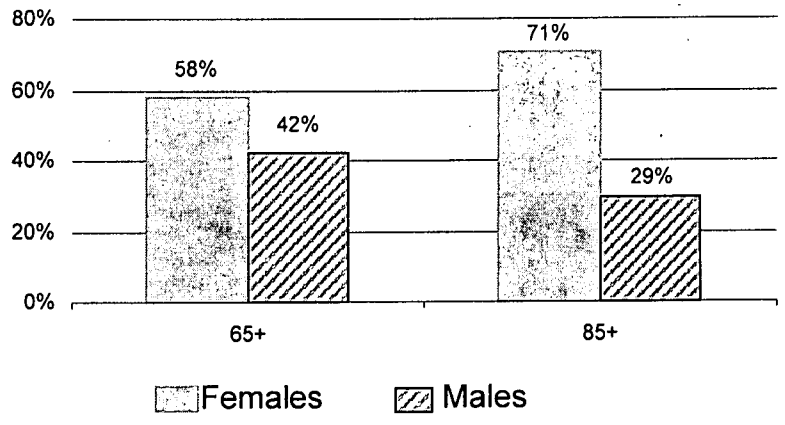
Population: North Carolina ranks tenth among states in the number of persons age 65 and older and tenth in the size of the entire population. [6] The fast pace of growth of the State's older population is evident in a US Census Bureau's release in which North Carolina was ranked fourth nationally in the increase of the number of persons age 65+ (47,198 in NC) between April 2000 and July 2003. Only three other states (California, Texas, and Florida) reported a greater increase among their older populations. Even so, when combined with the equally strong growth in other age groups, North Carolina continues to maintain an overall healthy demographic balance among the generations, as it is thirty-sixth among states in the proportion of the population over 65. [7]

- Estimated NC population age 65+ in 2008: 1,139,468 (12.3 percent of total population)
- Estimated NC population age 85+ in 2008: 138,632 (1.5 percent of the total population)

Diversity and Disparity: North Carolina is rich in diversity, but its citizens face challenges because of the disparity that exists among all populations, including older adults. Some important differences among NC's older adults relate to gender, marital status, ethnicity/race, poverty, residence, rurality, disability, health status, grandparents raising grandchildren, and veteran status.

Gender: Older women represent 57.7 percent of the 65+ age group and 70.6 percent of the 85+ age group in 2008. [8] The higher rate of poverty among older women remains a primary issue today. For example, women age 75+ are twice likely to be poor as men the same age. [9]

Figure E. Percentage of Older Adults by Gender and Age



Marital Status: Since women live longer than men, aging brings the increasing likelihood of widowhood, for women. Because men have shorter life expectancy, and because they tend to marry younger women, at ages 65 and older, women are more than twice as likely to be unmarried as men in their age group. Data show that being unmarried (widowed, divorced, separated, or never married) increases a woman's vulnerability to poverty. [10]

Table 3. Unmarried Older Adults by Gender and Age Group

	Age 65-74	Age 75-84	Age 85+
Unmarried Women in NC	47.1	67.4	91.5
Unmarried Men in NC	24.6	29.4	49.7

Source: American Community Survey (2008). *Table B12002.*

Ethnicity/Race: Altogether 19.1 percent of persons age 65+ are members of ethnic minority groups in North Carolina. Compared to the nation as a whole, North Carolina's population age 65+ includes a larger proportion who are African American (15.6 percent in NC compared to 8.3 percent nationally) and a smaller proportion of Latinos (1.5 percent in NC compared to 6.8 percent nationally). American Indians, Asian Americans, and other ethnic groups account for 2.0 percent of the age group 65 and older. [11]

Poverty: In North Carolina as well as nationally, older adults from most ethnic minority groups show both a higher poverty rate and a lower life expectancy when compared with the non-Latino white population. Poverty rates for the two largest racial groups are shown in the table below. (See the Demographic Shift section for the information on life expectancy). [12]

Table 4. Percent Below Poverty Level for the Older Population of North Carolina by Gender, Race, and Age Group

	White		African American	
	Male	Female	Male	Female
Age Group 65 - 74	5.3	8.5	11.3	22.1
Age Group 75+	7.1	15.1	20.2	33.1

Source: American Community Survey (2008). *Table B17001A, B17001B*

Immigrants/Refugees: North Carolina has also been experiencing a rise in the immigrant population. Many immigrants are settling in urban areas, though other rural counties are also becoming their destination. In 2007, the State ranked 13th in the size of the foreign-born population and ranked 15th in the number of newly admitted immigrants in 2006. Between 2000 and 2007, 282,000 immigrants arrived to the State. [13] The number of refugees arriving to the State has also increased. About 4,292 refugees from different countries arrived between 2005 and 2007. [14] There is lack of data of exact numbers of older adults of these various immigrant groups. Many of them face language barriers, social isolation, problems in accessing health care and other programs/services. [15]

Residence: The 2000 Census showed that in North Carolina, 81.4 percent of householders ages 65 and older owned their homes (with or without mortgage), yet among homeowners in that age group, over 61,000 reported incomes for 1999 that were below poverty. This figure means that 11.8 percent of the homeowners over age 65 were poor, compared to 7.5 percent for homeowners of all age groups. [16] This has implications for both helping some older adults be responsible for their own needs (e.g., through reverse mortgages) and for the need for property tax relief to older adults. Among renters age 65+ who provided information, 63.2 percent, or 72,739 households, spent more than 30 percent of their household income on rent. [17] Furthermore, 5,000 North Carolina homeowners and renters age 65+ lacked complete plumbing facilities in their homes. [18]

Rurality: Among all age groups, 39.8 percent of North Carolina residents live in rural areas compared to only 21.0 percent for the country as a whole. [19] The percentage among older adults is no doubt higher (based on the percentages of older adults in the predominantly rural counties), but there is no age-specific figure available. In 2000, North Carolina's rural population (3,202,238) was almost as large as Texas's (3,647,747), the state with the largest number of rural residents in the nation. Not only was North Carolina's rural population among the largest in terms of numbers, but the State also reported the highest proportion (39.8 percent) of rural population among the 20 most populous states in the nation. While 11 other states reported higher proportions of rural population, ranging from 40.7 percent to 61.8 percent, all of these states are much smaller in total population than North Carolina. Thus, North Carolina is unique among more populous states in having so large a rural contingent. At the same time North Carolina has made the transition away from an agricultural economy so that only 1.1 percent of its people live on farms, only slightly more than the 1.0 percent for the nation as a whole. A 2002 report from *Making a Difference in Communities* (MDC) highlights a long list of challenges that rural residents and their communities face—isolation by distance, lagging infrastructure, sparse resources that cannot adequately support education and other public services, and weak economic competitiveness. [20]

Disability: In North Carolina, 39.8 percent of the non-institutionalized civilian population age 65 and older reported having one or more disabilities by the US Census definition—41.4 percent of women and 37.9 percent of men, according to the 2008 American Community Survey. [21] The Census Bureau defines disability as "a long-lasting physical, mental, or emotional condition that makes it difficult for a person to do activities such as walking, climbing stairs, dressing, bathing, learning, or remembering. This condition can also impede a person from being able to go outside the home alone or to work at a job or business." This definition is very broad and leads to counting a number of people who, indeed, have difficulties but are able to function independently and would not meet the average person's perception of a person with a disability.

Health Status: Heart disease is the leading cause of death among older adults both nationwide and in North Carolina with cancer and stroke, coming second and third on the list. [22] In particular, the coastal plain region of North Carolina has the fourth highest stroke death rate in the nation and is labeled by some as the Buckle of the Stroke Belt. [23] African Americans and other racial minorities are at substantially higher risk for certain chronic conditions such as heart disease, stroke, and diabetes (a major contributor to heart disease, stroke, and other conditions). [24] Diabetes mellitus is the sixth leading cause of death for North Carolina's older population in general, but like stroke, it is a more serious threat to the African American community, being the fourth highest cause of death in African Americans of all ages in our State. [22]

Table 5. Five Leading Causes of Death among North Carolinians Age 65+

Rank	Cause
1	Heart diseases
2	Cancer
3	Cerebrovascular diseases
4	Chronic lower respiratory diseases
5	Alzheimer's disease

Source: NC Center for Health Statistics (2009). *Leading Causes of Death – 2008.*

An important factor in health status is physical activity. A sedentary life-style is known to increase a person's risk of heart disease, diabetes, and other chronic conditions. Fortunately, more older adults in NC have been engaging in physical activity lately. The 2008 Behavioral Risk Factor Surveillance System (BRFSS) shows that 68.7% of older adults age 65+ have participated in physical activities or exercise other than their regular jobs, in the past month. The survey also shows that among people age 65+, only 19.5% said that their general health status is fair and 11.5% as poor. [25]

According to the 2008 American Community Survey 99% of older adults 65 and over (civilian non-institutionalized) had health insurance coverage and 70% of them had private health insurance. [26]

Grandparents Raising Grandchildren: According to the 2008 American Community Survey there were 97,784 NC grandparents who reported that they had one or more grandchildren living with them under 18 years old *for whom they were responsible*. This represents nearly half of all grandparents whose grandchildren live with them. Some 38 percent of NC grandparents responsible for their grandchildren are African American; 4 percent are Hispanic/Latino; 2 percent are American Indian or Alaskan Native; and 57 percent are White. Given the relative sizes of these populations, it is clear that this is an even larger issue in the African-American community than

among other ethnic groups. [27]

Veteran Status: Of the estimated 746,259 veterans living in NC in 2008, over 260,236, or 35 percent, were age 65 and older. [28] The group of veterans from the Vietnam era contains proportionally more disabled members than survivors of earlier wars due to quicker and more advanced medical treatment. The Veterans Administration has frequently written about the aging of the veterans as a major challenge to its health care system in coming years. [29]

In summary, North Carolina has a large, economically and ethnically diverse older population. With this diversity come both special assets and special challenges. Even the most vulnerable older adults often give as much to their communities as they receive. Nevertheless, we must be aware that those who face disabilities, disparities of income and health care, and the responsibilities of caring for grandchildren are more likely to need public services and supports. While meeting these disparate needs of today's older adults, our State is also witnessing the first minor steps of the transition of the baby boomers into retirement ages. This will transform the age structure of the State and bring a new generation of older adults with some of the same historic issues, but also new attitudes, new challenges, new opportunities, and new resources.

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Pertinent Web Sites for Related Information

- NC Division of Aging and Adult Services (http://www.dhhs.state.nc.us/aging/demo.htm)
- Demographics Unit, NC Office of Budget and Management (http://demog.state.nc.us/)
- NC State Center for Health Statistics (http://www.schs.state.nc.us/SCHS/)
- US Census Bureau (http://www.census.gov)

COMMISSION PROCEEDINGS

January 7, 2010

The North Carolina Study Commission on Aging met on Thursday, January 7, 2010, at 10:00 a.m. in Room 544 of the Legislative Office Building. Senator A.B. Swindell presided. Following introductions, Theresa Matula, Commission staff, provided an overview of older adults in North Carolina. Her presentation focused on: who they are, how many there are, where they live, and what types of programs and services are available for older adults in North Carolina. The presentation included data on changes in the North Carolina population which depict the probability of significant growth in the older adult population. The presentation included a brief summary of the range of services provided in the State which include: Senior Games, Senior Centers, Adult Day Care and Adult Day Health Care, State/County Special Assistance, the State/County Special Assistance In-Home Program, the services provided by Home and Community Care Block Grant funds, the Community Alternatives Program for Disabled Adults (CAP/DA), assisted living, Multiunit Assisted Housing with Services, Adult Care Homes, Nursing Homes, Continuing Care Retirement Communities, and Medicare/Medicaid. Ms. Matula ended her presentation by mentioning additional information and resources including the Area Agencies on Aging and various divisions within the Department of Health and Human Services that serve older adults.

Shawn Parker, Commission staff, then presented a document containing summaries of substantive legislation related to older adults that was enacted during the 2009 Session. Mr. Parker was followed by Melanie Bush, Commission staff, who provided an overview of 2009-2011 legislative budget actions and special provisions. Sara Kamprath, Commission staff, presented an overview of the Commission's responsibilities and statutory authority. Next the Commission heard from Shawn Parker, Commission staff, who presented a status report of the Study Commission on Aging's recommendations to the Governor and the 2009 General Assembly. The last presentation was the tentative meeting schedule for the interim, and the Commission's budget which was approved.

For a period of time, the agenda and handouts for this meeting are available on the internet at: http://www.ncleg.net/gascripts/DocumentSites/browseDocSite.asp?nID=38. (Look under 2009-10 Interim Commission Meetings.) Minutes for each meeting are on file in the Legislative Library.

January 21, 2010

The North Carolina Study Commission on Aging met Thursday, January, 21, 2010, at 10 a.m. in Room 544 of the Legislative Office Building. Representative Jean Farmer-Butterfield presided. Presentation topics included: aging services and programs, an overview of the adult care home star rating program, and the expansion of the star rating program.

Dennis Streets, Director, Division of Aging and Adult Services, Department of Health and Human Services (DHHS), discussed the State resources available for older adults, funding sources for services, and concerns regarding the present system of services. Mr. Streets listed a few concerns the Division has in relation to service needs. They are:

- Increase in Adult Protective Services Reports
- Growth of the Wait List for Home and Community Services
- Status of Home and Community Care Block Grant
- Increase in Public Guardianship Cases
- Uncertainty Within Alzheimer's Support Network
- The NC Roadmap

Mr. Streets then presented reasons to remain optimistic through examples of volunteers, workers, and individuals that provided extraordinary care to North Carolina's aging population.

Next Megan Lamphere, Facility Survey Consultant, Adult Care Licensure Section, Division of Health Service Regulation (DHSR), DHHS, presented a report in response to S.L. 2007-544, Section 3(g) on the Adult Care Home Star Rated Certificate Program. This program was initiated by the Commission in response to citizens of North Carolina who voiced the need for increased availability of public information regarding the care provided in adult care facilities. The North Carolina Medical Care Commission developed rules for the rating program with input from residents and families in adult care homes, advocacy groups, providers and others.

The last presentation was given by Jeff Horton, Acting Director, Division of Health Service Regulation, DHHS. Mr. Horton discussed the expansion of the Star Rated Certificate Program in response to S.L. 2007-544, Section 3(f). The Division identified the following four categories of other facilities (non-adult care homes) and services licensed and certified by DHHS to be considered for inclusion in a rated certificate program:

- Acute and home care facilities and agencies,
- Nursing homes,
- Mental health, developmental disabilities and substance abuse services, and
- Adult day services.

Mr. Horton informed the Commission that the Centers for Medicare and Medicaid Services (CMS) provides quality information on their website for nursing homes and hospitals. Mr. Horton stated that although home care agencies are required to be inspected every three years, the Division does not currently have sufficient staff to conduct the inspections every three years. With regard to Mental Health, Developmental Disabilities and Substance Abuse Services facilities, Mr. Horton indicated that making inspection information available would not require changes to the statutes or the rules, but would require additional personnel. For adult day services, significant challenges to the creation of an effective rated certificate system exist and it was concluded that the cost outweighs the benefit at this time.

For a period of time, the agenda and handouts for this meeting are available on the internet at: http://www.ncleg.net/gascripts/DocumentSites/browseDocSite.asp?nID=38. (Look under 2009-10 Interim Commission Meetings.) Minutes for each meeting are on file in the Legislative Library.

February 4, 2010

The North Carolina Study Commission on Aging met on Thursday, February 4, 2010, at 10:00 a.m. in Room 544 of the Legislative Office Building. Senator A.B. Swindell was the presiding Co-Chair. The meeting was devoted to three issues impacting older adults: hearing loss, Medicaid changes, and adult day care sustainability.

Ms. Jan Withers, Director of the Division of Services for the Deaf and Hard of Hearing (DSDHH), Department of Health and Human Services (DHHS), briefed the Commission on the impact of hearing loss in older adults in North Carolina. She reported on the results of the study undertaken as a result of S.L. 2008-181, Sec. 12.1. During her presentation, Ms. Withers reviewed significant aspects of the report and presented the following three recommendations to the Commission:

- Establish a task force to assess the feasibility of developing and implementing a formal system that optimizes consumer capacity to fully evaluate quality of hearing aid services prior to and during the process of purchasing hearing aids.
- Enact legislation that would require all hearing aid dispensers to provide a minimum 30-day trial period with a money back guarantee and instructions on the function of the telecoil and

its use.

- Consider legislation requiring hearing aid health insurance coverage for all ages from any private agency providing health insurance and doing business in North Carolina and from any public agency providing medical insurance coverage assistance.

Next, Dr. Larry Nason and Dr. Karen Feasel, from the Division of Medical Assistance, DHHS, gave a presentation on Medicaid changes and the impact on older adults. Dr. Nason gave a basic overview of the Medicaid Personal Care Services (PCS) Program and the scope of authorized services under the program. He highlighted differences between PCS provided under a 1915(c) Waiver versus PCS provided as an optional service under the State Medicaid Plan; discussed the dramatic and steady increase in PCS participation, utilization and costs; and reviewed the General Assembly's budget reduction goals for PCS for State fiscal years 2009-2010 and 2010-2011. Dr. Feasel provided information on the PCS compliance reviews conducted by The Carolinas Center for Medical Excellence and reported on eight specific actions planned by DMA. These actions are an effort to implement changes to the PCS benefit that are mandated by Session Law 2009-451 to achieve budgeted reductions. Dr. Feasel also reviewed the history of the CAP/DA slot allocations and explained the pending reduction in PCS slot allocations under this program.

Lastly, Ms. Teresa Johnson from the North Carolina Adult Day Services Association presented a five year post study follow-up on adult day care sustainability. She reviewed various reimbursement methodology changes, as well as training and technical assistance initiatives implemented at the recommendation of a national adult day services resource center under contract with DHHS. Ms. Johnson concluded that these changes have made our adult day centers healthier and established North Carolina as a leader in the adult day services industry.

For a period of time, the agenda and handouts for this meeting are available on the internet at: http://www.ncleg.net/gascripts/DocumentSites/browseDocSite.asp?nID=38. (Look under 2009-10 Interim Commission Meetings.) Minutes for each meeting are on file in the Legislative Library.

February 25, 2010

The North Carolina Study Commission on Aging met on Thursday, February 25, 2010 at 10:00 a.m. in Room 544 of the Legislative Office Building. Representative Farmer-Butterfield was the presiding Co-Chair. The Commission members heard presentations on nurse aide preparation and older driver safety.

Jesse Goodman, Acting Chief Operating Officer, Division of Health Service Regulation, DHHS presented information on types of aides, current requirements, locations of employment, and other related information. His presentation included: the federally defined definition of a nurse aide, the State and federal requirements for Nurse Aide I registry listing, the federally required content for Nurse Aide I Training Programs, information on State approved training programs, federal requirements for competency evaluation, passing rates by test taker groupings, supply and demand for nurse aides, and the typical duties of a nurse aide. According to Mr. Goodman, in 2006, there were 72,130 Home Health Aides employed, 21,780 Nurse Aides, and 18,350 Personal and Home Care Aides. Over the next ten years, the demand for aides employed in each of these three categories is anticipated to increase as follows: 30% for Nurse Aides, 39% for Home Health Aides, and 76% for Personal and Home Care Aides. Mr. Goodman also provided the following breakdown by employment setting for Nurse Aides:

- Home Health/Home Care - 24%
- Private Duty, Military/VA, Schools, Adult Day Care, Rehab, Native American Reservations – 21%
- Nursing Homes – 20%
- Hospital/Hospice/Mental Health – 15%
- Not Employed in Health Care – 10%

- Adult/Family Care Home – 6%
- Clinics – 3%

During this meeting the Commission also heard presentations from the following: Saundra Spillman, Executive Director, Direct Care Workers Association of NC; Linda Burhans, Director Education/Practice, NC Board of Nursing, and LeRoy King and Elizabeth Todd Beal, Friends of Residents in Long-Term Care. Dr. Spillman presented information on the benefits of a career lattice approach and on the Direct Care Workers Association's collaborative efforts to provide a conference aimed at reducing turnover and increasing job satisfaction. Dr. Burhans, NC Board of Nursing, presented information on Medication Aide qualifications, tasks, and education programs, and on the qualifications, task lists, education programs, and employment settings for the Nurse Aide II. Dr. King and Ms. Beal provided the Commission with federal regulations for training programs and information showing that more than half of the states have training requirements that exceed the federal regulations.

Information on older drivers was presented by David Harkey, Executive Director, UNC Highway Safety Research Center; Susan Stewart, Medical Evaluation Program, NC Division of Motor Vehicles; and Phyllis Bridgeman, Cochair of the Older Drivers Task Force. Mr. Harkey provided national and State demographic and safety data for older drivers as well as aging driver safety strategies. Mr. Harkey reported that older driver safety is trending in a positive direction and that in-person renewal correlates to a reduction in fatality rates for older drivers. Ms. Stewart reported that the Driver Medical Evaluation program, in the Division of Motor Vehicles (DMV), is administered with medical counsel and individual case recommendations provided by physicians and physician extenders. Ms. Stewart also reported that drivers are referred to the DMV by concerned physicians, family members, drivers license examiners, and law enforcement officers. Ms. Bridgeman presented recommendations from the Older Drivers Task Force which included: improved signage at non-standard intersections; building capacity to accommodate the needs of older drivers; strengthening DMV training to identify drivers at increased risk of crashing; increasing public awareness of older driver issues and resources; engaging law enforcement in implementing older driver safety initiatives; and implementing older driver safety initiatives by engaging physicians and other health care providers.

For a period of time, the agenda and handouts for this meeting are available on the internet at: http://www.ncleg.net/gascripts/DocumentSites/browseDocSite.asp?nID=38. (Look under 2009-10 Interim Commission Meetings.) Minutes for each meeting are on file in the Legislative Library.

March 4, 2010

The North Carolina Study Commission on Aging met on Thursday, March 4, 2010, at 10 a.m. in Room 544 of the Legislative Office Building. Senator A.B. Swindell presided.

Carla Obiol with the North Carolina Seniors' Health Insurance Information Program (SHIIP), Department of Insurance, presented a report required by S.L. 2006-66, Section 10.10 on the development of the North Carolina Long-Term Care Partnership (LTCP) program. Ms. Obiol explained that the number one reason for establishing a LTCP program is the increase in the number of baby boomers seeking long-term care and the potential for the long-term care needs of baby boomers to overwhelm Medicaid's pay-as-you-go financing. The LTCP program is a public-private program between state Medicaid agencies and private insurers that is designed to encourage the purchase of long-term care insurance. The LTCP program is aimed at middle- and upper-income individuals who want to protect their assets while allowing access to long-term care benefits through the state Medicaid program. Policy holders who exhaust their private coverage but still need long-term care benefits can access Medicaid without the usual spend down routes.

Both the North Carolina Department of Insurance and the North Carolina Division of Medical Assistance, DHHS support the establishment of a LTCP program in North Carolina. Carolyn McClanahan, Division of Medical Assistance, Department of Health and Human Services, explained that the amount of benefits used on the long-term care policy will not be counted in determining Medicaid eligibility. She also mentioned that other states who have recently implemented an LTCP program have reported no fiscal impact so no fiscal impact is expected for Medicaid in North Carolina.

Next the Commission heard a report required by S.L. 2009-100 that directed the Department of Health and Human Services, Division of Public Health, DHHS, in collaboration with the Division of Medical Assistance, the Division of Aging and Adult Services, the University of North Carolina-Chapel Hill (UNC-CH) and the East Carolina University (ECU) Schools of Dentistry, the North Carolina Dental Society, and providers of special care dentistry services, to examine the current dental care options for populations that require special care dentistry services and suggest ways to improve the availability of those dental services.

Dr. Kevin Buchholtz, Oral Health Section, Division of Public Health, DHHS and Dr. Bill Milner, Access Dental Care, highlighted several recommendations from the report, *Special Care Oral Health Services: A north Carolina Commitment.* The report and the presentation define patients with special needs, existing dental care options, consumer issues, provider/payer issues, systems issues, and a vision to address the gaps. The report contains a total of 16 recommendations, many of which were highlighted during the presentation. Due to the number of recommendations and the economic challenges faced by the State, the Commission requested a prioritized list of recommendations. This list was provided to the Co-Chairs and staff following the meeting and contained six recommendations that did not require funding and three recommendations that do require funding.

- Direct the Division of Health Service Regulation to collaborate with the Division of Public Health, NC Board of Nursing, National Association of Directors of Nursing Administration, NC Health Care Facilities Association, NC Non-Profit Nursing Home Association, UNC School of Public Health, Friends of Residents of Long-Term Care, NC Ombudsman Association, and special care dental providers to determine the current status of daily oral hygiene conditions in long-term care residents, existing effective programs, health and financial issues related to systemic infection, facilities issues related to program implementation and make recommendations.
- Appoint a dentist to the Commission on Children with Special Health Care Needs.
- Support the NC Commission on Children with Special Health Care Needs' Oral Health Work Group, NC Family Council for Children and Youth with Special Health Care Needs, Family Voices, the NC Council on Developmental Disabilities, and the NC Office on Disability and Health to develop a central point of communication for families with intellectual or developmental disabilities and oral health issues.
- Direct NC AHEC, UNC-CH and ECU Schools of Dentistry, NC Community College system, and current special care dental providers to create a plan of action to produce the necessary workforce manpower to care for NC special care populations.
- Direct the NC State Board of Dental Examiners to investigate changing existing laws to allow dental, dental hygiene, and assisting students to receive training in long-term care facilities under the direction of non-profit special care dental organizations.
- Direct the Division of Mental Health, Developmental Disabilities and Substance Abuse Services to develop a business plan to provide in-house and community dental services at each of its psychiatric hospitals, developmental and neuron-medical centers.
- Maintain Medicaid dental services for adults and consider expanding the services to include

reimbursement for evidenced-based chemotherapeutic agents (fluoride therapies, periodontal therapies, etc.) for high-risk adults with special health care needs.

- Direct the Division of Medical Assistance to implement the facility code (CDT code D9410) policies to allow certified providers to bill for each patient seen on a date of service in a nursing home, group home, or other long-term care facility.
- Fund an additional mobile dental program that provides onsite comprehensive dental care for residents in nursing homes, group homes, assisted living centers, adult day health care centers, and to certain individuals with special health care needs in the community.

For a period of time, the agenda and handouts for this meeting are available on the internet at: http://www.ncleg.net/gascripts/DocumentSites/browseDocSite.asp?nID=38. (Look under 2009-10 Interim Commission Meetings.) Minutes for each meeting are on file in the Legislative Library.

March 24, 2010

The North Carolina Study Commission on Aging conducted a public hearing on March 24, 2010, at 10:00 a.m. in the town hall in Jamestown, North Carolina. Senator Swindell presided over the public hearing. At this hearing, the Commission heard from thirty-five (35) speakers. Issues mentioned most frequently at this hearing were: Maintain/Increase Home and Community Grant (HCCBG) Funding, Maintain/Increase Funding for Project C.A.R.E., Maintain/Increase Funding and Support for Adult Day Care, and Maintain/Increase Funding for New and Existing Special Care Dental Programs. Appendix A contains a frequency distribution of the public hearing comments.

April 1, 2010

The North Carolina Study Commission on Aging met on Thursday, April 1, 2010, at 10:00 a.m. in Room 544 of the Legislative Office Building. Representative Jean Farmer-Butterfield presided.

Dennis Streets, Director of the Division of Aging and Adult Services (DAAS), DHHS, presented an interim report on Preparing for Older Adults, consistent with S.L. 2009-407, Section 2. The report highlighted the ways DAAS and the University of North Carolina Institute on Aging (IOA) are working together to help the state prepare for the aging of the baby boomer population and the growing number of in-migrating retirees. Progress includes significant collaboration between DAAS and IOA since August 2009; working closing with the Governor's Office and Governor's Advisory Council on Aging, to outline roles and tasks; conversations with various stakeholders from the UNC School of Government, directors of the state's 17 Area Agencies on Aging, and staff of the North Carolina Association of County Commissioners; construction of a survey instrument to assess the level of awareness and preparation for North Carolina's aging population across state government agencies; the planning of six regional roundtables, in coordination with the Governor's Office, area agencies on aging, local providers and others, to discuss major issues and best practices; and a web-based survey of local home and community service providers.

Mr. Streets also announced the Governor's Executive Order No. 54, Assessment of the State's Readiness for Aging Population, which supports the regional roundtables; presented a summary of the Haywood Community Connections toolkit designed to increase knowledge of county resources, increase volunteerism, and provide local resources and supportive services; presented a draft amendment to General Statute 143B-181.3 to help North Carolina pursue state and federal funding for long-term care, and announced that North Carolina received $1 million in federal Living Healthy Program funds. He also reminded the members of the Commission that DAAS does not receive the results of criminal background checks of adult day care employers or employees, and asked the Commission to consider making changes to this policy.

Next, Theresa Matula, Commission staff, presented draft recommendations for the Commission's consideration. The draft recommendations represented a range of issues presented to the Commission during the interim. Ms. Matula presented 11 recommendations with background information for each and explained that once the Commission approved recommendations, they would be compiled in a report, including bill drafts as applicable, for the 2010 General Assembly. During the meeting, the Commission unanimously approved the 11 recommendations.

For a period of time, the agenda and handouts for this meeting are available on the internet at: http://www.ncleg.net/gascripts/DocumentSites/browseDocSite.asp?nID=38. (Look under 2009-10 Interim Commission Meetings.) Minutes for each meeting are on file in the Legislative Library.

April 22, 2010

The North Carolina Study Commission on Aging conducted a second public hearing on April 22, 2010 at 1:00 p.m. at the Tyvola Senior Center, Charlotte, North Carolina. Representative England presided over the public hearing and the Commission heard from twenty-five (25) speakers. The two issues mentioned most frequently at this hearing were: Maintain/Increase Funding for Project C.A.R.E. and Maintain/Increase HCCBG Funding. Appendix A contains a frequency distribution of the public hearing comments.

May 11, 2010

The North Carolina Study Commission on Aging met on Tuesday, May 11 at 10:00 a.m. in Room 544 of the Legislative Office Building. Senator Swindell was the presiding Co-Chair. During the meeting, Ms. Susan Barham, Commission staff, presented an overview of the items mentioned most frequently during the two public hearings. Commission staff also reviewed the Commission's draft report to the Governor and the 2010 Regular Session of the 2009 General Assembly.

For a period of time, the agenda and handouts for this meeting are available on the internet at: http://www.ncleg.net/gascripts/DocumentSites/browseDocSite.asp?nID=38. (Look under 2009-10 Interim Commission Meetings.) Minutes for each meeting are on file in the Legislative Library.

COMMISSION RECOMMENDATIONS

The North Carolina Study Commission on Aging makes the recommendations presented in this report to the Governor and the 2010 Session of the 2009 General Assembly. Each recommendation is followed by background information and any corresponding legislative proposals appear in Appendix B of this report.

Recommendation 1: Maintain HCCBG Funding

The Study Commission on Aging recommends the General Assembly and the Governor maintain funding levels appropriated for FY 2010-2011 to the Department of Health and Human Services for the Home and Community Care Block Grant (HCCBG).

Background 1: Maintain HCCBG Funding

During the meeting on January 21, 2010, the Commission heard a presentation from Dennis Streets, Director, Division of Aging and Adult Services, DHHS, on the status of Aging Services and Programs. Mr. Streets mentioned that the service system is stressed as service needs grow. One of the areas mentioned was the growth of the wait list for home and community services. With regard to home and community services, Mr. Streets pointed out the following:

- Access to and intensity of services has weakened
- Service needs and wait lists are substantial
- Providers are frugal, stressed, conscientious, and innovative
- Clients are becoming more vulnerable.
- Mr. Streets provided the following status on the Home and Community Care Block Grant (HCCBG):
- Overall funding has increased about 20% over the past 10 years – taking into account non-recurring reductions for SFY 2009-10.
- The Statewide utilization/expenditure rate remains very high – 99.8% in SFY 2008-09.
- Service costs have increased.
- There was a decrease in the number of clients served (6.9%) and in total service units (14.1%) between July 1, 2000 and June 30, 2009. During this period, the NC population age 60+ and 75+ grew by 29% and 18%.

The HCCBG, established by G.S.143B-181.1(a)(11), includes federal funds, State funds, local funds, and a consumer contribution component. It gives counties discretion, flexibility, and authority in determining services, service levels, and service providers; and streamlines and simplifies the administration of services. The focus of the HCCBG is to support the frail elderly that are cared for at home; improve and maintain the physical and mental health of older adults; assist older adults and their caregivers with accessing services and information; provide relief to family caregivers so that they can continue their caregiving; and allow older adults to remain actively engaged with their communities.

With input from older adults, County Commissioners approve an annual funding plan that defines services to be provided, the funding levels for these services, and the community service agencies to provide these services. Counties can select from among 18 eligible services including: Adult Day Care, Adult Day Health Care, Care Management, Congregate Nutrition, Group Respite, Health Promotion and Disease Prevention, Health Screening, Home Delivered Meals, Housing and Home Improvement, Information and Assistance, In-Home Aide, Institutional Respite Care, Mental Health Counseling, Senior Center Operations, Senior

Companion, Skilled Home (Health) Care, Transportation, and Volunteer Program Development. Counties decide which services to provide, however congregate nutrition and home-delivered meals are provided in almost every county under the HCCBG.

The Study Commission on Aging recommends that the General Assembly and the Governor maintain funding levels appropriated for FY 2010-2011 for the Home and Community Care Block Grant (HCCBG). The Governor's Advisory Council on Aging and the Senior Tar Heel Legislature both support funding for the HCCBG. Maintain and increase HCCBG funds was also one of the most frequently mentioned issues during the public hearings conducted during March and April.

Recommendation 2: Maintain Funding for Senior Centers, Project C.A.R.E., and Other Vital Support Programs and Services

The Study Commission on Aging recommends the General Assembly and the Governor maintain current funding levels for senior centers and Project C.A.R.E. as well as many other vital programs that provide aging services and support systems for older adults and their families.

Background 2: Maintain Funding for Senior Centers, Project C.A.R.E., and Other Vital Support Programs and Services

During the January 21, 2010 meeting, the Commission heard a presentation from Dennis Streets, Director, Division of Aging and Adult Services, DHHS. During this presentation Mr. Streets shared information on items that are essential to future systems for aging services and supports. His points were as follows:

- Easy and reliable access to information and assistance to facilitate personal responsibility.
    - Efforts include: North Carolina's "No Wrong Door" approach, nccarelink.gov, senior centers, and Community Resource Connections for aging and disabilities.
- Effective holistic and collaborative management of chronic conditions.
    - Efforts include: Community Care Connections, Programs of All-Inclusive Care for the Elderly (PACE), person-centered and consumer-directed approaches to chronic care, pursuing a stronger connection with the Veterans Administration, following the NC Roadmap for Healthy Aging, and falls prevention programs.
- Timely protection and intervention for vulnerable individuals.
    - Efforts include: adult protective services reform, the Institute of Medicine Task Force on co-locating different populations in adult care homes, Relay for Extra Help, and Project C.A.R.E. (Caregiver Alternatives to Running on Empty). (Project C.A.R.E. provides the following assistance to caregivers of people with dementia: in-home needs assessments; counseling; information; assistance finding and selecting respite; funds for in-home personal care, adult day services, and respite; training and educational resources; and connections with Area Agencies on Aging and Alzheimer's Association Chapters.)
- An awareness that successful aging involves more than health and human services.
    - Efforts include: Enactment of S.L. 2009-407 (SB 195) Preparations for Aging Baby Boomers, strengthening the Governor's Advisory Council on Aging,

aging video on careers in aging services, NC Center for Public Policy Research, NC Complete Count (2010 Census), and 2011 Reauthorization of the Older Americans Act.

The Study Commission on Aging recommends that the General Assembly and the Governor maintain current funding levels for senior centers, Project C.A.R.E., and other vital programs that provide aging services and support systems for older adults and their families. The Governor's Advisory Council on Aging and the Senior Tar Heel Legislature both support funding for the Project C.A.R.E. and Senior Centers. Additionally, maintain and increase funds for Project C.A.R.E. was one of the most frequently mentioned items during the two public hearings.

Recommendation 3: Hearing Loss Treatment Task Force

The Study Commission on Aging recommends the General Assembly direct the Hearing Aid Dealers and Fitters Board to coordinate a task force including representatives of the Division of Services for the Deaf and Hard of Hearing in the Department of Health and Human Services, the Consumer Protection Division of the Office of Attorney General, and other interested stakeholders, to: 1) develop recommended guidelines for consumers seeking assistance in the treatment of hearing loss, 2) make recommendations on the best way to disseminate these guidelines, and 3) report to the Study Commission on Aging on or before October 15, 2010.

Background 3: Hearing Loss Treatment Task Force

S.L. 2008-181, Sec. 12.1, directed the Department of Health and Human Services (DHHS) to study the impact of hearing loss on North Carolina's older adult population and to report to the Commission.

On February 4, 2010, Jane Withers, Director, Division of Services for the Deaf and Hard of Hearing, DHHS presented a report to the Commission. The report pointed out that, "Hearing loss in an older adult tends to happen gradually and is not always identified, and less often treated." The report points out that while hearing aids are one of the most effective treatments, they range in price from $1,400 to $5,000 and that they are not normally covered by health insurance. Based on the study, the Division of Services to the Deaf and Hard of Hearing, DHHS, recommended: establishing a task force to assess the feasibility of developing and implementing a system to evaluate hearing aid services; requiring all hearing aid dispensers provide a 30-day trial period; and asking the General Assembly to require health insurance providers to cover hearing aids.

With regard to trial periods, the report provided the following:

> "The Federal Trade Commission which monitors the business practices of hearing aid dispensers allows trial period mandates to be determined by each state. In the State of North Carolina, there is not a 30-day trial period mandated. Most dispensers in the state do provide a minimum 30-day trial period as a gesture of good customer service though no law requires them to do so."

While the current economic climate would make required health insurance coverage of hearing aids a challenge for the State and for many employers, the Commission does recognize the importance of hearing aid availability, proper fit, and consumer education. As such the Commission believes that the most feasible option at this time is to direct the Hearing Aid Dealers and Fitters Board to coordinate a task force that will develop recommended guidelines for consumers seeking assistance in the treatment of hearing loss, to make recommendations on the best way to disseminate the guidelines, and to report to the NC Study

Commission on Aging. The task force should include representatives from the Division of Services for the Deaf and Hard of Hearing (DHHS), the Consumer Protection Division of the Office of Attorney General, and other interested stakeholders. Therefore, the Commission recommends the General Assembly enact 2009-SHz-20.

Recommendation 4: Review of Nurse Aide Training Requirements

The Study Commission on Aging recommends the General Assembly direct the Division of Health Service Regulation, Department of Health and Human Services (DHHS), to coordinate a review involving an equal number of representatives from the Division of Aging and Adult Services, DHHS; the NC Board of Nursing; the Direct Care Workers Association; NC Health Care Facilities Association; NC Hospital Association; NC Home and Hospice Care Association; and representatives of residents in long-term care; to assess the current training requirements for nurse aides and to recommend any necessary changes to the Study Commission on Aging on or before November 1, 2010.

Recommendation 4: Review of Nurse Aide Training Requirements

On February 25, 2010, the Commission heard a presentation by the Division of Health Service Regulation on types of aides, current requirements, locations of employment, and other related information. The Division presented the following information: federally defined definition of a nurse aide, the State and federal requirements for Nurse Aide I registry listing, the federally required content for Nurse Aide I Training Programs, information on State approved training programs, federal requirements for competency evaluation, passing rates by test taker groupings, supply and demand for nurse aides, and the typical duties of a nurse aide. According to the Division of Health Service Regulation, the majority of Home Health Aides, Personal and Home Care Aides, are also Nurse Aides. In 2006, there were 72,130 Home Health Aides employed, 21,780 Nurse Aides, and 18,350 Personal and Home Care Aides. Over the next ten years, the demand for aides employed in each of these three categories is anticipated to increase: 30% for Nurse Aides, 39% for Home Health Aides, and 76% for Personal and Home Care Aides.

The Division also reported the following Nurse Aide I employment breakdown by employment setting:

- Home Health/Home Care - 24%
- Private Duty, Military/VA, Schools, Adult Day Care, Rehab, Native American Reservations – 21%
- Nursing Homes – 20%
- Hospital/Hospice/Mental Health – 15%
- Not Employed in Health Care – 10%
- Adult/Family Care Home – 6%
- Clinics – 3%

During the February meeting, the Commission also heard presentations from representatives of the Direct Care Workers Association of NC, NC Board of Nursing, and Friends of Residents in Long-Term Care.

- The Direct Care Workers Association presented information on their Association, collaborative efforts to provide a conference aimed at reducing turnover and increasing job satisfaction, and the benefits of a career lattice approach.
- The NC Board of Nursing presented the following information on the Nurse Aide II: qualifications, task lists, education programs, and employment settings. In addition

they presented information on Medication Aide qualifications, tasks, and education programs.

- Representatives from Friends of Residents in Long-Term Care presented information on federal regulations for training programs, information that more than half of the states have training requirements that exceed the federal regulations, and the citations for nurse aide training requirements for all 50 states and the District of Columbia.

The Study Commission on Aging recognizes the importance of nurse aides, the care they provide, and the anticipated labor market shortages. The Commission recommends a review of the current training requirements for nurse aides and requests recommendations on the appropriateness of training requirements. The review should be coordinated by the Division of Health Service Regulation, (DHHS), and should include an equal number of representatives from the Division of Aging and Adult Services, DHHS; the NC Board of Nursing; the Direct Care Workers Association; NC Health Care Facilities Association; NC Hospital Association; NC Home and Hospice Care Association; and representatives of residents in long-term care. The Commission urges the General Assembly to enact 2009-SHz-21.

Recommendation 5: Long-Term Care Partnership Program

The Study Commission on Aging recommends the General Assembly enact legislation to develop a Long-Term Care Partnership (LTCP) program for North Carolina and direct the Division of Medical Assistance, Department of Health and Human Services, to pursue a State Plan amendment allowing the operation of the LTCP program.

Background 5: Long-Term Care Partnership Program

S.L. 2006-66, Sec. 10.10, directed the Department of Health and Human Services (DHHS) to develop a North Carolina Long-Term Care Partnership Program. The program was to be developed in accordance with section 1917(b) of the Social Security Act (42 USC § 1396p(c)), as amended by Public Law 109-171 effective January 1, 2007. The purpose of the program is to reduce future Medicaid costs for long-term care by delaying or eliminating dependence on Medicaid. The goal of the program is to offer incentives to individuals to ensure against the substantial costs of providing for their long-term care needs. DHHS was required to submit a report to the General Assembly.

During the meeting on March 4, 2010, the Commission heard a presentation on a Long-Term Care Partnership (LTCP) program in North Carolina provided by representatives of the Seniors' Health Insurance Information Program (SHIIP), located in the Department of Insurance, and the Division of Medical Assistance, in the Department of Health and Human Services. The presentation explained that a LTCP program allows a special resource disregard and resource protection at Estate Recovery for an individual who: 1) purchases a LTCP policy, 2) utilizes the benefits of the policy, and 3) applies for Medicaid. The amount of resource disregard and the Estate Recovery resource protection is equal to the amount of benefits paid out by the LTCP policy prior to the application for Medicaid. The presentation and the report covered: 1) requirements of long-term care partnership, 2) policy disclosure requirements, 3) agent training, 4) data collection, 5) consumer protection, 6) fiscal impact, and 7) recommendations.

The Department of Insurance and the Department of Health and Human Services requested the Commission recommend establishment of a Long-Term Care Partnership program in North Carolina to the General Assembly. The report and subsequent conversations with the Department of Health and Human Services have indicated no anticipated fiscal impact.

The Study Commission on Aging believes that it is in the best interest of the State and its

citizens to encourage personal responsibility and planning for long-term care. As such, the Study Commission on Aging recommends the General Assembly enact legislation to develop a Long-Term Care Partnership program and direct the Division of Medical Assistance, Department of Health and Human Services, to pursue a State Plan amendment allowing the operation of the LTCP program. As such, the Commission recommends enactment of 2009-SHz-25.

Recommendations 6, 7, 8 and 9

Recommendation 6: Include Dentist on the Commission on Children with Special Health Care Needs

The Study Commission on Aging recommends the General Assembly expand the membership of the Commission on Children with Special Health Care Needs to include a dentist.

Recommendation 7: Special Needs Dental Care Workforce Development

The Study Commission on Aging recommends the General Assembly direct the North Carolina Area Health Education Centers (AHEC) Program to: 1) work with the dental schools at The University of North Carolina – Chapel Hill and East Carolina University, the North Carolina Community College System, and current special care dental providers to increase the available workforce willing to treat North Carolina special care populations; 2) work with the NC State Board of Dental Examiners to explore the feasibility of allowing dental students, dental hygiene students, and assisting students the opportunity to receive training in long-term care facilities under the direction of non-profit special care dental organizations; and 3) report to the Study Commission on Aging on or before August 1, 2011.

Recommendation 8: Medicaid Dental Services

The Study Commission on Aging recommends the General Assembly maintain Medicaid funding for dental services and direct the Division of Medical Assistance and the Division of Public Health to: 1) explore the feasibility of expanding Medicaid dental services to include reimbursement for evidenced-based fluoride and periodontal therapies for high risk adults with special health care needs, 2) explore the implementation of facility code policies that would allow certified providers to bill for each patient seen in a long-term care facility or group home on the date of service, and 3) report on or before November 15, 2011 to the Study Commission on Aging.

Recommendation 9: Additional Mobile Dental Units

The Study Commission on Aging recommends the Department of Health and Human Services and the special care mobile dental providers explore private grants and public federal government funding options for the purchase of additional mobile dental units to serve special care populations.

Background 6, 7, 8, 9: Special Care Dentistry Issues

S.L. 2009-100 was a recommendation from the Commission and required the Division of Public Health, DHHS, to collaborate with the Division of Medical Assistance, the Division of Aging and Adult Services, the University of North Carolina at Chapel Hill and the East Carolina University Schools of Dentistry, the North Carolina Dental Society, and current providers of special care dentistry services, to examine current dental care options for special care populations. The collaboration of these groups and the report they prepared was presented to the Commission on March 4, 2010.

The report estimated that NC may be the home of 450,000 individuals requiring special care

dentistry services. This number includes individuals with intellectual and/or other developmental disabilities, those with long term needs due to a Traumatic Brain Injury, and older adults living with Alzheimer's disease or other types of dementia. However, the report estimates there are only a small number of dental facilities and practices that employ providers with the skills and abilities to safely serve dental patients with special health care needs. The range of service providers includes: State dental clinics serving primarily patients of psychiatric hospitals, developmental centers, and neuro-medical centers, hospital inpatient services, two non-profit mobile programs, approximately 150 pediatric dentists that may accept Medicaid, a limited number of general dentists that treat patients with special needs, UNC School of Dentistry, and the ECU School of Dentistry which will have a suite dedicated to patients with special needs in the year 2012. Barriers to care are significant and include access to care, financial dependency, inadequate care, limited capacity, limited professional training, limited financial compensation, and no special care dentistry infrastructure to address concerns.

The presentation to the Commission highlighted a number of the recommendations. On March 4th, the presenters were asked to prioritize recommendations for the Commission. These prioritized recommendations are the basis for the special care dentistry recommendations from the Study Commission on Aging to the 2010 Session of the General Assembly to enact 2009-SHz-22, 2009-SHz-23, and 2009-SHz-24 .

Recommendation 10: Refining Aging and Long-Term Care Statutes in NC

The Study Commission on Aging recommends the General Assembly update and refine North Carolina's General Statutes on aging and long-term care.

Background 10: Refining Aging and Long-Term Care Statutes in NC

At the Commission's meeting on April 1, 2010, members received suggestions for updating and refining language in the North Carolina Statutes that provides a statement of principles and policy for long-term care and the programs and services for older adults. The information provided by the Department focused on amendments to Chapter 143B, Article 3, Part 14A. Policy Act for the Aging, and Part 14B. Long-term Care. The current statutes are provided below.

Part 14A. Policy Act for the Aging.

§ 143B-181.3. Statement of principles.

To utilize effectively the resources of our State, to provide a better quality of life for our senior citizens, and to assure older adults the right of choosing where and how they want to live, the following principles are hereby endorsed:

(1) Older people should be able to live as normal a life as possible.
(2) Older adults should have a choice of life styles which will allow them to remain contributing members of society for as long as possible.
(3) Preventive and primary health care are necessary to keep older adults active and contributing members of society.
(4) Appropriate training in gerontology and geriatrics should be developed for individuals serving older adults.
(5) Transportation to meet daily needs and to make accessible a broad range of services should be provided so that older persons may realize their full potential.
(6) Services for older adults should be coordinated so that all their needs can be served efficiently and effectively.
(7) Information on all services for older citizens and advocacy for these services should be available in each county.
(8) Increased employment opportunities for older adults should be made available.

(9) Options in housing should be made available.
(10) Planning for programs for older citizens should always be done in consultation with them.
(11) The State should aid older people to help themselves and should encourage families in caring for their older members.

§ 143B-181.4. Responsibility for policy.

Responsibility for developing policy to carry out the purpose of this Part is vested in the Secretary of the Department of Health and Human Services as provided in G.S. 143B-181.1 who may assign responsibility to the Assistant Secretary for Aging. The Assistant Secretary for Aging shall, at the request of the Secretary, be the bridge between the federal and local level and shall review policies that affect the well being of older people with the goal of providing a balance in State programs to meet the social welfare and health needs of the total population. Responsibilities may include:

(1) Serving as chief advocate for older adults;
(2) Developing the State plan which will aid in the coordination of all programs for older people;
(3) Providing information and research to identify gaps in existing services;
(4) Promoting the development and expansion of services;
(5) Evaluation of programs;
(6) Bringing together the public and private sectors to provide services for older people.

Part 14B. Long-Term Care.

§ 143B-181.5. Long-term care policy.

The North Carolina General Assembly finds that the aging of the population and advanced medical technology have resulted in a growing number of persons who require assistance. The primary resource for long-term care provision continues to be the family and friends. However, these traditional caregivers are increasingly employed outside the home. There is growing demand for improvement and expansion of home and community-based long-term care services to support and complement the services provided by these informal caregivers.

The North Carolina General Assembly further finds that the public interest would best be served by a broad array of long-term care services that support persons who need such services in the home or in the community whenever practicable and that promote individual autonomy, dignity, and choice.

The North Carolina General Assembly finds that as other long-term care options become more available, the relative need for institutional care will stabilize or decline relative to the growing aging population. The General Assembly recognizes, however, that institutional care will continue to be a critical part of the State's long-term care options and that such services should promote individual dignity, autonomy, and a home-like environment.

§ 143B-181.6. Purpose and intent.

It is the North Carolina General Assembly's intent in the State's development and implementation of long-term care policies that:

(1) Long-term care services administered by the Department of Health and Human Services and other State and local agencies shall include a balanced array of health, social, and supportive services that promote individual choice, dignity, and the highest practicable level of independence;
(2) Home and community-based services shall be developed, expanded, or maintained in order to meet the needs of consumers in the least confusing manner and based on the desires of the elderly and their families;
(3) All services shall be responsive and appropriate to individual need and shall be delivered through a seamless system that is flexible and responsive regardless of funding source;
(4) Services shall be available to all elderly who need them but targeted primarily to the most frail, needy elderly;
(5) State and local agencies shall maximize the use of limited resources by establishing a fee system for persons who have the ability to pay;
(6) Institutional care shall be provided in such a manner and in such an environment as to promote maintenance or enhancement of the quality of life

of each resident and timely discharge to a less restrictive care setting when appropriate; and

(7) State health planning for institutional bed supply shall take into account increased availability of other home and community-based services options.

The Study Commission on Aging supports efforts to ensure that statutory language supports service and program delivery goals and efforts through the enactment of 2009-SHz-26.

Recommendation 11: Adult Day Care Participant Protection

The Study Commission on Aging recommends the General Assembly amend North Carolina's General Statutes to strengthen the authority of the Department of Health and Human Services to ensure that unfit individuals are prohibited from operating or working in adult day care programs.

Background 11: Adult Day Care Participant Protection

On April 1, 2010, the Commission received information on the need to strengthen the Department's authority to safeguard adult day care and adult day health care program participants.

G.S. 131D-6 provides for the certification of adult day care programs. G.S. 131D-6(b) defines an adult day care program as the provision of group care and supervision in a place other than their usual place of abode on a less than 24-hour basis to adults who may be physically or mentally disabled. On an annual basis, the Department of Health and Human Services is required to inspect and certify all adult day care programs under the rules adopted by the Social Services Commission.

G.S. 131D-6(b) requires the Social Services Commission to adopt rules to protect the health, safety, and welfare of persons in adult day care programs. The rules are required to include minimum standards relating to management of the programs, staffing requirements, building requirements, fire safety, sanitation, nutrition, and program activities.

Administrative Rule, 10A NCAC 06R .0305(a)(3), requires a statewide criminal history records search of all newly-hired employees of adult day programs for the past five years conducted by an agency approved by the North Carolina Administrative Office of the Courts.

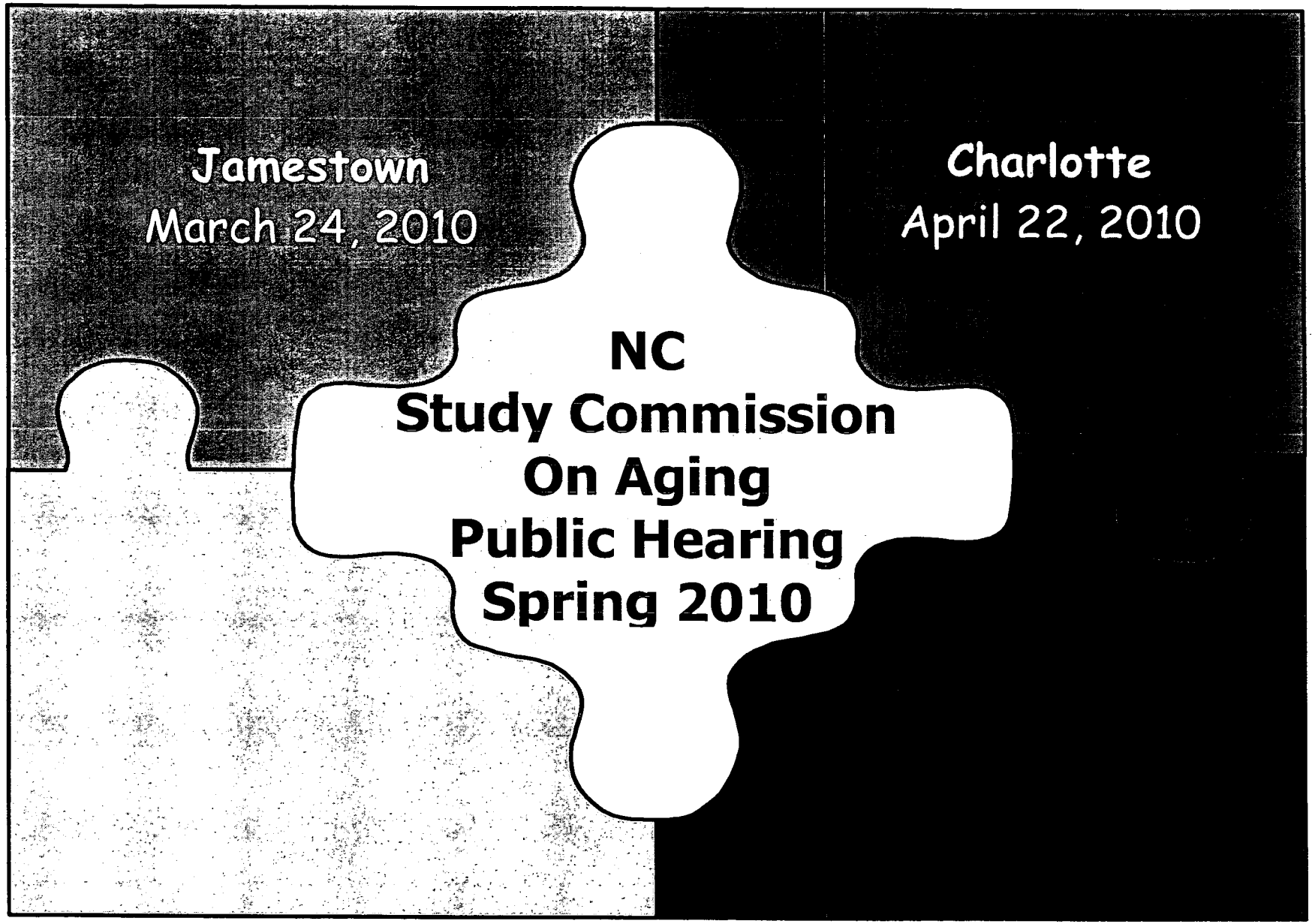
Administrative Rule, 10A NCAC 06R .0508(b)(8)(B) requires an adult day care program to keep individual personnel records on all staff members including evidence of a state criminal history check on each employee providing direct care for a minimum of six years.

G.S. 131D-6(c) permits the Secretary to impose a civil penalty not to exceed one hundred dollars ($100) for each violation on a person, firm, agency, or corporation who willfully violates any provision of the section or any rule adopted by the Social Services Commission.

The Study Commission on Aging supports thorough background checks and other efforts to ensure the safety of elderly and disabled residents and recommends the General Assembly strengthen the statutes accordingly by enacting 2009-SHz-27.

APPENDICES

APPENDIX A


Jamestown
March 24, 2010
Charlotte
April 22, 2010
NC
Study Commission
On Aging
Public Hearing
Spring 2010

Background Information

The North Carolina Study Commission on Aging is created to study and evaluate the existing system of delivery of State services to older adults and to recommend an improved system of delivery to meet the present and future needs of older adults. This study shall be a continuing one and the evaluation ongoing, as the population of older citizens grows and as old problems faced by older citizens magnify and are augmented by new problems. (G.S. 120-180)

The Commission may hold public meetings across the State to solicit public input with respect to the issues of aging in North Carolina. (G.S. 120-185)

Spring 2010 Public Hearings

Date	Location	Number of Speakers
March 24, 2010	Jamestown, NC	35
April 22, 2010	Charlotte, NC	25

The issues mentioned with the greatest frequency at both public hearings were:

- **Maintain/Increase Home and Community Care Block Grant Funds (21)**
- **Maintain/Increase Funding for Project C.A.R.E. (21)**
- **Increase Funds/Support for Adult Day Care (11)**

Frequency of Issues Expressed by Speakers

	JAMESTOWN	CHARLOTTE	TOTAL
ISSUES	FREQUENCY	FREQUENCY	FREQUENCY
Maintain /Increase HCCBG Funding	15	6	21
Maintain/Increase Funding for Project C.A.R.E.	12	9	21
Maintain/Increase Funding and Support for Adult Day Care	8	3	11
Support Funding for Medicaid Personal Care Services (PCS)	4	4	8
Maintain/Increase Funding for New & Existing Special Care Dental Programs	4	2	6
Maintain/Increase Senior Center Funds	3	2	5
Support for Senior Games	1	4	5
Support for Long-Term Care Partnership Program	2	2	4
Increase Homestead Exemption/ Property Tax Relief for Seniors	2	1	3
Support Funding for Medicaid Community Alternatives Programs (CAP-DA)	0	3	3
Support Increasing Medicaid Personal Needs Allowance	1	2	3
Provide Appropriate Housing for Mentally Ill, No Mixing of Elderly and Mentally Ill	1	1	2
Support for Home and Hospice Care	0	2	2
Drug Testing for Employees in Adult Care Homes	1	1	2
Increase Transportation Funding for Seniors	0	1	1
Address Issues Related to Mentally Ill in Adult Care Homes/ Mixing Populations	1	0	1
Additional Protection for the Elderly: Consumer Protection, Lifeline for Seniors	1	0	1

APPENDIX B

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

U D

BILL DRAFT 2009-SHz-20 [v.2] (04/01)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
4/26/2010 3:55:56 PM

Short Title: Consumer Guidelines for Hearing Aid Purchases. (Public)

Sponsors:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE HEARING AID DEALERS AND FITTERS BOARD TO COORDINATE A TASK FORCE THAT WILL DEVELOP GUIDELINES FOR CONSUMERS TO USE WHEN PURCHASING A HEARING AID, AS RECOMMENDED BY THE NORTH CAROLINA STUDY COMMISSION ON AGING.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The Hearing Aid Dealers and Fitters Board shall coordinate a task force which shall develop recommended guidelines for consumers seeking information and assistance in the treatment of hearing loss and the purchase of a hearing aid. The task force shall include representatives of the Hearing Aid Dealers and Fitters Board; the Division of Services for the Deaf and Hard of Hearing, Department of Health and Human Services; the Consumer Protection Division, Office of the Attorney General; and may include other interested stakeholders.

SECTION 1.(b) The Hearing Aid Dealers and Fitters Board shall report the findings and recommendations of the task force, along with recommendations on methods to disseminate hearing aid purchasing guidelines, to the North Carolina Study Commission on Aging on or before October 15, 2010.

SECTION 2. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

U D

BILL DRAFT 2009-SHz-21 [v.2] (04/01)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
4/29/2010 2:41:43 PM

Short Title: Nurse Aide Training Review. (Public)

Sponsors:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE DIVISION OF HEALTH SERVICE REGULATION, DEPARTMENT OF HEALTH AND HUMAN SERVICES, TO COORDINATE A REVIEW OF THE EDUCATION AND TRAINING REQUIREMENTS FOR NURSE AIDES, AS RECOMMENDED BY THE NORTH CAROLINA STUDY COMMISSION ON AGING.

The General Assembly of North Carolina enacts:

SECTION 1.(a). The Division of Health Service Regulation, Department of Health and Human Services, shall coordinate a review of the education and training requirements for nurse aides. In conducting the review, the Division shall include an equal number of representatives from the Division of Health Service Regulation; Division of Aging and Adult Services; the North Carolina Board of Nursing; the Direct Care Workers Association of North Carolina; the North Carolina Health Care Facilities Association; the North Carolina Hospital Association; the Association for Home and Hospice Care of North Carolina; and individuals representing residents in long-term care. The review shall include an evaluation of the current education and training requirements for nurse aides.

SECTION 1.(b). The Division of Health Service Regulation shall report findings and recommendations on the appropriate levels of education and training for nurse aides to the North Carolina Study Commission on Aging on or before November 1, 2010.

SECTION 2. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

U D

BILL DRAFT 2009-SHz-25 [v.7] (04/01)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
4/29/2010 4:52:59 PM

Short Title: Implement LTC Partnership Program. (Public)

Sponsors: .

Referred to:

A BILL TO BE ENTITLED

AN ACT TO IMPLEMENT THE LONG-TERM CARE PARTNERSHIP PROGRAM, TO ENSURE THAT NORTH CAROLINA'S LONG-TERM CARE INSURANCE LAWS COMPORT WITH THE LONG-TERM CARE PARTNERSHIP PROVISIONS IN THE FEDERAL DEFICIT REDUCTION ACT OF 2005, AND TO AUTHORIZE THE SHARING OF CONFIDENTIAL INFORMATION BETWEEN THE NORTH CAROLINA DEPARTMENT OF INSURANCE, ENTITIES THAT CONTRACT WITH THE FEDERAL GOVERNMENT, AND OTHER GOVERNMENTAL AGENCIES, AS RECOMMENDED BY THE NORTH CAROLINA STUDY COMMISSION ON AGING.

The General Assembly of North Carolina enacts:

SECTION 1. Part 6, Article 2 of Chapter 108A of the General Statutes is amended by adding a new section to read:

"**§ 108A-70.4. Long-Term Care Partnership Program.**

(a) As used in this section, the terms:

(1) "Asset" means resources and income.

(2) "Department" means the Department of Health and Human Services, Division of Medical Assistance.

(3) "Estate recovery" means the placing of a statutory claim pursuant to 108A-70.5 on the estate of the deceased Medicaid recipient.

(4) "Long-term care partnership policy" means a long-term care insurance policy approved by the North Carolina Department of Insurance as meeting all of the regulations and requirements of the model Act promulgated by the National Association of Insurance Commissioners.

(5) "Medicaid" means the federal medical assistance program established under Title XIX of the Social Security Act.

(6) "Resource" means cash or its equivalent and or real or personal property that is available to the applicant or recipient.

(7) "Resource disregard" means the amount of resources owned by the long-term care Medicaid applicant that is equal to the amount of benefits paid by a long-term care partnership policy for the applicant which will not be counted when determining long-term care Medicaid eligibility.

(8) "Resource protection" means an amount equal to the resource disregard given to the recipient at long-term care Medicaid eligibility that will be deducted from the total estate value at estate recovery.

(b) Since the Deficit Reduction Act of 2005 repealed the restrictions to resource protection contained in the Omnibus Budget Reconciliation Act of 1993, P.L. 103-66, 107 Stat.312, there is established the North Carolina Long-Term Care Partnership Program to be administered by the Department with assistance from the North Carolina Department of Insurance. The North Carolina Long-Term Care Partnership Program shall:

(1) Provide a mechanism for individuals to qualify for coverage of the cost of their long-term care needs under Medicaid without first being required to substantially exhaust their resources.

(2) Provide counseling services to individuals planning for their long-term care needs.

(3) Alleviate the financial burden on the State's medical assistance program by encouraging the pursuit of private insurance.

(c) In the case of an individual who has received benefits under a long-term care partnership policy, an equal amount of resources shall not be considered by the Department during the determination of the following:

(1) Eligibility for long-term care Medicaid.

(2) Any subsequent recovery by the State from a deceased recipient's estate for payment of Medicaid paid services.

(d) The Department shall promulgate necessary rules and amendments to the State Plan to allow for resource disregard at long-term care Medicaid eligibility determination and resource protection at estate recovery. To provide resource disregards for purchases of a long-term care partnership policy, the Department shall count insurance benefits paid under the policy prior to the date of the first application for long-term care Medicaid made after the implementation of the program toward resource disregard and resource protection to the extent the payments are for covered services under the long-term care partnership policy.

(e) After January 1, 2011, or 60 days after approval of the Medicaid State Plan amendment, whichever is later, a qualified long-term care partnership policy shall contain a disclosure detailing in plain language the current law pertaining to resource disregard and resource protection. A duplicate disclosure shall be given to the insured individual with the delivery of the policy document.

(f) The Department shall enter into a reciprocal agreement with other states that enter into a national reciprocity agreement to extend the resource disregard and resource

protection to residents of the State who purchased, or purchased and used, a qualified long-term care policy in another state.

(g) The Department and the Department of Insurance are authorized to adopt rules to implement the provisions of this program for its administration.

(h) In the case of an individual that has received benefits under a long-term care partnership policy, the provisions of G.S. 108A-70.5 remain in effect for purposes of estate recovery, with the exception of the definition of "estate" under G.S. 108A-70.5(b)(2). In accordance with Title XIX of the Social Security Act, 42 U.S.C. § 1396p(b)(4)(B), the definition of "estate" for an individual who has received benefits under a long-term care partnership policy includes any other real or personal property and other assets in which the individual had any legal title or interest at the time of death (to the extent of such interest), including such assets conveyed to a survivor, heir, or assign of the deceased individual through joint tenancy, tenancy in common, survivorship, life estate, living trust, or other arrangement."

SECTION 2. G.S. 108A-70.5 reads as rewritten:

"**§ 108A-70.5. Medicaid Estate Recovery Plan.**

(a) There is established in the Department of Health and Human Services, the Medicaid Estate Recovery Plan, as required by the Omnibus Budget Reconciliation Act of 1993, to recover from the estates of recipients of medical assistance an equitable amount of the State and federal shares of the cost paid for the recipient. The Department shall administer the program in accordance with applicable federal law and regulations, including those under Title XIX of the Social Security Act, 42 U.S.C. § 1396(p).

(b) As used in this section:

(1) "Medical assistance" means medical care services paid for by the North Carolina Medicaid Program on behalf of the recipient:

a. If the recipient of any age is receiving medical care services as an inpatient in a nursing facility, intermediate care facility for the mentally retarded, or other medical institution, and cannot reasonably be expected to be discharged to return home; or

b. If the recipient is 55 years of age or older and is receiving one or more of the following medical care services:

1. Nursing facility services.
2. Home and community-based services.
3. Hospital care.
3a. Prescription drugs.
4. Personal care services.
5 through 9. Repealed by Session Laws 2007-442, s. 1, effective August 23, 2007.

(2) "Estate" means all the real and personal property considered assets of the estate available for the discharge of debt pursuant to G.S. 28A-15-1. For individuals who have received long-term care benefits as described in G.S. 108A-70.4, "estate" also includes any other real and personal property and other assets in which the individual had any legal title or interest at the time of death (to the

extent of such interest), including such assets conveyed to a survivor, heir, or assign of the deceased individual through joint tenancy, tenancy in common, survivorship, life estate, living trust, or other arrangement.

(3) Repealed by Session Laws 2007-442, s. 1, effective August 23, 2007.

(c) The amount the Department recovers from the estate of any recipient shall not exceed the amount of medical assistance made on behalf of the recipient and shall be recoverable only for medical care services prescribed in subsection (b) of this section. The Department is a fifth-class creditor, as prescribed in G.S. 28A-19-6, for purposes of determining the order of claims against an estate; provided, however, that judgments in favor of other fifth-class creditors docketed and in force before the Department seeks recovery for medical assistance shall be paid prior to recovery by the Department.

(d) The Department of Health and Human Services shall adopt rules pursuant to Chapter 150B of the General Statutes to implement the Plan, including rules to waive whole or partial recovery when this recovery would be inequitable because it would work an undue hardship or because it would not be administratively cost-effective and rules to ensure that all recipients are notified that their estates are subject to recovery at the time they become eligible to receive medical assistance.

(e) Repealed by Session Laws 2007-442, s. 1, effective August 23, 2007."

SECTION 3. Article 55 of Chapter 58 of the General Statutes is amended by designating G. S. 58-55-1 through G.S. 58-55-50 as "Part 1. General Provisions."

SECTION 4. Article 55 of Chapter 58 of the General Statutes is amended by adding a new Part to read:

"Part 2. Long-Term Care Partnership.

"**§ 58-55-55 Long-Term Care Partnership.**

(a) A long-term care partnership policy is a long-term care insurance policy including a certificate issued under a group insurance contract.

(b) A long-term care partnership policy must satisfy all of the following requirements:

(1) The policy must be a qualified long-term care insurance contract, as defined in section 7702B of the Internal Revenue Code of 1986 (26 U.S.C. 7702B(b)) and must provide insurance benefits on a reimbursement, case benefit basis, indemnity insurance basis or on a per diem or other periodic basis.

(2) The effective date of the coverage is on or after January 1, 2011, or 60 days after approval of the Medicaid State Plan amendment, whichever is later.

(3) The policy covers an insured who was a resident of North Carolina or another state that has entered into a reciprocal agreement with North Carolina when coverage first became effective under the policy. If the policy is later exchanged for a different long-term care policy, the individual was a resident of North Carolina or another state that has entered into a reciprocal agreement with North Carolina when coverage under the earliest policy became effective.

(4) The policy meets the federal consumer protection requirements of section 1917(b)(5)(A) of the Social Security Act (42 U.S.C. 1396p(b)(5)(A). In addition, the policy must:

(a) Provide the insurer will issue a 90 day notice prior to exhaustion of a long-term care partnership policy. The notice shall instruct the insured to go to his local department of social services to apply for Medicaid.

(b) The policy must designate a third party who shall receive premium due notices in addition to the insured, including the notice required in G.S. 58-55-55(4)(a) to prevent loss of benefits due to non-payment.

(5) The policy is issued with and retains inflation coverage which meets the following inflation coverage limitations:

(a) Policies or certificates issued to an individual who is under 61 years old must provide compound annual inflation protection.

(b) Policies or certificates issued to an individual who is 61 to 76 years old must provide some level of inflation protection. This may include simple interest or compound inflation protection.

(c) For purchasers 76 years old or older, inflation protection may be offered but in not required.

(6) The policy states that it is intended to be a qualified long-term care insurance policy as defined in section 7702B(b) of the Internal Revenue Code of 1986.

(7) The policy is issued in North Carolina or issued for delivery in North Carolina and shall include a "Partnership Status Disclosure Notice". The notice shall state the following in at least 12-point font:

"At the time of issuance, this long-term care insurance policy qualifies as a North Carolina Long-Term Care Partnership Program policy. For Medicaid applicants applying for help with the cost of long-term care, this means that an amount of your resources equal to the dollar amount of long-term care insurance benefits paid to you or on your behalf under this policy may be disregarded for purposes of determining your eligibility for long-term care Medicaid. The amount that will be disregarded at eligibility will be equal to the amount of the long-term care partnership benefits paid out prior to the time you apply for long-term care Medicaid. As a result, you may qualify for coverage of the cost of your long-term care needs under Medicaid without first being required to substantially exhaust you personal resources. If you are already a recipient of long-term care Medicaid, this policy will not allow a resource disregard or estate recovery resource protection.

Please note that this policy may lose long-term care partnership program status if you move to a different state that does not recognize

North Carolina's Long Term Care Partnership Program or you modify this policy after issuance. This policy may also lose long-term care partnership program status due to changes in federal or state laws.

If you have questions regarding long-term care insurance and the North Carolina Long-Term Care Partnership Program, you may contact the Seniors' Health Insurance Information Program of the Department of Insurance at 1-800-443-9354.

In the case of a group insurance contract, such Notice shall be provided to the insured upon the issuance of the certificate. The Insurer shall include in that notice that the amount of the insured resources that will be disregarded at eligibility will be equal to the amount of long-term care partnership policy benefits paid prior to the time the insured applied for long-term care Medicaid. The Insurer shall also include in the notice a warning to the insured that the policy may lose long-term care partnership program status if the insured moves to another state that does not recognize North Carolina's Long-Term Care Partnership Program, or if the policy is modified after issuance."

"**§ 58-55-56. Compliance with Federal Regulation.**

(a) The Commissioner may adopt rules to conform long-term care policies and certificates to the requirements of federal law and regulations, including any changes required by Congress or the U.S. Department of Health and Human Services, or any successor agencies.

(b) The tax-qualified long-term care provisions required of the Health Insurance Portability and Accountability Act of 1996, including subsequent amendments and editions, are hereby incorporated into Article 55 of Chapter 58.

(c) The long-term care partnership provisions required of the Deficit Reduction Act of 2005, including subsequent amendments and editions, are hereby incorporated into Article 55 of Chapter 58.

"**§ 58-55-57. Disclosure Notices.**

(a) Prior to an insured making a change to the policy that will result in the loss of long-term care partnership status, the insurer shall provide to the policyholder a written explanation of how such action impacts the insured and shall obtain the insured's signature indicating consent to the change.

(b) If a long-term care partnership plan subsequently loses long-term care partnership status, the insurer shall explain in writing to the policyholders the reason for the loss of status.

(c) The disclosures required in this section shall be provided to any insured who exchanges a policy for a long-term care partnership policy.

"**§ G.S. 58-55-58. Exchange of Long-Term Care Policies for Long-Term Care Partnership Policies.**

A long-term care insurance policy that does not qualify as a long-term care partnership policy and that was issued prior to January 1, 2011, or 60 days following approval of the

Medicaid State Plan amendment, whichever is later, shall be eligible for long-term care partnership status if those policies meet the federal requirements of a long-term care partnership policy. If an exchange occurs, the insurer shall notify the insured in writing that the new long-term care partnership policy may be subject to underwriting criteria and premium adjustment. The effective date of the long-term care partnership policy shall be the date the policy was exchanged."

SECTION 5. Article 55 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"**§ 58-55-36. Information sharing.**

(a) In order to assist in the performance of the Commissioner's duties under the long-term care partnership program specified in the federal Deficit Reduction Act of 2005, the Commissioner may:

(1) Share information, including identifying information, related to the long-term care partnership program with other state and federal agencies, the National Association of Insurance Commissioners, and any entity contracting with the federal government under the Program, provided that the recipient agrees to maintain the confidentiality and privileged status of the information.

(2) Receive information, including identifying information, related to the long-term care partnership program from other state and federal agencies, the National Association of Insurance Commissioners, and any entity contracting with the federal government under the Program, and shall maintain as confidential or privileged any identifying information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information.

(3) Enter into agreements governing sharing and use of information consistent with this section.

(b) No waiver of an existing privilege or claim of confidentiality in the identifying information shall occur as a result of disclosure to the Commissioner under this section or as a result of sharing as authorized in subsection (a) of this section.

(c) A privilege established under the law of any state or jurisdiction that is substantially similar to the privilege established under this section shall be available and enforced in any proceeding in, and in any court of, this State.

(d) As used in this section, "identifying information" has the same meaning as in G.S. 14-113.20(b)."

SECTION 6. The Department of Health and Human Services and the Department of Insurance may adopt rules to implement the Long-Term Care Partnership Program in North Carolina.

SECTION 7. The Department of Health and Human Services shall pursue a Medicaid State Plan amendment to allow the Long-Term Care Partnership Program to operate in North Carolina.

SECTION 8. Sections 7 and 8 of this act are effective when they become law, the remainder of the act becomes effective January 1, 2011, or 60 days after approval of the Medicaid State Plan amendment, whichever is later.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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BILL DRAFT 2009-SHz-22 [v.1] (04/01)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
4/14/2010 1:22:29 PM

Short Title: Comsn. on Children with Special Needs-Dentist. (Public)

Sponsors:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ADD A LICENSED DENTIST TO THE COMMISSION ON CHILDREN WITH SPECIAL HEALTH CARE NEEDS, AS RECOMMENDED BY THE NORTH CAROLINA STUDY COMMISSION ON AGING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-682 reads as rewritten:

"**§ 143-682. Commission established.**

(a) There is established the Commission on Children With Special Health Care Needs. The Department of Health and Human Services shall provide staff services and space for Commission meetings. The purpose of the Commission is to monitor and evaluate the availability and provision of health services to special needs children in this State, and to monitor and evaluate services provided to special needs children under the Health Insurance Program for Children established under Part 8 of Article 2 of Chapter 108A of the General Statutes.

(b) The Commission shall consist of ~~eight~~ nine members appointed by the Governor, as follows:

(1) Two parents, not of the same family, each of whom has a special needs child. In appointing parents, the Governor shall consider appointing one parent of a child with chronic illness and one parent of a child with a developmental disability or behavioral disorder.

(2) A licensed psychiatrist recommended by the North Carolina Psychiatric Association;

(3) A licensed psychologist recommended by the North Carolina Psychological Association;

(4) A licensed pediatrician whose practice includes services for special needs children, recommended by the Pediatric Society of North Carolina;

(5) A representative of one of the children's hospitals in the State, recommended by the Pediatric Society of North Carolina;

(6) A local public health director recommended by the Association of Local Health Directors; and

(7) An educator providing education services to special needs children, recommended by the North Carolina Council of Administrators of Special Education.

(8) A licensed dentist who provides services to children with special needs, recommended by the North Carolina Dental Society.

(c) The Governor shall appoint from among Commission members the person who shall serve as chair of the Commission. Of the initial appointments, two shall serve one-year terms, three shall serve two-year terms, and three shall serve three-year terms. Thereafter, terms shall be for two years. Vacancies occurring before expiration of a term shall be filled from the same appointment category in accordance with subsection (b) of this section."

SECTION 2. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

U D

BILL DRAFT 2009-SHz-23 [v.1] (04/01)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
4/14/2010 4:36:46 PM

Short Title: Develop Special Needs Dental Care Workforce. (Public)

Sponsors: .

Referred to:

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE NORTH CAROLINA AREA HEALTH EDUCATION CENTERS (AHEC) PROGRAM TO COORDINATE WORKFORCE DEVELOPMENT EFFORTS TO INCREASE THE NUMBER OF DENTAL CARE PROVIDERS SERVING THE SPECIAL NEEDS POPULATION, AS RECOMMENDED BY THE NORTH CAROLINA STUDY COMMISSION ON AGING.

The General Assembly of North Carolina enacts:

SECTION 1.(a). The North Carolina Area Health Education Centers (AHEC) Program shall coordinate efforts to increase the number of dental care providers serving the special needs population. These efforts shall include, but are not limited to, the following:

(1) Working with the dental schools at the University of North Carolina at Chapel Hill and East Carolina University, the North Carolina Community College System, and current dental providers serving the special needs population, to identify opportunities to increase the dental care workforce supply that is available and willing to treat the special needs population. These opportunities shall include, but are not limited to, options that could be undertaken without additional funding.

(2) Working with the North Carolina State Board of Dental Examiners to explore the feasibility of allowing dental students, dental hygiene students, and assisting students, the opportunity to receive training in long-term care facilities under the direction of non-profit special care dental organizations.

SECTION 1.(b). The North Carolina Area Health Education Centers (AHEC) Program shall report findings and recommendations to the North Carolina Study Commission on Aging on or before August 1, 2011.

SECTION 2. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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BILL DRAFT 2009-SHz-24 [v.2] (04/01)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
5/3/2010 3:51:35 PM

Short Title: Medicaid Dental/Special Needs Population. (Public)

Sponsors: .

Referred to:

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE DIVISION OF MEDICAL ASSISTANCE, AND THE DIVISION OF PUBLIC HEALTH, IN THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, TO EXPLORE ISSUES RELATED TO PROVIDING DENTAL SERVICES TO THE SPECIAL NEEDS POPULATION, AS RECOMMENDED BY THE NORTH CAROLINA STUDY COMMISSION ON AGING.

The General Assembly of North Carolina enacts:

SECTION 1.(a). The Division of Medical Assistance, and the Division of Public Health, in the Department of Health and Human Services, shall explore issues that would facilitate dental care and improved dental outcomes for the special needs population. Issues explored must include, but are not limited to, the following:

(1) The feasibility and anticipated impact of expanding Medicaid dental services to include reimbursement for evidenced-based fluoride and periodontal therapies for high risk adults with special health care needs.

(2) The feasibility and anticipated impact of implementing facility code policies that would allow certified providers to bill for each patient seen in a long-term care facility or group home on the date of service.

SECTION 1.(b) The Department of Health and Human Services shall report findings and recommendations on the issues in this section on or before November 15, 2011 to the North Carolina Study Commission on Aging.

SECTION 2. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

U D

BILL DRAFT 2009-SHz-26 [v.5] (04/01)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
4/26/2010 3:58:40 PM

Short Title: Update Long-Term Care Statutes. (Public)

Sponsors: .

Referred to:

A BILL TO BE ENTITLED

AN ACT TO UPDATE AND CLARIFY NORTH CAROLINA'S GENERAL STATUTES ON OLDER ADULTS AND LONG-TERM SERVICES AND SUPPORTS, AS RECOMMENDED BY THE NORTH CAROLINA STUDY COMMISSION ON AGING.

Whereas, the North Carolina General Assembly is committed to having North Carolina recognized as a leader in supporting long-term services and supports; and

Whereas, the State is building on the following federal and State supported person-centered initiatives: aging and disability resource centers or Community Resource Connections for Aging and Disabilities, evidence-based health promotion, caregiver supports for persons with Alzheimer's disease, lifespan respite programs, consumer-directed care, transitional care, and promotion of community living for persons who might otherwise become Medicaid eligible if placed in a skilled nursing facility;

Now therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Part 14A, Article 3, Chapter 143B of the General Statutes reads as rewritten:

"Part 14A. ~~Policy Act for the Aging.~~ Older Adults.

§ 143B-181.3. ~~Statement of principles.~~ Older adults findings; policy.

~~To utilize effectively the resources of our State, to provide a better quality of life for our senior citizens, and to assure older adults the right of choosing where and how they want to live, the following principles are hereby endorsed:~~

(a) The North Carolina General Assembly finds the following:

(1) Older ~~people~~ adults should be able to live as ~~normal a life~~ independently as ~~possible.~~ possible, and to live free of abuse, neglect, and exploitation.

(2) Older adults should have a choice of ~~life-styles~~ life-styles which will allow them to remain contributing members of society for as long as possible.

(3) Preventive and primary health care are necessary to keep older adults active and contributing members of society.

(4) Sufficient opportunities for ~~Appropriate~~ training in gerontology and geriatrics should be developed and readily available for individuals serving older adults.

(5) Transportation to meet daily needs and to make accessible a broad range of services should be ~~provided~~ available so that older ~~persons~~ adults may realize their full potential.

(6) Services for older adults should be person-centered and coordinated so that ~~all their~~ an individual's needs can be served ~~efficiently and effectively~~ efficiently, effectively, and in the least restrictive environment.

(7) Information should be readily available in each county on all programs and services for older adults. ~~citizens and advocacy for these services should be available in each county.~~

(8) Increased employment opportunities for older adults should be made available.

(9) A variety of housing options should be available in each county. ~~Options in housing should be made available.~~

(10) Older adults and their caregivers should have input in the planning and evaluation of programs and services for older adults, and they should have opportunities to advocate for these programs and services. ~~Planning for programs for older citizens should always be done in consultation with them.~~

(11) The State should ~~aid~~ assist older ~~people~~ adults who desire to remain as independent as possible ~~to help themselves~~ and should encourage and support families in caring for their older members.

(b) It is the policy of the State to effectively utilize its resources to support and enhance the quality of life for older adults in North Carolina."

SECTION 2. Part 14B, Article 3, Chapter 143B of the General Statutes reads as rewritten:

"Part 14B. Long-Term ~~Care.~~Services and Supports.

§ 143B-181.5. Long-term ~~care~~ services and supports - findings. ~~policy.~~

The North Carolina General Assembly finds that the aging of the population and advanced medical technology have resulted in a growing number of persons who require ~~assistance.~~ long-term services and supports. The primary resource for long-term ~~care provision~~ assistance continues to be the family and friends. However, these traditional caregivers are increasingly employed outside the home. There is growing demand for improvement and expansion of home and community-based long-term ~~care services to support and~~ services and supports to complement the ~~services~~ care provided by these informal caregivers.

The North Carolina General Assembly further finds that the public interest would best be served by a broad array of long-term ~~care~~ services and supports that ~~support~~ enable persons who need such services to remain in the home or in the community whenever practicable and that promote individual ~~autonomy, dignity, and choice.~~autonomy and dignity as these individuals exercise choice and control over their lives.

The North Carolina General Assembly finds that as other long-term ~~care~~ service and support options become more readily available, the ~~relative~~ need for institutional care will stabilize or decline relative to the growing ~~aging population.~~population of older adults and people living with disabilities. The General Assembly recognizes, however, that institutional care will continue to be a critical part of the State's long-term ~~care~~ service and support options and that such services should promote individual dignity, autonomy, and a home like environment."

"**§ 143B-181.6. Purpose and intent.**

~~It is the North Carolina General Assembly's intent in the State's development and implementation of long-term care policies that:~~The development and implementation of policies for long-term services and supports should reflect the intent of the North Carolina General Assembly as follows:

(1) Long-term ~~care~~ services and supports administered by the Department of Health and Human Services and other State and local agencies shall include a balanced array of health, social, and supportive services that are well coordinated to promote individual choice, dignity, and the highest practicable level of ~~independence;~~ independence.

(2) Home and community-based services shall be developed, expanded, or maintained in order to meet the needs of consumers in the least confusing and least restrictive manner and based on the desires of the ~~elderly~~ older adults, persons with disabilities, ~~and~~ their ~~families;~~families, and others that support them.

(3) All services shall be responsive and appropriate to individual need and shall be delivered through a uniform and seamless system that is flexible and responsive regardless of funding ~~source;~~ source through the effective use of Community Resource Connections for Aging and Disabilities as they are developed throughout the State.

(4) Services shall be available to all ~~elderly~~ persons who need them but targeted primarily to the most ~~frail,~~ frail and needy ~~elderly;~~citizens.

(5) State and local agencies shall maximize the use of limited resources by establishing a fee system for persons who have the ability to ~~pay;~~pay.

(6) ~~Institutional care~~ Care provided in facilities shall be ~~provided~~ offered in such a manner and in such an environment as to promote maintenance of health and ~~or~~ enhancement of the quality of life of each resident and timely discharge to a less restrictive care setting when ~~appropriate; and~~ appropriate.

(7) State health planning for institutional bed supply shall take into account increased availability of other home and community-based services options.

(8) In an effort to maximize the use of limited resources, State and local agencies shall invest in supports for families and other informal caregivers of persons requiring assistance.

(9) Emphasis shall be placed on offering evidence-based activities to promote healthy aging, prevent injuries, and manage chronic diseases and conditions.

(10) Individuals and families shall be encouraged and supported in planning for and financing their own future needs for long-term services and supports."

SECTION 3. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

U D

BILL DRAFT 2009-SHz-27 [v.4] (04/01)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
5/3/2010 4:14:31 PM

Short Title: Adult Day Care Criminal Record Check Process. (Public)

Sponsors: .

Referred to:

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE DIVISION OF AGING AND ADULT SERVICES, DEPARTMENT OF HEALTH AND HUMAN SERVICES, TO STUDY THE ISSUE OF CRIMINAL HISTORY RECORD CHECKS FOR CURRENT AND PROSPECTIVE OWNERS, OPERATORS, AND VOLUNTEERS OF ADULT DAY CARE PROGRAMS AND ADULT DAY HEALTH SERVICES PROGRAMS, AS RECOMMENDED BY THE NORTH CAROLINA STUDY COMMISSION ON AGING.

The General Assembly of North Carolina enacts:

SECTION 1.(a). The Division of Aging and Adult Services, Department of Health and Human Services, shall study the issue of criminal history record checks for owners, operators, volunteers, and prospective owners, operators, and volunteers, in adult day care programs and adult day health services programs. The Department shall also ensure the current process used for adult day care employee criminal history record checks is incorporated into the study. In conducting the study, the Division of Aging and Adult Services shall seek input from the North Carolina Adult Day Services Association. The study shall include the following elements:

(1) Identifying the positions that warrant a criminal history record check.
(2) Developing a process for conducting the criminal history record check.
(3) Designating the entity responsible for requesting the criminal history record check.
(4) Designating the entity responsible for paying for the criminal history record check.
(5) Determining whether a State or a national criminal history record check, or both is performed.

(6) Defining the relevant offenses that indicate an individual's fitness to have responsibility for the safety and well-being of program participants.

(7) Any other issues deemed appropriate.

SECTION 1.(b). The Department of Health and Human Services shall report findings and recommendations to the North Carolina Study Commission on Aging on or before November 1, 2010.

SECTION 2. This act is effective when it becomes law.

North Carolina Department of Health and Human Services
Division of Aging and Adult Services
2101 Mail Service Center • Raleigh, North Carolina 27699-2101

Beverly Eaves Perdue, Governor
Lanier M. Cansler, Secretary

Dennis W. Streets
Director

May 11, 2010

Memo

To: Members of the North Carolina Study Commission on Aging

From: Dennis W. Streets Dennis W. Streets

Subject: Health Care Reform as It Relates to Seniors and Aging Services

Per your request, attached is information pertaining to the **"Health Care and Education Reconciliation Act of 2010."** The primary source for this document is the National Association of State Units on Aging (NASUA).

As is evident from this document, there are many elements of the health care reform legislation that pertain to older adults and aging boomers.

Some additional resources that provide information on health care reform and its implications for seniors and aging services include:

Understanding National Health Reform: A work in progress....Focus on Long-Term Care
Presentation by: Pam Silberman, JD, DrPH, North Carolina Institute of Medicine
http://www.nciom.org/projects/adult_care/AC_Silberman_2010-04-06.pdf

Health Insurance Reform and Medicare
Prepared by the Office of Health Reform,U.S. Department of Health and Human Services
http://www.healthreform.gov/reports/medicare/index.html

America's Seniors and Health Insurance Reform
Prepared by the Office of Health Reform,U.S. Department of Health and Human Services
http://www.healthreform.gov/reports/seniors/index.html

Health Insurance Reform and North Carolina
Prepared by the Office of Health Reform,U.S. Department of Health and Human Services
http://www.healthreform.gov/reports/statehealthreform/northcarolina.html

Health Care Reform
Prepared by the National Association of Insurance Commissioners
http://www.ncdoi.com/HealthCareReform/hcr_FAQs.asp

Focus on Health Reform: Summary of New Health Reform Law
Prepared for the Kaiser Family Foundation
http://www.kff.org/healthreform/upload/8061.pdf

HEALTH REFORM AND SENIORS

Provisions from the *Patient Protection and Affordable Care Act* (HR 3590),
as amended by the *Health Care and Education Reconciliation Act of 2010* (HR 4872)

COVERAGE
Essential Health Benefits Package: Effective January 1, 2014, all qualified health benefit plans will offer at least the essential health benefits package. These benefits will include: preventive and primary care, including wellness services and chronic disease management, physician services, maternity, newborn and pediatric care, outpatient services, ambulatory patient services, hospitalization, day surgery and related anesthesia, diagnostic imaging, screenings including x-rays, rehabilitative and habilitative services and devices, laboratory services, medical/surgical care, prescription drugs, radiation, chemotherapy, mental health services, substance abuse services, and behavioral health treatments (HR 3590, Sec. 1302, as amended by Sec. 10104).
Temporary High-Risk Pool: Effective within 90 days of enactment and lasting until the Exchanges are operational, January 1, 2014, a national high-risk pool will provide coverage to individuals with pre-existing medical conditions who have been uninsured for at least 6 months. States may elect to participate in the new high-risk insurance pool, build upon an existing program within the state, establish a separate state-based high risk pool with federal funding, or do nothing, in which case the federal government will administer the pool within that state (HR 3590, Sec. 1101).
Insurance Regulations: When the Exchanges become operational, insurers will not be allowed to deny coverage or charge higher premiums based on pre-existing conditions (HR 3590, Sec. 1201, as amended by Sec 10103 and HR 4872, Sec. 2301). Within six months of enactment, insurers of all existing health plans will not be allowed to place lifetime dollar limits on coverage or rescind coverage when an individual becomes sick or disabled (HR 4872, Sec. 2301).
Improved Access to Part D for Low-Income Subsidy (LIS) Beneficiaries: This section appropriates funds to enhance outreach and assistance for low-income programs for FY 2010-2012. Senior Health Insurance Information Programs (SHIIPs), through the Centers for Medicare and Medicaid services (CMS) Program Management Account, will have access to $15 million. The U.S. Administration on Aging (AoA) will receive $15 million for Area Agencies on Aging (AAAs), another $10 million for Aging and Disability Resource Centers (ADRCs) and $5 million for AoA to contract with the National Center for Benefits and Outreach Enrollment. (HR 3590, Sec. 3306).
Reduction or Elimination of Medicare Part D Coverage Gap: Medicare beneficiaries who reach the Part D coverage gap in 2010 will receive a one-time $250 rebate. (HR 4872, Sec. 1101). A phased-in Part D beneficiary coinsurance rate will result in a 25 percent rate by 2020. Between 2014 and 2019, the out-of-pocket amount that qualified an enrollee for catastrophic coverage will be reduced. (HR 3590, Sec. 3301, as amended by HR 4872, Sec. 1101).
Medicare Coverage Gap Discount Program: Effective January 1, 2011, drug manufacturers will be required to provide a 50 percent discount on brand name drugs and biologics for prescriptions filled in the Medicare Part D coverage gap. A phased-in federal subsidy program, beginning in 2011, will result in a 75 percent federal subsidy of generic drugs by 2020. (HR 3590, Sec. 3301, as amended by HR 4872, Sec. 1101).
Elimination of Part D Cost Sharing for selected non-institutionalized Dual Eligibles: Makes cost sharing for full benefit dual eligible individuals receiving home and community based care equal to the cost-sharing for those receiving institutionalized care. Effective no earlier than January 1, 2012. (HR 3590, Sec. 3309).

Temporary Reinsurance Program: Under this program, employers that provide coverage to Medicare-ineligible retirees over age 55 will be reimbursed for 80 percent of retiree claims between $15,000 and $90,000. $5 billion is appropriated for the program, which will be effective 90 days after enactment, through January 1, 2014. (HR 3590, Sec. 1102, as amended by Sec. 10102).
FINANCING
Medicare Payroll Tax: For taxable years after December 31, 2012, the Medicare payroll tax will be extended to investment income, so that individuals earning more than $200,000 or families earning more than $250,000 will pay a 3.8 percent Medicare tax on investment income. (HR 4872, Sec. 1411).
Medical Device Sales Tax: For sales of medical devices that occur after December 31, 2012, a 2.3 percent excise tax will be levied on the sale price of most medical devices. (HR 4872, Sec. 4191).
Medicare Advantage plans: $132 billion will be cut from federal subsidies for privately offered Medicare Advantage plans, through a phased-in restructured payment system. (HR 4872, Sec. 1102).
QUALITY AND SYSTEM IMPROVEMENTS
Medicaid Payment Rates: In 2013 and 2014, Medicaid payment rates for primary care doctors will be increased to equal Medicare reimbursement rates. States will receive 100 percent federal financing to pay for the increase. (HR 4872, Sec. 1202).
Independence at Home: The Independence at Home demonstration program will provide high-risk Medicare beneficiaries with primary care services in their homes, and participating teams of health professionals will share in any savings if they are able to reduce preventable hospitalizations, prevent hospital readmissions, improve health outcomes, improve the efficiency of care, reduce the cost of health care services, and achieve patient satisfaction. The demonstration program will begin no later than January 1, 2012. (HR 3590, Sec. 3024).
Federal Health Care Office for Dual Eligibles: No later than March 1, 2010, there will be a new office, the Federal Coordinated Health Care Office for Dual Eligible Beneficiaries, within CMS to more effectively integrate Medicare and Medicaid benefits, to improve coordination between the federal and state governments, and to improve the access to and quality of care for dual eligibles. (HR 3590, Sec. 2602).
Center for Medicare and Medicaid Innovation: By January 1, 2011, the Center for Medicare and Medicaid Innovation within CMS will be established to, in part, test innovative payment and service delivery models to reduce program expenditures while simultaneously preserving or enhancing the quality of care furnished. The Center allows states to test and evaluate models for fully integrating care for dual eligibles within the state, as well as payment reform models for the medical care residents of the state, including dual eligibles. Payment models will be implemented on a nationwide basis, with exceptions for states demonstrating that such implementation would not be feasible or appropriate to the health care delivery system of that state. (HR 3590, Sec. 3021).
Medicare Payment Reform: By January 1, 2013, the Secretary must develop and implement a Medicare pilot program for integrated care focusing on coordination, quality and efficiency improvement. The pilot program will be conducted for five years and will include the use of bundled payment models. (HR 3590, Sec. 3023). The Secretary may extend the pilot program after January 1, 2016, if such expansion is expected to improve quality and reduce costs. (HR 3590, Sec. 10308).
Medicaid Payment Reform: This section establishes a demonstration project, to last from January 1, 2012 through December 31, 2016. The purpose will be to study and evaluate the use of bundled payments for hospital and physician services under Medicaid. Up to eight states will be selected by the Secretary to participate in the project. (HR 3590, Sec. 2704).
Medicare Senior Housing Plans: This section amends the Social Security Act (SSA) to make permanent the Medicare Advantage Senior Housing Facility Demonstration Plans. These plans serve individuals living in a continuing care retirement community by providing onsite

primary care services and transportation to offsite providers. This section will take effect on January 1, 2010, and will apply to plan years beginning on or after this date. (HR 3590, Sec. 3208).
Expansion of the Recovery Audit Contractor Program: By December 31, 2010, states must have programs contracting with Medicare Recovery audit contractors to identify, and recoup where necessary, underpayments and overpayments with respect to services. (HR 3590, Sec. 3309).
Medicare Advantage Payment Plans: Medicare Advantage payments will freeze in 2011. In 2012, the benchmarks will be reduced, and the payments will be set to different percentages of fee-for-service rates. These payments will vary from 95 percent of Medicare spending in high-cost areas to 115 percent of Medicare spending in low-cost areas. Beginning in 2011, this restructured payment system will be phased in over three years in most areas, with longer phase-in periods in other areas, depending on the level of payment reductions. (HR 4872, Sec. 1102). Beginning in 2014, the plans will be required to spend at least 85 percent of revenue on medical costs or activities improving quality of care. (HR 4872, Sec. 1103).
Medicaid Health Home: Effective January 1, 2011, states will have the option to amend their state Medicaid plans to permit Medicaid enrollees with at least two chronic conditions, or one condition and a risk of developing another, or at least one serious and persistent mental health conditions, to designate a provider as a health home. States choosing to amend their plans and allow for this new option will receive an enhanced FMAP of 90 percent for the first two years that the amendment is in effect. (HR 3590, Sec. 2703).
State Balancing Incentive Payments Program: Effective October 1, 2011 – September 30, 2015, states selected by the Secretary from a pool of applicants will receive an increased FMAP of either 5 or 2 percent with respect to medical assistance expenditures for non-institutionally-based long-term services and supports (LTSS) provided under the state Medicaid program. States whose LTSS Medicaid expenditures on home and community based services equal less than 25 percent of their total Medicaid LTSS expenditures are eligible for the 5 percent increase; states whose LTSS Medicaid expenditures on home and community based services equal less than 50 percent of their total Medicaid LTSS are eligible for the 2 percent increase. States must agree to make structural changes within 6 months including establishing a no wrong door single-entry-point system, a conflict-free case management services and core standardized assessment services. (HR 3590, Sec. 10202).
Money Follows the Person Rebalancing Demonstration: Effective 30 days following enactment, Money Follows the Person will be authorized for each of fiscal years 2011-2016. The eligibility requirements are also modified by reducing the institutional residency period from at least 6 months to not more than 90 consecutive days. (HR 3590, Sec. 2403).
Community-Based Care Transitions Program: This new, five year, $500 million HHS program will begin January 1, 2011. Selected hospitals with high readmission rates, and qualifying community based organizations, will receive funding to provide improved care transition services to high risk Medicare beneficiaries. (HR 3590, Sec. 3026).
LONG-TERM CARE
Sense of the Senate regarding Long-Term Care: "It is the Sense of the Senate that during the 111th Congress, Congress should address long-term services and supports in a comprehensive way that guarantees elderly and disabled individuals the care they need; and long-term services and supports should be made available in the community in addition to in institutions." (HR 3590, Sec. 2406).
Community Living Assistance Services and Supports Program: The Community Living Assistance Services and Supports (CLASS) program is to be a national, voluntary insurance program for purchasing community living assistance services and supports. Beginning October 1, 2012, is the designation by the Secretary of CLASS Independence Benefit Plan, which shall be published in a final rule that allows for a

period of public comment. The CLASS plan will be financed by voluntary payroll deductions for all working adults ages 18 and older, and Sec. 3208 specifies that no taxpayer funds will be used to pay for benefits under the CLASS plan. Rather, these benefits will only be financed by the premiums deposited by CLASS program participants into the CLASS Independence Fund, and any associated interest earnings. The legislation also caps the monthly enrollment premium at $5.00 for full time students under the age of 22 and individuals whose income is below the poverty line. By amending the IRS code, the legislation ensures that CLASS plan premiums and benefits will be treated similarly as those for qualified long-term care insurance policies (HR 3590, Sec. 8002).

CLASS Independence Benefit Plan: The plan will include a five year vesting period and a three year work requirement for eligibility of benefits. Benefits will trigger for an individual when he or she is determined to have a qualifying functional limitation that is expected to last for a continuous period of more than 90 days. Eligible beneficiaries will receive a cash benefit of no less than an average of $50 per day, and the amount received will be scaled to correspond with the enrollee's functional ability. The benefit will not be subject to a lifetime or aggregate limit, and the funds can be used to purchase non-medical services and supports that the beneficiary needs to maintain his or her independence at home or in another residential setting of his or her choice in the community, including such expenditures as home modifications, assistive technology, accessible transportation, homemaker services, respite care, personal assistance services, home care aides and nursing support, assistance with decision making concerning medical care, or living will or power of attorney development assistance. Institutionalized Medicaid beneficiaries, including those receiving PACE program services, will retain 5 percent of the cash benefit, with the remainder to be applied to the facility's cost in providing the beneficiary's care, and Medicaid will provide any necessary secondary coverage. Beneficiaries receiving home and community based services under Medicaid will retain 50 percent of their cash benefit, the remainder of which will be applied to the cost of the State in providing such assistance, but will not be used by the state to claim federal matching funds. Medicaid will provide secondary coverage for the remainder of any HCBS costs. Non-Institutionalized beneficiaries receiving PACE program services will retain 50 percent of their cash benefit; with the remainder being applied to the state's cost in providing such assistance. The state may not use these funds to claim federal matching funds under Medicaid. Benefits paid to an eligible beneficiary will not be used to determine eligibility for benefits under any other Federal, State or locally funded assistance program. To ensure the infrastructure of the program is effective, within two years of the date of enactment, states are required to assess the efficacy of the CLASS program and to designate fiscal agents for personal care workers serving CLASS program beneficiaries (HR 3590, Sec. 8002).

Nursing Home Reforms: Skilled nursing facilities (SNFs) and nursing facilities (NFs) will be required to disclose information relating to ownership, organizational structure and management of the facility. (HR 3590, Sec. 6101). Within 36 months of enactment, SNFs and NFs must implement an ethics program designed to promote quality of care by developing compliance standards and procedures aimed to reduce criminal, civil and administrative violations. SNFs and NFs will also be required to comply with a new quality assurance and performance program (QAPI), to be implemented by the end of 2011. (HR 3590, Sec. 11281). SNFs will be required to separately report expenditures for direct care staff, indirect care services, capital assets and administrative services. (HR 3590, Sec. 6104).

Standardized Nursing Home Complaint Form: The Secretary will develop a standardized complaint form for residents, anyone acting on their behalf, and any person working at the SNF, or a representative of such a worker, to use in filing a complaint against a facility with a State survey and certification agency and a State long-term ombudsman program. The states will be responsible for making the standardized complaint form available to qualifying parties. States must implement a complaint resolution process. (HR 3590, Sec. 6105).

Nursing Home Compare: This website will be required to include clearly understandable staffing data for each SNF and NF, the new standardized complaint form, complaint summary information, as well as links to individual state websites containing information regarding state survey and certification programs. States will be required to submit to the Secretary any information relating to recommendations made

to SNFs or NFs by the time the state sends the same information to the facility. (HR 3590, Sec. 6103).
Criminal Background Checks: For the fiscal years 2010 through 2012, up to $160 million is appropriated for the implementation of a nationwide background check program to conduct checks on prospective employees who would have direct access to patients. Participating states will receive a federal match of three times the amount of the state guarantee, with some states federal funding capped at $3 million and others at $1.5. The state match may be comprised solely of donations from public or private entities. In turn, these states will be required, among other things, to monitor compliance with the nationwide program, develop an appeals process and designate a single state agency to focus on oversight (HR 3590, Sec. 6201).
Workforce Promotion: The legislation establishes demonstration projects to address health professions workforce needs. These are projects in which grants will be awarded to eligible entities, which may include states, Indian tribes or tribal organizations, to give low income individuals the opportunity to obtain education and training for occupations in the health care field. A maximum of six states will receive funding for at least three years through a competitive grant program to develop core training competencies and certification programs for home care aides. $85 million for each of fiscal years 2010 – 2014 is appropriated to fund both of these programs, with not more than $5 million for each of fiscal years 2010 – 2012 to go to personal and home care aide demonstration. (HR 3590, Sec. 5507).
Workforce Training and Education: Institutions of higher education willing to provide new training opportunities for direct care workers employed in long-term settings will receive grant funding to offset the cost of tuition and enrollment fees for these individuals. To receive this assistance, participating individuals must agree to work in geriatrics, disability services, long-term services and supports or chronic care management for at least two years following the completion of the assistance period. A total of $10 million for FY 2011-2013 is authorized to be appropriated to fund these grants. (HR 3590, Sec. 5302). Geriatric education centers receiving grants and contracts supplementing their federal, state and local funds will be required to develop a geriatric focused fellowship program, and either provide nominal cost family caregiver and direct care provider trainings, or incorporate best practices into all appropriate training courses. A maximum of 24 geriatric education centers will receive these awards, each of which will be in the amount of $150,000. $10.8 million is authorized to be appropriated for FY 2011- 2014 for these grants. An additional $10 million is authorized for fiscal years 2011-2013 for qualifying individuals who agree to teach or practice in the field of geriatrics, long-term care or chronic care management for at least five years. (HR 3590, Sec. 5305).
Community First Choice Option: Gives states the option, beginning October 1, 2011, of amending their state Medicaid plans to provide home and community based attendant services and supports to (1) consumers eligible for medical assistance under the state plan whose incomes do not exceed 150 percent FPL, or, if greater, to (2) consumers who meet their state's nursing facility clinical eligibility standards. Available services include ADL task assistance, electronic service backup systems, and training on the management of attendants. Permissible services include transition costs from the facility to the community based home setting, and additional, qualifying, individual needs. Participating states will receive a 6 percentage point FMAP increase. The state must meet certain requirements for their amendment to be approved, such as maintaining or exceeding their previous fiscal year's medical assistance expenditure levels in the first full fiscal year of the program's implementation. The services authorized under this section will be evaluated based on data provided to the Secretary by the states. (HR 3590, Sec. 2401, as amended by HR 4872, Sec. 1205).
Protection for Recipients of HCBS against Spousal Impoverishment: For five years, beginning on January 1, 2014, states will be required to apply spousal impoverishment rules to HCBS beneficiaries. (HR 3590, Sec. 2404).
ELDER JUSTICE
The Elder Justice Act: The legislation authorizes several grant programs, including: grants creating and incentivizing training and

certification programs for long-term care workers; awards to provide workplace management technical assistance in efforts to increase direct care worker retention rates; and grants to long-term care facilities to encourage their use of EHR technology. (HR 3590, Sec. 6703, Sec. 2041). The Act authorizes $100 million for each of fiscal years 2011-2014 for grants to the states for the purpose of enhancing adult protective service (APS) programs. Another $25 million is authorized for each of fiscal years 2011-2014 for grants to states to conduct demonstration programs testing methods of elder abuse detection or prevention. (HR 3590, Sec. 6703, Sec. 2042). Additional funding is authorized to support the long-term care ombudsman programs at the state and local levels, and for each of fiscal years 2011-2014, $5 million is authorized for grants to state agencies that perform surveys of SNFs or NFs to streamline the operations of such facilities. (HR 3590, Sec. 6703, Sec. 2043).

AGING AND DISABILITY RESOURCE CENTERS*

Funding to Expand Aging and Disability Resource Centers (ADRCs): In addition to the $10 million appropriated to ADRCs to enhance outreach and assistance for low income programs for FY 2010 – 2012 (HR 3590, Sec. 3306), the legislation also appropriates $10 million annually for FY 2010-2014 to the Secretary of Health and Human Services to carry out the Aging and Disability Resource Center provisions of the Older Americans Act (HR 3590, Sec. 2405).

HEALTH PROMOTION AND DISEASE PREVENTION

Insurance Coverage of Preventive Services: Health plans offered in the Exchanges will provide coverage and eliminate cost-sharing for qualifying, evidence-based preventive services. (HR 3590, Sec. 2713).

Medicare Coverage of Preventive Services: Additionally, Medicare beneficiaries will have access to an annual wellness visit, which will include a comprehensive health risk assessment and personalized prevention plan (HR 3590, Sec. 4103). Medicare payments for certain personalized prevention plan services furnished on or after January 1, 2011, will be 100 percent of either the actual charge for the services, or the amount determined by the fee schedule rates, whichever is less (HR 3590, Sec. 4103).

Medicaid Coverage of Preventive Services: States that provide Medicaid beneficiaries with access to, and prohibit cost-sharing for, qualifying diagnostic, screening, rehabilitative and preventive services, will receive a one percentage point FMAP increase with respect to medical assistance furnished for these services. States will receive this enhanced FMAP on January 1, 2013. (HR 3590, Sec. 4106).

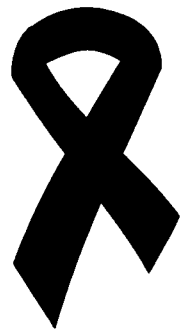
Community Transformation Grants: These competitive grants will be awarded through the Centers for Disease Control and Prevention (CDC) to state and local governmental agencies and community based organizations. Grantees will develop programs to promote individual and community health by decreasing and preventing the incidence of chronic disease. Funds are authorized to carry out this section for each of fiscal years 2010 – 2014. (HR 3590, Sec. 4201).

Healthy Aging, Living Well: The Secretary, through the CDC, will award grants to state or local health departments, or Indian tribes, to carry out five year pilot programs to provide public health interventions, screenings and clinical referrals for individuals who are between 55 and 64 years of age. These intervention activities may include efforts to improve nutrition, increase physical activity, reduce tobacco and substance abuse, improve mental health and promote healthy lifestyles among the target population (HR 3590, Sec. 4202).

Incentives for Prevention of Chronic Diseases in Medicaid: This grant program appropriates $100 million for the Secretary to award to states to provide incentives to Medicaid beneficiaries who successfully complete healthy lifestyle programs. (HR 3590, Sec. 4108).

Hospital Readmissions Reduction Program: CMS will track the rates of potentially avoidable readmissions for certain high-cost conditions in Medicare-participating hospitals (HR 3590, Sec. 3025, as amended by Sec. 10309).

**Known as Community Resource Connections in North Carolina*



North Carolina
2010 Elder Abuse Awareness Campaign
May 10 – June 18

Did you know?

- One older American is victimized every 2.7 seconds.

- Research indicates elder abuse is highly under-reported. Data on elder abuse in domestic settings suggest that only 1 in 14 incidents (excluding self-neglect) are reported.

- In 2009, more than 17,000 reports of abuse, neglect, or exploitation of vulnerable and older adults were made to NC's 100 county departments of social services.

What can you do?

- You can help raise awareness of this far-reaching and devastating issue by participating in our Elder Abuse Awareness Campaign:
    - Learn more about the issues. (Visit our website at: www.ncdhhs.nc.gov/aging/.)
    - Wear your ribbon from Mother's Day to Father's Day.
    - Start your own campaign in your county. (A toolkit will be available at a later date on the DAAS website information and ideas.)
    - Encourage your social clubs, church groups, etc. to participate.
    - Of utmost importance - report suspected cases to your local county department of social services.

YOU can make a difference!

NORTH CAROLINA

STUDY COMMISSION ON AGING

REPORT TO THE GOVERNOR AND THE 2010 REGULAR SESSION OF THE 2009 GENERAL ASSEMBLY

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Agenda

North Carolina Study Commission on Aging

Thursday, December 16, 2010
10:00 a.m.
Legislative Office Building
Room 643

I. Welcome and Comments
Representative Jean Farmer-Butterfield, Cochair
Senator A.B. Swindell, Cochair

II. Summary of Substantive 2009 Legislation Related to Aging

2009 Study Commission Recommendation Status Report

Tentative Meeting Schedule & Presentation of Commission Budget
Theresa Matula, Commission Staff, Research Division, NCGA

III. Levels of Education and Training for Nurse Aides (S.L. 2010-69, (SB 1191))
Jesse Goodman, Division of Health Service Regulation, DHHS

IV. Fraud Against the Elderly
Ran Coble, Executive Director, NC Center for Public Policy

V. Guidelines for Consumers Purchasing Hearing Aids (S.L. 2010-121, (HB 1705))
Angela Bright Pearson, Task Force Chair

VI. Review and Approval of Minutes
3/24/10, 4/1/10, 4/22/10, 5/11/10

VII. Next Meeting:
January 13, 2010
10:00

full day

Delta Prince (Senate LA Office)

From: Wanda Kay (Rep. Farmer-Butterfield)
Sent: Wednesday, December 08, 2010 11:16 AM
To: Anthony Peace; Cindy Douglas (Rep. Weiss); Delta Prince (Senate LA Office); Jean Reaves ; Joan Pellettier; John Eller; Joyce Jones (Bill Drafting); Judy Chriscoe (Sen. Bingham); Katherine Herington (Sen. Forrester); Lisa Brown (Rep. England); Lisa Nelson (Sen. Queen); Maria Spaulding; Mary Barker; Melanie Bush (Fiscal Research); Mildred Alston (Rep. Pierce); Mo Hudson (Sen. Swindell); Pat Sprigg ; Phyllis Cameron (Sen. Dorsett); Rep. Alice Bordsen; Rep. Bob England; Rep. Garland Pierce; Rep. Garland Pierce; Rep. Jean Farmer-Butterfield; Rep. Jennifer Weiss; Sara Kamprath (Research); Sen. A.B. Swindell; Sen. James Forrester; Sen. Joe Sam Queen; Sen. Katie Dorsett; Sen. Stan Bingham; Shawn Parker (Research); Susan Barham (Research); Sylvia Nygard (Rep. Bordsen); Theresa Matula (Research); Veronica Green (Rep. Mobley); Wanda Kay (Rep. Farmer-Butterfield)
Subject: <NCGA> House Aging Committee Meeting Notice for Thursday, December 16, 2010
Attachments: 12-16-10 COA Draft Agenda.doc; 10-11 COA Meeting Dates.doc

CORRECTED NOTICE

NORTH CAROLINA GENERAL ASSEMBLY

COMMITTEE MEETING NOTICE

LEGISLATIVE BUILDING

2009-2010 SESSION

December 8, 2010

MEMORANDUM

TO: Members of the North Carolina Study Commission on Aging

FROM: Representative Jean Farmer-Butterfield, Co-Chair

Senator A. B. Swindell, Co-Chair

SUBJECT: Meeting Notice

The North Carolina Study Commission on Aging will meet on the following date:

DAY & DATE: Thursday, December 16, 2010

TIME: 10:00 am

LOCATION: 643 LOB

Parking for non-legislative members of the committee/commission is available in the visitor parking deck #75 located on Salisbury Street across from the Legislative Office Building. Parking is also available in the parking lot across Jones Street from the State Library/Archives. The cost for visitor parking is $1.00 per hour or $8.00 per day and may be reimbursed with a parking receipt submitted with your travel reimbursement form.

If you have any questions concerning this meeting, please contact Wanda Kay, Committee Assistant III, at 919-733-5898 or butterfieldla@ncleg.net.

I hereby certify this notice was filed by the committee assistant at the following offices at

9 o'clock on **December 08, 2011**.

Principal Clerk

Reading Clerk – House Chamber

Wanda Kay (Committee Assistant III)

Draft

Agenda

North Carolina Study Commission on Aging

Thursday, December 16, 2010
10:00 a.m.
Legislative Office Building
Room 643

I. Welcome and Comments
Representative Jean Farmer-Butterfield, Cochair
Senator A.B. Swindell, Cochair

II. Summary of Substantive 2009 Legislation Related to Aging

2009-10 Budget for Aging Services and Programs

2009 Study Commission Recommendation Status Report

Tentative Meeting Schedule & Presentation of Commission Budget
XXXXXXX, Commission Staff, Research Division, NCGA

III. Levels of Education and Training of Nurse Aides (S.L. 2010-69, (SB 1191))
Jesse Goodman, Division of Health Service Regulation, DHHS

IV. Fraud Against the Elderly
Ran Coble, Executive Director, NC Center for Public Policy

V. Guidelines for Consumers Purchasing Hearing Aids - tentative (S.L. 2010-121, (HB 1705))
XXXXXXXXXXXXXXXXXXX

VI. Next Meeting:
January 13, 2010
10:00

NORTH CAROLINA STUDY COMMISSION ON AGING

Tentative Meeting Dates

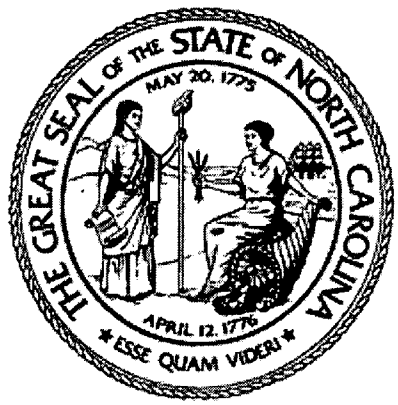
Interim 2010-2011

Meetings:	Time	Room/Location
Thursday, December 16, 2010	10:00 a.m.	643 LOB
Thursday, January 13, 2011	10:00 a.m.	544 LOB
Tuesday, January 25, 2011	2:00 p.m.	544 LOB

2010

JOINT STUDY COMMITTEE ON ALCOHOLIC BEVERAGE CONTROL

MINUTES

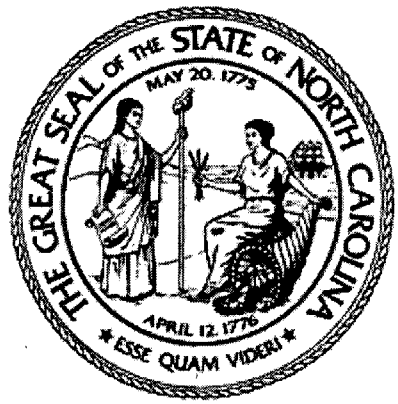


JOINT STUDY COMMITTEE on ALCOHOLIC BEVERAGE CONTROL

Representative Ray Warren
Co-Chairman

Senator Don Vaughan
Co-Chairman

2009-2010 Session



JOINT STUDY COMMITTEE on ALCOHOLIC BEVERAGE CONTROL

Staff

Research Division
Brenda Carter, Susan Sitze, Cindy Avrette
Kelly Quick, Lanier McRee, Erika Churchill

Bill Drafting
Mikael Gross

Fiscal Research Division
Kristine Leggett, Sandra Johnson

Committee Assistants
Theresa Lopez
Dora King-Morgan

2009-2010 Session

Marc Basnight
President Pro Tempore,
North Carolina Senate

Joe Hackney
Speaker,
North Carolina House of Representatives

Raleigh, North Carolina 27601-1096

Joint Study Committee on Alcoholic Beverage Control

Section 1. The **Joint Study Committee on Alcoholic Beverage Control** (hereinafter "Committee") is established by the President Pro Tempore of the Senate and the Speaker of the House of Representatives pursuant to G.S. 120-19.6(a1), Rule 31 of the Rules of the Senate of the 2009 General Assembly, and Rule 26(a) of the Rules of the House of Representatives of the 2009 General Assembly.

Section 2. The Committee consists of 28 members, 14 of whom are appointed by the President Pro Tempore of the Senate and 14 of whom are appointed by the Speaker of the House of Representatives. The President Pro Tempore of the Senate shall appoint eight members of the Senate, and six public members. The Speaker of the House of Representatives shall appoint eight members of the House of Representatives, and six public members.

President Pro Tempore Appointments	Speaker of the House Appointments
Senator Don Vaughn, Chair	Representative Ray Warren, Co-Chair
Senator Charlie Albertson	Representative Larry M. Bell
Senator Stan Bingham	Representative James W. Crawford, Jr.
Senator Dan Blue	Representative Pryor Gibson
Senator Dan Clodfelter	Representative Dewey L. Hill
Senator Fletcher Hartsell	Representative Marvin W. Lucas
Senator Linda Garrou	Representative Edgar V. Starnes
Senator Steve Goss	Representative Fred F. Steen, II
Chief Tim Adams, Gaston County	Ronald Bogle, Orange County
Edward Cook, Mecklenburg County	Karen Gottovi, Wake County
Howard Hunter, III, Hertford County	Walter Harris, Chatham County
Eddie Maynor, Cumberland County	Edward Holmes, Orange County
Paul Powell, Guilford County	Bill Hurley, Cumberland County
Fields Scarborough, Dare County	Peggy Richmond, Orange County

The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each appoint a co-chair, who shall be a member of the General Assembly, from among their respective appointees. A co-chair or other member of the

Committee continues to serve until a successor is appointed. A vacancy shall be filled within 30 days by the officer who made the original appointment. Members serve at the pleasure of the appointing officer.

Section 3. The Committee shall study all aspects of the current State and local structure of alcoholic beverage control (ABC) in North Carolina, including:

(1) Analyzing the December 2008 report of the North Carolina General Assembly Program Evaluation Division on the effectiveness of the ABC system, and its recommended improvement options for the system.

(2) Evaluating the need for Statewide consistency and uniformity in ABC structures, rules, and ethics standards.

(3) Examining the current compensation structure for both State and local ABC board members and employees and making recommendations for any salary limitations or oversight that might be needed.

(4) Examining the governance structure of local ABC boards, the geographical proximity of local ABC boards, and making recommendations for any changes or reforms.

(5) Examining the amount and distribution of revenues from the current ABC system.

(6) Examining what ethics rules are currently applicable to ABC Board members and employees, and making recommendations for any ethics rules that should be applied.

(7) Examining the oversight and accountability of ABC boards, and making recommendations for any increase in oversight or procedures in order to increase accountability.

(8) Examining whether additional gubernatorial authority over ABC Boards and employees, including the power to remove employees, should be granted.

(9) Examining the issue of privatization of the ABC system, and making recommendations as to the advisability of privatization and any potential savings to the State.

(10) Any other issues related to alcoholic beverage control structure, governance, and revenue in the State.

Section 4. The Committee shall meet upon the call of its House and Senate co-chairs. A quorum of the Committee is a majority of its members. No action may be taken except by a majority vote at a meeting at which a quorum is present.

Section 5. The Committee, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and Article 5A of Chapter 120 of the General Statutes. The Committee may contract for professional, clerical, or consultant services, as provided by G.S. 120-32.02.

Section 6. Members of the Committee shall receive per diem, subsistence, and travel allowance as provided in G.S. 120-3.1, 138-5 and 138-6, as appropriate.

Section 7. The expenses of the Committee shall be considered expenses incurred for the joint operation of the General Assembly. Individual expenses of five thousand dollars ($5,000) or less, including per diem, travel, and subsistence expenses of members of the Committee, and clerical expenses shall be paid upon the authorization of a co-chair of the Committee. Individual expenses in excess of five thousand dollars ($5,000) shall be paid upon the written approval of the President Pro Tempore of the Senate and the Speaker of the House of Representatives. All expenses of the Committee shall be paid from the Legislative Services Commission's Reserve for Studies.

Section 8. The Legislative Services Officer shall assign professional and clerical staff to assist the Committee in its work. The Director of Legislative Assistants of the House of Representatives and the Director of Legislative Assistants of the Senate shall assign clerical support staff to the Committee.

Section 9. The Committee shall not meet during a regular or extra session of the General Assembly. The Committee may meet at various locations around the State in order to promote greater public participation in its deliberations.

Section 10. The Committee shall submit a final report on the results of its study, including any proposed legislation, to the members of the Senate and the House of Representatives, on or before May 12, 2010, by filing a copy of the report with the Office of the President Pro Tempore of the Senate, the Office of the Speaker of the House of Representatives, and the Legislative Library. The Committee shall terminate on May 12, 2010, or upon the filing of its final report, whichever occurs first.

Effective this 16th day of February, 2010.

Marc Basnight
President Pro Tempore of the Senate

Joe Hackney
Speaker of the House of Representatives

NORTH CAROLINA GENERAL ASSEMBLY

Legislative leaders form ABC reform study committee

Group to examine alcoholic beverage control structure, effectiveness, ethics

Raleigh – A new General Assembly study committee will examine the state's alcoholic beverage control system and discuss ways to reform it, legislative leaders said Thursday. The Joint Study Committee on Alcoholic Beverage Control, comprised of legislators and a cross-section of public members representing various perspectives, will make recommendations to the General Assembly prior to the legislative session that begins in May. Senator Don Vaughan of Guilford County and Representative Ray Warren of Alexander County will Co-Chair the Committee.

"Our ABC system needs to evolve just like any other business," Speaker Hackney said. "We need to determine how best to make these changes and bring our system in line with modern-day standards of ethics and transparency."

"We already know that we need more accountability and ethics reform in the ABC system. What we need to explore further is what is working now and what we can improve," Senator Basnight said.

The Committee will consider the following issues:

- The report of the North Carolina General Assembly Program Evaluation Division on the effectiveness of the ABC system, and its recommended improvement options for the system.
- The need for Statewide consistency and uniformity in ABC structures, rules, and ethics standards.
- The current compensation structure for both State and local ABC board members and employees and making recommendations for any salary limitations or oversight that might be needed.
- The governance structure of local ABC boards, the geographical proximity of local ABC boards, and making recommendations for any changes or reforms.
- The amount and distribution of revenues from the current ABC system.
- Ethics rules that are currently applicable to ABC Board members and employees, and making recommendations for any ethics rules that should be applied.
- The oversight and accountability of ABC boards, and making recommendations for any increase in oversight or procedures in order to increase accountability.
- Whether additional gubernatorial authority over ABC Boards and employees, including the power to remove employees, should be granted.
- The issue of privatization of the ABC system, and making recommendations as to the advisability of privatization and any potential savings to the State.

President Pro Tempore Appointments	Speaker of the House Appointments
Senator Don Vaughan, Co-Chair	Representative Ray Warren, Co-Chair
Senator Charlie Albertson	Representative Larry M. Bell
Senator Stan Bingham	Representative James W. Crawford, Jr.
Senator Dan Blue	Representative Pryor Gibson
Senator Dan Clodfelter	Representative Dewey L. Hill
Senator Fletcher Hartsell	Representative Marvin W. Lucas
Senator Linda Garrou	Representative Edgar V. Starnes
Senator Steve Goss	Representative Fred F. Steen, II
Chief Tim Adams, Gastonia Police, Gaston County	Ronald Bogle, retired Judge of Superior Court, Orange County
Edward Cook, Harris-Teeter Supermarkets, Mecklenburg County	Karen Gottovi, former House member who served New Hanover County, Wake County
Howard Hunter, III, County Commissioner, Hertford County	Walter Harris, Chair of Chatham County ABC Board, Chatham County
Mayor Eddie Maynor, Hope Mills, Cumberland County	Edward Holmes, former House member who served Chatham County, Orange County
Paul Powell, Beer and Wine Wholesalers Association, Guilford County	Bill Hurley, former House member, Cumberland County
Fields Scarborough, Dare County ABC Board, Dare County	Peggy Richmond, Business owner, Orange County

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JOINT STUDY COMMITTEE ON ALCOHOLIC BEVERAGE CONTROL
MEMBERSHIP LIST
2009- 2010

LEGISLATURE MEMBERS

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The Honorable Charlie Albertson North Carolina Senate 523 Legislative Office Building Raleigh, NC 27603	Email/Telephone Charlie.Albertson@ncleg.net Tel: 919-733-5705	The Honorable Larry M. Bell North Carolina House of Representatives 538 Legislative Office Building Raleigh, NC 27603	Email/Telephone Larry.Bell@ncleg.net Tel: 919-733-5863
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The Honorable Fletcher Hartsell North Carolina Senate 518 Legislative Office Building Raleigh, NC 27603	Email/Telephone Fletcher.Hartsell@ncleg.net Tel: 919-733-7223	The Honorable Fred F. Steen, II North Carolina House of Representatives 514 Legislative Office Building Raleigh, NC 27603	Email/Telephone Fred.Steen@ncleg.net Tel: 919- 733-5881

JOINT STUDY COMMITTEE ON ALCOHOLIC BEVERAGE CONTROL
MEMBERSHIP LIST
2009- 2010

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Mr. Edward T. Cook, Jr. Harris Teeter Supermarkets 701 Crestdale Road Matthews, NC 28105	Email/Telephone ecook@harristeeter.com Tel: 704-844-3251	The Honorable Karen Eckberg Gottovi 4731 Shannonhouse Drive #102 Raleigh, NC 27612	Email/Telephone karen@gottovi.net Tel: 919-926-9405
Mr. Howard Hunter, III 101 Potecasi Creek Road Ahoskie, NC 27910	Email/Telephone howard@huntersfuneralhome.com Tel: 252-862-5433	The Honorable John W. Hurley 313 Kirkwood Drive Fayetteville, NC 28303	Email/Telephone hurley55@aol.com Tel: 910-977-4735
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Mr. Paul Powell, Jr. 202 Manchester Place Greensboro, NC 27410	Email/Telephone ppowell@apbev.com Tel: 336-852-2500	Mr. Walter Harris Post Office Box 207 Pittsboro, NC 27312	Email/Telephone wfharris@intrex.net Tel: 919-548-9877
Mr. Fields Scarborough 2104 South Croatan Highway Nags Head, NC 27959	Email/Telephone darecountyabcboard@embarqmail.com Tel: 919 733-5705	Dr. Peggy A. Richmond, PhD 203 Simerville Road Chapel Hill, NC 27517	Email/Telephone richmondpar@nc.rr.com Tel: 919-929-6606

JOINT STUDY COMMITTEE ON ALCOHOLIC BEVERAGE CONTROL
MEMBERSHIP LIST
2009- 2010

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ATTENDANCE

Joint Study Committee on Alcoholic Beverage Control

(Name of Committee)

DATES	March 9, 2010	March 24, 2010	April 8, 2010	April 22, 2010	May 5, 2010										
Representative Ray Warren	X	X	X		X										
Representative Larry Bell	X	X	X		X										
Representative Jim Crawford	X	X	X		X										
Representative Pryor Gibson	X	X	X		X										
Representative Dewey Hill	X	X	X		X										
Representative Marvin Lucas	X	X	X		X										
Representative Edgar Starnes	X	X	X		X										
Representative Fred Steen	X	X	X		X										
Senator Don Vaughan	X	X	X		X										
Senator Charlie Albertson	X	X			X										
Senator Stan Bingham		X	X		X										
Senator Dan Blue		X	X		X										
Senator Dan Clodfelter		X	X		X										
Senator Linda Garrou															
Senator Steve Goss	X	X	X		X										
Senator Fletcher Hartsell	X	X	X		X										
Mr. Tim Adams	X	X	X		X										
Mr. Edward Cook	X	X			X										
Mr. Howard Hunter		X	X		X										
Commissioner Eddie Maynor	X	X			X										
Mr. Paul Powell	X	X	X		X										
Mr. Fields Scarborough	X	X	X		X										
Honorable Ronald Bogle	X	X	X		X										
Honorable Karen Eckberg Gottovi	X	X	X		X										
Honorable John Hurley	X	X	X		X										
Honorable Edward Holmes	X	X	X		X										

ATTENDANCE

Joint Study Committee on Alcoholic Beverage Control

(Name of Committee)

DATES	March 9, 2010	March 24, 2010	April 8, 2010	April 22, 2010	May 5, 2010										
Mr. Walter Harris	X	X	X		X										
Dr. Peggy Richmond	X	X	X		X										

NORTH CAROLINA GENERAL ASSEMBLY

February 26, 2010

MEMORANDUM

TO: Members of the Joint Study Committee on Alcoholic Beverage Control

FROM: Representative Ray Warren, Co-Chair
Senator Donald Vaughan, Co-Chair

SUBJECT: Meeting Notice

The Joint Study Committee on Alcoholic Beverage Control will meet on the following date:

DAY: Tuesday

DATE: March 9, 2010

TIME: 2:00 p.m.

LOCATION: Legislative Building, Room 1124

Parking for non-legislative members of the committee/commission is available in the visitor parking deck #75 located on Salisbury Street across from the Legislative Office Building. Parking is also available in the parking lot across Jones Street from the State Library/Archives (see attached map). The cost for visitor parking is $1.00 per hour or $8.00 per day and may be reimbursed with a parking receipt submitted with your travel reimbursement form.

Please advise Theresa Lopez, Committee Assistant, by phone (919-733-8361) or e-mail (warrenrla@ncleg.net) or Dora King-Morgan, Committee Assistant, by phone (919-733-5856) or e-mail (vaughanla@ncleg.net) if you will be unable to attend or have questions.

Posted:

cc. Committee Record __
Interested Parties ___

[redacted]

NORTH CAROLINA GENERAL ASSEMBLY

March 8, 2010

MEMORANDUM

TO: Members of the Joint Study Committee on Alcoholic Beverage Control

FROM: Representative Ray Warren, Co-Chair
Senator Don Vaughan, Co-Chair

SUBJECT: Meeting Notice

The Joint Study Committee on Alcoholic Beverage Control will meet on the following date:

DAY: Tuesday

DATE: March 9, 2010

TIME: 2:00 p.m.

[redacted]

Parking for non-legislative members of the committee/commission is available in the visitor parking deck #75 located on Salisbury Street across from the Legislative Office Building. Parking is also available in the parking lot across Jones Street from the State Library/Archives (see attached map). The cost for visitor parking is $1.00 per hour or $8.00 per day and may be reimbursed with a parking receipt submitted with your travel reimbursement form.

Please advise Theresa Lopez, Committee Assistant, by phone (919-733-8361) or e-mail (warrenrla@ncleg.net) or Dora King-Morgan, Committee Assistant, by phone (919-733-5856) or e-mail (vaughanla@ncleg.net) if you will be unable to attend or have questions.

Joint Study Committee on Alcoholic Beverage Control

AGENDA

March 9, 2010
Room 1124, Legislative Building
2:00 PM

WELCOME AND INTRODUCTORY REMARKS

Representative Ray Warren, Co-Chair - Presiding
Senator Don Vaughan, Co-Chair

REVIEW OF COMMITTEE CHARGE

INTRODUCTIONS

PRESENTATIONS

Report on North Carolina's Alcohol Beverage Control System
Carol Shaw, Principal Program Evaluator
Program Evaluation Division
North Carolina General Assembly

COMMITTEE DISCUSSION

INSTRUCTIONS TO STAFF

ADJOURNMENT

Minutes

Joint Study Committee in Alcoholic Beverage Control

Tuesday March 9, 2010
2:00 p.m.
Room 643, Legislative Office Building

The Joint Study Committee on Alcoholic Beverage Control met on Tuesday, March 9, 2010, in Room 643, Legislative Office Building. Representative Ray Warren, Presiding chair, called the meeting to order at 2:00 p.m. The following House Members were present: Representatives Ray Warren, Co-Chair; Representatives Bell, Crawford, Gibson, Hill, Lucas, Starnes, and Steen. The following Senate Members were present: Senator Don Vaughan, Co-Chair; Senators Albertson, Goss and Hartsell. The following Public Members were present: Chief Mr. Tim Adams, Mr. Edward Cook, Commissioner Eddie Maynor, Mr. Paul Powell, Mr. Fields Scarborough, Mr. Ronald E. Bogle, Ms. Karen Eckberg Gottovi, Mr. John Hurley, Mr. Edward Holmes, Mr. Walter Harris, and Dr. Peggy Richmond.

Representative Warren welcomed everyone to the Alcoholic Beverage Control Study Committee adding that there are many issues that need to be discussed at length. Representative Warren mentioned the travel reimbursement forms, the committee notebooks, and the website that was created for this committee. He then introduced his Co-Chair Senator Don Vaughan. Senator Vaughan recognized the members of the House, Senate and the Public Members for introduction. Senator Vaughan then verified there was a quorum and turned the chair over to Representative Warren for the transaction of business.

Representative Warren then introduced the Research Division Attorneys, Brenda Carter, Susan Sitze, Cindy Avrette, Erika Churchill, Research Assistant Kelly Quick; and the Fiscal Research Analysts, Kristine Leggett and Sandra Johnson.

The Authorization of this Committee is to study all aspects of the current State and Local structure of Alcohol Beverage Control in North Carolina. A copy of the committee authorization is in the committee notebooks.

Representative Warren introduced **Ms. Carol Shaw from the Program Evaluation Division of the General Assembly** who presented the Final Report that was given to the Program Evaluation Oversight Committee – "North Carolina's Alcoholic Beverage Control System Is Outdated and Needs Modernization."

Carol Shaw, Principal Program Evaluator for the Program Evaluation Division, provided the following documents: a copy of the full report (Attachment 1), a packet with the executive summary of the report with presentation slides (Attachment 2), 4 pieces of paper; blue, green, pink and yellow (Attachments 3, 4, 5, and 6). In addition, because time has passed since the initial report; North Carolina's Beverage Control System is Outdated and needs Modernization was presented; Appendix A2 and Appendix A1 have been updated and provide up-to-date information about the 163 boards, up from 158 a year ago.

The evaluation of the State's ABC system was directed by the Joint Legislative Program Evaluation Oversight Committee in December of 2007. The study was completed and reported to the Committee in December 2008. The Program Evaluation Division was asked to evaluate the effectiveness of the Alcohol Beverage Control System in North Carolina and identify improvement options for the system. The study also focused on the operation of local ABC boards. The evaluation team received excellent cooperation from the North Carolina Alcoholic Beverage Control Commission and all of the local ABC Boards.

According to the report, North Carolina's Alcohol Beverage Control is outdated and needs to be updated. Four findings support this conclusion:

- North Carolina's ABC system was established in 1935, and has not kept pace with the demographic and economic changes that have occurred during the past 75 years.
- Statutes limit the ABC Commission's ability to effectively manage this system
- North Carolina has not clearly defined the mission of local ABC Boards.
- North Carolina's system for regulating the sale of liquor is different from other states.

Based on these findings, the report concludes that North Carolina needs to modernize the current ABC System by defining the mission of local ABC boards, providing the ABC Commission with management tools for better oversight of local boards, and modifying outdated statutes for ABC store elections and purchase transportation permits. Finally, the General Assembly should consider whether other regulatory systems for Alcohol Beverage Control are appropriate for North Carolina.

First, the evaluators looked at how North Carolina's Alcohol Beverage Control System could be improved. Then they looked at how North Carolina's system compared to control and licensing systems in other states. The Program Evaluation Division analyzed data from a number of resources to conduct this study including the survey of all and visiting some of those local ABC boards.

Attachment 3 (exhibit 1) is a timeline that is in the report. North Carolina's current system of local ABC boards reflects a history dating back to 1874. That was the earliest that evaluators could find any legislation related to Alcohol Beverage Control. Several things influenced the system development based on this history. The first issue is local option, allowing voters to decide whether liquor is sold in their communities. North Carolina has a very long history about local communities making the decision about the issue of alcohol and whether it is sold or provided in their communities.

The second is prohibition, unlawful to manufacture or sale liquor in North Carolina. In 1908, a referendum was passed that prohibited the sale and the manufacture of liquor in North Carolina, eleven years before it had started nationwide.

Finally, State control established the ABC Commission and empowered local ABC Boards to sell liquor in 1935 and for any one else who voted after 1937. North Carolina's system has changed very little since 1937. North Carolina's ABC Commission oversees the sale of liquor and controls the central liquor warehouse. This chart demonstrates how liquor moves through the system and gets to the local ABC boards.

Attachment 4, (exhibit 5) is showing the five additional boards and stores that were created since December 2008. Valdese in Burke County near Morganton, Wingate and Indian Trail are other places that have recently voted in liquor but have not opened stores. There are two ways the system works in North Carolina: boards are either formed by counties or municipalities based on elections. County boards are formed when the voters in a county vote to have liquor stores. On the back of Attachment 4, the county ABC Boards are shaded grey. There are currently 49 county boards and the majority of them are located in the Eastern part of the State.

Municipal Boards are formed when they are located in a dry county that has not voted to have a liquor store. Municipal voters have their own election and decide whether to open an ABC Store. The municipal ABC Stores are marked with a dot. The majority of those are located in the western part of the state. There are 107 municipal boards.

Merged ABC Boards are marked with a plus sign. Merged boards are formed when two or more municipalities whose voters have elected to have an ABC

Store choose to form a single ABC Board to operate the ABC Stores in each municipality. There are seven merged boards. Three counties right now are dry because voters have not elected to have liquor or any form of alcohol sold in their communities.

There are 414 stores as of the end of February 2010. In December 2008 over 2,300 people were employed. With the addition of new stores, there are approximately 2,400 employees.

Evaluating the ABC System in North Carolina's is important to its economy. It has generated $750 million dollars worth of business in fiscal year 2008-2009, without any support from the states general fund. A total of $262 million dollars went to our state and local governments, and $184 million dollars was deposited into the general fund. The ABC System is an asset because it does generate revenue. The efficiency and effectiveness of the ABC System affects how much revenue the state collects, and based on how the system works how much money goes to local government.

The report indicates that North Carolina's ABC System has not kept pace with demographic and economic changes in North Carolina. There has been significant change since the ABC System was created in 1935. Population shifts are affecting local board profitability. The first map on Attachment 5, (exhibit 7) shows the changes in North Carolinas population and how it has grown in the last 30 years. Counties growing less that 10% are shaded white, counties growing 10 to 49% are shaded light grey, counties growing 50 to 99% are shaded dark grey. The counties growing over 100% are shaded black. The equal distribution of retail opportunities no longer exist across counties in North Carolina.

The second map on Attachment 5, (exhibit 8) shows retail surpluses and leakages in early 2000, the latest that this data was available. Some counties are losing retail businesses, business to counties that have a larger concentration of retail business. Easy access to transportation and increased mobility allows consumers to shop in areas where there is a larger concentration of stores. The counties that have the largest concentration of businesses are affecting some boards which in turn affecting another local board's profitability. The Northampton County ABC Board is a very good example. This board struggles to make a profit, and has lost money in the last couple of years. All four of the boards are counter stores. Evaluators visited three of the four boards and found the stores had a more limited liquor selection that what is found in the Halifax County ABC Board just the next county over on I-95. The ABC store located in Halifax County had a wider variety of liquor and was surrounded by many retail businesses. Since the Halifax store is located the next exit down consumers were doing their shopping there, buying their liquor in Halifax County and not in Northampton County. Looking at the map (exhibit 8), you will see that

Northampton County has what is called retail leakage. They are losing business to other counties and Halifax County is gaining that business.

Another example of how North Carolinas ABC System has not kept pace is the low threshold for holding ABC Store elections which is causing a proliferation of local boards in dry counties. After the five new boards opened their stores since December 2008, there have been four or five more elections where communities will probably open liquor stores. The threshold is 500 registered voters and that allows any city or town in a dry county to hold an election. Spruce Pines population of 2000 is in a dry county and is the only community that has liquor and it will essentially serve the whole county. Asheboro has a population of 25,000 and was the largest dry community in the state until it passed alcohol. We found smaller communities do not have a large enough population to sustain an ABC Store. They must attract consumers from other areas to increase liquor sales to a sustainable level. The black dots on this map show the locations of all the ABC Stores in Buncombe County. Buncombe County used to have only two ABC Boards, Asheville and Black Mountain until the town of Woodfin voted to open an ABC Store in 2006. At that time Asheville suggested that Woodfin merge with them and offered to operate a store for them. Woodfin did not choose to merge with Asheville, and they opened an ABC Store in July 2007. If you look at the map you will see the red circle. The map shows how close the Woodfin ABC Store is to one of the Asheville Stores. The line graph shows the Woodfin store reduced liquor sales to the Asheville Board during Fiscal Year 2007-08. They did not generate any sales but took away business away from Asheville. Before the Woodfin store opened, Asheville's liquor sales were growing about nine to ten percent a year. After the Woodfin store opened, sales growth for ABC Boards in Buncombe County was steady at 9.5% while the sales growth for Asheville declined 2.4%. Weaverville voted in liquor about the same time that Woodfin. They did not open a store until October 2009, so evaluators only have four months of data. From October 2009 to January 2010, Weaverville has cut the sales from the Woodfin store by fifty percent. Essentially, Weaverville has done to Woodfin what Woodfin did to Asheville. So it has a larger impact because Asheville has a number of stores and Woodfin only has one. Weaverville is taking business away from Woodfin, not creating a significantly greater market, just taking market shares away from another business.

Another way that North Carolinas ABC has not kept pace is outdated statues that do not reflect the changed attitude for access to alcohol. Statute requires cities or towns to operate an ABC Store or hold an ABC store election at the same time as mixed beverage elections. This requirement was intended to ensure mixed beverages businesses had access to ABC stores to buy their liquor. Ninety-seven counties have a least one ABC store so the argument of an ABC Store needed to support mixed beverage sells in a community is no longer valid.

The second outdated statute is the purchase transportation permit. It was created in 1937 and was intended to detour bootlegging by controlling the amount of alcohol that could be brought and transported. All thirty-one boards interviewed agreed that the purchase transportation permit should be eliminated. Bootlegging did not seem to be a problem; most communities had access to legal liquor and the permits are burdensome for store employees and for customers. One interesting note is if you are buying a large volume of wine, you have to go to the local ABC store and get a purchase transportation permit from them even though our stores do not sell wine.

Now the second finding is that statutes limit the ability of the ABC Commission to effectively and efficiently manage the ABC System. Statutes do not allow the ABC Commission to enforce minimum standards for operation or profitability for local ABC Boards. They have no tools to effectively assist boards in making changes to improve operation, and they cannot mandate board consolidation or mergers to improve the system. Even though the ABC Commission receives detailed financial sales information from all of the boards, they cannot do anything with this information to establish performance standards or require boards to even meet minimum standards. The commission can encourage the least profitable boards to make changes to increase efficiency and profitability but they cannot provide financial assistance to help boards become more efficient. There are no funds available. However, the statute does allow them to close a board or store if they find the store is not operating in accordance to ABC law.

They did close the Pembroke ABC in the course of this study. The Pembroke store had significant thievery, tens of thousands of dollars over a couple of years, but closing a store is not necessarily the best solution because that community had voted in liquor. This particular board now has been reappointed and the ABC Commission has allowed them to reopen the store.

To evaluate local ABC Board operations, evaluators used profitability data from the Commission as a performance measure to determine the success of local boards. They chose to use profitability because it is the performance standards used by retail businesses to determine success or failure. ABC Stores are a retail business even though they are operated by government entity. On the back of Attachment 4, (exhibit 10), is a profitability map from 06-07. This particular map is not updated but evaluators calculated the profitability information for all of the new boards and operating margins which are located in the new version of Appendix 1A. The ABC Boards are divided in three profitability categories, under five percent, five percent to 9.99 percent, and ten percent or more. Over a two- year period of time, profitability has declined some; the economy has had its effects on liquor sales. There were a number of boards that had over fifteen percent profitability last year, and the numbers of boards that fall below five percent have increased from 43 to 55. In the years 2008-09, nine boards have lost money, and an additional five boards made less than one

percent profit. Controlling operating costs is an important component of local ABC Board profitability. Evaluators found a wide range of operating margins for local boards in 2006-07 ranging from 8.58 percent for Wake County and 25.8 percent for Hyde County. Boards that lose money are much more likely to have a very high operating margin.

Evaluators interviewed private liquor store owners in South Carolina and Florida and they would not tell them what their profit margin was but did tell them that their range of operating margin was fourteen to eighteen percent. This chart shows that forty seven percent of local boards in 2006-07 had higher operating margins than private liquor business's and twelve percent, or nineteen boards, in that year actually had lower operating margins than private business and merged boards had seen an increase in profitability. The number of ABC Boards in close proximity to one another is one factor affecting board profitability. ABC Boards that have merged have seen an increase in profitability and operating efficiency.

The third finding was that neither ABC Statutes, nor administrative rules have clearly defined the mission for local ABC Boards; the implied mission is controlling the sale of liquor. Evaluators compared North Carolina to other controlled states to see if they had missions or purpose statements. Virginia and New Hampshire had mission statements that included profitability, excellent service to customers, efficient operations, and to control the distribution of sales and consumption of alcoholic beverages. The lack of a clear mission allows local boards to justify ineffective and inefficient operations. Boards with limited or no profit were more likely to identify providing a service to the community was more important than making a profit. One board said "that the original intent of the ABC System was to provide residents with access to alcohol and now too much emphasizes was being placed on profitability". When reviewing survey results from profitable local boards, the boards discussed how profits benefit their community. By improving and streamlining their store operations they had increased profitability.

In the report's final finding, North Carolinas System for regulating the sale of liquor is determined to be different than what is found in other states. There are two ways to control liquor; control state or licensing state. A licensing state is one in which you license retail businesses, manufactures and wholesalers to control liquor similar to what we do in North Carolina with beer and wine. Control states regulate by distributing alcohol beverages to consumers or state operated retail stores, or as wholesalers through other retail establishments. Both licensing and control states regulate by controlling taxes, collecting taxes and licensing suppliers, wholesalers and retail businesses. North Carolina is a control state. Eighteen states and two counties in Maryland can be divided into four control models. Under all of the models the states determine the brands and prices of liquor that is sold and control the wholesale liquor distribution system. The control models do differ and how the liquor is sold to the consumer.

Under retail control, the state, or in North Carolina's case, local boards own all of the retail establishments that sell liquor to the consumer. An agency store model, liquor is sold to a contracting agency store or business who sells liquor on behalf of the government; the stores are usually paid a commission or a discount on the liquor that is sold to them. Combination states, retail sales of alcoholic beverages are handled by a combination of state run or owned stores. With wholesale states, the state government only controls the wholesale distribution of liquor and the retail sales are handled by a private retail business licensed by the state; the state may still limit the location and the number of retail outlets. North Carolina is the only control state that has local government boards operating retail liquor stores. In the last finding of the report, there is additional information about how other states operate, there are charts comparing liquor consumption, taxation among both of the controlled states and licensing states. See Attachment 1.

The report's first recommendation for modernizing North Carolina's outdated ABC System is to define the mission of local boards for improving its effectiveness and efficiency. A mission statement should emphasize optimizing profitability for efficient store operations, distributing revenue back to the community, providing access to conveniently located ABC stores, excellent customer service, and ensuring appropriate control of the sale of liquor. The General Assembly should authorize the North Carolina's ABC Commission to use these following management tools: the development of performance standards for local boards, and the authority to require local board mergers as needed to improve the efficiently and effectiveness of the ABC System and authority to levy a bailment surcharge to create a non-reverting revolving loan fund to assist in technical and financial assistance for any local board's improvement. In addition the authority to require local boards to contract to agency stores to sell liquor when performance standards indicate efficient operation of an ABC store that is not profitable.

Another way to modernize North Carolina's ABC System is to modify outdated statutes. Increasing the registered voter threshold from 500 to 5,000 to ensure cities and towns holding ABC store elections have a large enough population to sustain an ABC store, and eliminating ABC store requirements to hold mixed beverage elections to streamline the election process and easier to satisfying attitudes toward access to liquor.

The final outdated statute is the purchase transportation requirement, it appears that is no longer needed because bootlegging is not an issue, and eliminating the permit will reduce the administrative burden on ABC store operations.

In Attachment 6, (exhibit 17), the chart includes the North Carolina System with other state control models and the licensure models. The exhibit also describes how each control model works. To summarize, changing the North Carolina ABC System could affect how state and local revenues from liquor sales are collected,

how much is collected, liquor selection and pricing and warehouse ownership and operations. Changing the system would mean local boards no longer can own and operate ABC stores. In looking at the data, a one percent increase in liquor sales would generate an estimated $1.7 million in state excise and sales tax for the general fund. When the report was issued North Carolina's ABC Commission concurred with the recommendations and findings. The Joint Legislative Program Oversight Committee also endorsed recommendations 1A through 1C of this evaluation. In 2009, legislation was introduced based on this recommendation, both in the House and Senate. The report is available on the websites for the Program Evaluation Division and the Joint Study of Alcoholic Beverage Control of the General Assembly of North Carolina.

The following questions below followed Ms. Shaw's presentation.

Mr. Cook asked if there were any study of leakage to bordering states or surplus from bordering states.

Ms. Shaw said they did not do a study of that; the data studied was North Carolina specific data that the UNC Charlotte Department of Geography produced for their North Carolina atlas. Evaluators heard from counties which bordered Virginia that people would come into North Carolina to buy because liquor cost more in Virginia. Virginia is a control state. The counties visited on the South Carolina border said they went into South Carolina to buy their liquor. South Carolina is a licensure state. They have located their stores along the border in convenient locations.

Dr. Richards asked why South Carolina and Florida were chosen to compare their operating margin.

Ms. Shaw replied that those were two licensure states; southeastern states and those were where evaluators could get two businesses to talk with them. States did not want to talk about profits but they were willing to talk about how much it cost them to operate their business.

Mr. Bill Hurley, How are the state agency commissioners selected? Are they appointed by the governor?

Ms. Shaw answered yes.

Mr. Hurley (follow-up) How many are on that board?

Ms. Shaw responded that there are three commissioners: one chairman and two members.

Ms. Karen Gottovi asked if there were longer discussion on licensure in the full report. I understood we were considering changing from a controlled state to a licensure state?

Ms. Shaw noted that on page thirty of the report were a couple of interesting points. With the Chairman Warren's permission, Ms. Shaw continued the discussion of licensure states.

Ms. Shaw said that on page 31 of the report is shown a variety of ways that liquor could be regulated including how licensure states do it. In some states, it would not be sold anywhere. Some only allowed it to be in free standing liquor stores. The number of stores is limited sometimes based on population and sometimes based on other things. Looking at the review of other states, some may be licensure states, but many of them control liquor almost as much as the control states. At the bottom of page thirty of the report, one of the things found is that, other than Michigan who is as close as you can come to being a non-control state, no state has totally gotten out of the business since the 1930's. On page thirty-two, data was compared from North Carolina to twelve other licensure states. These states were chosen because they only allow liquor to be sold in free-standing liquor stores, which seemed to be the right comparison to North Carolina. The profits that a private business, either the state, or in our case local governments would earn, is in addition to the taxes that are placed on it. What has happened is a number of states have gone from having retail establishments to just being wholesale states, where they control the wholesale of liquor; all liquor comes from their warehouse and then goes out to private retail businesses. West Virginia, Michigan and Iowa have done that over the past couple of years.

Representative Hill asked how you get the retail price on liquor. Are all ABC stores using the mark-up as far as profit?

Ms. Shaw, Yes. They cannot change the price, the state sets that.

Mr. Powell asked if Ms. Shaw could describe for the committee how the liquor gets from the state warehouse to the local ABC, who controls that, and who owns the product while it is in the state warehouse?

Ms. Shaw stated that if you turn to Attachment 3, (exhibit 2) the ABC Commission supervises the overall system, they determine which liquor, what product is sold and determine the price. They also own the warehouse, they do not operate it. They contract with a private company to operate the warehouse. What happens is based on an order the distillers and the manufacturers of liquor send their liquor to the state warehouse. It is still owned by the distiller. The State of North Carolina never owns the liquor in the warehouse. The liquor is then trucked to the local ABC boards who have ordered whatever they need to sell to their customers, and then that local ABC board has thirty days to pay the

distiller for the liquor. The local boards own the liquor once they take delivery of it.

Mr. Powell (follow-up) so there is no wholesale function?

Ms. Shaw No, the state of North Carolina only provides the warehouse.

Mr. Hurley asked if the local ABC board members and organizations were organized statewide, did they have annual meetings and did they collectively have some recommendations for change?

Ms. Shaw answered that there is a North Carolina Association of ABC Boards. Most boards are members, they have annual meetings and they do have an executive committee. The Association has a small grant program where boards can apply and receive assistance financially for improving the appearance of the store. If the board does not have the resources because they are not making enough money there is very little they can do to change locations or even improve the appearance of their store to make more profit.

Senator Goss asked how long is the term for commission members and local board members was?

Ms. Shaw answered that on the local boards; it is up to the appointing authority and believes that the term for the Commission is at the pleasure of the Governor.

Representative Warren wondered if the staff could help him with that.

John Williams, Chairman of the ABC Commission; indicated that members of the State ABC Commission serve at the pleasure of the Governor.

Representative Warren asked if there were other questions from members and there being none, thanked Ms. Shaw for the presentation.

Representative Warren recognized and thanked the Sergeants-at-Arms for their help. Those for the House included Dusty Rhodes and James Worth. Representing the Senate were Charles Harper and Charles Marsalis.

Representative Warren introduced John Williams, Chairman of the Alcoholic Beverage Commission, Mike Herring, Chief Administrative Officer of the ABC Commission, and John Ledford, Director of the Division of Alcohol and Law Enforcement.

The next meetings were announced: March 24, 2010 and April 8, 2010 at 2:00 pm. Meetings will be approximately two hours including in the second hour public comments, limited to three minutes per comment.

Representative Warren then recognized Representative Gibson for a question.

Representative Gibson asked if the Committee Chairs anticipate receiving any of the details of the proposed study that the Governor has requested.

Representative Warren answered that the Chairs had made the inquiry that afternoon and it was not certain when that study will be completed, but the Chairs will ask for it as soon as it is available.

Representative Gibson (follow-up) would it be possible for the Chairs to request the specific of the study to see exactly what they are looking for? That might be able to help us in our deliberations between now and short session.

Representative Warren answered that he and Senator Vaughan would do that.

Representative Warren asked the members for any further comments or specific information they would like staff or the chairs to have for the next meeting.

Dr. Richmond asked for clarification of the charge for this study.

Representative Warren replied:

The Speaker of the House and the President Tempore for the Senate has given us the following guidelines:

The Committee shall study all aspects of the current State and local structure of alcoholic beverage control (ABC) in North Carolina, including:

(1) Analyzing the December 2008 report of the North Carolina General Assembly Program Evaluation Division on the effectiveness of the ABC system, and its recommended improvement options for the system.

(2) Evaluating the need for State wide consistency and uniformity in ABC structures, rules, and ethics standards.

(3) Examining the current compensation structure for both State and local ABC board members and employees and making recommendations for any salary limitations or oversight that might be needed.

(4) Examining the governance structure of local ABC boards, the geographical proximity of local ABC boards, and making recommendations for any changes or reforms.

(5) Examining the amount and distribution of revenues from the current ABC system.

(6) Examining what ethics rules are currently applicable to ABC Board members and employees, and making recommendations for any ethics rules that should be applied.

(7) Examining the oversight and accountability of ABC boards, and making recommendations for any increase in oversight or procedures in order to increase accountability.

(8) Examining whether additional gubernatorial authority over ABC Boards and employees, including the power to remove employees, should be granted.

(9) Examining the issue of privatization of the ABC system, and making recommendations as to the advisability of privatization and any potential savings to the State.

(10) Any other issues related to alcoholic beverage control structure, governance, and revenue in the State.

Representative Warren noted that the Committee is required to make a report before May 12, 2010, back to the Senate and the House. Are there any further questions or comments?

Mr. Cook asked since South Carolina and operates under the licensure model, could the Committee get figures from how they are doing in terms of revenue, how their system is governed.

Representative Warren stated that staff will attempt to get the information.

After no further questions or comments, The Joint Study Committee on Alcoholic Beverage Control adjourned at 3:10 pm.

Representative Ray Warren

Theresa Lopez, Committee Assistant

Joint Study Committee on Alcoholic Beverage Control
March 9, 2010

Attachments:
Agenda
Visitors Log
Attachment 1: North Carolina's Alcohol Beverage Control System is Outdated and Needs Modernization, Final Report
Attachment 2: Program Evaluation Summary
Attachment 3: Presentation
Attachment 4:
- Exhibit 1: History of Alcohol beverage Control in North Carolina
- Exhibit 2: North Carolina Alcohol Beverage Control Distribution System

Attachment 5:
- Exhibit 5: North Carolina ABC Stores & North Carolina ABC Boards

Attachment 6:
- Exhibit 7: Changes in North Carolina's Total Population, 1970-2000
- Exhibit 8: Retail Surpluses and Leakages, 2000-2004
- Exhibit 10: North Carolina ABC Board Profit Margins for Fiscal Year 2006-2007

Attachment 7:
- Exhibit 17: Impact of Control Models on Alcohol Beverage Control

Attachment 8:
- Appendix A.1: ABC Boards – 2010 Descriptive Information

Attachment 9:
- Appendix A.2: ABC Boards – 2009 Financial Information

VISITOR REGISTRATION SHEET

Joint Study Committee on Alcoholic Beverage Control March 9, 2010

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
LAWRENCE BRAN	CITY OF WILMINGTON
Rev. MARK CREECH	CAL
David Hinshaw	Ridgetop Associates
Betty Hinshaw	Ridgetop Associates
Chris Valauri	NC Beer & Wine Wholesalers
Hardy Lewis	Blanchard, Miller, Lewis, attys
Johnny Tilley	MWC

VISITOR REGISTRATION SHEET

Joint Study Committee on Alcoholic Beverage Control March 9, 2010

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Craig Pleasants	Wake County Board of Alcoholic Control
Bill Belvin	ABC Law Enforcement
Joseph Wall	NC Assoc. of ABC Bds, Ral. NC
Mike Myrick	Wayne Co ABC Board
Patsy Hall	Nat Assn ABC
Billy Hamm	Nat Assn ABC
Gene Webb	Cumberland County ABC Board
Thomas C. Caraf. J	CCPS
John LEFORD	NC ALE
Annette Newkirk	Governor's Office
Dill Carlton	atty.

VISITOR REGISTRATION SHEET

Joint Study Committee on Alcoholic Beverage Control March 9, 2010

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Kelli Kucera	NCLM
Jim Blackburn	NC Association of County Commissioners
Michael Crowell	UNC School of Government
Daniel Blum	Troutman Sanders
John Sanders	—
[illegible]	North State
Jack Lozort	North State
Jon Carr	NC Assoc. ABC Boards
Brittany Farrell	NCFPC
Rebekah Sharpe	NCFPC

VISITOR REGISTRATION SHEET

Joint Study Committee on Alcoholic Beverage Control March 9, 2010

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
MIKE HERRING	ABC COMMISSION
JEAN HARRIS	J Reaves
Matt Ward	TPG
Lindsay Robinson	NCRMA
Barbara Conley	BSCA
Michael Hauser	NC Dept of Revenue
Ken Melton	Ken Melton & Assoc.
[illegible]	MSC
W. Gardner Culpepper	Personal Interest
Amy Hobbs	MWC

HOUSE PAGES

JT. STUDY
NAME OF COMMITTEE ALCOHOLIC BEV. CONTROL DATE 3/09/10

1. Name: _____

County: _____

Sponsor: _____

2. Name: _____

County: _____

Sponsor: _____

3. Name: _____

County: _____

Sponsor: _____

4. Name: _____

County: _____

Sponsor: _____

5. Name: _____

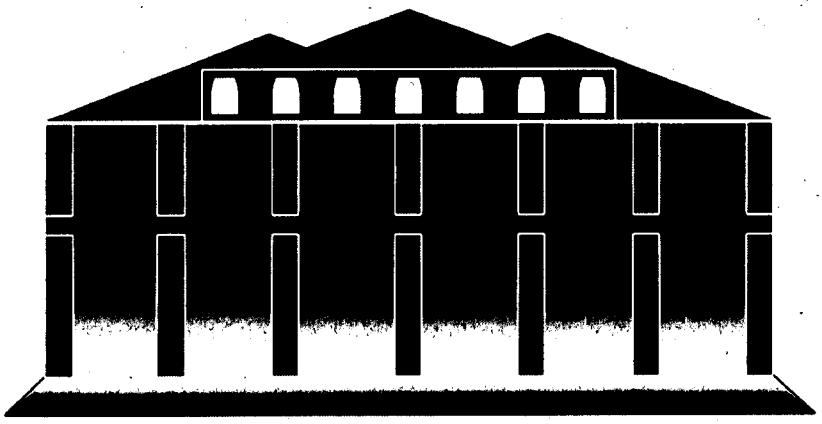
County: _____

Sponsor: _____

	HOUSE	SGT-AT-ARM	SENATE
1.	Name: DUSTY RHODES		CHARLES HARPER
2.	Name: JAMES WORTH		CHARLES MARSALIS
3.	Name: _____		
4.	Name: _____		

ATTACHMENT 1

North Carolina's Alcohol Beverage Control System Is Outdated and Needs Modernization



PROGRAM EVALUATION DIVISION
NORTH CAROLINA GENERAL ASSEMBLY

Final Report to the Joint Legislative Program Evaluation Oversight Committee

Report Number 2008-12-01

December 10, 2008

ATTACHMENT 2

PROGRAM EVALUATION DIVISION

NORTH CAROLINA GENERAL ASSEMBLY

December 2008 Report No. 2008-12-01

North Carolina's Alcohol Beverage Control System Is Outdated and Needs Modernization

Summary

The Joint Legislative Program Evaluation Oversight Committee directed the Program Evaluation Division to evaluate the effectiveness of the Alcohol Beverage Control (ABC) system and identify improvement options. This study examined how North Carolina's ABC system functions, focusing on the operation of the 158 local boards. Together, these local boards operate 405 ABC stores across the state.

North Carolina's ABC system has not kept pace with demographic and economic changes in the state. Population shifts affect the ability of some local boards to be profitable as the state becomes more urbanized and shopping patterns change. Population growth in cities and towns makes the current threshold of 500 registered voters for holding municipal ABC store elections too low, resulting in unnecessary competition among boards and inefficient store operations.

State statutes limit the ability of the North Carolina ABC Commission to effectively and efficiently manage the ABC system. Financial data for local boards show performance varies considerably (e.g., some boards operate inefficiently when compared to private liquor retail operations). The ABC Commission does not have the authority to enforce minimum standards for operations and profitability, nor can it effectively assist boards in making changes to improve operations, such as local board consolidation or mergers.

Unlike other control states, North Carolina has not clearly defined the mission of local boards in state statutes or administrative rules. Some boards use the lack of a clear mission to justify ineffective and inefficient store operations by deemphasizing profitability.

North Carolina also has a different system for regulating the sale of liquor. All 50 states regulate the sale and distribution of alcoholic beverages by either directly controlling the distribution and sale of liquor or licensing suppliers, wholesalers, and retail businesses that distribute and sell liquor. North Carolina is considered a control state but is the only control state where local governments appoint a board to operate retail stores.

Evaluation findings suggest the North Carolina General Assembly should modernize the current ABC system by defining the mission of local boards, providing the ABC Commission with management tools for better oversight of local boards, modifying outdated statutes for ABC store elections and purchase-transportation permits, and considering whether other ABC systems identified in this evaluation are appropriate for North Carolina.

The full report is available at http://www.ncleg.net/PED/Reports/Topics/GovernmentOperations.html.

North Carolina's Alcohol Beverage Control System is Outdated and Needs Modernization

A presentation to the Joint Legislative Study Committee on Alcoholic Beverage Control

March 2010

L. Carol Shaw, Principal Program Evaluator

Alcohol Beverage Control System Evaluation Team

L. Carol Shaw, Project Lead

Sean Hamel, Research Assistant
Catherine Moga Bryant, Senior Evaluator
Carol Ripple, Principal Evaluator
Yana Samberg, Senior Evaluator
Pamela L. Taylor, Statistician
Jeremy Wilson, Intern

Alcohol Beverage Control System Overview

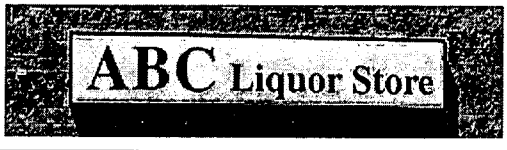
North Carolina's ABC system:

- has not kept pace with demographic and economic changes in the state;
- is governed by statutes that limit system management;
- has not clearly defined the mission of local boards; and
- regulates the sale of liquor differently than other states.

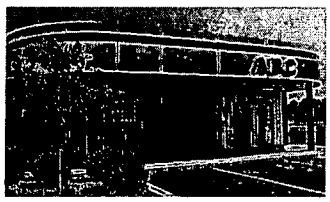
Alcohol Beverage Control System Overview

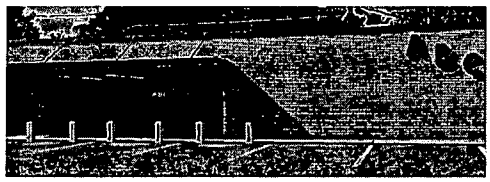
Modernize the current Alcohol Beverage Control system by:

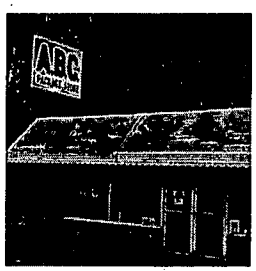
- defining the mission of local boards;
- providing management tools for better oversight of local boards;
- modifying outdated statutes for ABC store elections and purchase-transportation permits; and
- considering whether other regulatory systems are appropriate for NC.

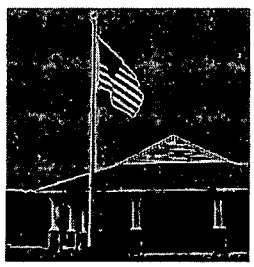


Alcohol Beverage Control System: Background and Scope







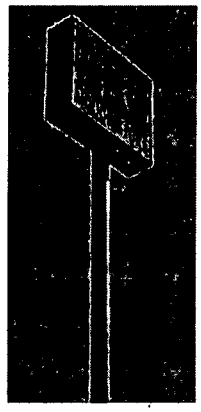
Alcohol Beverage Control System: Evaluation Scope

- How can the NC Alcohol Beverage Control system be improved?
- How does NC's system compare to control and licensing systems in other states?

See report p. 2

Alcohol Beverage Control System: Data Collection

- Interviews with key stakeholders
- Information from local ABC Boards, including:
  - Fiscal, operations, and survey data from all 158 Boards
  - Site visits to 31 Boards and on-site inspections of 54 stores
- Interviews with representatives from private liquor store chains
- Review of related laws and rules
- Data on alcohol beverage control and licensure in other states



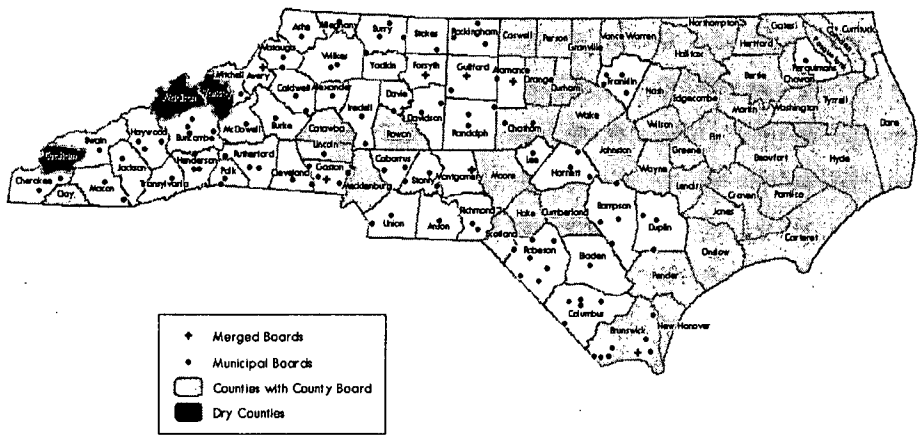
See report p. 2

The NC ABC System Today

- History influences how NC's ABC system has evolved.
- NC ABC Commission oversees the sale of liquor and controls the central liquor warehouse.
- Only local ABC boards are authorized to operate retail stores and sell liquor in NC.

See report pp. 2-10

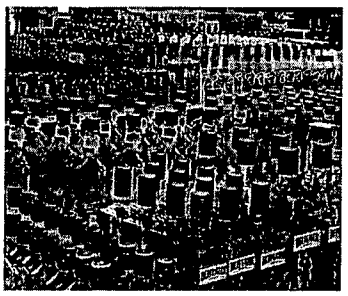
North Carolina Local ABC Boards



Alcohol Beverage Control System: Important to NC's Economy

$757 million business in FY 2008-09

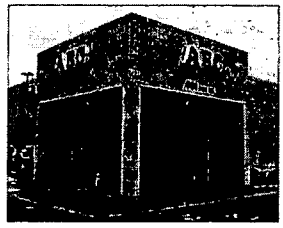
- Important source of revenue
  - $262 million in Fiscal Year 2008-09

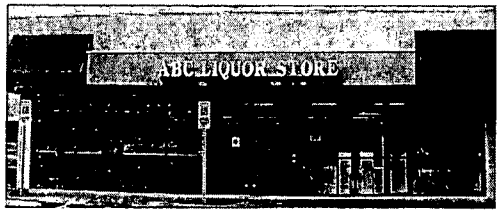


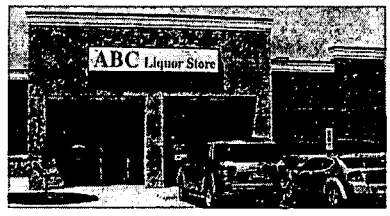
- The effectiveness and efficiency of the ABC system affects revenue collection

See report p. 11

Alcohol Beverage Control System Findings





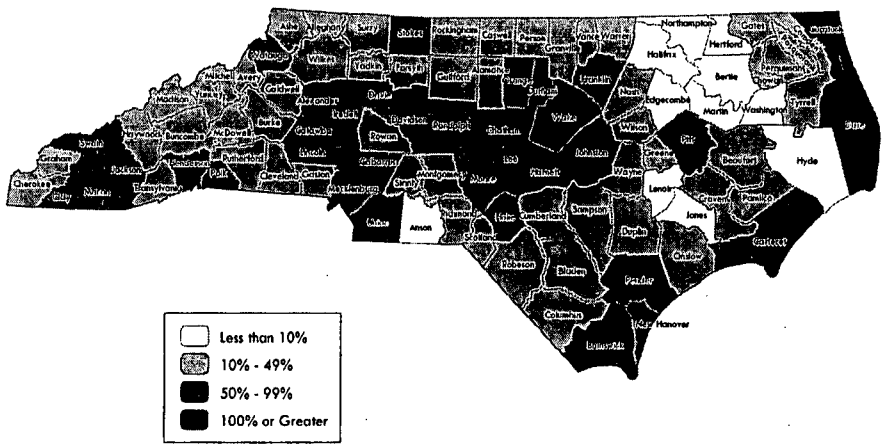


Finding 1: NC's ABC System Has Not Kept Pace with Demographic and Economic Changes in NC

- NC has changed significantly since the ABC system was created in 1935.
  - No longer dominated by small towns and villages
  - Growth concentrated in urban centers, surrounding counties, and tourist areas
  - Population shifts are affecting local board profitability

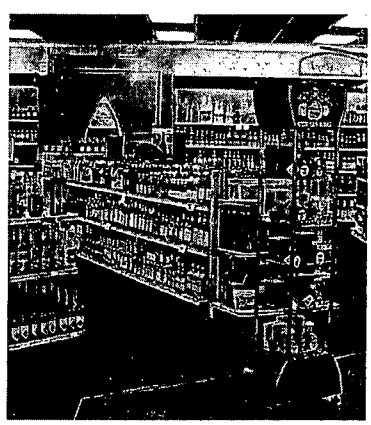
See report pp. 12-17

Changes in NC's Total Population 1970 -2000



Finding 1: NC's ABC System Has Not Kept Pace

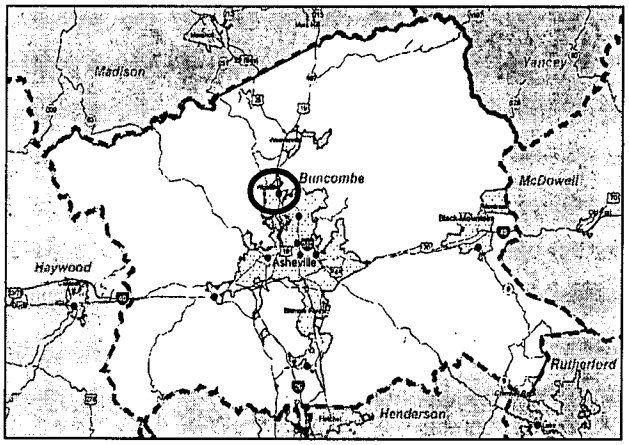
- Equal distribution of retail opportunities no longer exists across counties in NC.
  - People used to shop where they live
  - Increased mobility allows people to shop in areas with large concentration of stores
  - Some counties are losing retail business to other counties
  - Changing shopping patterns affect local board profitability



See report pp. 12-17

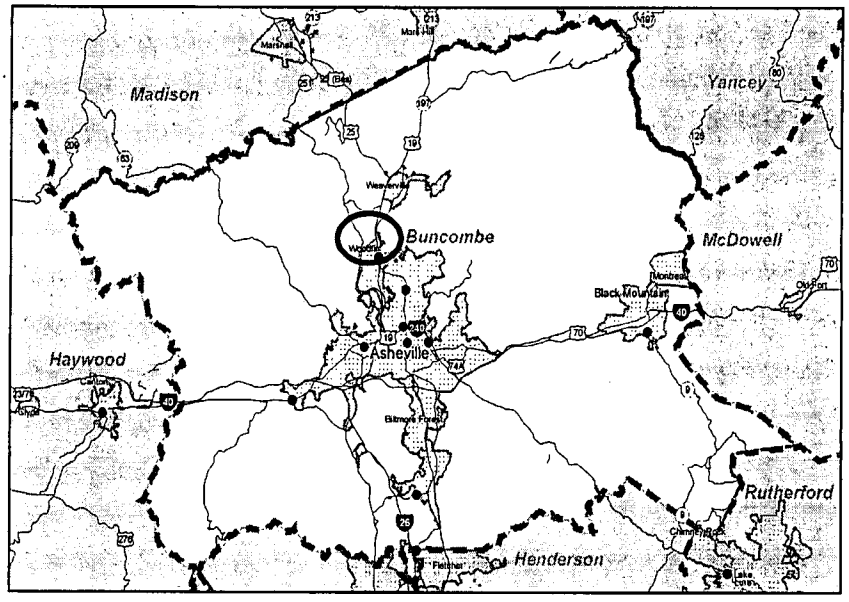
Finding 1: NC's ABC System Has Not Kept Pace

The low threshold for ABC Store elections causes a proliferation of ABC Boards in dry counties.



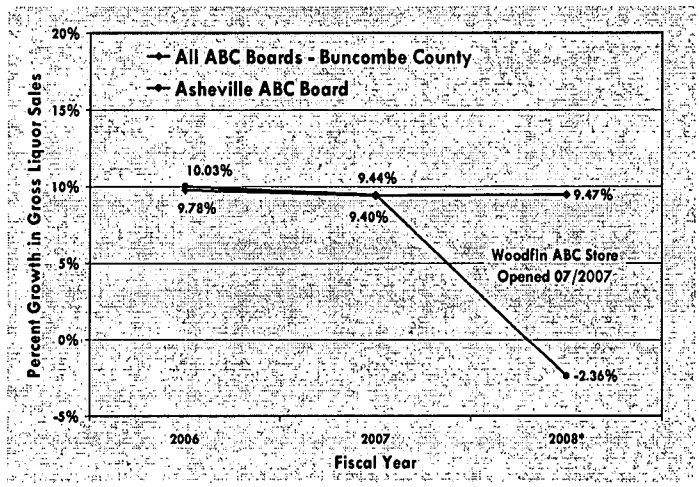
Buncombe County Experience

See report pp. 12-17



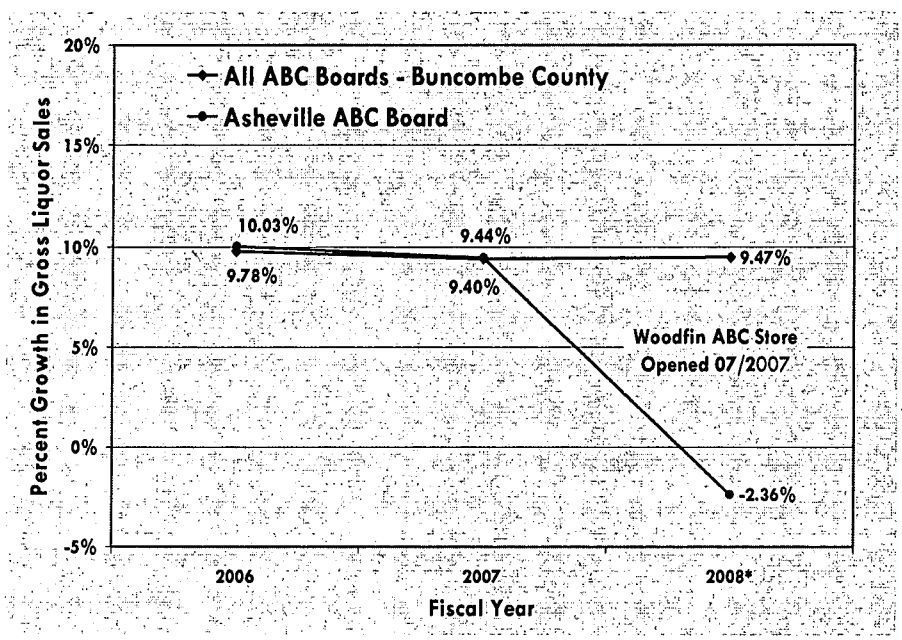
Finding 1: NC's ABC System Has Not Kept Pace

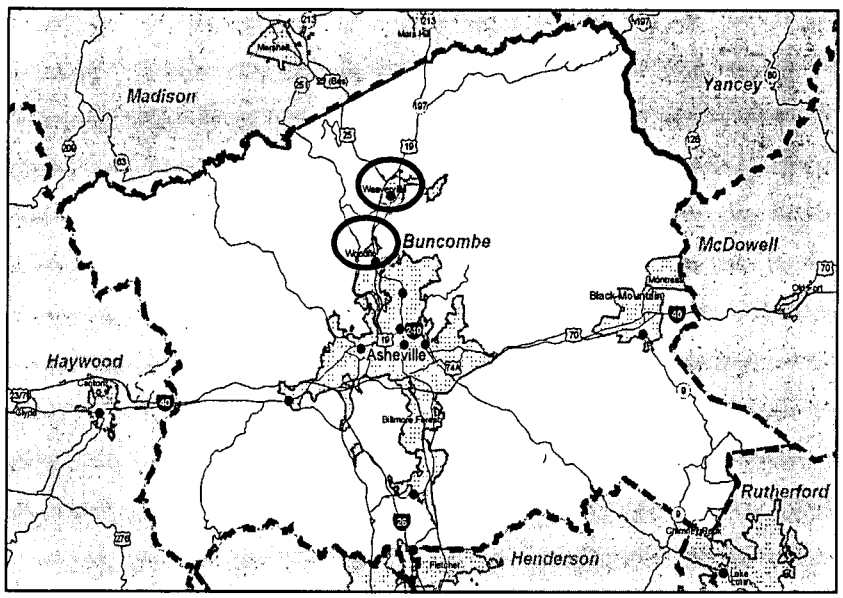
Woodfin ABC Board reduced sales for Asheville ABC Board rather than generating new sales.



Buncombe County Experience

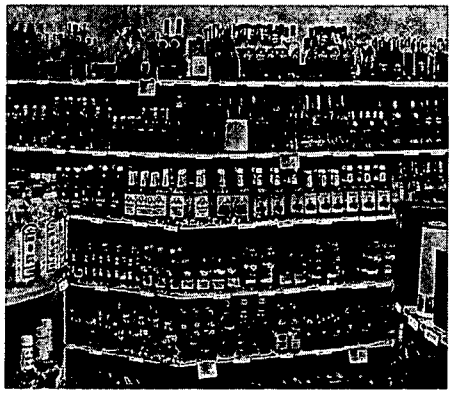
See report pp. 12-17





Finding 1: NC's ABC System Has Not Kept Pace

- **Outdated statutes do not reflect the changed attitudes about access to alcohol:**
  - **ABC store requirement for mixed beverage elections**
  - **Purchase-transportation permits to deter bootlegging**



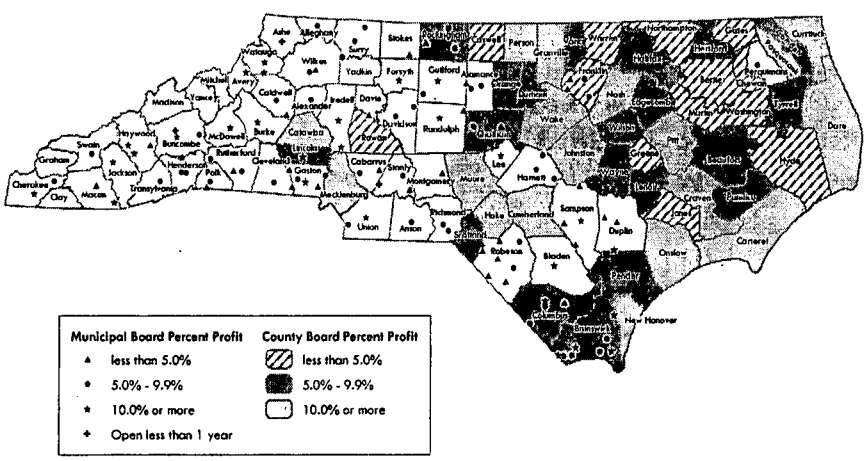
See report pp. 12-17

Finding 2: Statutes Limit the Ability of the ABC Commission to Effectively and Efficiently Manage the ABC System

- Statutes do not allow the ABC Commission to
  - enforce minimum standards for operation and profitability of ABC boards;
  - effectively assist boards in making changes to improve operations; and
  - mandate board consolidations or mergers to improve the ABC system.

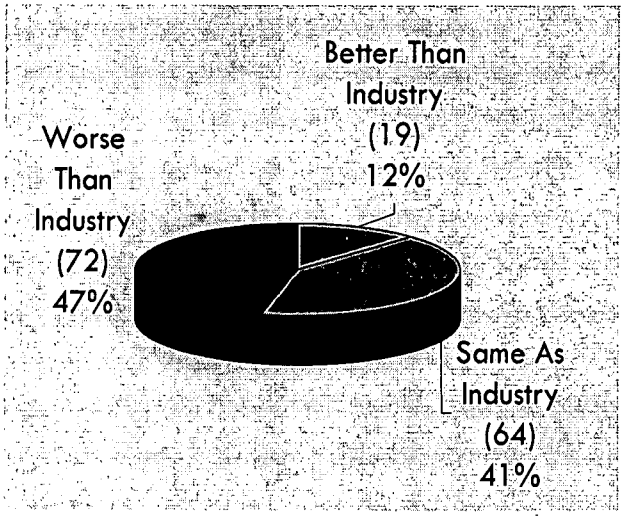
See report pp. 18-25

Local ABC Board Profit Margins for FY 2006-07



Finding 2: Statutes Limit System Management

Some ABC boards have higher operation costs when compared to private liquor retailers.

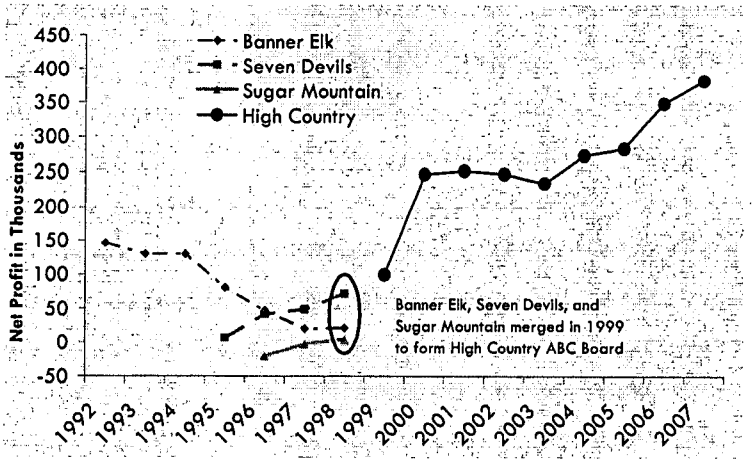


See report pp. 18-25

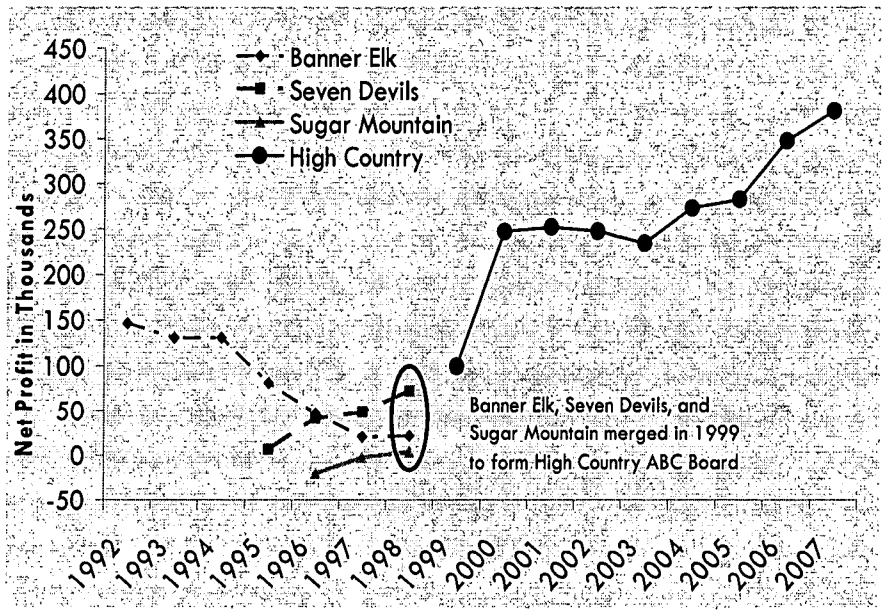
Finding 2: Statutes Limit System Management

Merged boards have seen increased profitability.

Example: High Country ABC Board

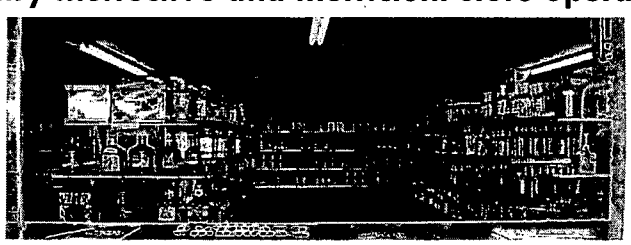


See report pp. 18-25



Finding 3: NC Has Not Clearly Defined the Mission of Local Boards

- Neither ABC statutes nor administrative rules define the mission or purpose of local boards.
- Other control states have clear mission and purpose statements: Virginia and New Hampshire.
- The lack of a clear mission allows local boards to justify ineffective and inefficient store operations.



See report pp. 25-27

Finding 4: NC's System for Regulating the Sale of Liquor Is Different from Other States

- Control states regulate by distributing alcoholic beverages to consumers at state-operated retail stores or as wholesalers through retail establishments.
- Licensing and control states regulate by collecting taxes and licensing suppliers, wholesalers, and retail businesses.

North Carolina is a control state.

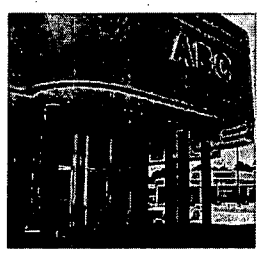
See report pp. 27-32

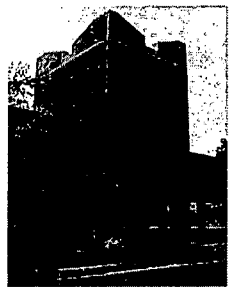
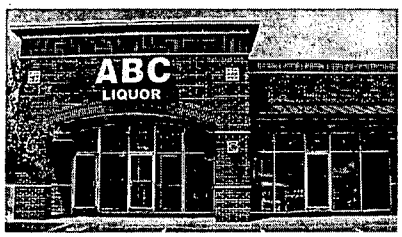
State Control Models

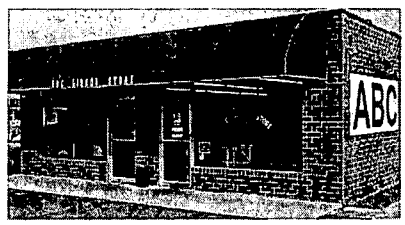
Retail	Agency
New Hampshire	Maine
North Carolina	Montana
Pennsylvania	Ohio
Virginia	Oregon
Montgomery County, Maryland*	Vermont
Worcester County, Maryland*	
Combination	**Wholesale**
Alabama	Iowa
Idaho	Michigan
Utah*	Mississippi
Washington	West Virginia

Note: Asterisks denote the state or county controls the distribution of wine.

Alcohol Beverage Control System: Recommendations

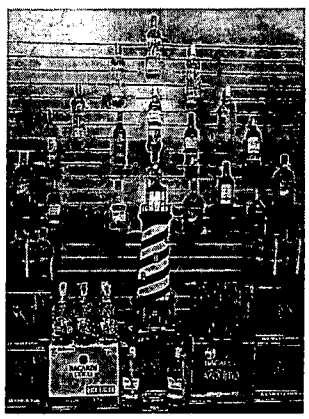





Recommendation 1-A: Modernize NC's ABC System by Defining the Mission of Local Boards

- A mission statement should emphasize the following elements:
  - –Efficient store operation
  - –Profitability and revenue
  - –Convenient access
  - –Excellent customer service
  - –Appropriate control



See report pp. 32-35

Recommendation 1-B: Modernize NC's ABC System by Providing Management Tools for Better Oversight of Local Boards

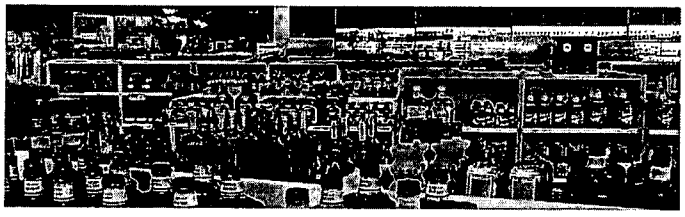
Authorize the ABC Commission to use the following management tools:

- Performance standards
- Local board mergers
- Technical assistance
- Financial incentives
- Agency stores

See report pp. 32-35

Recommendation1-C: Modernize NC's ABC System by Modifying Outdated Statutes

- Increase registered voter threshold for city ABC store elections from 500 to 5,000
- Eliminate ABC store requirement to hold mixed-beverage elections
- Eliminate purchase-transportation permit requirement for liquor



See report pp. 32-35

Recommendation 2: Consider Whether Other Systems for Alcohol Beverage Control Are Appropriate for North Carolina

- Changing the system could affect:
  - State and local revenues from liquor sales
  - Liquor selection and pricing
  - Warehouse ownership and operation
- Changing the system would mean local boards no longer own and operate ABC stores.

See report pp. 32-35

Evaluation Summary

- NC's Alcohol Beverage Control System is outdated and needs modernization.
- Statutory changes will improve the effectiveness and efficiency of the Alcohol Beverage Control system.
- A more effective and efficient ABC system may increase revenue for North Carolina and local governments.
- The North Carolina ABC Commission concurs with the Program Evaluation Division's recommendations.

Report available online

http://www.ncleg.net/PED/Reports/Topics/GovernmentOperations.html

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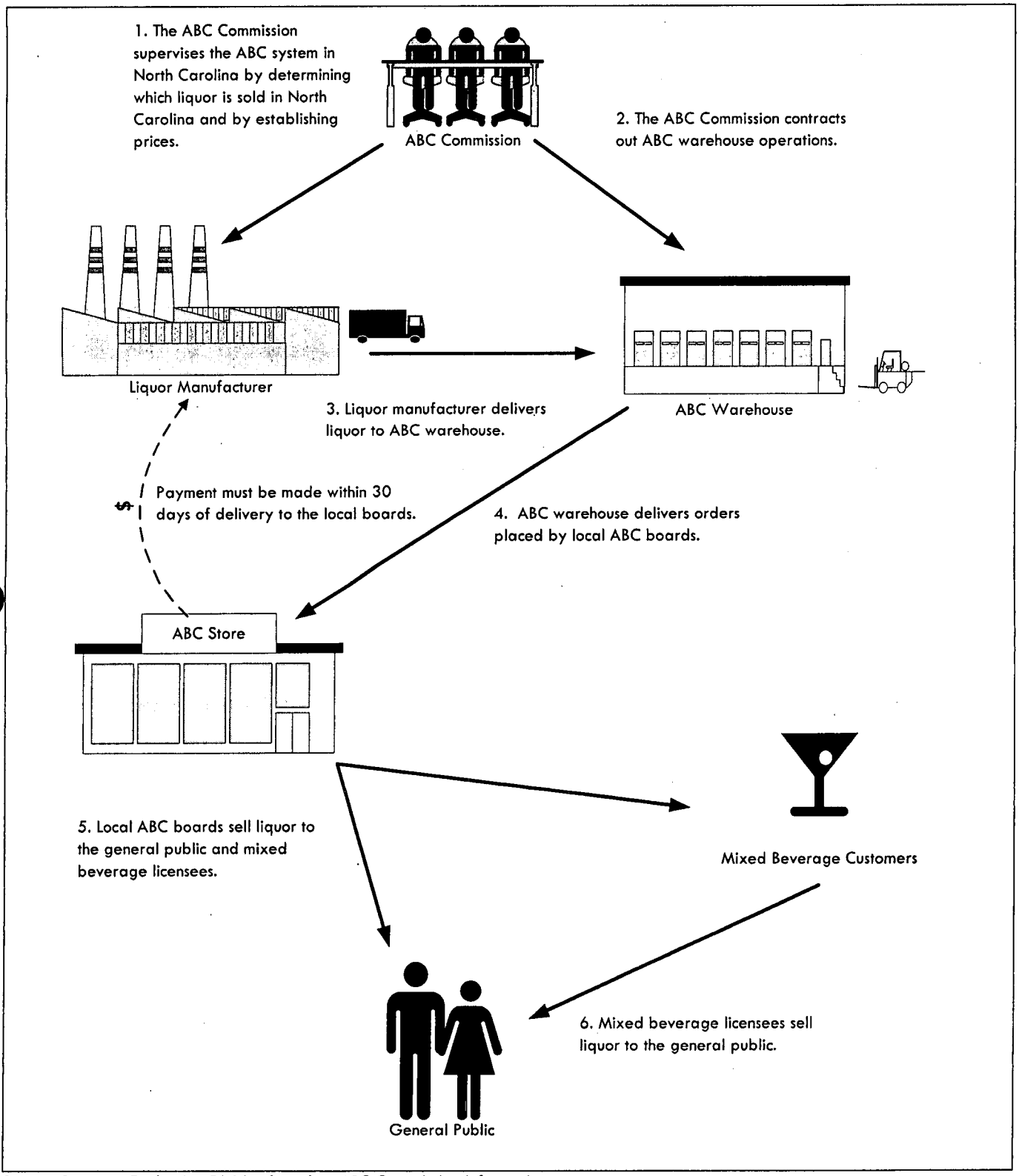
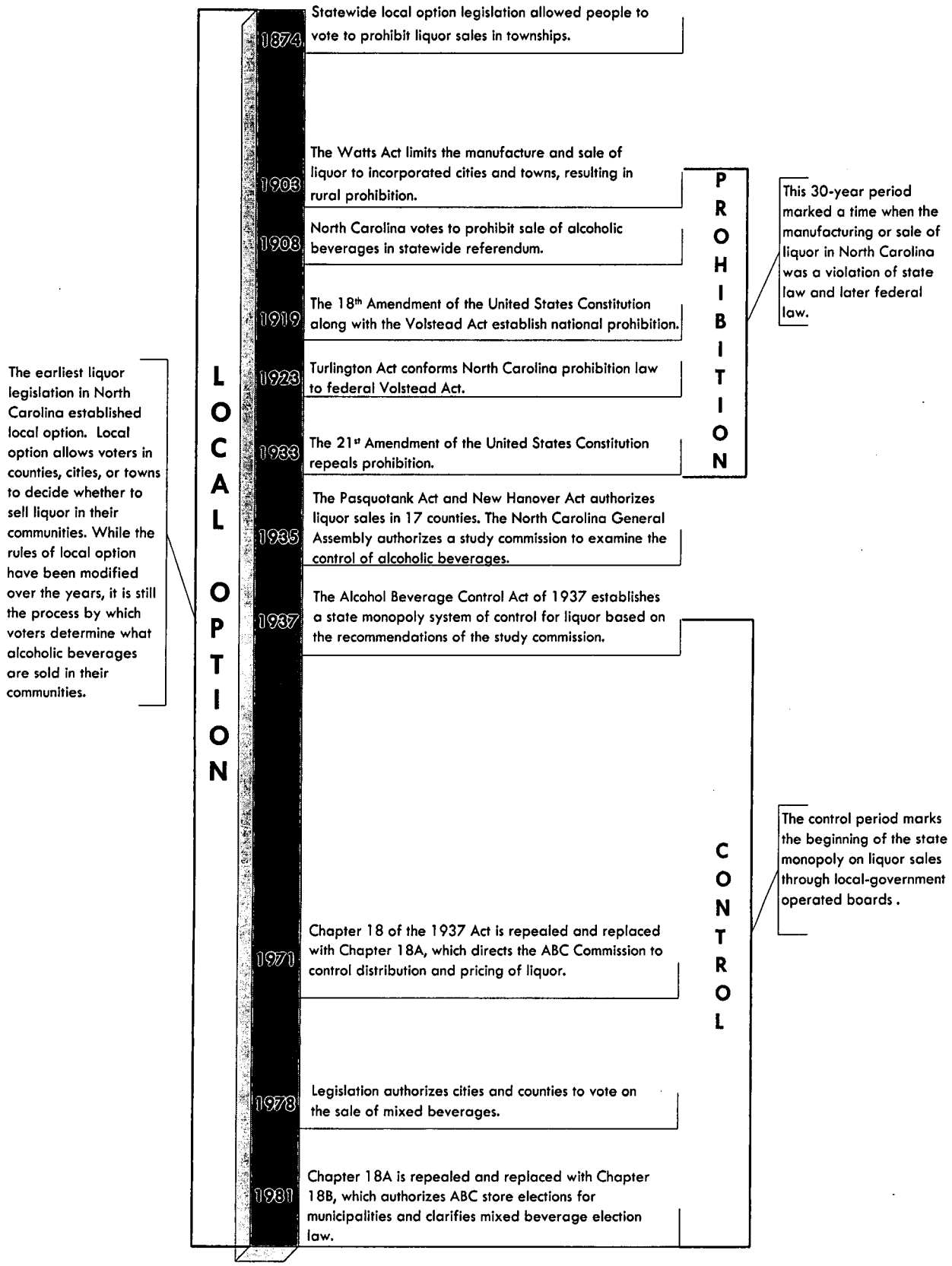
ATTACHMENT 3

Exhibit 2: North Carolina Alcohol Beverage Control Distribution System



Source: Program Evaluation Division based on ABC Commission information.

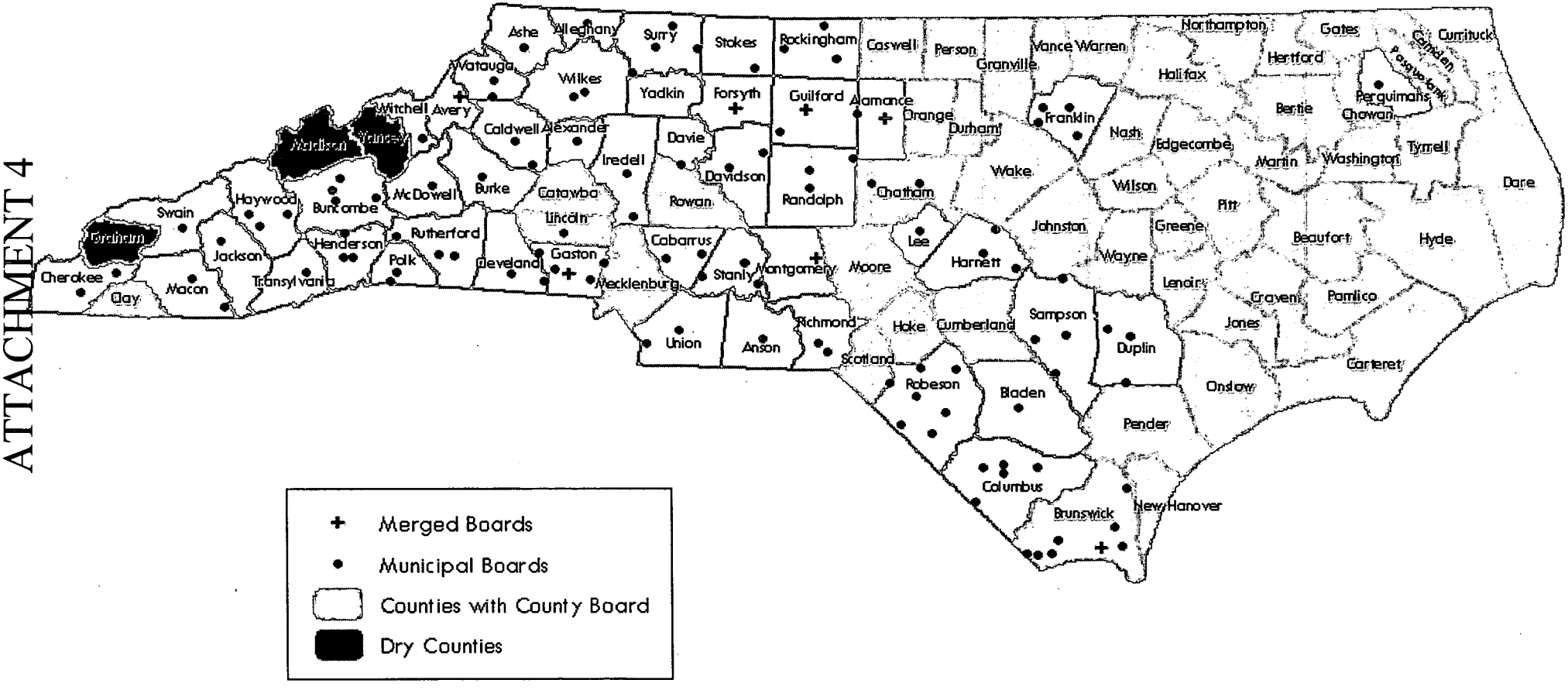
Exhibit 1: History of Alcohol Beverage Control in North Carolina



Source: Program Evaluation Division based on North Carolina Session Laws and other historical documents.

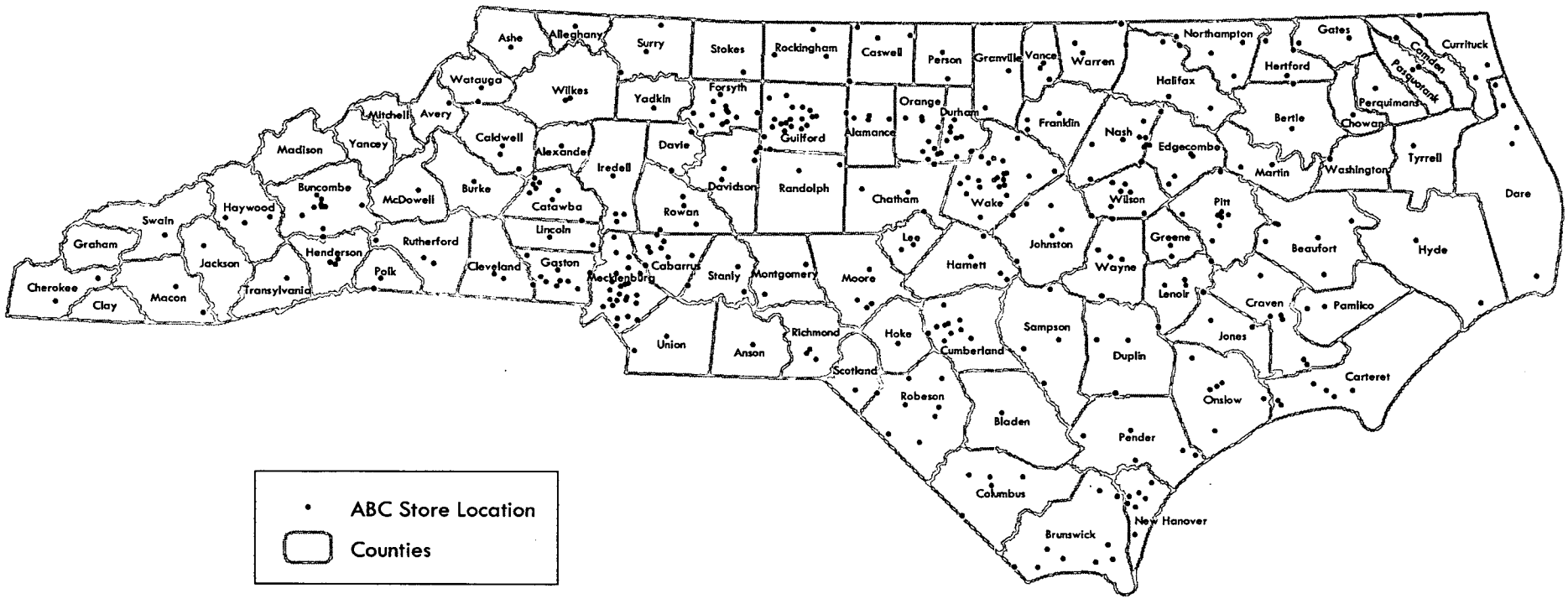
ATTACHMENT 4

North Carolina Local ABC Boards



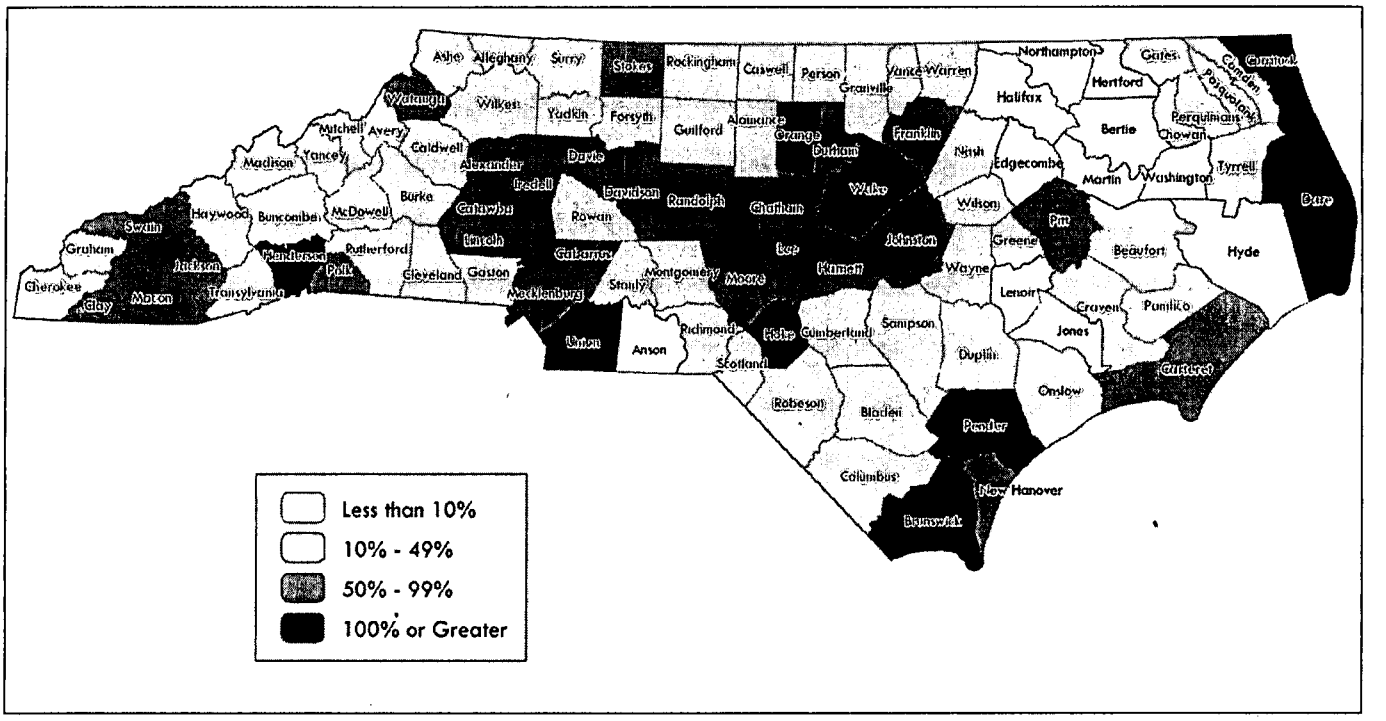
ATTACHMENT 4

Exhibit 5: North Carolina ABC Stores



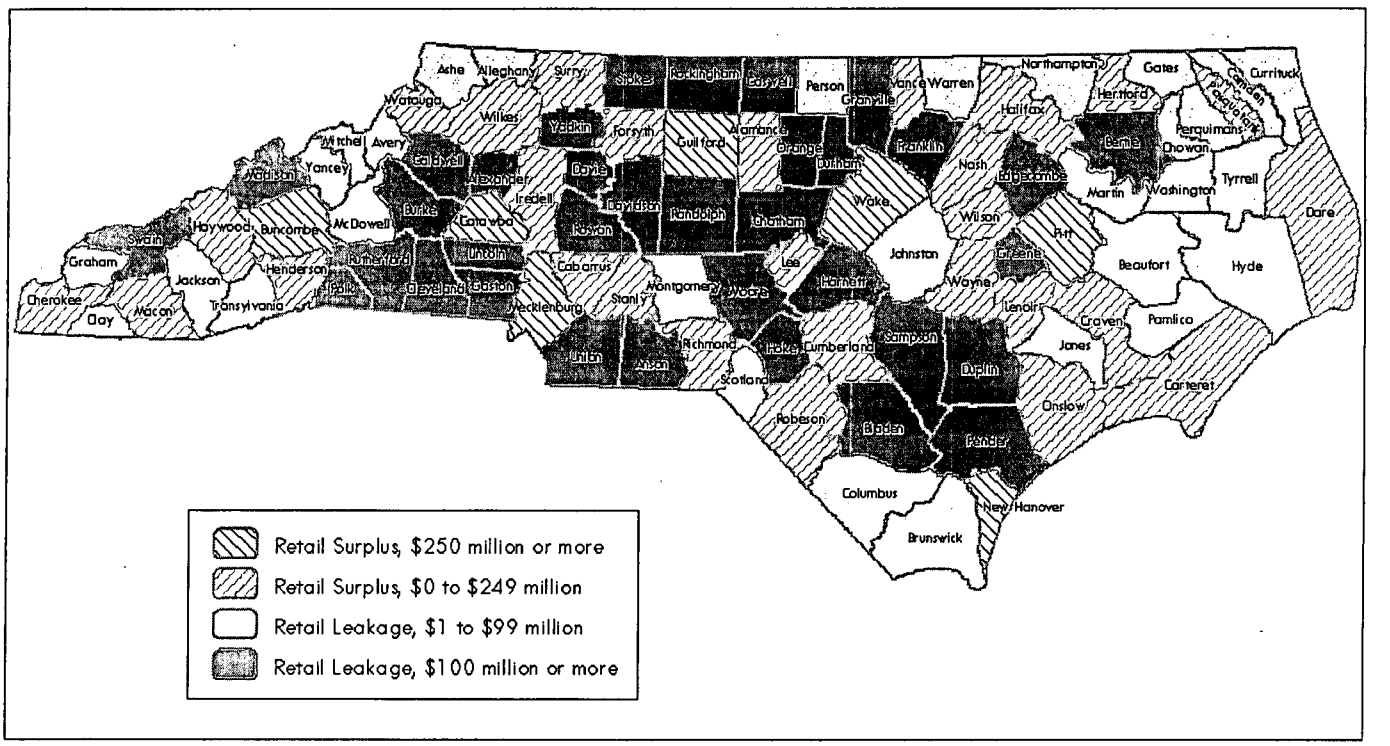
Source: Program Evaluation Division and Information Systems Division based on information from the North Carolina ABC Commission.

Exhibit 7: Changes in North Carolina's Total Population, 1970-2000



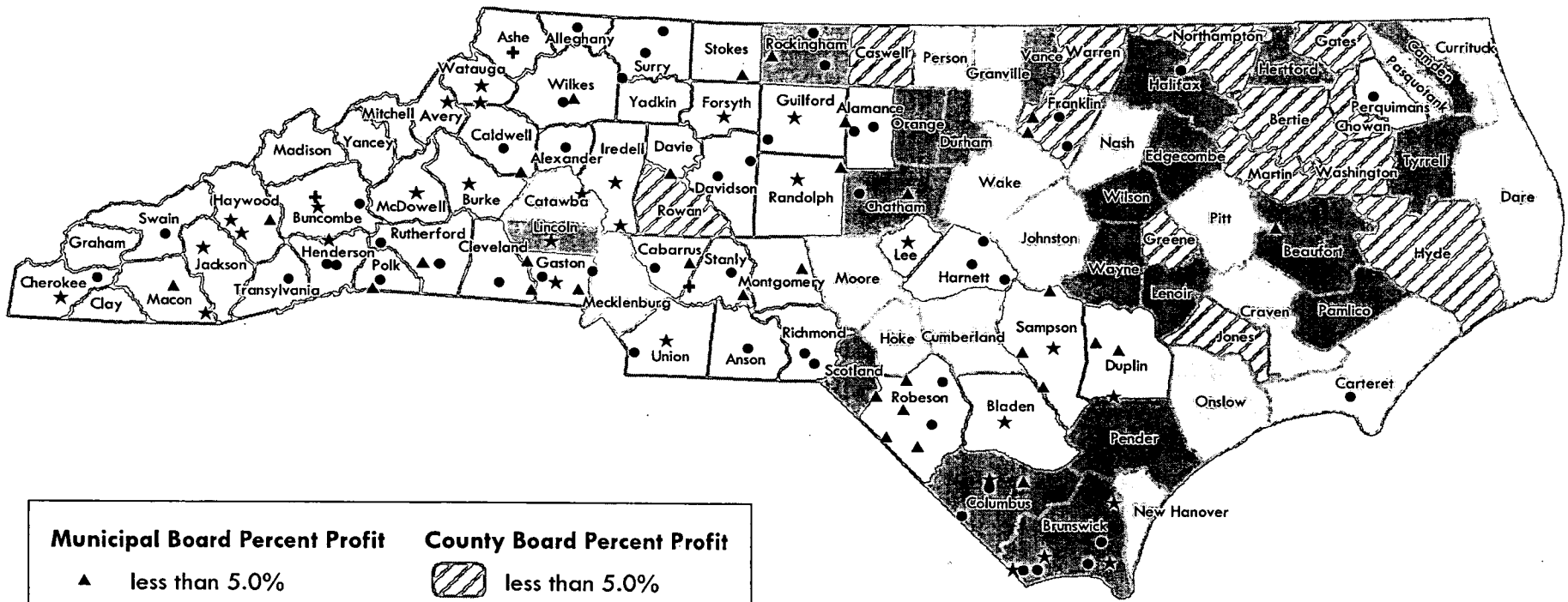
Source: Program Evaluation Division based on the United States Bureau of the Census.

Exhibit 8: Retail Surpluses and Leakages, 2000-2004



Source: Program Evaluation Division based on data from the Department of Geography and Earth Sciences, The University of North Carolina Retrieved September 1, 2008, from www.ncatlasrevisited.org.

Exhibit 10: North Carolina Local ABC Board Profit Margins for Fiscal Year 2006-07



Source: Program Evaluation Division and Information Systems Division based on information from the North Carolina ABC Commission.

ATTACHMENT 5

ATTACHMENT 6

Exhibit 17: Impact of Control Models on Alcohol Beverage Control

ABC System Operations	North Carolina Today	State Retail Model	Agency Store Model	Warehouse Model	Licensure Model
1. State government controls liquor selection	Yes	Yes	Yes	Yes	No
2. State government controls liquor pricing	Yes	Yes	Yes	Yes	No
3. State government operates a central warehouse	Yes	Yes	Yes	Yes	No
4. Requires creation of licensing standards for sale of liquor by agency/private retailers	No	No	Yes	Yes	Yes
5. State government operates ABC stores	No	Yes	No	No	No
6. Local governments operate ABC stores	Yes	No	No	No	No
ABC System Profitability	**North Carolina Today**	**State Retail Model**	**Agency Store Model**	**Warehouse Model**	**Licensure Model**
1. Provides state revenue through excise and sales taxes	Yes	Yes	Yes	Yes	Yes
2. Provides revenue for local governments if revenue sharing is required	Yes	Yes	Yes	Yes	Yes
3. Local governments receive one-time windfall from sale of all ABC stores	No[i]	Yes	Yes	Yes	Yes
4. Increases liquor prices to maintain state and local revenues and allow private business to profit	No	No	No	Yes	Yes
5. Increases excise tax rate to maintain state and local revenues	No	No	No	No	Yes

Note:
[i] Under current law, an individual local board can choose to close and sell its store(s) and distribute revenue from the sale.

Source: Program Evaluation Division.

State Retail Model. State government controls the wholesale and retail distribution of liquor, determines brands and pricing of liquor sold in the state; and maintains a warehouse for distribution. The retail sale of alcoholic beverages occurs in stores owned, maintained, and operated by state government.

Agency Store Model. State government controls wholesale and retail distribution of liquor, but the retail sale of alcoholic beverages is handled by contracted agency stores selling liquor on behalf of the government. State governments pay agency or contract stores a commission or sell alcoholic beverages to agency stores at a discount. The state determines brands and pricing of liquor sold in the state and maintains a warehouse for distribution to the agency stores.

Wholesale Model. State government controls the wholesale distribution of liquor. The retail sale of liquor is handled by private retail businesses licensed by the state. The state determines brands and pricing of liquor sold in the state and maintains a warehouse for distribution to private retail businesses.

Licensure Model. State government regulates the distribution of alcoholic beverages by licensing suppliers, wholesalers, and retail business selling alcoholic beverages and collecting taxes on these beverages. These states do not control retail or wholesale distribution of alcoholic beverages.

Appendix A.1: ABC Boards -- 2010 Descriptive Information

Board Number	Board Name	Type of System	Year Established	County(ies) of Operation	County Is Dry	Mixed-Beverage Sales	Board Members	Rural vs. Urban County	Geographic Region
B025	Currituck County	County	1937	Currituck	N	Y	5	Rural	Coastal Plain
B026	Dare County	County	1937	Dare	N	Y	3	Rural	Coastal Plain
B121	Dobson	Municipal	1971	Surry	Y	N	3	Rural	Mountain
B027	Dunn	Municipal	1949	Harnett	Y	Y	3	Rural	Coastal Plain
B028	Durham County	County	1937	Durham	N	Y	5	Urban	Piedmont
B148	Eden	Municipal	1983	Rockingham	Y	Y	3	Rural	Piedmont
B029	Edgecombe County	County	1935	Edgecombe	N	Y	5	Rural	Coastal Plain
B144	Elizabethtown	Municipal	1981	Bladen	Y	Y	3	Rural	Coastal Plain
B146	Elkin	Municipal	1982	Surry	Y	Y	3	Rural	Mountain
B031	Fairmont	Municipal	1967	Robeson	Y	N	3	Rural	Coastal Plain
B159	Fletcher	Municipal	1991	Henderson	Y	Y	3	Rural	Mountain
B168	Forest City	Municipal	2002	Rutherford	Y	Y	3	Rural	Mountain
B160	Franklin	Municipal	1994	Macon	Y	Y	3	Rural	Mountain
B033	Franklinton	Municipal	1947	Franklin	Y	N	3	Rural	Piedmont
B034	Garland	Municipal	1969	Sampson	Y	N	3	Rural	Coastal Plain
B035	Gastonia	Merged	1967	Gaston	Y	Y	5	Urban	Piedmont
B036	Gates County	County	1935	Gates	N	N	3	Rural	Coastal Plain
B156	Gibsonville	Municipal	1988	Guilford	Y	Y	3	Urban	Piedmont
B037	Granite Falls	Municipal	1963	Caldwell	Y	Y	3	Rural	Mountain
B038	Granville County	County	1937	Granville	N	Y	3	Rural	Piedmont
B039	Greene County	County	1935	Greene	N	N	3	Rural	Coastal Plain
B040	Greensboro	Merged	1951	Guilford	Y	Y	5	Urban	Piedmont
B041	Halifax County	County	1935	Halifax	N	Y	3	Rural	Coastal Plain
B042	Hamlet	Municipal	1963	Richmond	Y	Y	4	Rural	Piedmont
B043	Hendersonville	Municipal	1955	Henderson	Y	Y	3	Rural	Mountain
B045	Hertford	Municipal	1961	Perquimans	Y	Y	3	Rural	Coastal Plain
B044	Hertford County	County	1935	Hertford	N	Y	3	Rural	Coastal Plain
B165	High Country	Merged	1998	Avery, Watauga	Y	Y	3	Rural	Mountain
B123	High Point	Municipal	1977	Guilford	Y	Y	5	Urban	Piedmont
B126	Highlands	Municipal	1977	Macon	Y	Y	3	Rural	Mountain
B046	Hoke County	County	1937	Hoke	N	Y	3	Rural	Coastal Plain
B130	Hyde County	County	1973	Hyde	N	Y	3	Rural	Coastal Plain
B049	Johnston County	County	1964	Johnston	N	Y	3	Rural	Coastal Plain
B050	Jones County	County	1937	Jones	N	N	3	Rural	Coastal Plain
B051	Kenansville	Municipal	1965	Duplin	Y	Y	5	Rural	Coastal Plain
B154	Kings Mountain	Municipal	1969	Cleveland	Y	Y	5	Rural	Piedmont

ATTACHMENT 7

Appendix A.1: ABC Boards -- 2010 Descriptive Information

Board Number	Board Name	Type of System	Year Established	County(ies) of Operation	County Is Dry	Mixed-Beverage Sales	Board Members	Rural vs. Urban County	Geographic Region
B013	Alamance Municipal	Merged	1961	Alamance	N	Y	6	Urban	Piedmont
B164	Albemarle	Municipal	1979	Stanly	Y	Y	3	Rural	Piedmont
B001	Andrews	Municipal	1967	Cherokee	Y	Y	3	Rural	Mountain
B002	Angier	Municipal	1969	Harnett	Y	Y	5	Rural	Coastal Plain
B174	Asheboro	Municipal	2007	Randolph	Y	Y	3	Rural	Piedmont
B003	Asheville	Municipal	1947	Buncombe	Y	Y	5	Urban	Mountain
B004	Beaufort County	County	1935	Beaufort	N	Y	3	Rural	Coastal Plain
B132	Belville	Municipal	1979	Brunswick	N	N	3	Rural	Coastal Plain
B005	Bertie County	County	1937	Bertie	N	N	5	Rural	Coastal Plain
B006	Bessemer City	Municipal	1969	Gaston	Y	Y	4	Urban	Piedmont
B007	Black Mountain	Municipal	1971	Buncombe	Y	N	3	Urban	Mountain
B008	Blowing Rock	Municipal	1965	Watauga	Y	Y	3	Rural	Mountain
B137	Boiling Spring Lakes	Municipal	1975	Brunswick	N	Y	3	Rural	Coastal Plain
B152	Boone	Municipal	1986	Watauga	Y	Y	3	Rural	Mountain
B010	Brevard	Municipal	1967	Transylvania	Y	Y	3	Rural	Mountain
B011	Brunswick	Municipal	1967	Columbus	Y	N	3	Rural	Coastal Plain
B158	Brunswick County	County	1989	Brunswick	N	Y	3	Rural	Coastal Plain
B133	Bryson City	Municipal	1979	Swain	Y	Y	3	Rural	Mountain
B012	Bunn	Municipal	1963	Franklin	Y	N	3	Rural	Piedmont
B129	Calabash	Municipal	1974	Brunswick	N	Y	3	Rural	Coastal Plain
B014	Camden County	County	1937	Camden	N	N	3	Rural	Coastal Plain
B140	Canton	Municipal	1967	Haywood	Y	Y	3	Rural	Mountain
B015	Carteret County	County	1935	Carteret	N	Y	5	Rural	Coastal Plain
B016	Caswell County	County	1937	Caswell	N	N	3	Rural	Piedmont
B017	Catawba County	County	1937	Catawba	N	Y	5	Urban	Piedmont
B151	Chatham County	County	1984	Chatham	N	Y	3	Rural	Piedmont
B145	Cherryville	Municipal	1975	Gaston	Y	Y	3	Urban	Piedmont
B019	Chowan County	County	1937	Chowan	N	Y	3	Rural	Coastal Plain
B179	Clay County	County	2009	Clay	N	Y	3	Rural	Mountain
B020	Clinton	Municipal	1957	Sampson	Y	Y	3	Rural	Coastal Plain
B157	Columbus	Municipal	1989	Polk	Y	Y	3	Rural	Mountain
B022	Concord	Municipal	1967	Cabarrus	Y	Y	3	Urban	Piedmont
B155	Cooleemee	Municipal	1987	Davie	Y	Y	3	Rural	Piedmont
B172	Cramerton	Municipal	2006	Gaston	Y	Y	3	Urban	Piedmont
B023	Craven County	County	1937	Craven	N	Y	3	Rural	Coastal Plain
B024	Cumberland County	County	1937	Cumberland	N	Y	5	Urban	Coastal Plain

Appendix A.1: ABC Boards -- 2010 Descriptive Information

Board Number	Board Name	Type of System	Year Established	County(ies) of Operation	County Is Dry	Mixed-Beverage Sales	Board Members	Rural vs. Urban County	Geographic Region
B076	Onslow County	County	1935	Onslow	N	Y	5	Rural	Coastal Plain
B077	Orange County	County	1937	Orange	N	Y	5	Urban	Piedmont
B078	Pamlico County	County	1937	Pamlico	N	Y	3	Rural	Coastal Plain
B079	Pasquotank County	County	1935	Pasquotank	N	Y	5	Rural	Coastal Plain
B080	Pembroke	Municipal	1967	Robeson	Y	N	3	Rural	Coastal Plain
B081	Pender County	County	1963	Pender	N	Y	3	Rural	Coastal Plain
B082	Person County	County	1937	Person	N	Y	3	Rural	Piedmont
B176	Pilot Mountain	Municipal	2008	Surry	Y	Y	3	Rural	Mountain
B083	Pitt County	County	1935	Pitt	N	Y	5	Rural	Coastal Plain
B084	Pittsboro	Municipal	1967	Chatham	N	N	3	Rural	Piedmont
B085	Randleman	Municipal	1965	Randolph	Y	Y	3	Rural	Piedmont
B119	Red Springs	Municipal	1967	Robeson	Y	N	3	Rural	Coastal Plain
B086	Reidsville	Municipal	1965	Rockingham	Y	Y	3	Rural	Piedmont
B087	Rockingham	Municipal	1965	Richmond	Y	Y	3	Rural	Piedmont
B088	Roseboro	Municipal	1963	Sampson	Y	N	3	Rural	Coastal Plain
B089	Rowan/Kannapolis	County	1937	Rowan	N	Y	3	Urban	Piedmont
B090	Rowland	Municipal	1967	Robeson	Y	N	3	Rural	Coastal Plain
B135	Rutherfordton	Municipal	1975	Rutherford	Y	Y	3	Rural	Mountain
B091	Saint Pauls	Municipal	1967	Robeson	Y	N	3	Rural	Coastal Plain
B092	Sanford	Municipal	1961	Lee	Y	Y	3	Rural	Piedmont
B093	Scotland County	County	1937	Scotland	N	Y	3	Rural	Coastal Plain
B094	Shallotte	Municipal	1959	Brunswick	N	Y	3	Rural	Coastal Plain
B122	Shelby	Municipal	1969	Cleveland	Y	Y	5	Rural	Piedmont
B149	Siler City	Municipal	1983	Chatham	N	Y	3	Rural	Piedmont
B095	Southport	Municipal	1957	Brunswick	N	Y	3	Rural	Coastal Plain
B096	Sparta	Municipal	1961	Alleghany	Y	Y	3	Rural	Mountain
B177	Spruce Pine	Municipal	2009	Mitchell	Y	Y	3	Rural	Mountain
B120	Statesville	Municipal	1965	Iredell	Y	Y	3	Rural	Piedmont
B097	Sunset Beach	Municipal	1969	Brunswick	N	Y	3	Rural	Coastal Plain
B098	Sylva	Municipal	1967	Jackson	Y	Y	3	Rural	Mountain
B139	Tabor City	Municipal	1967	Columbus	Y	N	3	Rural	Coastal Plain
B099	Taylorsville	Municipal	1965	Alexander	Y	Y	3	Rural	Piedmont
B167	Thomasville	Municipal	1999	Davidson	Y	Y	3	Urban	Piedmont
B115	Triad Municipal	Merged	1951	Forsyth, Davie, Guilford, Yadkin	Y	Y	9	Urban	Piedmont
B100	Tryon	Municipal	1951	Polk	Y	Y	3	Rural	Mountain
B101	Tyrrell County	County	1937	Tyrrell	N	N	3	Rural	Coastal Plain

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Appendix A.1: ABC Boards -- 2010 Descriptive Information

Board Number	Board Name	Type of System	Year Established	County(ies) of Operation	County Is Dry	Mixed-Beverage Sales	Board Members	Rural vs. Urban County	Geographic Region
B136	Lake Lure	Municipal	1979	Rutherford	Y	Y	3	Rural	Mountain
B052	Lake Waccamaw	Municipal	1967	Columbus	Y	N	3	Rural	Coastal Plain
B141	Laurel Park	Municipal	1981	Henderson	Y	Y	3	Rural	Mountain
B125	Lenoir	Municipal	1977	Caldwell	Y	Y	3	Rural	Mountain
B053	Lenoir County	County	1935	Lenoir	N	Y	3	Rural	Coastal Plain
B054	Lexington	Municipal	1965	Davidson	Y	Y	3	Urban	Piedmont
B128	Liberty	Municipal	1973	Randolph	Y	N	3	Rural	Piedmont
B055	Lillington	Municipal	1963	Harnett	Y	Y	3	Rural	Coastal Plain
B169	Lincoln County	County	2002	Lincoln	N	Y	3	Rural	Piedmont
B056	Lincolnton	Municipal	1967	Lincoln	N	Y	3	Rural	Piedmont
B173	Locust	Municipal	2008	Stanly	Y	N	3	Rural	Piedmont
B058	Louisburg	Municipal	1947	Franklin	Y	Y	3	Rural	Piedmont
B153	Lumberton	Municipal	1967	Robeson	Y	Y	3	Rural	Coastal Plain
B059	Madison	Municipal	1969	Rockingham	Y	Y	3	Rural	Piedmont
B134	Maggie Valley	Municipal	1979	Haywood	Y	Y	3	Rural	Mountain
B150	Marion	Municipal	1984	McDowell	Y	Y	3	Rural	Mountain
B060	Martin County	County	1935	Martin	N	Y	5	Rural	Coastal Plain
B061	Maxton	Municipal	1967	Robeson	Y	Y	4	Rural	Coastal Plain
B062	Mecklenburg County	County	1947	Mecklenburg	N	Y	5	Urban	Piedmont
B063	Monroe	Municipal	1963	Union	Y	Y	3	Rural	Piedmont
B064	Montgomery-Municipal	Merged	1969	Montgomery	Y	Y	5	Rural	Piedmont
B065	Moore County	County	1937	Moore	N	Y	3	Rural	Piedmont
B066	Mooresville	Municipal	1965	Iredell	Y	Y	3	Rural	Piedmont
B067	Morganton	Municipal	1963	Burke	Y	Y	3	Rural	Mountain
B131	Mount Airy	Municipal	1971	Surry	Y	Y	3	Rural	Mountain
B170	Mount Holly	Municipal	2003	Gaston	Y	N	3	Urban	Piedmont
B068	Mount Pleasant	Municipal	1967	Cabarrus	Y	N	3	Urban	Piedmont
B138	Murphy	Municipal	1979	Cherokee	Y	Y	3	Rural	Mountain
B069	Nash County	County	1935	Nash	N	Y	3	Rural	Coastal Plain
B070	New Hanover County	County	1935	New Hanover	N	Y	3	Urban	Coastal Plain
B071	Newton Grove	Municipal	1971	Sampson	Y	N	3	Rural	Coastal Plain
B072	North Wilkesboro	Municipal	1965	Wilkes	Y	Y	3	Rural	Mountain
B073	Northampton County	County	1935	Northampton	N	N	3	Rural	Coastal Plain
B074	Norwood	Municipal	1965	Stanly	Y	Y	3	Rural	Piedmont
B166	Oak Island	Merged	1999	Brunswick	N	Y	3	Rural	Coastal Plain
B075	Ocean Isle Beach	Municipal	1961	Brunswick	N	Y	3	Rural	Coastal Plain

Appendix A.1: ABC Boards -- 2010 Descriptive Information

Board Number	Board Name	Type of System	Year Established	County(ies) of Operation	County Is Dry	Mixed-Beverage Sales	Board Members	Rural vs. Urban County	Geographic Region
B102	Vance County	County	1935	Vance	N	Y	5	Rural	Piedmont
B103	Wadesboro	Municipal	1963	Anson	Y	Y	5	Rural	Piedmont
B104	Wake County	County	1937	Wake	N	Y	5	Urban	Piedmont
B105	Wallace	Municipal	1965	Duplin	Y	Y	3	Rural	Coastal Plain
B106	Walnut Cove	Municipal	1969	Stokes	Y	N	3	Rural	Piedmont
B107	Warren County	County	1935	Warren	N	Y	3	Rural	Piedmont
B108	Warsaw	Municipal	1965	Duplin	Y	N	3	Rural	Coastal Plain
B109	Washington County	County	1937	Washington	N	Y	3	Rural	Coastal Plain
B124	Waxhaw	Municipal	1977	Union	Y	N	3	Rural	Piedmont
B110	Wayne County	County	1937	Wayne	N	Y	5	Rural	Coastal Plain
B111	Waynesville	Municipal	1967	Haywood	Y	Y	3	Rural	Mountain
B175	Weaverville	Municipal	2007	Buncombe	Y	N	3	Urban	Mountain
B018	West Columbus	Municipal	2005	Columbus	Y	N	3	Rural	Coastal Plain
B161	West Jefferson	Municipal	2007	Ashe	Y	Y	3	Rural	Mountain
B112	Whiteville	Municipal	1967	Columbus	Y	Y	3	Rural	Coastal Plain
B113	Wilkesboro	Municipal	1965	Wilkes	Y	Y	3	Rural	Mountain
B114	Wilson County	County	1935	Wilson	N	Y	3	Rural	Coastal Plain
B171	Woodfin	Municipal	2006	Buncombe	Y	Y	3	Urban	Mountain
B117	Youngsville	Municipal	1971	Franklin	Y	N	3	Rural	Piedmont

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Appendix A.2: ABC Boards -- 2009 Financial Information

Board Number	Board Name	Retail Sales	Mixed-Beverage Sales	Total Sales (including fortified wine)	Profit Before Distributions	Profit Percentage	Operating Expenses	Operating Margin	Profit Rank
B013	Alamance Municipal	$ 7,002,038	$ 1,601,122	$ 8,603,160	$ 734,021	8.45%	$ 1,496,108	17.39%	52
B164	Albemarle	$ 1,990,824	$ 221,767	$ 2,224,146	$ 190,284	8.55%	$ 376,790	16.94%	51
B001	Andrews	$ 603,435	$ 1,306	$ 609,250	$ 55,750	9.14%	$ 95,729	15.71%	41
B002	Angier	$ 1,038,170	$ 3,153	$ 1,043,935	$ 24,046	2.30%	$ 240,380	23.03%	139
B174	Asheboro	$ 1,333,128	$ 136,037	$ 1,472,694	$ 129,639	8.80%	$ 246,078	16.71%	46
B003	Asheville	$ 13,034,735	$ 6,086,753	$ 19,171,438	$ 1,647,496	8.61%	$ 3,292,917	17.18%	50
B004	Beaufort County	$ 3,825,550	$ 304,874	$ 4,142,059	$ 231,500	5.57%	$ 824,929	19.92%	91
B132	Belville	$ 2,121,711	$ -	$ 2,121,711	$ 57,759	2.72%	$ 470,381	22.17%	138
B005	Bertie County	$ 656,678	$ -	$ 656,678	$ (48,185)	-7.26%	$ 214,469	32.66%	158
B006	Bessemer City	$ 471,080	$ 10,714	$ 483,209	$ 19,414	4.00%	$ 112,437	23.27%	117
B007	Black Mountain	$ 1,517,501	$ -	$ 1,517,501	$ 71,645	4.72%	$ 308,787	20.35%	108
B008	Blowing Rock	$ 905,016	$ 625,266	$ 1,536,552	$ 184,023	11.94%	$ 233,367	15.19%	13
B137	Boiling Spring Lakes	$ 503,651	$ 2,314	$ 505,965	$ 16,651	3.29%	$ 108,324	21.41%	127
B152	Boone	$ 3,949,115	$ 635,180	$ 4,608,049	$ 652,679	14.20%	$ 559,796	12.15%	4
B010	Brevard	$ 2,160,044	$ 442,154	$ 2,625,263	$ 252,098	9.59%	$ 421,531	16.06%	39
B011	Brunswick	$ 459,120	$ -	$ 459,120	$ 35,432	7.70%	$ 81,492	17.75%	61
B158	Brunswick County	$ 1,790,246	$ 371,855	$ 2,162,101	$ 96,825	4.57%	$ 419,249	19.39%	110
B133	Bryson City	$ 1,428,479	$ 137,707	$ 1,574,224	$ 97,311	6.18%	$ 294,338	18.70%	86
B012	Bunn	$ 689,292	$ -	$ 689,417	$ 35,640	5.16%	$ 132,122	19.16%	100
B129	Calabash	$ 1,210,114	$ 251,459	$ 1,472,706	$ 167,171	11.22%	$ 226,302	15.37%	25
B014	Camden County	$ 1,049,696	$ -	$ 1,049,696	$ 34,007	3.23%	$ 231,962	22.10%	128
B140	Canton	$ 988,884	$ 20,085	$ 1,014,506	$ 769	0.08%	$ 246,344	24.28%	150
B015	Carteret County	$ 8,750,423	$ 1,998,264	$ 10,809,436	$ 651,566	6.03%	$ 2,107,880	19.50%	88
B016	Caswell County	$ 1,779,205	$ -	$ 1,779,205	$ 33,317	1.87%	$ 362,993	20.40%	142
B017	Catawba County	$ 11,530,194	$ 2,472,870	$ 14,043,172	$ 1,070,427	7.61%	$ 2,535,719	18.06%	64
B151	Chatham County	$ 2,056,300	$ 101,383	$ 2,170,057	$ 126,515	5.82%	$ 413,518	19.06%	90
B145	Cherryville	$ 874,701	$ 46,736	$ 924,469	$ 48,478	5.23%	$ 187,754	20.31%	98
B019	Chowan County	$ 1,075,959	$ 63,929	$ 1,143,539	$ 36,426	3.21%	$ 237,239	20.75%	129
B179	Clay County*								
B020	Clinton	$ 1,382,703	$ 111,436	$ 1,494,139	$ 162,281	10.83%	$ 218,227	14.61%	30
B157	Columbus	$ 517,377	$ 42,432	$ 564,627	$ 25,750	4.56%	$ 117,100	20.74%	111
B022	Concord	$ 7,231,158	$ 1,787,286	$ 9,058,113	$ 570,378	6.24%	$ 1,784,308	19.70%	83
B155	Cooleemee	$ 617,878	$ 16,057	$ 636,025	$ 31,858	4.94%	$ 135,657	21.33%	106
B172	Cramerton	$ 1,276,455	$ 122,920	$ 1,399,375	$ 82,337	5.89%	$ 240,883	17.21%	89

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Appendix A.2: ABC Boards -- 2009 Financial Information

Board Number	Board Name	Retail Sales	Mixed-Beverage Sales	Total Sales (including fortified wine)	Profit Before Distributions	Profit Percentage	Operating Expenses	Operating Margin	Profit Rank
B049	Johnston County	$ 8,082,222	$ 953,276	$ 9,063,039	$ 942,755	10.36%	$ 1,406,936	15.52%	32
B050	Jones County	$ 879,825	$ -	$ 879,825	$ 1,324	0.15%	$ 218,906	24.88%	149
B051	Kenansville	$ 408,044	$ 20,064	$ 428,108	$ 5,793	1.35%	$ 102,333	23.90%	144
B154	Kings Mountain	$ 1,027,797	$ 6,348	$ 1,037,712	$ 44,291	4.26%	$ 204,207	19.68%	114
B136	Lake Lure	$ 457,628	$ 162,859	$ 620,487	$ 38,155	6.09%	$ 135,019	21.76%	87
B052	Lake Waccamaw	$ 289,908	$ -	$ 289,908	$ 1,986	0.68%	$ 72,612	25.05%	146
B141	Laurel Park	$ 991,835	$ 98,652	$ 1,098,897	$ 70,214	6.35%	$ 216,095	19.66%	81
B125	Lenoir City	$ 2,700,717	$ 229,707	$ 2,942,987	$ 259,027	8.79%	$ 477,571	16.23%	47
B053	Lenoir County	$ 2,814,685	$ 232,042	$ 3,046,727	$ 166,270	5.45%	$ 601,364	19.74%	95
B054	Lexington	$ 3,008,550	$ 240,053	$ 3,248,603	$ 265,487	8.16%	$ 562,086	17.30%	57
B128	Liberty	$ 699,103	$ -	$ 699,103	$ 21,642	3.09%	$ 155,587	22.26%	131
B055	Lillington	$ 897,084	$ 83,297	$ 980,381	$ 37,164	3.78%	$ 209,567	21.38%	121
B169	Lincoln County	$ 1,681,063	$ 279,977	$ 1,969,173	$ 242,441	12.31%	$ 257,284	13.07%	9
B056	Lincolnton	$ 1,748,526	$ 209,434	$ 1,964,788	$ 194,236	9.86%	$ 304,135	15.48%	36
B173	Locust	$ 743,427	$ 10,586	$ 754,013	$ (85,832)	-11.38%	$ 276,448	36.66%	159
B058	Louisburg	$ 1,108,297	$ 56,137	$ 1,164,434	$ 88,358	7.54%	$ 207,473	17.82%	67
B153	Lumberton	$ 2,836,803	$ 496,824	$ 3,345,306	$ 251,660	7.53%	$ 560,000	16.74%	68
B059	Madison	$ 992,774	$ 32,519	$ 1,025,293	$ 38,427	3.74%	$ 219,218	21.38%	122
B134	Maggie Valley	$ 1,009,413	$ 225,817	$ 1,247,512	$ (34,025)	-2.79%	$ 301,269	24.15%	155
B150	Marion	$ 1,850,230	$ 204,093	$ 2,061,523	$ 240,061	11.59%	$ 291,412	14.14%	18
B060	Martin County	$ 1,536,473	$ 56,356	$ 1,592,829	$ 65,286	4.10%	$ 333,820	20.96%	115
B061	Maxton	$ 489,697	$ 728	$ 491,184	$ 2,062	0.42%	$ 127,307	25.92%	147
B062	Mecklenburg County	$ 61,185,914	$ 34,587,212	$ 96,082,339	$ 11,644,657	12.11%	$ 13,529,754	14.08%	11
B063	Monroe	$ 4,145,105	$ 758,902	$ 4,904,007	$ 549,588	11.23%	$ 687,249	14.01%	24
B064	Montgomery	$ 1,210,446	$ 66,531	$ 1,276,977	$ (6,223)	-0.48%	$ 344,312	26.96%	151
B065	Moore County	$ 5,902,547	$ 2,002,882	$ 7,951,552	$ 1,059,314	13.28%	$ 1,024,652	12.89%	7
B066	Mooresville	$ 6,222,208	$ 1,279,108	$ 7,536,724	$ 849,522	11.26%	$ 1,063,522	14.11%	23
B067	Morganton	$ 2,815,119	$ 278,563	$ 3,104,357	$ 427,302	13.76%	$ 352,935	11.37%	6
B131	Mount Airy	$ 1,962,955	$ 263,064	$ 2,234,150	$ 221,249	9.86%	$ 360,180	16.12%	37
B170	Mount Holly	$ 1,612,349	$ -	$ 1,617,565	$ 105,460	6.65%	$ 261,953	16.19%	76
B068	Mount Pleasant	$ 452,018	$ -	$ 452,018	$ (11,966)	-2.64%	$ 125,352	27.73%	154
B138	Murphy	$ 3,011,886	$ 122,384	$ 3,163,633	$ 363,450	11.40%	$ 445,805	14.09%	19
B069	Nash County	$ 7,146,381	$ 1,055,405	$ 8,219,016	$ 982,375	11.94%	$ 1,256,726	15.29%	15
B070	New Hanover County	$ 20,477,668	$ 10,147,920	$ 30,625,588	$ 4,344,760	14.15%	$ 3,807,238	12.43%	5

Appendix A.2: ABC Boards -- 2009 Financial Information

Board Number	Board Name	Retail Sales	Mixed-Beverage Sales	Total Sales (including fortified wine)	Profit Before Distributions	Profit Percentage	Operating Expenses	Operating Margin	Profit Rank
B049	Johnston County	$ 8,082,222	$ 953,276	$ 9,063,039	$ 942,755	10.36%	$ 1,406,936	15.52%	32
B050	Jones County	$ 879,825	$ -	$ 879,825	$ 1,324	0.15%	$ 218,906	24.88%	149
B051	Kenansville	$ 408,044	$ 20,064	$ 428,108	$ 5,793	1.35%	$ 102,333	23.90%	144
B154	Kings Mountain	$ 1,027,797	$ 6,348	$ 1,037,712	$ 44,291	4.26%	$ 204,207	19.68%	114
B136	Lake Lure	$ 457,628	$ 162,859	$ 620,487	$ 38,155	6.09%	$ 135,019	21.76%	87
B052	Lake Waccamaw	$ 289,908	$ -	$ 289,908	$ 1,986	0.68%	$ 72,612	25.05%	146
B141	Laurel Park	$ 991,835	$ 98,652	$ 1,098,897	$ 70,214	6.35%	$ 216,095	19.66%	81
B125	Lenoir City	$ 2,700,717	$ 229,707	$ 2,942,987	$ 259,027	8.79%	$ 477,571	16.23%	47
B053	Lenoir County	$ 2,814,685	$ 232,042	$ 3,046,727	$ 166,270	5.45%	$ 601,364	19.74%	95
B054	Lexington	$ 3,008,550	$ 240,053	$ 3,248,603	$ 265,487	8.16%	$ 562,086	17.30%	57
B128	Liberty	$ 699,103	$ -	$ 699,103	$ 21,642	3.09%	$ 155,587	22.26%	131
B055	Lillington	$ 897,084	$ 83,297	$ 980,381	$ 37,164	3.78%	$ 209,567	21.38%	121
B169	Lincoln County	$ 1,681,063	$ 279,977	$ 1,969,173	$ 242,441	12.31%	$ 257,284	13.07%	9
B056	Lincolnton	$ 1,748,526	$ 209,434	$ 1,964,788	$ 194,236	9.86%	$ 304,135	15.48%	36
B173	Locust	$ 743,427	$ 10,586	$ 754,013	$ (85,832)	-11.38%	$ 276,448	36.66%	159
B058	Louisburg	$ 1,108,297	$ 56,137	$ 1,164,434	$ 88,358	7.54%	$ 207,473	17.82%	67
B153	Lumberton	$ 2,836,803	$ 496,824	$ 3,345,306	$ 251,660	7.53%	$ 560,000	16.74%	68
B059	Madison	$ 992,774	$ 32,519	$ 1,025,293	$ 38,427	3.74%	$ 219,218	21.38%	122
B134	Maggie Valley	$ 1,009,413	$ 225,817	$ 1,247,512	$ (34,025)	-2.79%	$ 301,269	24.15%	155
B150	Marion	$ 1,850,230	$ 204,093	$ 2,061,523	$ 240,061	11.59%	$ 291,412	14.14%	18
B060	Martin County	$ 1,536,473	$ 56,356	$ 1,592,829	$ 65,286	4.10%	$ 333,820	20.96%	115
B061	Maxton	$ 489,697	$ 728	$ 491,184	$ 2,062	0.42%	$ 127,307	25.92%	147
B062	Mecklenburg County	$ 61,185,914	$ 34,587,212	$ 96,082,339	$ 11,644,657	12.11%	$ 13,529,754	14.08%	11
B063	Monroe	$ 4,145,105	$ 758,902	$ 4,904,007	$ 549,588	11.23%	$ 687,249	14.01%	24
B064	Montgomery	$ 1,210,446	$ 66,531	$ 1,276,977	$ (6,223)	-0.48%	$ 344,312	26.96%	151
B065	Moore County	$ 5,902,547	$ 2,002,882	$ 7,951,552	$ 1,059,314	13.28%	$ 1,024,652	12.89%	7
B066	Mooresville	$ 6,222,208	$ 1,279,108	$ 7,536,724	$ 849,522	11.26%	$ 1,063,522	14.11%	23
B067	Morganton	$ 2,815,119	$ 278,563	$ 3,104,357	$ 427,302	13.76%	$ 352,935	11.37%	6
B131	Mount Airy	$ 1,962,955	$ 263,064	$ 2,234,150	$ 221,249	9.86%	$ 360,180	16.12%	37
B170	Mount Holly	$ 1,612,349	$ -	$ 1,617,565	$ 105,460	6.65%	$ 261,953	16.19%	76
B068	Mount Pleasant	$ 452,018	$ -	$ 452,018	$ (11,966)	-2.64%	$ 125,352	27.73%	154
B138	Murphy	$ 3,011,886	$ 122,384	$ 3,163,633	$ 363,450	11.40%	$ 445,805	14.09%	19
B069	Nash County	$ 7,146,381	$ 1,055,405	$ 8,219,016	$ 982,375	11.94%	$ 1,256,726	15.29%	15
B070	New Hanover County	$ 20,477,668	$ 10,147,920	$ 30,625,588	$ 4,344,760	14.15%	$ 3,807,238	12.43%	5

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Appendix A.2: ABC Boards -- 2009 Financial Information

Board Number	Board Name	Retail Sales	Mixed-Beverage Sales	Total Sales (including fortified wine)	Profit Before Distributions	Profit Percentage	Operating Expenses	Operating Margin	Profit Rank
B071	Newton Grove	$ 381,440	$ -	$ 381,440	$ 20,508	5.38%	$ 79,342	20.80%	96
B072	North Wilkesboro	$ 963,224	$ 85,535	$ 1,052,429	$ 22,306	2.12%	$ 243,278	23.12%	140
B073	Northampton County	$ 1,039,006	$ -	$ 1,039,006	$ (5,295)	-0.51%	$ 265,814	25.58%	152
B074	Norwood	$ 445,160	$ 5,436	$ 450,596	$ 8,349	1.88%	$ 94,159	20.90%	141
B166	Oak Island	$ 1,463,511	$ 362,241	$ 1,825,752	$ 163,401	8.95%	$ 303,696	16.63%	44
B075	Ocean Isle	$ 1,018,480	$ 302,304	$ 1,337,263	$ 110,360	8.21%	$ 257,768	19.28%	55
B076	Onslow County	$ 8,510,349	$ 3,612,767	$ 12,173,521	$ 1,501,264	12.30%	$ 1,720,899	14.14%	10
B077	Orange County	$ 10,153,975	$ 3,370,650	$ 13,571,494	$ 946,115	6.96%	$ 2,599,247	19.15%	75
B078	Pamlico County	$ 1,026,415	$ 79,382	$ 1,112,064	$ 59,185	5.32%	$ 222,745	20.03%	97
B079	Pasquotank County	$ 2,126,366	$ 502,213	$ 2,628,579	$ 308,524	11.76%	$ 358,735	13.65%	17
B080	Pembroke	$ 180,142	$ -	$ 180,142	$ (6,672)	-3.86%	$ 43,227	24.00%	157
B081	Pender County	$ 4,271,145	$ 309,927	$ 4,581,072	$ 385,099	8.40%	$ 775,414	16.93%	53
B082	Person County	$ 2,277,946	$ 182,030	$ 2,459,976	$ 251,686	10.22%	$ 320,053	13.01%	33
B176	Pilot Mountain*								
B083	Pitt County	$ 10,689,514	$ 3,209,050	$ 13,927,206	$ 1,572,453	11.22%	$ 2,034,766	14.61%	26
B084	Pittsboro	$ 761,855	$ 9,354	$ 774,128	$ 36,119	4.65%	$ 155,710	20.11%	109
B085	Randleman	$ 1,771,420	$ 92,100	$ 1,872,747	$ 163,474	8.71%	$ 315,941	16.87%	48
B119	Red Springs	$ 620,644	$ -	$ 620,644	$ 30,785	4.96%	$ 123,972	19.97%	105
B086	Reidsville	$ 1,819,781	$ 126,302	$ 1,946,083	$ 126,797	6.54%	$ 350,877	18.03%	78
B087	Rockingham	$ 1,496,758	$ 120,733	$ 1,617,491	$ 48,655	3.01%	$ 357,323	22.09%	133
B088	Roseboro	$ 559,142	$ -	$ 559,142	$ 20,832	3.72%	$ 110,380	19.74%	123
B089	Rowan/Kannapolis	$ 8,429,843	$ 839,792	$ 9,304,458	$ 368,815	3.97%	$ 1,978,670	21.27%	118
B090	Rowland	$ 198,490	$ -	$ 198,490	$ 7,116	3.59%	$ 41,939	21.13%	124
B135	Rutherfordton	$ 960,509	$ 86,143	$ 1,053,637	$ 31,495	2.99%	$ 235,217	22.32%	134
B091	Saint Pauls	$ 934,759	$ -	$ 936,418	$ 61,807	6.59%	$ 169,709	18.12%	77
B092	Sanford	$ 3,661,337	$ 519,372	$ 4,196,507	$ 351,064	8.31%	$ 737,593	17.58%	54
B093	Scotland County	$ 1,559,063	$ 93,719	$ 1,652,782	$ 122,730	7.42%	$ 295,346	17.87%	70
B094	Shallotte	$ 1,287,575	$ 145,546	$ 1,433,121	$ 134,752	9.39%	$ 232,502	16.22%	40
B122	Shelby	$ 3,091,353	$ 283,066	$ 3,385,133	$ 174,393	5.15%	$ 670,045	19.79%	102
B149	Siler City	$ 1,036,308	$ 20,652	$ 1,060,597	$ 65,774	6.21%	$ 198,232	18.69%	84
B095	Southport	$ 1,472,411	$ 377,128	$ 1,860,447	$ 273,092	14.65%	$ 207,124	11.13%	2
B096	Sparta	$ 623,716	$ 39,344	$ 665,048	$ 67,890	10.19%	$ 116,683	17.55%	34
B177	Spruce Pine*								
B120	Statesville	$ 3,946,815	$ 607,296	$ 4,568,846	$ 219,690	4.81%	$ 934,531	20.45%	107

Appendix A.2: ABC Boards -- 2009 Financial Information

Board Number	Board Name	Retail Sales	Mixed-Beverage Sales	Total Sales (including fortified wine)	Profit Before Distributions	Profit Percentage	Operating Expenses	Operating Margin	Profit Rank
B097	Sunset Beach	$ 1,106,610	$ 140,398	$ 1,258,392	$ 37,715	3.07%	$ 254,797	20.25%	132
B098	Sylva	$ 2,037,872	$ 618,217	$ 2,675,213	$ 389,915	14.55%	$ 309,758	11.58%	3
B139	Tabor City	$ 588,142	$ -	$ 589,150	$ 52,552	8.66%	$ 109,277	18.55%	49
B099	Taylorsville	$ 942,742	$ 1,982	$ 947,216	$ 72,131	7.61%	$ 164,271	17.34%	63
B167	Thomasville	$ 2,381,330	$ 201,665	$ 2,582,995	$ 106,240	4.08%	$ 545,837	21.13%	116
B115	Triad Municipal	$ 25,637,031	$ 5,238,740	$ 30,991,999	$ 2,757,478	8.92%	$ 5,213,059	16.82%	45
B100	Tryon	$ 307,367	$ 67,274	$ 380,388	$ (5,431)	-1.43%	$ 99,158	26.07%	153
B101	Tyrrell County	$ 256,062	$ -	$ 256,062	$ 10,155	3.95%	$ 52,868	20.65%	119
B102	Vance County	$ 2,829,480	$ 163,752	$ 2,993,232	$ 213,344	7.11%	$ 527,851	17.63%	73
B103	Wadesboro	$ 1,175,643	$ 27,295	$ 1,205,347	$ 93,427	7.72%	$ 210,445	17.46%	60
B104	Wake County	$ 54,098,405	$ 21,235,200	$ 75,542,045	$ 12,770,023	16.84%	$ 7,203,894	9.54%	1
B105	Wallace	$ 1,139,220	$ 83,552	$ 1,222,772	$ 145,991	11.94%	$ 156,499	12.80%	14
B106	Walnut Cove	$ 730,891	$ -	$ 733,619	$ 20,716	2.82%	$ 159,799	21.78%	135
B107	Warren County	$ 1,733,608	$ 48,527	$ 1,782,135	$ 49,416	2.77%	$ 342,719	19.23%	136
B108	Warsaw	$ 479,594	$ -	$ 479,594	$ 24,158	5.04%	$ 92,344	19.25%	104
B109	Washington County	$ 755,744	$ 8,454	$ 764,198	$ 21,058	2.75%	$ 172,180	22.53%	137
B124	Waxhaw	$ 1,050,827	$ -	$ 1,050,827	$ 40,008	3.80%	$ 220,345	20.97%	120
B110	Wayne County	$ 5,821,473	$ 776,136	$ 6,612,001	$ 492,780	7.43%	$ 1,195,232	18.08%	69
B111	Waynesville	$ 2,194,114	$ 206,852	$ 2,411,988	$ 263,229	10.89%	$ 351,161	14.56%	29
B175	Weaverville*								
B018	West Columbus	$ 596,741	$ -	$ 596,741	$ 62,157	10.38%	$ 102,340	17.15%	31
B161	West Jefferson	$ 1,281,921	$ 72,867	$ 1,361,627	$ 152,599	11.31%	$ 157,165	11.54%	21
B112	Whiteville	$ 930,423	$ 107,051	$ 1,037,474	$ 75,793	7.27%	$ 189,667	18.28%	71
B113	Wilkesboro	$ 1,144,149	$ 149,638	$ 1,298,953	$ 72,236	5.55%	$ 261,934	20.17%	92
B114	Wilson County	$ 5,455,111	$ 601,813	$ 6,071,307	$ 380,180	6.25%	$ 1,182,009	19.47%	82
B171	Woodfin	$ 2,797,961	$ 57,248	$ 2,869,055	$ 215,477	7.56%	$ 485,453	16.92%	66
B117	Youngsville	$ 713,971	$ -	$ 713,971	$ 31,171	4.37%	$ 143,114	20.04%	113

Note: Asterisks denote the board did not operate a store in FY 2008-09

ATTACHMENT 8

Joint Study Committee on Alcoholic Beverage Control

AGENDA

March 24, 2010
Room 643, Legislative Office Building
2:00 PM

Senator Don Vaughan, Co-Chair - Presiding
Representative Ray Warren, Co-Chair

WELCOME AND INTRODUCTORY REMARKS

ADOPTION OF MINUTES – March 9, 2010 Meeting

PRESENTATIONS

North Carolina Alcoholic Beverage Control Commission
Jon Williams, Chairman

North Carolina Association of ABC Boards
Attorney Jon Carr, Legislative Counsel for the Association
Jordan Price Wall Gray Jones & Carlton

PUBLIC COMMENT

Registered Parties

COMMITTEE DISCUSSION

NEXT MEETING DATE

ADJOURNMENT

Minutes
Joint Study Committee on Alcoholic Beverage Control

Wednesday, March 24, 2010
2:00 p.m.
Legislative Office Building, Room 643

The Joint Study Committee on Alcoholic Beverage Control met on Wednesday, March 24, 2010, at 2:00 p.m. in Room 643 of the Legislative Office Building. Senate Members present were: Senator Don Vaughan, Co-Chair; Senators Albertson, Bingham, Blue, Clodfelter, Goss, Hartsell; House Members present were: Representative Ray Warren, Co-Chair; Representatives Bell, Crawford, Gibson, Hill, Lucas, Starnes, Steen. Public Members in attendance were: Chief Tim Adams, Mr. Edward Cook, Mr. Howard Hunter, III, Commissioner Eddie Maynor, Mr. Paul Powell, Jr., Mr. Fields Scarborough, Mr. Ronald Bogle, Ms. Karen Eckberg Gottovi, Mr. John Hurley, Mr. Edward Holmes, Mr. Walter Harris, and Dr. Peggy Richmond. Staff and Committee Assistants in attendance were: Research Division Attorneys, Brenda Carter and Susan Sitze; Bill Drafting Attorney, Mikael Gross; Research Assistant Kelly Quick; and Committee Assistants, Dora King-Morgan and Theresa Lopez.

Co-chair Senator Don Vaughan called the meeting to order and welcomed everyone to the second meeting of the Joint Study on Alcoholic Beverage Control Committee. Senator Vaughan then introduced Co-Chair Representative Ray Warren and their respective Committee Assistants, Dora Morgan and Theresa Lopez. Senator Vaughan duly noted a quorum, and introduced Committee Members.

Senator Vaughan proceeded with the review and approval of the Minutes of the March 9th, 2010 meeting of the Joint Study Committee on Alcoholic Beverage Control. Senator Vaughan instructed the Committee to review the Minutes in their notebooks and asked for any corrections or additions to the Minutes. Hearing none, he accepted a motion from Representative Lucas to adopt the minutes, seconded by Senator Clodfelter. The motion carried without dissent, and the March 9, 2010 Minutes were unanimously approved.

Senator Vaughan directed the Committee's attention to the "Contract for Appraisal Services Related to the North Carolina Alcoholic Beverage Control System" (Attachment 1) in their notebooks. The Contract was made available in response to questions raised at the March 9th meeting by Representative Gibson, herein restated: Representative Gibson [would it be possible for the Chairs to request the specific of the study (proposed study

that the Governor has requested) to see exactly what they are looking for?] Senator Vaughan recognized Representative Gibson for any further questions related to subject matter.

Representative Gibson thanked the Chair and Staff, with special recognition to Chairman Warren and the ABC Commission for having done a good job over the years. Representative Gibson noted that the Contract appears to be about dollar valuation of the system, and not necessarily how the system is working. He urged the Committee to evaluate how the system is working, "because I think our system works pretty well and I don't want to break something that might just need the wheels greased". Senator Vaughan thanked Representative Gibson and asked the Committee for any further comments about the Contract. Hearing none, he introduced the first speaker, **North Carolina Alcoholic Beverage Control Commission Chairman Jonathan S. Williams.**

Presentation by Jon Williams

Chairman Jon Williams indicated that Governor Perdue appointed him as Chair of the ABC Commission in October, 2009. The Commission's mission is public health, public safety and fair commercial regulation of the alcohol industry. Chairman Williams provided the Committee with handouts titled: Joint Study Committee on Alcoholic Beverage Control: Issues in the ABC System (Attachment 2) and Sample Coverage of ABC Issues 2006-present(Attachment 3-package).

Chairman Williams discussed the origins and the purpose of the ABC system, noting that the General Assembly is where the idea for the ABC system came together and has been developed through the decades and suggesting that we bear in mind our first principles as we talk about possible reforms and the directions those reforms ought to take.

Chairman Williams acknowledged that the ABC system has had some problems, including efficiency questions about the current setup and reported scandals. He indicated his intention to talk about those things and whether there are some systemic problems that need to be addressed. Chairman Williams also promised to talk about the liquor market in North Carolina and to present a range of options for consideration by the Committee. He noted that typically the ABC Commission does not sit in a policy-making role working closely with the General Assembly on a question of how to structure what potentially is a local government function. He noted that the ABC Commission has a regulatory function, while the local governments carry out the retail functions.

Purpose of System: Then and Now.

Then (1933-1971)

- When Prohibition was repealed, the General Assembly acted quickly to legalize beer and wine in North Carolina. The problem during Prohibition was liquor -- the number of stills (1,000s) in our communities, the number of alcoholics, and social problems. Our State was not quick to embrace the idea of repeal of prohibition for liquor, and we didn't act for two years while the rest of the country acted and legalized it. Some

states adopted a control model where the government would own the distribution and sales; other states used a heavy regulatory framework to control those distributions and sales. North Carolina did not embrace the control model until 1935.

- The General Assembly authorized the creation of ABC Boards in 1935 in 60 locations for stores in 18 eastern counties. It was an intricate system, community-based. Sheriffs paid cash bounties for destroying stills. The boards, at that time, were called the County Boards of Alcoholic Control because the sense at that time was that manufacturers of alcohol products were in the business of creating alcoholics who needed to have their habit fed and there was money to be made and they didn't care about the consequences. County Boards of Alcoholic Control were created to coordinate the communities' response to this alcohol problem. At that time, Boards were appointed jointly by the Board of Education, County Board of Health, and County Commissioners.

- There were no sales to minors, no sales DWI offenders (DMV), and the State Commissioner Of Motor Vehicles was charged with supplying current information to every Board of Alcoholic Control to tell them who was not eligible in their community to buy liquor in that ABC store. The Clerk of Court was also involved. Judges who sentenced someone who had been involved in an alcohol related incident would put as part of their sentence they were not allowed to go to an ABC store and buy alcohol, so the Clerk of Court would transmit that list to ABC Board. Recent patients of inebriate wards and known habitual drunkards were also prohibited from buying alcohol. This was part of the community-wide response to get a handle on the illegal alcohol trade and convert it to a legal control sale environment. A 1958 report issued by the ABC Commission talks about the success of this system reports that "[E]very dollar of profit taken for government...was a dollar taken from the bootlegger, the rum-runner and the moonshiner and that was the measure of success."

Now (1971- Recent)

- Williams explained that in 1971, there was a sense at the General Assembly that the alcohol problem had been largely dealt with, the State had a good functioning system, liquor was widely available across the State in a very controlled environment and there was a desire to harmonize a lot of local wrinkles, i.e. there were a lot of different rules in place, some local boards could sell wine in their stores others did not. The General Assembly wanted to have a uniform system, so it rewrote Ch.18 of the General Statutes and replaced it in its entirety with Ch. 18A. That began a decade long effort to get mixed beverages into North Carolina. *Chairman Williams acknowledged Professor Crowell, who helped staff the committee that replace Ch. 18 with Ch. 18A and went through that process.* Williams noted that most people remember quite well the depth of the battle and the feelings over mixed beverages; however there was a desire to allow mixed beverages and eventually after a whole lot of litigation, trips back and forth to the Supreme Court, another local option was added where local communities could vote in mixed beverages.

- **Today** –The ABC Commission as the regulatory office; oversees more that 25,000 permits; from everybody involved in the alcohol -- from the wineries to the guys who drive the beer delivery truck to distillers and bars and restaurants. Commission estimates are that this is about a $5 billion industry in North Carolina. There are more than 17,000 places in North Carolina where our citizens can buy alcohol and 5,000 of those are mixed beverage permittees, which means that private citizens are selling liquor to their fellow citizens in those 5,000 permitted locations.

- In 2008, the Program Evaluation Division of the General Assembly (PED) completed its study of the ABC system that focused in on the local government aspect of alcohol sales and called for modernization of the local ABC laws with a focus on increasing local board profitability. In one part of its report, PED said that the General Assembly should/could consider some alternate models for selling liquor.

- In 2009, Governor Perdue's Budget Reform Advisory Commission (BRAC) started looking at a host of different issues affecting the budget and among that list was a question as to whether some State services or government services, including the ABC system, could be privatized. They continue to look at that question, and the ABC Commission tries to be a resource for the BRAC.

- Williams indicated that the news media has been uncovering some serious misconduct at the local level about high salaries and bonuses being paid that really defy the public's expectation of what was fair -- including travel, and vendor sponsored dinners at $400 per person. Chairman Williams provided a sampling of news stories going back to 2006. He noted problems in High Point, which led to resignation of its board, having to do with some misappropriation of ABC property and keeping separate books and separate sales and separate accounts for spending. In Winston Salem, there were some issues with the board's law enforcement director that led to prosecution. In Pembroke, there was an embezzlement situation. All these situations have basically helped prompt the formation of this study committee.

- Governor Perdue has communicated to the General Assembly and its leadership her intention to seek greater State control oversight and restrictions on local ABC boards, along with considering partial privatization -- a control system that has more private investment in it.

- Williams said it is important for the Committee to understand how the market is today so that it can wrestle with the question of whether the current system is the right and most coherent system for the State to have for the conditions that it faces. Stating that North Carolina is the 13th largest liquor market in the country, Williams noted that this is not a question of small boards and a few sales of $200,000; we are big players on the national scene. The State sells 10 million gallons of liquor each year, totaling $700 million in retail sales.

- Williams indicated that not all of the 163 local ABC Boards are created equal. Twenty-five Boards out of 163 sell 70% of the liquor in this State, and 1 in 7 sell 70%;

half a billion worth of sales. The 25 top-selling boards have about $20 million average sales per year; where for the rest, it's about $1.5 million. There's a big difference in profitability and the PED highlighted those differences. It is not only the high income, high population density communities in this State where there is big money to be made, but also where the local people in that jurisdiction have authorized mixed beverage sales. Williams noted that those mixed beverage sales boards, on average, are 3.5 times more profitable than those communities which have chosen to not have mixed beverage sales. He told the Committee that it is important to bear that in mind as it talks about reform to talk about a statewide response that helps us control alcohol problems as intended from the outset.

- The PED study highlighted that the State has a problem with board proliferation. There were 158 local boards during the PED study in 2008, and at the end of 2009 there were 163. Since November of 2009, 4 new boards have been authorized for 2010 and at least one more vote is scheduled for May, 2010. Those boards seem to be cannibalizing each other's business to a large extent today, because we already have ABC stores in 98 of our 100 counties and the last two counties make up far less than 1% of the State's population.

- The General Assembly has set up the ABC system so that every local board is an independent unit of local government. Each board is an independent subdivision of the State, separate from the ABC Commission and separate from the county or the cities that are involved in appointing the boards. Williams indicated that at one time there were independent boards that had the community intimately involved in every aspect of what the were doing -- with three different local boards involved in appointing the members, with several other elected and appointed officials involved in providing information designed to help local boards confront an alcohol problem in their midst that was perceived as very threatening to the community and needed to be dealt with, with a concerted effort by the community. At this point there seems to be a real disconnect, in many cases between authority and accountability to the public; there also is the question of concern with public health and public safety.

- Williams indicated that he been talking just prior to the Committee meeting, with representatives from Mooresville and they were describing what good open communications they have between their local ABC Board, the town police department, and city council members, but there's nothing in our current structure that requires that or encourages that. Williams noted that when a local ABC board becomes detached and unanswerable to the rest of the community, things can go on for an extended period of time and get so out of hand that when they blow up, they blow up in a very big way that is very embarrassing to not only the ABC Commission and to the local members of the community who are responsible, but also to the General Assembly and all public officials.

- Williams noted that across the State there are 556 appointed local ABC board members who are charged with the duty of overseeing ABC operations, and he doesn't perceive a lack of resources on their part. Local board members are paid salaries, the

vast majority of them, totaling about $650,000 a year altogether and they are provided travel allowances to go to conferences and try to keep up with their duties, totaling $350,000. Local board members have traveled to Phoenix, Marco Island, Florida, and annual conferences at Myrtle Beach or Grove Park; so there's actually a lot of time spent and money spent to try to deal with this governance question. Williams indicated there is still somehow a great disconnect -- there is a real profitability problem, already, before we even talk about privatization; because of gifts, high salaries, trips, bonuses; a profit motive that is already firmly at work in a lot of local ABC boards.

- Williams noted that the ABC Commission recently hosted an orientation for new members of local boards. Explaining that the ABC Commission and local boards have been assigned different roles historically, Williams noted that the Commission is the state regulator of the entire industry and local boards; it has not played an active role in training of local board members. The Commission's orientation event got about 50 board members and general managers in; they toured the warehouse and had a great discussion that included operation issues, ethic issues, and other matters. Williams reported that one thing that came out of the meeting, and that he's heard elsewhere, is that there's a sense on a part of a lot of board members that the local ABC operation is just another community non-profit like the Arts Council or United Way, and the board is only answerable to its own internal standards. Williams indicated that local boards are in fact units of government and the boards and their employees need to see themselves as units of government and not as private businesses who have been given a license to run a monopoly in the communities' midst.

- Williams indicated that whether the mission of local boards, as retailers of liquor, is to be in control of alcohol sales, or to provide high quality customer service, or to maximize or at least optimize revenue, there are currently no operating standards for the 163 local boards. The boards have an association that does a good job of bringing them together to compare notes, but there are still no standards set. There are no standards for board member training or manager training. The Commission has set some reporting requirements and they compile financial information and provide policy guidelines to the administrative code on some things like travel, personnel policies, but they don't set operating standards that establish a point at which corrective action is required. The ABC Commission's only authority is to remove local boards or local employees who transgress the law. Williams noted that the Commission does not appoint local board members, and they are not directly answerable to the Commission.

- **Options for consideration.** Williams noted that his comments are not the Governor's recommendations to the Study Committee on what to do, nor are they the Commission's recommendations; but from the Commission's standpoint, these are things that would be workable options that the Committee may consider as it looks at whether the ABC system should have more local control, or whether the State should have more authority in interacting with the local boards. Williams noted that the Committee needs to go one direction or another, to protect against the kinds of problems that have been occurring for several years.

(1). Consolidate county-wide or establish regional boards. Williams explained that there are about 60 county boards today. Where the county had voted against liquor sales at the outset, municipalities were allowed to hold a vote for liquor sales and set up their own boards, and that has created a hodge-podge patchwork system. Small communities looking for revenue are wanting to have local referenda -- and they almost always succeed now. As an example, Williams cited Valdese, which 8 years ago voted against liquor sales in their community by about 55-45, this time it was 1000 votes to 1500 votes; so a big swing. He indicated that the community is ready to go and that's what the Commission is seeing now in these local referendums in almost every part of the State. He stated that there has been a real shift in public expectation -- if the community is broadly accepting of liquor sales in their midst, county-wide boards can be effective. According to Williams there are big questions to be answered about the formula for distribution of the revenue if the county is dry and certain municipalities have voted wet; but he noted that with a consolidated board there would be more scrutiny, more resources, a lower total operating expense (economies of scale) and it would be much easier to keep tabs on a maximum of 100 boards rather than 163 and growing every year.

(2). Consolidate into county governments. Williams suggested that if the State really wants to push local control into local hands, local governments should be allowed to make alcohol control a department of the county government. That would eliminate some of the issues of the local ABC board being a standalone entity that generates its own revenue with no external budgeting or oversight. If an ABC board is brought into a local government unit, or a municipal government unit, then there would be an external county manager, an external HR director, external finance director who oversees operations and makes sure they comply with the expectations that the public has of public officials.

(3). Consolidated IT System. Williams suggested that one step that would be a good efficiency improvement would be a consolidated IT system that would cover not only financial data, but also inventory data. He indicated that the Commission always has problems managing inventory, and the system could be integrated much better. The financial data the Commission gets now is one annual report. From a financial oversight standpoint, the Commission can't really track, at a fine grain, what is going on -- if there's fights and personnel costs or other costs -- the way a normal organization tracks whether there might be fraud or other wrong-doing going on financially at the local level.

(4). Agency Stores. Williams noted that the PED report recommended, and the ABC Commission has supported for a number of years, the authorization of agency stores in communities where profitability is low. He indicated that profitability is not the be all and end all of the ABC system and that access to controlled liquor sales, the reason the Commission was set up originally, is important. Williams warned that there is a chance of illegal markets developing

where there are large areas that have no service. He mentioned that Washington State has a model where the state simply pays a commission for each bottle sold. Under that model, a consumer would purchase a bottle, and the retailer would get a fixed commission on that bottle; the rest of the price of the bottle would be remitted to the State and there would be a formula to rebate funds back to the local government. Agency stores would help deal with some of the rural, low income areas where there's low turnover and low profitability.

(5). Law Enforcement Spending. Williams indicated that the Commission has been made aware of lot of dissatisfaction locally with law enforcement spending. He noted that originally, ABC officers were authorized in order to keep down the illegal liquor trade and help build up controlled sales as a replacement for that. The Commission currently receives reports that law enforcement officers paid for by the local boards are unloading trucks, providing store security, basically not performing much in the way of traditional law enforcement work, not going out into the community and enforcing the laws in all these permitted establishments that may be violating laws to the determent of the public health and public safety of the community. Williams commented that the amount of funding it takes to equip and train a law enforcement officer is a high price to pay for the officers to help to unload a truck and indicated that was not the intended purpose for setting aside the 5% for law enforcement spending. Williams suggested that the Study Committee could redirect that spending to the State's ALE Division or use some formula to just redirect that money back to the cities and counties for law enforcement spending with a clear expectation that enforcement officers are not store employees, but they are to do real law enforcement work related to alcohol law enforcement in the community.

- Again, Williams noted that his goal was to give the Committee a range of options and make Committee members aware of some issues the ABC Commission has seen in the State's ABC system.

- **(6). Accountability.** On the question of accountability, Williams suggested that the State needs to better engage the appointing authorities. This may be accomplished by consolidating the operations into local governments; or if the legislature wants to move more into State level oversight, there could be greater authority for the Commission to enforce standards. A salary scale based on population served is one possibility, or the Commission could generate salary information at its office. The Commission could monitor profitability and identify problems. Even product selection is an area of mischief because the Commission has seen sales reps who try to push their products. The Commission could monitor product selection for customer convenience and also make sure that no one in the system is buying access to shelf space improperly.

- (7). **Permits issued by the Commission for General Managers to serve as general managers of the local ABC board.** Williams indicated that one of the problems of exercising oversight over local boards is that the Commission doesn't hire the people; they don't work for the Commission and it basically can't tell them what to do. The Commission can't tell them what to learn, what standards that they have to comply with and, yet, the Commission has very high expectations of every other retailer of alcohol products in the State. They only operate because they have a permit from the State, so having the threat of either a temporary suspension of that permit or revocation of that permit would give the Commission some actual authority in interacting with local management. It would also give the Commission a way to resolve issues that would fed directly into the Office of Administrative Hearings and well traveled paths of administrative law to evaluate conduct and whether it really rose to the level that would require action. The situation that exists now were the Commission has authority to remove for cause, is a really blunt instrument with very little guidance on how that process should work.

- Williams suggested that a very simple fix to be considered would be adding local ABC boards to HB 1452 for ethics training for local government officials. He indicated that the provision would have to be tweaked some with the Commission perhaps working with the School Of Government and the Association of ABC Boards. He also noted that the ethics in the alcohol industry are not the same as they are for local government officials who have a broader range of responsibility and less direct industry interaction.

- Finally, Williams noted again that an integrated IT system would allow the ABC Commission much greater transparency and an opportunity to identify deficiencies in the system.

Chairman Williams thanked the Chairs and referred the members to the Alcoholic Beverage Control Commission website at **www.ncabc.com.**

Questions, Answers:
Judge Ronald Bogle: Can you provide us with a range of what other control states are doing and if you know of some that are particularly effective or worth considering, can that be provided?

Chairman Williams: I would be happy to do what I can in that regard. I think you said it best that when you see one, you've seen one. Because we are the only one in the country that has local governments controlling the retail sales. Comparable setup is in the State of Maryland where they actually authorize counties to set themselves up as control counties. Two counties with very large population, Montgomery County has 1 million people, where they actually run their own warehouse as well as running their own stores.

Representative Dewey Hill: How about your operating costs for the stores? Do you have any guidelines and costs of operations?

Chairman Williams: Our local stores in total spent $113 million on their operational expenses in fiscal year 2009 on $700 million in sales. Those operational costs have been growing faster than our sales, so we are getting less efficient year by year.

Representative Dewey Hill(follow-up): Give me a percentage of sales?

Chairman Williams: As a percentage of sales, I think the average is about 7%; for the mixed beverage boards, it's probably closer to 10% and for the non-mixed beverage boards, it is closer to 4% or 5%.

Senator Dan Clodfelter: For many, many years, the Local Government Commission has had absolute statutory authority to take control of the finances of any local government in North Carolina at any time they think there are irregularities going on. It is a pretty broad authority and we have been very comfortable with that. It's been used sparingly but it's been used when necessary and it's part of why we have not really had any serious financial problems in local governments in the State. I would be interested whether you and the Commission think we might want to consider extending the same powers over the local boards to the ABC Commission, if we preserve the system of local boards? Just take a look at the statutes in the Budget Fiscal Control Act on local government, controlled by the Local Government Commission and see if that might be a good model. I would be interested in your views.

Senator Vaughan thanked Chairman Williams and asked the Committee if there were any further questions. Hearing none, Senator Vaughan introduced the next presenter, **Jon Carr, lobbyist for the North Carolina Association of ABC Boards.**

Presenter Jon Carr, Lobbyist for the North Carolina Association of ABC Boards provided the Committee with a script text of his comments and remarks. For purposes of these Minutes, Mr. Carr's entire presentation was delivered verbatim from the script. See Attachment 4.

Questions, Answers:

Senator Dan Clodfelter: I would ask your Association to do the same thing that I asked Jon Williams to do and that is take a look at the statutory powers that we have given the Local Government Commission to oversee the operations and finances of cities and counties where ABC boards operate and to consider whether or not the ABC Commission shouldn't have at least as much authority over the operations and finances of the ABC boards themselves. I would be interested in your position as well.

Mr. Jon Carr: Appreciate the suggestion and will be glad to look into that. Thank you.

Senator Dan Clodfelter(follow-up): Mr. Chairman, if it is good enough for cities and counties and I guess my question is why isn't it good enough for ABC boards?

Representative Edgar Starnes: When it comes to profitability, I'm not so concerned about stores that have a low profit, but how many stores or systems do we have in North Carolina who lost money last year?

March 24, 2010 Public Comments
Joint Study Committee on Alcoholic Beverage Control

Mayor William Knight, City of Greensboro
Mayor Knight presented his statements on behalf of the Greensboro City Council and constituents. Mayor Knight presented information in support of the current control system, and provided reasons why geographical mergers are unworkable. He also spoke in support of the application of the highest ethical standards and transparency throughout the ABC control system. Full text attached; **Attachment 5.**

Mayor Rebecca Smothers, City of High Point
Mayor Smothers presented information and opinions concerning the public policy implications associated with various proposals to alter the current system of local ABC store administration. Full text attached; **Attachment 6.**

Councilman John Howren, Jr., City Council Liaison to Gastonia ABC Board
Councilman Howren presented on behalf of the City of Gastonia and what he described as the large majority of ABC Boards in NC that are assets to the communities in which they serve with sound and ethical business practice. He spoke in support the values of the existing system, indicating that while he has an appreciative understanding of the need(s) of certain changes being considered; there are concerns of non-equitable changes damaging to successful and historically well run Boards and their communities. Full text attached; **Attachments 7, 8,9**.

Mr. Joel Keith, Board Member Wake County ABC, Wake Forest
Mr. Keith presented support of the modernization of the State's current ABC system. He encouraged the Commission to fix any specific problems with local ABC boards, indicating that while he agrees with modernization, it should be done in measured steps so we don't hurt the ones that made the system what it is. Full text attached; **Attachment 10.**

Mr. Vic Nussbaum, Executive Director Guilford CARES
Mr. Nussbaum represented 45 organizations and individuals, including Alcohol and Drug Services, The Arc of High Point, and Triad Smart Recovery. An advocate for the youth of N.C., Nussbaum stated that underage drinking is a serious problem for the health and well being of our children. He stated that studies indicate that up to 15% of all revenue spent on beer, wine and distilled spirits comes from illegal sales to and consumption by underage youth. He also said that 'outlet density' is a significant factor in alcohol consumption and the current distilled spirit distribution system adequately services the public. Full text attached, **Attachment 11**.

Reverend Mark Creech, Executive Director, Christian Action League
The Christian Action League agrees with some of the recommendations of the PED Study that it believes would make our current ABC system more efficient. The League

believes the loss in profits of the system from stores without enough clientele to support them and too many boards and stores producing unnecessary competition could be effectively addressed by raising the voter threshold for an ABC store election from 500 to 5000. Creech encouraged the Committee to consider control over profit, and efficiency over revenue. Full text attached, **Attachment 12**.

Ms. Ava Troxler, Coalition for Drug Abuse Prevention

Ms. Troxler presented concerns related to privatization, including outlet density and increased access. She made the point that while increasing revenue is important, revenue with increased costs for the consequences of licensing (both in dollars and in human terms) is beneficial for no one. She stated that keeping the State's control over alcohol sales provides ways to limit the sales of alcohol, thereby reducing unsafe and unhealthy consumption. Full text attached; **Attachment 13.**

Ms. Anne Hardison, Ali Farrington, McKayla Edgren, Kalen Perry, Regional Youth Team, SAPHE Substance Abuse Prevention Helps Everyone, Coastal Coalition for Substance Abuse Prevention

The Coastal Coalition for SA Prevention is a five-county coalition representing Carteret, Craven, Jones, Pamlico and Onslow Counties. The coalition collaborates with stakeholders to reduce substance abuse among youth and adults by promoting the factors that minimize the risk of substance abuse and by **addressing the factors in the community that increase the risk of substance abuse**. The Coastal Coalition for Substance Abuse Prevention and the SAPHE Regional Team recommends that, before considering privatizing alcohol sales in the State of North Carolina, this committee consider the high costs already of alcohol abuse in North Carolina. The group contends that a narrow focus of reducing budget deficits can in fact increase the already staggering costs that we incur as citizens in North Carolina regarding alcohol abuse. Full text attached; **Attachment 14**.

Mr. Paul White, President Universal Chevrolet Co., Wendell

Mr. White currently serves on the Wake County Alcohol Beverage Control Board. He indicated that North Carolina is a leading state in providing profits for its citizens while having a lower volume of consumption than most states. According to Mr. White, the problems with our boards, considering the size of the total organization, are small when compared to other institutions and the benefits provided. He asked that the Committee be careful about taking short term profits for the State, without considering the long term effects of this action on the State's yearly income. Full text attached; **Attachment 15**.

Chief Michael Yaniero, Chief of Police, City of Jacksonville

Chief Yaniero represented the North Carolina Metro Coalition of Chiefs of Police (26 police chiefs). The Coalition recommends that the Committee explore the ability of local law enforcement officers statewide to enforce the ABC statutes. He stated that if the system is privatized, the change should focus on public safety and quality of life not economics. He also stated that with any change, the ABC Commission should significantly improve local control of alcohol related establishments. Full text is attached; **Attachment 16**.

Ms. Aidil Collins, Damar Hodge, Shevanique Winston, Katie Lantigua, Youth Empowered Solutions, Raleigh

Each presenter made brief comments about the ABC system as follows:

Damar Hodge-indicated that privatization is a bad idea, and wouldn't help our state. Hodge asked the Committee to maintain the control of ABC stores.

Kati Lantiqua –Supported having a control state when it comes to liquor, indicating that the money that NC makes and that ABC stores give back to the community helps give communities education on substance abuse. Lantiqua encouraged the Committee to keep NC a control state.

Shevanique Winston- Indicated that privatizing ABC stores in North Carolina would only lead to a more economically impaired state and a more intoxicated future for the teens as well as all of the other citizens in our community. Full text attached; **Attachments 17, 18,19.**

Mr. Andy Ellen, General Counsel, NC Retail Merchants Association

Mr. Ellen is General Counsel for the NC Retail Merchant Association. Mr. Ellen stated the following main points: 1) The Association strongly believes that North Carolina should proceed with thoughtful discussions as to how to privatize North Carolina's ABC system. 2) Any privatized system should be developed in a manner to hold local governments harmless with regard to revenues utilized to provide core essential services connected to the sale of spirits such as ALE and substance abuse services; 3) Any privatized system needs to strike a balance so that responsible parties can engage in the sale of spirits to provide reasonable access to citizens of age while not overwhelming communities with outlets selling spirits. Full text is attached; **Attachment 20**.

Commissioner/Councilwoman Teresa Lewis, Mount Airy City Council

Commissioner Lewis presented remarks on behalf of the Mount Airy ABC Board. She urged the members of the Committee to oppose any State mandate to merge ABC Boards or to permit private retail establishments. She asked that mismanaged stores be dealt with individually and that well managed and efficient stores, such as the Mount Airy ABC store, not be penalized. Full text is attached; **Attachment 21, 22,23**.

Mr. Tom Harris, Owner, Front St. Brewery, Wilmington

Mr. Harris is owner of a non-ABC permitted company in Winston-Salem and owner of an ABC permitted business in Wilmington. Mr. Harris cited disconnect issues between local ABC Boards and the need in the community for the enforcement of the statute concerning the sale of alcoholic beverages to intoxicated persons. He provided recommendations concerning the ABC Enforcement Officers and the apparent disconnect between the local ABC Boards and ABC related problems and needs in the community. Full text is attached; **Attachment 24**.

Commissioner Joe Bryan, NC Association of ABC Boards

Commissioner Bryan, representing Wake County and the NC Association of ABC Boards, spoke in favor of the current system and in opposition to privatization. Bryan indicated that the Association is prepared to support legislative recommendations that

would accomplish the following: 1) increase reporting requirements to appointing authorities; 2) mandate that all local boards submit annual salary data to the state ABC Commission and that the State ABC Commission be required to annually distribute that data (including benefits and bonus information) to all local ABC Boards and local authorities; 3) require each local ABC board to adopt an ethics policy consistent with its own appointing authority. Full text attached; **Attachment 25**.

Councilman Alfred Brown, Jr., Concord City Council

Council Brown presented a Resolution of the City of Concord's Council, indicating the Council's support for maintaining the current ABC system. He requested that local control be left intact. He also urged that any decisions be made in an actionary mode rather than a reactionary mode. Resolution attached, **Attachment 26.**

Mr. Scott Mauzy, The Healing Place of Wake County

Mr. Mauzy representing The Healing Place, non-profit agency that operates a men's and women's shelter and recovery program for homeless individuals with alcohol and other drug addictions. Mr. Mauzy indicated that the Wake County ABC Board has a solid understanding of local needs and local programs; and provides comprehensive evaluation and local program review, The Healing Place is one of several Board-supported organizations having an impact in the community, and there has been a long standing partnership between the agency and the Wake ABC board. The Wake County ABC Board contributes a substantial amount of money to local governments and local organizations such as The Healing Place. Full text is attached, **Attachment 27**.

Mr. Craig Pleasants, General Manager Wake County ABC Board

Mr. Pleasants represented the Wake County ABC Board and the 112 full-time and part-time employees that operate 24 ABC stores, a warehouse, a law enforcement division and an office. The Wake County ABC Board believes the current control system reflects the values of North Carolina citizens in balancing alcohol consumption, revenues and social responsibility. Full text is attached; **Attachment 28.**

Councilman Kevin O'Grady, City of Wilmington

Councilman O'Grady represented the City of Wilmington. O'Grady spoke concerning the effects of alcohol outlet density on municipalities and avenues of reform and improved cooperation between ABC boards and municipalities. The city wants a balance between authority and responsibility which means finding ways to give more authority to the cities and municipalities that deal with ABC-related problems. He encouraged the Committee to find ways to provide necessary financial support, and to give cities more authority to deal with the problems. **No attachment.**

Ms. Lawless Bean, Assistant to the City Manager, City of Wilmington

Ms. Bean is the Assistant to the City Manager for Legislative Affairs at the City of Wilmington. She proposed two additional suggestions to improve the effectiveness and efficiency of the ABC system and its practices. The City is specifically seeking the authority from the General Assembly to charge additional fees to establishments that serve alcohol to offset the additional costs incurred to provide law enforcement support and the enforcement of laws around such establishments. The second area in which the

City is proposing enhanced local input is in the issuance of ABC permits and modifications. The City of Wilmington asked that the Committee consider increased local input into both public safety provisions and the ABC permitting process. Full text is attached; **Attachment 29**.

Commissioner Miles Atkins and Commissioner Rhett Dusenbury, Town of Mooresville

The speakers presented information concerning the impact of privatization on the local level, indicating that the Town of Mooresville, the Mooresville Police Department, Iredell-Statesville Schools and Mooresville Graded Schools stand to lose approximately $630,000 a year if privatization, state takeover or merger of all or part of the current system is implemented. Mr. Dusenbury encouraged the Committee to take into account funding from all levels -- local, State and national. He also encouraged the Committee to look into ethics training and modernization of practices. Full text is attached; **Attachment 30**.

Mr. Dylan Jones, Community Advocate, Durham

Mr. Jones spoke against privatization of ABC stores, stating that if the State switches to a private system, there would be more retail outlets and those outlets would be selling products with a much higher alcoholic content. Jones described himself as a neighborhood advocate and someone who cares about this issue and cares about the public health and safety of his community. He urged the Committee to strongly consider the research and keep the State's ABC system as it is. **Attachments 31, 32.**

Mr. Karl Knapp, Director of Research, NC League of Municipalities

Mr. Knapp's organization represents 542 North Carolina cities and towns. Mr. Knapp acknowledged that there are certain matters related to ABC Board salary and ethics that should be clarified and strengthened, but cautioned that major reform to the way in which North Carolina sells liquor deserves very thoughtful study. He noted that reform of the State's ABC system is a complicated issue with many pieces, each of which needs to be considered very carefully, as the long-term consequences could be quite destructive. Full text is attached; **Attachment 33**.

Mr. Phil Mooring, Chairman, North Carolina Substance Abuse Prevention Providers Association

Mr. Mooring represents thirty-three member organizations that have a presence in most of the state's one hundred counties. He urged that any change to the North Carolina's alcohol control system not include privatization because research indicates that with privatization there will be an increase in retail stores selling spirits; those stores would likely remain open later at night because of economic vested interest; there would likely be more underage sales; there would be higher consumption, resulting in more alcohol related deaths or accidents; there would be a decline in revenues to the state. Mooring concluded with the statement that there is a chance that once the state moves from being a

control state to being a license state; it would never revert to a control state. Full text is attached; **Attachment 34.**

End of Public Comments

Questions/Requests for Information

Representative John Hurley: I'm interested in Wilmington's law enforcement not able to help the ALE agents with their problems. Can someone look into this issue and find a root cause for this separation; perhaps, that should be addressed by this study commission?

Mr. Paul Powell, question for Jon Carr: Would it be possible for the local ABC Board Association to give us an idea of the performance standards that they are comfortable with for merger and/or oversight by ABC or local government?

> **Mr. Jon Carr:** I would have to look at notes, but reference to standards is in the PED report and that is the position that was taken with reference to those standards.

Mr. Paul Powell,(follow-up): but they don't have any specifics they can give us?

> **Mr. Jon Carr:** I don't have those with me today. The important thing from our perspective is that the standards be promulgated through the rulemaking process which allows the opportunity for public comment. We have concerns about the development of particular standards outside that process.

Ms. Karen Gottovi: requested a copy of Mr. Harris' presentation.

Senator Vaughan recognized Representative Warren for final comments. Representative Warren thanked all the members who were able to stay for the duration of the meeting, and also thanked the audience for their attendance and participation. Warren noted that Committee members had heard a lot of interesting information, and promised that it would be given careful consideration.

Senator Vaughan made additional closing remarks.
Additional information is available on the Committee's website, which is located on the General Assembly website, under the caption "Committees."

This meeting adjourned at 5:00 pm. The Committee will meet again on Thursday, April 8, 2010.

The Visitor Registration Sheets are attached and made a part of these minutes.

Senator Don Vaughan
Presiding Co-Chair

Dora King-Morgan
Commission Assistant

March 24, 2010 Alcoholic Beverage Committee Meeting

ATTACHMENTS

Agenda – March 24, 2010

Visitors' Log – March 24, 2010

Attachment 1: Contract for Appraisal Services Related to the North Carolina Alcoholic Beverage Control System

Attachment 2: Presentation – Chairman Jon Williams

Attachment 3: Sample Coverage of ABC Issues 2006 – Present

Attachment 4: Presentation – Jon Carr, North Carolina Association of ABC Boards

Attachment(s) 5–34: Public Comments

VISITOR REGISTRATION SHEET

JOINT STUDY ON ALCOHOLIC BEVERAGE CONTROL — MARCH 24, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
DAVID R. TURPIN	N.C SUBSTANCE ABUSE FEDERATION
PHILLIP A MOORMAN	NC SUBSTANCE ABUSE PREVENTION BROKERS ASSC
Lori Sykes	City of Winston-Salem Winston-Salem Police Dpmt
Eddie Greene	NC Alcohol Council
Rev. MARK CREECH	CHRISTIAN ACTION LEAGUE
Kevin Reamond	NCACC
[illegible]	Wake County, NCACC
[illegible]	NC Dept. of Crime Control & Public Safety
John LEOFORD	NC Alcohol Law Enforcement
MARK SENTER	NC ALCOHOL LAW ENFORCEMENT
Tim KENT	Greensboro, NC
Chris Valaris	NC Beer & Wine Wholesalers Assn

VISITOR REGISTRATION SHEET

JOINT STUDY ON ALCOHOLIC BEVERAGE CONTROL — MARCH 24, 2010

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VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Rhett Dusenbury	Town of Mooresville PO Box 878 Mooresville, NC 28115
Miles Atkins	Town of Mooresville
Skip Waner	GREENSBORO
Bill Knight	Mayor GREENSBORO
Gene Webb	CUMBERLAND Co.
Teresa Lewis	City of MOUNT AIRY
Betty Hamm	Mt Airy ABC
[illegible]	[illegible]
Jennifer Webb	NCLM
Brittany Farren	NCFPC
Scott Maury	The Healing Place of Wake Cnty
Barrett Joyner	The Healing Place of Wake County

VISITOR REGISTRATION SHEET

JOINT STUDY ON ALCOHOLIC BEVERAGE CONTROL — MARCH 24, 2010

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NAME	FIRM OR AGENCY AND ADDRESS
Karl Knapp	NCLM
Michael Yaniero	Jacksonville Police Dept.
Jimmy Butler	Wake ABC Board
Lew Nuckles	Wake Co. ABC Board
H.A. Fernandez	Triad ABC Board
Avery Sparrow	Sparrow & Assoc., Inc.
David Sparrow	Sparrow & Assoc., Inc.
Debra McClearen	Triad ABC Board
Sara Brewer	High Country Mun. ABC Board
Clyde Sigmon	Catawba County ABC Board
Bob Austin	High Country Mun ABC Board Chairman

VISITOR REGISTRATION SHEET

JOINT STUDY ON ALCOHOLIC BEVERAGE CONTROL — MARCH 24, 2010

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NAME	FIRM OR AGENCY AND ADDRESS
MIKE HENNINGS	NC ABC COMMISSION
Charles Metz Jr	NC ABC Commission
Elizabeth Robinson	NCPMA
Brian Piercy	Ragsdale Liggett PLLC
[illegible]	Misc
[illegible]	TPG
Michelle Frazier	MFS
Andy Ellen	NCPMA
Elizabeth Kirkman	[illegible]
MICHAEL CROWELL	UNC SCHOOL OF GOV'T
Agnes Stevens	ABC Commission

VISITOR REGISTRATION SHEET

JOINT STUDY ON ALCOHOLIC BEVERAGE CONTROL — MARCH 24, 2010

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NAME	FIRM OR AGENCY AND ADDRESS
Dean Plunkett	NCBWWA
Ken Melton	KMA
Fred Baggett	City of Hickory
Brad A. Salmon	Campbell Law
T. & J	CU Law
Andrew Brendle	Campbell Law
Bill Brooks	NCFRC
Brandon McPherson	Campbell Law
Peter Bolac	Campbell Law
Kris GARDNER	NCBWWA / THARRINGTON SMITH, LLP
DANIEL BAUM	TROUTMAN SANDERS

VISITOR REGISTRATION SHEET

JOINT STUDY ON ALCOHOLIC BEVERAGE CONTROL — MARCH 24, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Al Brown	Concord City Council P.O. Box 308 Concord NC 28026
Jim Greene	" " " "
ERIN DAY	Wilson Co. Substance Abuse Coalition 185 Nash St, Ste 518 Wilson NC 27893
Alison Farrington (youth)	Carteret Co. Substance Abuse Prevention task force
Kalen Perry (youth)	Carteret Co. Substance Abuse Prevention task force. & Substance Abuse Prevention Helps every one
Tanya Roberts	Coastal Coalition for SA Prev. & regional youth team CSAP Fellow - NC tanya@ccsap.org
Anne Hardison	Coastal Coalition for Sub Prevention PO Box 517, New Bern, NC 28563
Becky Smothers	Mayor of High Point 211 S. Hamilton St. HPT, NC
Dan Wall	CHAIR HIGH POINT ABC BOARD 211 S. HAMILTON ST HPT NC
TRAY WORRELL	VP ABOARD - ASS. BAR + Rest Wilmington 122 MARKET St. Wilm. 28401
Joel Keith	Wake County APPC 1212 Wicker Drive, Raleigh

VISITOR REGISTRATION SHEET

JOINT STUDY ON ALCOHOLIC BEVERAGE CONTROL — MARCH 24, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
[illegible]	N.S.S.
David Ozgo	DISCUS
DAVID WOJNAR	DISCUS
JOHN SANDERS	
Ava D. Troxler	WINSTON-SALEM, NC Coalition for Drug Abuse Prevention
Patrick Gannon	Wilmington Star-News
Shawn Arledge	Coastal Horizons Center Inc.
Deeanna Hale-Holland	Coastal Horizons Center, Inc.
LAWLESS BENN	CITY OF WILMINGTON
Nick Tosco	NCLM
Ken Kirby	Member - Wake Co. A.B.C. Board

VISITOR REGISTRATION SHEET

JOINT STUDY ON ALCOHOLIC BEVERAGE CONTROL — MARCH 24, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Paul White	Wake county & ABC
Chris Peasants	Wake County Board of Commissioners
JOHN CONVERSE	WAKE ABC BOARD
KEVIN O'GRADY	WILMINGTON CITY COUNCIL
PAUL LAWLER	WILMINGTON CITIZEN
TOM HARRIS	INDUSTRY MEMBER & DOWNTOWN BUSINESS ALLIANCE WILMINGTON, NC
Ron Rau	Alcohol & Drug Services of Guilford High Point, NC
VIC NUSSBAUM	GUILFORD CARES GREENSBORO NC
Sean Hamel	GA Shall PEL
Aidil Collins	Youth Empowered Solutions, 4418 Louisburg Rd. 27610
Katie Lantigua	YES!

VISITOR REGISTRATION SHEET

JOINT STUDY ON ALCOHOLIC BEVERAGE CONTROL — MARCH 24, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Damar Hoadley	YES! 4418 Louisburg Rd Raleigh, 27616
Shevanow Winston	YES! 4418 Louisburg Rd Raleigh, 27616

ATTACHMENT 1

State of North Carolina

Wake County

Federal Tax Id #: 39-1214928

CONTRACT FOR APPRAISAL SERVICES RELATED TO THE NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL SYSTEM

This CONTRACT FOR APPRAISAL SERVICES (this "Contract"), made February 26, 2010, between Valuation Research Corporation, (the "Contractor"), and the North Carolina Alcoholic Beverage Control Commission (the "Commission"), an Agency of the State of North Carolina ("State") (referred to collectively as the "Parties").

PREMISES

WHEREAS the Commission and the State of North Carolina desire to know for policy-making purposes the following:

A. The valuation of the State's current warehouse system of receipt, storage, and distribution of spirituous liquor - the existing Wholesale Function; and

B. The valuation of the State's current system for the sale of spirituous liquor by the local ABC stores to the public and for the regulation thereof - the existing Retail Function; and

C. The valuation of various alternative models to the current system ("Scenarios for Valuation Analysis") - changes to the existing wholesale and/or existing retail functions; and

WHEREAS

D. The Contractor in a proposal dated January 26, 2010 and last amended on February 24, 2010 offered to provide appraisal services relating to the valuation of the exiting wholesale and retail functions of North Carolina's current Alcoholic Beverage Control System; and also provide appraisal services relating to the valuation of various alternative models to the current system; and

E. The Contractor has offered to perform the appraisal services and valuation analysis to provide the Commission and the State with the Fair Market Value for the existing wholesale and retail functions of the current system as well as the Fair Market Value for various alternative models to the current system; and

F. The Contractor has proposed to provide a report outlining the conclusions and findings of the valuation analysis, including supporting methodologies and assumptions used in making the various conclusions and findings; and

G. The Parties acknowledge and agree that the contractor will reach a conclusion and issue and opinion utilizing methods and assumptions of appraisal and valuation generally accepted in the industry, and further that Contractor's expert opinion is not a guarantee, and is intended solely for the use of the State for policy-making purposes and as such is not intended to be relied upon by third parties; and

H. The parties hereto desire to reduce the terms of this agreement to writing;

NOW, THEREFORE, for and in consideration of the mutual promises to each other, as set forth herein, the Parties hereto agree as follows:

ARTICLE I
CONSTRUCTION

SECTION 1.1 Contract Documents: This Contract consists of the following documents:

A. This Contract
B. The General Terms and Conditions (Attachment 1)
C. The Scope of Work - Description of Services (Attachment 2)
D. Estimated Budget (Attachment 3)
E. Authorized Expense Schedule (Attachment 4)
F. Key Personnel (Attachment 5)

These documents constitute the entire agreement between the Parties and supersede all prior oral or written statements or agreements.

SECTION 1.2 Precedence Among Contract Documents:

In the event of a conflict between or among the terms of the Contract Documents, the terms in the Contract Document with the highest relative precedence shall prevail. The order of precedence shall be the order of documents as listed in Paragraph 1.1, above, with the first-listed document having the highest precedence and the last-listed document having the lowest precedence. If there are multiple Contract Amendments, the most recent amendment shall have the highest precedence and the oldest amendment shall have the lowest precedence.

ARTICLE II
GENERAL TERMS AND CONDITIONS

SECTION 2.1

The General Terms and Conditions set out in this ARTICLE supplement the General Terms and Conditions set out in Attachment 1.

SECTION 2.2 Effective Period:

This contract shall be effective on February 26, 2010 and shall terminate eight (8) weeks thereafter.

SECTION 2.3 Contractor's Duties:

A. The Contractor shall provide the services as described and in accordance with the time table provided in Attachment 2., Scope of Work - Description of Services.

B. The Contractor shall, on weekly basis, submit to the Commission's Contract Administrator for approval a progress report via email by midnight on Thursday containing a review of the work completed during the previous week; the status of the work actually completed in relation to the time table set out in Attachment 2. Paragraph C. 2. "Milestones"; and a forecast of the scheduled work for the week upcoming, including any requests for information needed to proceed to the next Milestone.

C. Contractor shall on a semi-monthly basis invoice the Commission for the work satisfactorily completed during the previous two-week period. Contractor shall provide detail as to the tasks completed and/or the progress made in relation to the "Process" and "Milestones" time tables in Paragraph C. of Attachment 2. In addition, Contractor shall submit an itemized report of authorized reimbursable expenses incurred during the previous two-week period.

D. Upon Contractor's due diligence and/or subsequent communication with the Contract Administrator, if it is determined that the scope of services outlined in Attachment 2. of the Contract changes materially and substantially, Contractor will notify the Commission of such changes and adjustment in fees estimated before proceeding with any expansion in the scope of service.

SECTION 2.4 Commission's Duties

A. The Commission shall use best efforts to provide the Contractor with requested information and access to key Commission personnel in a timely manner, including personnel who can provide Contractor with background information concerning the current alcoholic beverage control system from an operational, financial, sales and marketing perspective.

B. The Commission shall promptly provide to the Contractor copies of all research and data previously conducted by the North Carolina Office of State Management and Budget ("OSMB") concerning the value of the current alcoholic beverage control system. The Commission shall not pay the Contractor for duplication of the work completed in the OSMB study.

C. The Commission shall pay the Contractor in the manner and in the amounts specified in Article V, "Compensation" and Attachment 2. of this Contract. The total amount paid by the Commission to the Contractor under this contract shall not exceed $ 175,000.00 plus reasonable authorized expenses.

SECTION 2.5 Subcontracting

Contractor has engaged the services of Scott Balice Strategies (SBS) as a subcontractor. Lois Scott, President of SBS shall be considered key personnel under the general terms and conditions of this Contract as set out in Article IV and Attachments 1. and 5.

SECTION 2.6 Confidentiality

Contractor agrees that all information, data, documents, studies or reports assembled by the Contractor under this Contract or made available to the Contractor will be used solely in the course of the performance of the Contractor's services under this Contract. Except as otherwise required by law or judicial or regulatory process, or other applicable supervisory, judicial or governmental order or authority, the Contractor shall not, and shall not permit any of its employees, agents or representatives to, disclose this information to a third party without the prior written consent of the Commission. Contractor shall be responsible for any breach of the foregoing by any of its agents or representatives. The information covered by the foregoing obligations does not include information that (a) was or becomes generally available to the public other than as a result of a disclosure by the Contractor or (b) was or becomes available to the Contractor on a non-confidential basis from a source other than the Commission or their respective advisors, provided that such source was not known by the Contractor to be bound by any agreement with the Commission to keep such information confidential. The Contractor agrees that, in the event of a breach of the foregoing by the Contractor or any of its agents or representatives, the Commission shall have the right to (c) demand the immediate return of all nonpublic information, (d) recover its actual damages incurred by reason of such breach, including, without limitation, its reasonable attorneys' fees and costs of suit, (e) obtain injunctive relief to prevent such breach or otherwise to enforce the foregoing (without the necessity of posting bond or other security or proving damages) and (f) pursue any other remedy available at law or in equity. The provisions of this paragraph shall survive any termination or expiration of this engagement.

Contractor's report or name may not be referenced, quoted, or otherwise disclosed in any public filing without our prior written consent. Contractor is under no duty or obligation to consent to the inclusion of references to Contractor's report or to Contractor's name in any public filing, including consenting to being referenced as an "expert" as used in the Securities Act of 1933, as amended, or the rules and regulations of the Securities and Exchange Commission promulgated there under.

SECTION 2.7 Conflict of Interest Policy:

The Commission has determined that this contract is not subject to N.C.G.S. 143C-6-22 & 23.

SECTION 2.8 Reporting Requirements:

The Commission has determined that this is a contract for purchase of goods or services, and therefore is exempt from the reporting requirements of N.C.G.S. § 143C-6-22 & 23.

SECTION 2.9 Outsourcing:

The Contractor certifies that it has identified to the Commission all jobs related to the Contract that have been outsourced to other countries, if any. Contractor further agrees that it will not outsource any such jobs during the term of this Contract without providing notice to the Division.

SECTION 2.10 Signature Warranty:

The undersigned represent and warrant that they are authorized to bind their principals to the terms of this agreement.

SECTION 2.11 Executive Order # 24:

N.C.G.S. § 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization."

ARTICLE III
DEFINITIONS

SECTION 3.1 DEFINITIONS

A. The Contract Administrator shall mean the chairman and/or administrator of the North Carolina Alcoholic Beverage Control Commission.

B. The State shall mean the State of North Carolina and the North Carolina Alcoholic Beverage Control Commission as an Agency or in its capacity as the award authority.

C. The System shall mean the State's current alcoholic beverage control system for regulating the receipt, storage, distribution and sale of spirituous liquor.

D. Scenarios shall mean all system models posed for study and valuation analysis by the Contractor including; the current alcoholic beverage control System as well as the alternative models, all of which are set out in Attachment 2. to this contract.

E. Fair Market Value shall mean the price at which an asset would exchange hands between a willing buyer and a willing seller when the former is not under any compulsion to buy and the latter is not under any compulsion to sell, both parties having reasonable knowledge of the relevant facts.

F. Wholesale Function shall mean those portions of the alcoholic beverage control System currently consisting of the receipt and storage of spirituous liquor at the State's bailment warehouse located in Raleigh, North Carolina and the subsequent distribution of the liquor to the local ABC retail stores.

G. Retail Function shall mean the storage of spirituous liquor by the local ABC board and its sale to the public from the various ABC stores run by the local ABC board. The Retail Function also includes regulation through local ABC law enforcement and/or contracted law enforcement.

H. Award Authority – The North Carolina Alcoholic Beverage Control Commission.

I. Valuation Date – The date in time upon which the Contractor's valuation analysis is based.

ARTICLE IV
CONTRACTSPECIFICATIONS

SECTION 4.1 SCOPE OF WORK – DESCRIPTION OF SERVICES

The Contractor shall provide the services as described in Attachment 2. Scope of Work – Description of Services and in accordance with the time tables set out under Paragraph C. 1. "Process" and C. 2 "Milestones" of Attachment 2.

SECTION 4.2 KEY PERSONNEL

The Contractor shall not substitute key personnel assigned to the performance of this contract without prior written approval by the Commission's Contract Administrator. The individuals designated as key personnel for purposes of this Contract are; Bryan H. Browning, James T. Budyak, Anthony D. Law, John C. Bintz, William J. Hughes and Lois Scott as specified in Attachment 5.

ARTICLE V
COMPENSATION, FEES and EXPENSES

SECTION 5.1 Payment

This Contract is a Results, Time and Expense contract. Payment shall be made in accordance with this Article and the payment provisions contained in Attachment 2. Scope of Work – Description of Services. Contractor shall be paid for the timely and satisfactory completion of each phase of the services described in the time tables set out under Paragraph C. 1. "Process" and C. 2. "Milestones" of Attachment 2.

The Parties acknowledge and agree that the Contractor's fees are not contingent on the levels of value concluded, the outcome of any litigation, or the consummation of any transaction with respect to this matter.

SECTION 5.2 Stop Payment

A. The Commission shall have the authority to stop payment of any invoice if the Commission's Contract Administrator determines that the work of the Contractor is unsatisfactory or the progress of the work unreasonably behind schedule established in the time tables set out under Paragraph C. 1. "Process" and C. 2. "Milestones" of Attachment 2.

B. If after the conclusion of eight (8) weeks the Contractor has not satisfactorily completed the work as described in Attachment 2. the Commission shall have the right to stop payment. Contractor shall not continue work beyond the eight (8) week contract term without written permission of the Commission's Contract Administrator.

SECTION 5.3 Expenses

Contractor's reasonable expenses for travel, mileage, meals and lodging shall be reimbursed at the State employee per diem rate as described in Attachments 1 and 4. Expenses incurred over and above the allowable rate shall be the responsibility of the Contractor. Commission shall reimburse Contractor's reasonable Data Charges. Contractor has estimated that its Data Charges for this contract will be $5,425.00. Data Charge expense over and above this estimate shall be the responsibility of the Contractor.

SECTION 5.4 Fees in Event of Litigation

If services arising from litigation become necessary, including depositions and expert testimony (whether by agreement or by subpoena), Commission agrees that they will pay Contractor's current hourly rate of $350.00 for the person(s) involved in all related meetings, conferences, and reasonable preparation time for such events, plus reasonable expenses. Reasonable expenses shall be reimbursed at the State employee per diem rate in accordance with Expense Schedule in Attachment 4.

Contract Administrators:
All notices permitted or required to be given by one Party to the other and all questions about the contract from one Party to the other shall be addressed and delivered to the other Party's Contract Administrator. The name, Post office address, street address, telephone number, fax number, and email address of the Parties' respective initial Contract Administrators are set out below. Either Party may change the name, post office address, street address, telephone number, fax number, or email address of its Contract Administrator by giving timely written notice to the other Party.

For the Commission:

IF DELIVERED BY US POSTAL SERVICE	IF DELIVERED BY ANY OTHER MEANS
Jonathan Williams - Chairman NC ABC Commission 4307 Mail Service Center Raleigh, NC 27699-4307 Telephone (919) 779-0700 ext. 246 Fax (919) 661-6165 Email: jon.williams@abc.nc.gov	Mike Herring - Administrator NC Commission Street Address 3322 Garner Road Raleigh, NC 27610 Telephone (919) 779-0700 ext. 247 Fax (919) 661-6165 Email: mike.herring@abc.nc.gov

For the Contractor:

IF DELIVERED BY US POSTAL SERVICE	IF DELIVERED BY ANY OTHER MEANS
Bryan H. Browning Project Manager Valuation Research Corporation 200 West Madison Street, Suite 2850 Chicago, Illinois 60606 Telephone: (414) 221-6249 Fax Email: bbrowning@valuationresearch.com	Bryan H. Browning Project Manager Valuation Research Corporation 200 West Madison Street, Suite 2850 Chicago, Illinois 60606 Telephone: (414) 221-6249 Fax Email: bbrowning@valuationresearch.com

In Witness Whereof, the Contractor and the Commission have executed this contract in duplicate originals, with one original being retained by each party.

Valuation Research Corporation

Signature	February 26, 2010 Date
William Hughes Printed Name	Sr. Managing Director & Co-CEO Title

WITNESS

Signature	February 26, 2010 Date
John C. Bintz Printed Name	Managing Director Title

North Carolina Alcoholic Beverage Control Commission

Signature	February 26, 2010 Date
Jonathan S. Williams Printed Name	Chairman Title

WITNESS

Signature	2-26-10 Date
Fred A. Gregory Printed Name	Chief Legal Counsel Title

Approved as to Form:
Roy Cooper, Attorney General

By: _____

Attachment 1
General Terms and Conditions

Relationships of the Parties

Independent Contractor: The Contractor is and shall be deemed to be an independent contractor in the performance of this contract and as such shall be wholly responsible for the work to be performed and for the supervision of its employees. The Contractor represents that it has, or shall secure at its own expense, all personnel required in performing the services under this agreement. Such employees shall not be employees of, or have any individual contractual relationship with, the Commission or the State.

Subcontracting: The Contractor shall not subcontract any of the work contemplated under this contract without prior written approval from the Commission. Any approved subcontract shall be subject to all conditions of this contract. Only the subcontractors specified in the contract documents are to be considered approved upon award of the contract. The Commission shall not be obligated to pay for any work performed by any unapproved subcontractor. The Contractor shall be responsible for the performance of all of its subcontractors.

Assignment: No assignment of the Contractor's obligations or the Contractor's right to receive payment hereunder shall be permitted. However, upon written request approved by the issuing purchasing authority, the State may:

(a) Forward the Contractor's payment check(s) directly to any person or entity designated by the Contractor, or

(b) Include any person or entity designated by Contractor as a joint payee on the Contractor's payment check(s).

In no event shall such approval and action obligate the State to anyone other than the Contractor and the Contractor shall remain responsible for fulfillment of all contract obligations.

Beneficiaries: Except as herein specifically provided otherwise, this contract shall inure to the benefit of and be binding upon the parties hereto and their respective successors. It is expressly understood and agreed that the enforcement of the terms and conditions of this contract, and all rights of action relating to such enforcement, shall be strictly reserved to the Commission and the named Contractor. Nothing contained in this document shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of the Commission and Contractor that any such person or entity, other than the Commission or the Contractor, receiving services or benefits under this contract shall be deemed an incidental beneficiary only.

Indemnity and Insurance

Indemnification: The Contractor agrees to indemnify and hold harmless the Commission, the State of North Carolina, and any of their officers, agents and employees, from any claims of third parties arising out of any act or omission of the Contractor in connection with the performance of this contract.

(a) **Insurance:** During the term of the contract, the Contractor shall provide, at its sole cost and expense, commercial insurance of such types and with such terms and limits as may be reasonably associated with the contract. At a minimum, the Contractor shall provide and maintain the following coverage and limits:

(1) **Worker's Compensation Insurance:** The Contractor shall provide and maintain worker's compensation insurance, as required by the laws of the states in which its employees work, covering all of the Contractor's employees who are engaged in any work under the contract.

(2) **Employer's Liability Insurance:** The Contractor shall provide employer's liability insurance, with minimum limits of $500,000.00, covering all of the Contractor's employees who are engaged in any work under the contract.

(3) **Commercial General Liability Insurance:** The Contractor shall provide commercial general liability insurance on a comprehensive broad form on an occurrence basis with a minimum combined single limit of $1,000,000.00 for each occurrence.

(4) **Automobile Liability Insurance:** The Contractor shall provide automobile liability insurance with a combined single limit of $500,000.00 for bodily injury and property damage; a limit of $500,000.00 for uninsured/under insured motorist coverage; and a limit of $2,000.00 for medical payment coverage. The Contractor shall provide this insurance for all automobiles that are:

(A) owned by the Contractor and used in the performance of this contract;

(B) hired by the Contractor and used in the performance of this contract; and

(C) owned by Contractor's employees and used in performance of this contract ("non-owned vehicle insurance"). Non-owned vehicle insurance protects employers when employees use their personal vehicles for work purposes. Non-owned vehicle insurance

supplements, but does not replace, the car-owner's liability insurance.

The Contractor is not required to provide and maintain automobile liability insurance on any vehicle – owned, hired, or non-owned -- unless the vehicle is used in the performance of this contract.

(b) The insurance coverage minimums specified in subparagraph (a) are exclusive of defense costs.

(c) The Contractor understands and agrees that the insurance coverage minimums specified in subparagraph (a) are not limits, or caps, on the Contractor's liability or obligations under this contract.

(d) The Contractor may obtain a waiver of any one or more of the requirements in subparagraph (a) by demonstrating that it has insurance that provides protection that is equal to or greater than the coverage and limits specified in subparagraph (a). The Commission shall be the sole judge of whether such a waiver should be granted.

(e) The Contractor may obtain a waiver of any one or more of the requirements in paragraph (a) by demonstrating that it is self-insured and that its self-insurance provides protection that is equal to or greater than the coverage and limits specified in subparagraph (a). The Commission shall be the sole judge of whether such a waiver should be granted.

(f) Providing and maintaining the types and amounts of insurance or self-insurance specified in this paragraph is a material obligation of the Contractor and is of the essence of this contract.

(g) The Contractor shall only obtain insurance from companies that are authorized to provide such coverage and that are authorized by the Commissioner of Insurance to do business in the State of North Carolina. All such insurance shall meet all laws of the State of North Carolina.

(h) The Contractor shall comply at all times with all lawful terms and conditions of its insurance policies and all lawful requirements of its insurer.

(i) The Contractor shall require its subcontractors to comply with the requirements of this paragraph.

(j) The Contractor shall demonstrate its compliance with the requirements of this paragraph by submitting certificates of insurance to the Division before the Contractor begins work under this contract.

Default and Termination

Termination Without Cause: The Commission may terminate this contract without cause by giving 30 days written notice to the Contractor.

Termination for Cause: If, through any cause, the Contractor shall fail to fulfill its obligations under this contract in a timely and proper manner, the Commission shall have the right to terminate this contract by giving written notice to the Contractor and specifying the effective date thereof. In that event, all finished or unfinished deliverable items prepared by the Contractor under this contract shall, at the option of the Commission, become its property and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such materials, minus any payment or compensation previously made. Notwithstanding the foregoing provision, the Contractor shall not be relieved of liability to the Commission for damages sustained by the Commission by virtue of the Contractor's breach of this agreement, and the Commission may withhold any payment due the Contractor for the purpose of setoff until such time as the exact amount of damages due the Commission from such breach can be determined. In case of default by the Contractor, without limiting any other remedies for breach available to it, the Commission may procure the contract services from other sources and hold the Contractor responsible for any excess cost occasioned thereby. The filing of a petition for bankruptcy by the Contractor shall be an act of default under this contract.

Waiver of Default: Waiver by the Commission of any default or breach in compliance with the terms of this contract by the Contractor shall not be deemed a waiver of any subsequent default or breach and shall not be construed to be modification of the terms of this contract unless stated to be such in writing, signed by an authorized representative of the Commission and the Contractor and attached to the contract.

Availability of Funds: The parties to this contract agree and understand that the payment of the sums specified in this contract is dependent and contingent upon and subject to the appropriation, allocation, and availability of funds for this purpose to the Commission.

Force Majeure: Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations by any act of war, hostile foreign action, nuclear explosion, riot, strikes, civil insurrection, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.

Survival of Promises: All promises, requirements, terms, conditions, provisions, representations, guarantees, and warranties contained herein shall survive the contract expiration or termination date unless specifically provided otherwise herein, or unless superseded by applicable Federal or State statutes of limitation.

Intellectual Property Rights

Copyrights and Ownership of Deliverables: All deliverable items produced pursuant to this contract are the exclusive property of the Commission. The Contractor shall not assert a claim of copyright or other property interest in such deliverables.

Federal Intellectual Property Bankruptcy Protection Act: The Parties agree that the Commission shall be entitled to all rights and benefits of the Federal Intellectual Property Bankruptcy Protection Act, Public Law 100-506, codified at 11 U.S.C. 365 (n) and any amendments thereto.

Compliance with Applicable Laws

Compliance with Laws: The Contractor shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and/or authority.

Equal Employment Opportunity: The Contractor shall comply with all federal and State laws relating to equal employment opportunity.

Executive Order # 24: "By Executive Order 24, issued by Governor Perdue, and N.C. G.S.§ 133-32, it is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor). This prohibition covers those vendors and contractors who have a contract with a governmental agency; or have performed under such a contract within the past year; or anticipate bidding on such a contract in the future.

For additional information regarding the specific requirements and exemptions, vendors and contractors are encouraged to review Executive Order 24 and G.S. Sec. 133-32.

Executive Order 24 also encouraged and invited other State Agencies to implement the requirements and prohibitions of the Executive Order to their agencies. Vendors and contractors should contact other State Agencies to determine if those agencies have adopted Executive Order 24."

Confidentiality

Confidentiality: Any information, data, instruments, documents, studies or reports given to or prepared or assembled by the Contractor under this agreement shall be kept as confidential and not divulged or made available to any individual or organization without the prior written approval of the Commission. The Contractor acknowledges that in receiving, storing, processing or otherwise dealing with any confidential information it will safeguard and not further disclose the information except as otherwise provided in this contract.

Oversight

Access to Persons and Records: The State Auditor shall have access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions in accordance with General Statute 147-64.7. Additionally, as the State funding authority, the Department of Commerce shall have access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions.

Record Retention: Records shall not be destroyed, purged or disposed of without the express written consent of the Commission. State basic records retention policy requires all grant records to be retained for a minimum of five years or until all audit exceptions have been resolved, whichever is longer. If the contract is subject to federal policy and regulations, record retention may be longer than five years since records must be retained for a period of three years following submission of the final Federal Financial Status Report, if applicable, or three years following the submission of a revised final Federal Financial Status Report. Also, if any litigation, claim, negotiation, audit, disallowance action, or other action involving this Contract has been started before expiration of the five-year retention period described above, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular five-year period described above, whichever is later.

Warranties and Certifications

Date and Time Warranty: The Contractor warrants that the product(s) and service(s) furnished pursuant to this contract ("product" includes, without limitation, any piece of equipment, hardware, firmware, middleware, custom or commercial software, or internal components, subroutines, and interfaces therein) that perform any date and/or time data recognition function, calculation, or sequencing will support a four digit year format and will provide accurate date/time data and leap year calculations. This warranty shall survive the termination or expiration of this contract.

Certification Regarding Collection of Taxes: G.S. 143-59.1 bars the Secretary of Administration from

entering into contracts with vendors that meet one of the conditions of G.S. 105-164.8(b) and yet refuse to collect use taxes on sales of tangible personal property to purchasers in North Carolina. The conditions include: (a) maintenance of a retail establishment or office; (b) presence of representatives in the State that solicit sales or transact business on behalf of the vendor; and (c) systematic exploitation of the market by media-assisted, media-facilitated, or media-solicited means. The Contractor certifies that it and all of its affiliates (if any) collect all required taxes.

Miscellaneous

Choice of Law: The validity of this contract and any of its terms or provisions, as well as the rights and duties of the parties to this contract, are governed by the laws of North Carolina. The Contractor, by signing this contract, agrees and submits, solely for matters concerning this Contract, to the exclusive jurisdiction of the courts of North Carolina and agrees, solely for such purpose, that the exclusive venue for any legal proceedings shall be Wake County, North Carolina. The place of this contract and all transactions and agreements relating to it, and their situs and forum, shall be Wake County, North Carolina, where all matters, whether sounding in contract or tort, relating to the validity, construction, interpretation, and enforcement shall be determined.

Amendment: This contract may not be amended orally or by performance. Any amendment must be made in written form and executed by duly authorized representatives of the Commission and the Contractor. The Purchase and Contract Division of the NC Department of Administration and the NC Alcoholic Beverage Control Commission shall give prior approval to any amendment to a contract awarded through those offices.

Severability: In the event that a court of competent jurisdiction holds that a provision or requirement of this contract violates any applicable law, each such provision or requirement shall continue to be enforced to the extent it is not in violation of law or is not otherwise unenforceable and all other provisions and requirements of this contract shall remain in full force and effect.

Headings: The Section and Paragraph headings in these General Terms and Conditions are not material parts of the agreement and should not be used to construe the meaning thereof.

Time of the Essence: Time is of the essence in the performance of this contract.

Key Personnel: The Contractor shall not replace any of the key personnel assigned to the performance of this contract without the prior written approval of the Division. The term "key personnel" includes any and all persons identified by as such in the contract documents and any other persons subsequently identified as key personnel by the written agreement of the parties.

Care of Property: The Contractor agrees that it shall be responsible for the proper custody and care of any property furnished to it for use in connection with the performance of this contract and will reimburse the Commission for loss of, or damage to, such property. At the termination of this contract, the Contractor shall contact the Commission 4for instructions as to the disposition of such property and shall comply with these instructions.

Travel Expenses: Reimbursement to the Contractor for travel mileage, meals, lodging and other travel expenses incurred in the performance of this contract shall not exceed the rates published in the applicable State rules. International travel shall not be reimbursed under this contract.

Sales/Use Tax Refunds: If eligible, the Contractor and all subcontractors shall: (a) ask the North Carolina Department of Revenue for a refund of all sales and use taxes paid by them in the performance of this contract, pursuant to G.S. 105-164.14; and (b) exclude all refundable sales and use taxes from all reportable expenditures before the expenses are entered in their reimbursement reports.

Advertising: The Contractor shall not use the award of this contract as a part of any news release or commercial advertising.

Attachment 2
Scope of Work - Description of Services

SERVICES: The Contractor shall provide valuation analysis and conclusions based on the different Scenarios as described below.

A. **Objective:** The Commission and the State desire to know, for policy-making purposes, the following about the current ABC system:

1. The valuation of the State's current warehouse system of receipt, storage and distribution of spirituous liquor – the **existing wholesale function**.

2. The valuation of the State's current system for the sale of spirituous liquor by the local ABC stores to the public and the regulation thereof – the **existing retail function**.

The Commission and the State also desire to know the valuation of the following alternative models to the existing wholesale and retail functions:

3. The valuation of the **wholesale function**, whereby the State sells the function to a single vendor, providing a monopoly for a license period of 5 and 10 years.

4. The valuation of the **wholesale function** whereby the State sells licenses for a period of 5 and 10 years to multiple distributors who each set up their own warehouses.

5. The valuation of the **retail function** whereby the State sells to a single vendor (5 and 10 year licenses) providing a monopoly, and
   (i) Vendor establishes own ABC stores or outlets, or
   (ii) Vendor purchases existing in-place retail distribution network and establishes additional ABC stores or outlets.

6. The valuation of the **retail function** whereby the State sells to multiple vendors, the licenses (5 and 10 year licenses) to distribute on a retail basis (limited monopoly), and
   (i) Vendors establish own ABC stores or outlets,
   (ii) Vendors purchase existing in-place retail distribution network and establish additional ABC stores or outlets, or
   (iii) Vendors establish agency stores.

B. **Method and Procedure:** The scope of the Contractor's work will include, among other procedures, the following:

1. Discussions concerning the history and future operations of the ABC system and possible Scenarios;

2. Discussions of methods of pricing licenses (such as auction, reverse auction, or fixed fee) and comparison of methods to realize maximum revenue;

3. Review and analysis of historical and projected operating results and other data relating to the overall operations of the System;

4. Review and consideration of transactions/financings for comparable liquor control systems and public private partnership. This would be accomplished by conducting interviews and conversations with infrastructure centric private equity firms and strategic bidders;

5. Discussion of value drivers; value drivers are any variable which would have the result of increasing net operating revenue of the asset which will result in an increased valuation, such as the license term or allowing agency stores;

6. Establishment of profit/revenue maximizing point and comparison at that point to current conditions using the value drivers;

7. Sensitivity analysis varying the different key assumptions, through modeling, in order to determine how various revenue growth, discount rates and contract terms affect value; and

8. Analysis of other facts and data considered pertinent to our analysis.

Each of the above factors will be considered, along with other information pertinent to the situation, to reach a conclusion.

C. **Process and Milestones**

1. **Process:**	**Day Estimate**
Due Diligence / data collection Management interview / discussion Data collection and assimulation Market and industry research Development of comparable companies Development of discount rates	9.5
Valuation of the **existing warehouse** operations Historical financial review and trend analysis Discounted cash flow valuation analysis Market public company valuation analysis Assimulation of values and review	8.5
Valuation of the **existing retail** operations Historical financial review and trend analysis Discounted cash flow valuation analysis Market public company valuation analysis Assimulation of values and review	10.0
Valuation of **wholesale operation sale** to single vendor (5 year license) Discounted cash flow analysis [a] Review	3.5
Valuation of **wholesale operation sale** to single vendor (10 year license) Discounted cash flow analysis [a] Review	3.5
Valuation of **wholesale license sale** to multiple distributors (5 year license) Discounted cash flow analysis [a] Review	3.5
Valuation of **wholesale license sale** to multiple distributors (10 year license) Discounted cash flow analysis [a] Review	3.5
Valuation of **retail operation sale** to a single vendor (5 and 10 year license) (establishment of its own stores or outlets) Discounted cash flow analysis [a] Review	3.5
Valuation of **retail operation sale** to a single vendor (5 and 10 year license) (existing in-place network) Discounted cash flow analysis [a] Review	3.5
Valuation of **retail operation sale** to multiple vendors (5 and 10 year license) (establishment of its own stores or outlets) Discounted cash flow analysis [a] Review	3.5

Valuation of **retail operation sale** to a multiple vendors (5 and 10 year license) (existing in-place network) Discounted cash flow analysis [a] Review	3.5
Valuation of **retail operation sale** to a multiple vendors (5 and 10 year license) (establishment of agency stores) Discounted cash flow analysis [a] Review	3.5
Bidder validation Identify potential bidders Undisclosed meetings	2.5
Deliverables Report Presentation	7.0
General / Coordination / Support	3.9
Total	**72.9**

[a] Incorporating specific scenario assumptions and adjustments into the cash flow model

2. **Milestones:**

Week 1: Construct data library
---ABC Commission
—Other 18 "Control States"

Week 2: Outline of business terms to be valued submitted to State

Week 3: Draft of valuation model finalized

Week 4-5: Confidential discussion on assets with key investors: financial and strategic

Week 5: Outline of report developed, without final valuation numbers

Week 6: Final valuation analysis and sensitivities

Week 7: Review with client before report finalized

Week 8: Final report delivered to State

D. **Preliminary results**

Preliminary results of Contractor's analysis will be available within six weeks of an executed agreement and receipt of requested due diligence information. At the Commission's direction and timely comment, Contractor shall then issue the final letter report. The Parties agree that this timetable is dependent upon Contractor receiving timely access to information and key company personnel.

E. **Deliverables**

A Fair Market Value shall be determined using a current Valuation Date for each of the Scenarios listed in Paragraphs A. and C. above. Contractor shall provide a report outlining the various Scenarios and their respective valuation analysis. Included will be exhibits supporting the valuation methodologies and assumptions used that support the valuation conclusion and finding. Additionally, a summary of available comparable transactions in public private partnerships shall be provided.

F. **Payment**

This Contract is a Results, Time and Expense contract. Contractor shall be paid for the timely and satisfactory completion of each phase of the services described in Paragraphs C., D. and E. above.

The Commission's Contract Administrator shall evaluate the performance of the Contractor as evidenced by the weekly progress reports and the semi-monthly detailed invoice required of the Contractor in Article II, Section 2.3 of the Contract. The Commission's Contract Administrator shall determine the progress of the work actually completed in relation to; the "Process" and "Milestones" time tables set out in Paragraph C. of Attachment 2., and the Estimated Budget in Attachment 3., prior to approving payment for the period.

Upon approval of the work satisfactorily completed the Commission's Contract Administrator shall submit Contractor's invoice to the Department of Commerce for payment within 30 days immediately thereafter.

Contractor shall be paid $ 350.00 per hour.

Contractor shall be paid according to the number of hours of work invoiced for the period.

The total amount paid under the Contract not to exceed $175,000.00 plus reasonable and eligible expenses.

F. **Expenses**

Contractor shall submit a detailed report of travel, mileage, meals, lodging and Data Charge expenses incurred during the previous two-week period. The Commission's Contract Administrator shall review the expense report, and submit a request to the Department of Commerce for reimbursement of those expenses eligible under the provisions of Attachments 1. and 4. Eligible expense reimbursement shall be paid to the Contractor within 30 days of the Contract Administrator's request.

Attachment 3
Estimated Budget

North Carolina Alcoholic Beverage Control Commission

[redacted]

	Fee Estimate	Day Estimate
Due diligence / data collection *Management interview / discussion* *Data collection and assimilation* *Market and industry research* *Development of comparable companies* *Development of discount rates*	$22,800.00	9.5
Valuation of **existing warehouse** operations *Historical financial review and trend analysis* *Discounted cash flow valuation analysis* *Market public company valuation analysis* *Assimulation of values and review*	20,400.00	8.5
Valuation of **existing retail** operations *Historical financial review and trend analysis* *Discounted cash flow valuation analysis* *Market public company valuation analysis* *Assimulation of values and review*	24,000.00	10.0
Valuation of **wholesale operation sale** to single vendor (5 year license) *Discounted cash flow analysis [a]* *Review*	8,400.00	3.5
Valuation of **wholesale operation sale** to single vendor (10 year license) *Discounted cash flow analysis [a]* *Review*	8,400.00	3.5
Valuation of **wholesale license sale** to multiple distributors (5 year license) *Discounted cash flow analysis [a]* *Review*	8,400.00	3.5
Valuation of **wholesale license sale** to multiple distributors (10 year license) *Discounted cash flow analysis [a]* *Review*	8,400.00	3.5
Valuation of **retail operation sale** to single vendor (5 and 10 year license) (establishment of its own stores or outlets) *Discounted cash flow analysis [a]* *Review*	8,400.00	3.5

Attachment 3
Estimated Budget

North Carolina Alcoholic Beverage Control Commission

Project Budget

	Fee Estimate	Day Estimate
Valuation of retail operation sale to single vendor (5 and 10 year license) (existing in-place network) *Discounted cash flow analysis [a]* *Review*	8,400.00	3.5
Valuation of retail operation sale to multiple vendors (5 and 10 year license) (establishment of its own stores or outlets) *Discounted cash flow analysis [a]* *Review*	8,400.00	3.5
Valuation of retail operation sale to multiple vendors (5 and 10 year license) (existing in-place network) *Discounted cash flow analysis [a]* *Review*	8,400.00	3.5
Valuation of retail operation sale to multiple vendors (5 and 10 year license) (establishment of agency stores) *Discounted cash flow analysis [a]* *Review*	8,400.00	3.5
Bidder validation *Identify potential bidders* *Undisclosed meetings*	6,000.00	2.5
Deliverables *Report* *Presentation*	16,800.00	7.0
General / Coordination / Support	9,400.00	3.9
Total	**175,000.00**	**72.9**

[a] Incorporating specific scenario assumptions and adjustments into the discounted cash flow model

Attachment 4
Expense Schedule

NORTH CAROLINA DEPARTMENT OF COMMERCE	POLICY # FM 1
Title: Travel Expense Policy	
Effective Date: July 1, 2001	**Administering Authority:**
Revisions: January 1, 2010	Chief Fiscal Officer
Statutory Authority (if Applicable): State Budget Manual Section 5	

Purpose: To provide specific guidelines concerning travel reimbursement expenses.

Scope: This policy applies to all agencies organized under the Department of Commerce, except ESC.

Policy:

FISCAL MANAGEMENT GUIDELINES

Following are some of the more common guidelines relative to expenditures which are reimbursable on Travel Reimbursement Requests. This should not be considered as being "all inclusive"; if you are confronted with a questionable expenditure please contact your supervisor and/or the Fiscal Management Division for clarification prior to commitment.

TRAVEL REIMBURSEMENT REQUESTS

- "An employee traveling on official business is expected to exercise the same care in incurring expenses that a prudent person would exercise if traveling on personal business and expending personal funds. Excess costs, circuitous routes, delays or luxury accommodations and services unnecessary or unjustified **or for the convenience or personal preference of the employee** in the performance of official business are prohibited. Employees will be responsible for unauthorized costs and any additional expenses incurred for personal preference or convenience."

- Each employee is responsible for his/her own request for reimbursement. Each employee is responsible for his/her own meals, registration costs and all other travel expenses incurred and should not pay any expenses for other employees.

- These policies are intended to apply only to those state employees or other persons on official state business. Official state business occurs when the state employee or other person is traveling to attend approved job related training and/or work on behalf of, officially represent, or provide a state service upon the state's request. Travel that would not directly benefit the state will not be reimbursable.

- All approved reimbursement requests (typed only) must be filed in the Fiscal Management Division (FMD) within 30 days after the travel period ends. (Example: March 4th thru 8th travels is due in the FMD no later than April 8th). A delinquent letter will be issued to the employee and placed in his/her personnel file.

The only exceptions that will be granted are:
--Personal Sickness (out of the office for several weeks)
--Death in immediate family
--International Travel -- if employee uses his/her credit card. Credit card statements are used for the conversions rates

The Travel Reimbursement Request form may be found at the web address http://www.nccommerce.com/intranet/forms.

Please attach a short memo indicating if your travel reimbursement is delinquent due to one of the three exceptions listed above. The employee must sign the memo.

- All reimbursement requests must have original signature of claimant and appropriate approving authority. All original receipts must be attached.
- All reimbursements must include the reason / purpose of the trip in the purpose field.
- All reimbursement requests must have approved budget authorization (BDA) attached to cover all out-of-state travel (even if the hotel is Gratis), registration fees in excess of $49 or excess in-state hotel allowances. A BDA should be inclusive of all charges to be incurred with the associated expenses. This must be approved in advance. Trip costs are estimates, but details such as dates, destinations, names of travelers and registration fees must be accurate. Please refer to FM 10 for approval authority delegation via division directors (and designees) and Secretary's Office.
- **Any BDA's requiring revisions should be reapproved by the approving Supervisor/Director of the agency/division, however, if the revision is in excess of $500 it will need to be reapproved by the Assistant Secretary of Administration or her Designee.**
- Reimbursement for overnight lodging (prior approval by department head or his or her designee required to qualify for reimbursement of overnight stays) must be substantiated by an itemized receipt from a commercial lodging establishment; **copies of charge receipts only are not acceptable.**
- Travel must involve a destination at least 35 miles from the employee's assigned duty station (or home, whichever is less) to allow for an overnight stay or to claim breakfast and/or dinner without an overnight stay. Regulations for departure and arrival times must be followed.
- "Duty station" is defined as the location where the employee is assigned. Department head approval is required to designate the employee's home as the duty station.
- Maximum allowed subsistence rates effective July 01, 2007

	In-State	Out-of-State
Breakfast	**$ 7.75**	**$7.75**
Lunch	**10.10**	**10.10**
Dinner	**17.30**	**19.65**

Hotel	65.90	78.05
DAILY TOTAL	$101.05	$115.55

- A payment of sales tax, lodging tax, local tax or service fees applied to the cost of lodging is allowed in addition to the lodging rate ($65.90 & $78.05) and is to be paid as lodging expense.

- Express Hotel Invoices—The fiscal representative from each division must call for a detailed hotel invoice. Express hotel invoices are not acceptable. These invoices do not provide detailed expenses for each day.

- Web Based Internet Hotel Reservations-Exception has been granted from OSBM for employees to use the hotel email receipt when using a web based Internet site to book hotel reservations. The hotel email confirmation and travel reimbursement must include the following:

  Hotel Email Receipts should contain:
  length of the stay
  nightly rate and total if it is for multiple nights
  name of the hotel
  employee's name while on state business

  Travel Reimbursement Form should contain:
  The authorized approver's signature on the travel reimbursement form (denoting they were authorized to take the trip) with the hotel e-mail receipt, the approved BDA if applicable according to Fiscal Management Guidelines, and all other proper receipts/documentation relating to the trip.

- Excess for meals is not allowable unless the meal is included in a registration fee, out-of-country travel or predetermined charges which are specifically stated in a program, brochure and etc. (copy must be furnished) and prior approval by BDA has been received. A BDA should be inclusive of all charges to be incurred with the associated expenses. The cost of meals included in other related activities (registration fees, conference costs, hotel registration, etc.) may not be duplicated in reimbursement requests.

- If requested, each employee may be reimbursed for breakfast even if their hotel offers a free continental breakfast.

- No lunches reimbursed unless an overnight stay is involved with the exception of official board/commission meetings where attendance is required and the meal is a preplanned part of the formal agenda. Refer to FM-2 and FM-10, Section 4 regarding meals to prospect and prospect expenses.

  To claim breakfast when no overnight stay is involved, departure must be before 6:00 am and **the workday has been extended** by 2 hours. Travel claims must include departure time as well as the time the workday ended.

- To claim dinner when no overnight stay is involved, the return must be after 8:00 pm and **the workday has been extended by 3 hours.**

- Travel claims must include the arrival time as well as the time the workday began.

- Meals for **overnight** travel may be claimed under the following circumstance:
  Breakfast when departing duty station prior to 6:00 am;
  Lunch when departing duty station prior to Noon;
  Lunch when returning to duty station after 2:00 pm;
  Dinner when departing duty station prior to 5:00 pm;
  Dinner when returning to duty station after 8:00 pm;

- **Actual times of departure and return must be indicated on the reimbursement request when meals are claimed.**

- Employees are allowed to claim reimbursement for meals even though they are shown and offered as a part of one's flight schedule on a commercial airline.

- Tips for meals are included as part of the meal allowance.

- Registration fees for conferences, training classes, seminars or other non-accredited classes will be reimbursed for the actual amount. Individuals are responsible for paying all registration fees for $49 or less. (Exceptions will be granted to employees attending in groups of two or more. Each employee must complete an Advance Registration Form and one check will be issued to the vendor). Agendas and receipts must be attached with the reimbursement request when the employee pays the advance registration of $49 or less. Advance Registration Request forms must be completed for any advance registration payment made by Fiscal Management. The invoice, the BDA (if required), and the agenda must be attached to the Advance Registration Request. A BDA should be inclusive of all charges to be incurred associated with the trip.

- Registration fees for educational assistance associated with courses taken for academic credit: refer to HR 8 and 9.

- Employees are not allowed to charge long distance phone calls to the state for calls made of a personal nature. Except as stated --- **(1)** An employee who is in travel status for two or more consecutive nights in a week is allowed one personal long distance telephone call for each two nights for which reimbursement to the employee may not exceed $3 for in-state calls or $5 for out-of-state calls. Documentation is required for reimbursement (itemized daily charges on the hotel bill will serve as documentation for the call or phone service invoice). **(2)** Call(s) is/are of an emergency nature will be determined by the department. An example is a call made when an employee calls home to inform someone that the travel period has been extended beyond original plans due to unforeseen reasons.

- All long distance calls that are to be paid by the state are those made pursuant to the employee conducting official state business. Reimbursement may be requested for

business calls under "other expenses" on the travel reimbursement form. **Calls over $5.00 must be identified with destination and number called.**

- Use of personal vehicle for state business is reimbursable when the trip is approved by agency heads/division directors. All mileage is measured from the closer of duty station or point of departure and (return). An employee will be reimbursed the IRS rate of 50 cents when using their personal vehicle for state business when the round trip does not exceed 100 miles. The employee must claim the actual mileage for the trip. The employee **will not** be required to submit an "EMPLOYEE REQUEST FOR PERMISSION TO USE PRIVATE-OWNED VEHICLE" (revised January 1, 2007) form when travel only involves the round trip of 100 miles or less for the actual mileage.

- The mileage rate of **.33 cents** (Motor Fleet rate) will be reimbursed to all Commerce divisions when a state-owned vehicle is available, and the employee **chooses** to use his/her own vehicle **(outside the 100 miles radius)**. For Commerce divisions **outside** of Raleigh, **.33 cents** will be reimbursed if a state-owned vehicle is assigned and available to that office and the employee chooses to use his/her own vehicle **(outside the 100 miles radius)**. If no state-owned vehicle is assigned, the mileage rate of **50 cents (Internal Revenue Service standard mileage rate)** will be reimbursed.

- If an employee (Duty Station in Raleigh Area) chooses to use his/her personal vehicle because no state-owned vehicle is available, the employee must complete the form EMPLOYEE REQUEST FOR PERMISSION TO USE PRIVATE–OWNED VEHICLE in order to received the IRS mileage rate of **50 cents (outside the 100 miles radius)**. By signing this form, the employee will be certifying under penalties of perjury that he/she contacted Motor Fleet to obtain a state vehicle as required by OSBM and one was not available. This form is located on the Commerce Intranet website under FORMS. The employee **does not need** to attach the REQUEST FOR MOTOR POOL VEHCILE form from MFM to the travel reimbursement form.

- For Commerce divisions **outside** of Raleigh (Duty Station Outside the Raleigh Area) with a state-owned vehicle assigned to that office and the state-owned vehicle is not available (and no access to Motor Fleet), the employee must complete the form EMPLOYEE REQUEST FOR PERMISSION TO USE PRIVATE–OWNED VEHICLE. This form must only be completed if the employee is claiming **50 cents (outside the 100 miles radius)**. This form is located on the Commerce Intranet website under FORMS. The employee **does not need** to attach the REQUEST FOR MOTOR POOL VEHICLE form from MFM to the travel reimbursement form.

- Mileage rate for travel to and from the airport is reimbursable at the IRS rate of **50 cents** for all Commerce Divisions. Mileage is measured from the **closer** of the duty station or home. The employee **will not** be required to submit an "EMPLOYEE REQUEST FOR PERMISSION TO USE PRIVATE-OWNED VEHICLE" form when travel only involves mileage reimbursement to and from the airport.

Travel to/from Airport at Employee's Duty Station

- Reimbursement for travel between the employee's duty station or home (whichever is

less) and the nearest airline terminal (or train/bus station if applicable) and for parking may be made under the following circumstances.
For travel by:

- Taxi or Airport Shuttle - Actual costs with receipts.

- Private car - the business standard mileage rate set by the Internal Revenue Services for a maximum of two round trips with no parking charge, or for one round trip with parking charges. Receipts are required for airport parking claims.

- Use of Public Transportation – In lieu of using a taxi or airport shuttle, employees can be reimbursed without receipts $5 for each one-way trip either from the airport to hotel/meeting or from the hotel/meeting to the airport or the actual cost of the travel with the submission of receipts.

Fees in **excess** of $20 require that the destination be listed.

- **Travel to/from Airport at Employee's Destination**

Reimbursement for travel to and from the airline terminal (or train/bus station if applicable) at the employee's destination may be made where travel is via most economical mode available as listed below:

- Taxi or Airport Shuttle service – Actual costs with receipts.

- Rental vehicles - may be used with the prior approval of the department head or his or her designee; however, rental vehicles may not be used for the sole convenience of the employee (receipt required). Please refer to Rental Vehicle section as indicated in this Fiscal Management Guideline.

- Use of Public Transportation – In lieu of using a taxi or airport shuttle, employees can be reimbursed $5 without receipts for each one-way trip from the airport to hotel/meeting or from the hotel/meeting to the airport. Reimbursement will be made for the actual cost of the travel with the submission of receipts.

Fees in **excess** of $20 require that the destination be listed.

- **Parking**

Parking expenses are reimbursable while in the course of conducting official State business as long as such expenses are determined reasonable and clearly show that there was care taken to keep the costs to the State as low as possible. **Original receipts must be furnished.** Any parking rates considered excessive and only for the convenience of the traveler will not be reimbursable. For example, excessive or inappropriate parking would be the use of an airport's hourly parking lot for an overnight trip.

- **Travel Involving Trips Other than to and from the Airport**

The actual costs of taxi and shuttle service fares are reimbursable when required for travel on official state business. The request must be documented with a receipt. The

use of public transportation is reimbursable for actual costs with a receipt. Fees in **excess** of $20 require that the destination be listed.

- If the employee is in travel status as documented by an approved BDA and it is necessary to use an ATM, minimal fees will be reimbursed. Receipts will still be required to account for the expenditure of cash withdrawn from the ATM.

- The cost of road maps is not reimbursable. Proper trip organization should precede all travel. Travel routes should be preplanned using either free on-line map services, such as Map Quest, Yahoo Maps, etc. or conventional state road maps. State maps are available at our own Division of Tourism and are included in all state vehicles.

- Items for personal use such as cosmetics, medications, snacks, clothing, alcoholic beverages, refreshments or other items for personal preference or convenience are not reimbursable.

- Reimbursable gratuity or tips must be considered reasonable for items that are not already covered under subsistence. Excessive tips will not be reimbursed. A reasonable tip would be one that a prudent person would give if traveling or conducting personal business and expending personal funds. Gratuity or tips should be listed under "other expenses" on the reimbursement request form. For further guidance, the following information is provided when calculating a tip:

  • **Airports**: Baggage Handling/Skycaps = no more than $2 per bag; Shuttle Drivers = no more than $2 per bag.
  • **Parking/Auto Related**: Valets = $2 per car when collecting the car; Taxi Drivers = 15% of the fare and $1 - $2 a bag.
  • **Hotel Related**: $1 - $2 a bag.

  If an employee claims tips not listed as referenced above, justification must be attached and approved by the authorized approver of travel reimbursements and the employee.

  Tips for maid services will not be reimbursable.

- Laundry costs are not reimbursable except for out-of-country travel for stays of one week or longer.

- Tuxedo rental is a personal expense of the employee. Commerce cannot reimburse for tuxedo rental.

EXTRAORDINARY EXPENSES

- Original receipts must be furnished for expenses such as postage, film developing/purchase, freight, copies, etc.

RENTAL VEHICLES

Rental vehicles may be used via the state contract with Enterprise Rent A Car (Enterprise). Enterprise will direct bill each Commerce Division for in-state travel. Each division will have an assigned customer number provided by Enterprise (obtained by Division Fiscal Representative) plus the Commerce customer number **53E5000.** The employee must provide the two customer numbers in order to rent a vehicle from Enterprise for direct billing. Optional insurance coverage is not reimbursable for travel inside US jurisdiction.

- In-State (Duty Station in Raleigh Area)– The employee utilizing Enterprise services in the **Raleigh area must provide the Request for Motor Pool Vehicle form from Motor Fleet Management (MFM) to the Division Director indicating" no state vehicle was available**". No BDA will be required if the Fiscal Representative attaches the request form from MFM and Division Director (or his/her designee) approves the Cash Disbursement Code Sheet with the Enterprise invoice attached in accordance with the state contract on file for rental vehicles with Enterprise. If the employee will be using a rental car for personal convenience, a BDA must be approved by the Secretary's Office.

- In-State (Duty Station outside the Raleigh Area)—Employees having no access to MFM and/or the state car assigned to the regional office is not available, the employee may utilize a rental vehicle by Enterprise. No BDA will be required if the Fiscal Representative attaches a signed statement from the employee indicating "no access to MFM and/or the state vehicle assigned to regional office was not available" and Division Director (or his/her designee) approves the Cash Disbursement Code Sheet with the Enterprise invoice attached in accordance with the state contract on file for rental vehicles with Enterprise. If the employee will be using a rental car for personal convenience, a BDA must be approved by the Secretary's Office.

- Outside of North Carolina– Rental vehicles may be used when approved in advance (via BDA or memorandum) by the Secretary or his or her designee and substantiated by receipt (Enterprise Rent A Car or the most economical rental vehicle service available). **A BDA should be inclusive of all charges to be incurred with the associated expenses.** Optional insurance coverage is not reimbursable for travel inside US jurisdiction. Optional automobile rental insurance will be permitted for business travelers during travel to international destinations (refer to FM3 for policy guidelines on international business travel).

- **Enterprise will direct bill for in-state rental vehicles only.** The employee will be reimbursed when utilizing rental vehicles when traveling out-of-state and out-of-country with a receipt and approved BDA or memorandum.

  Invoices from Enterprise will include **8%** highway use tax, **3%** gross receipt tax, and **5%** triangle transit tax. The fiscal representative must separate the rental fee and all taxes appropriately on the Cash Disbursement Code Sheet.

- **Enterprise Rates and Guidelines**

Please refer to the Enterprise Rent A Car's website:
www.enterprise.com/car_rental/deeplinkmap.do?cust=53E5000

Rates

Car Class	Daily	Weekly	Monthly
Compact	$ 39.00	$ 234.00	$ CALL
Intermediate	$ 41.50	$ 249.00	$ CALL
Standard	$ 43.50	$ 261.00	$ CALL
Full-Size	$ 46.00	$ 276.00	$ CALL
Premium	$ 50.00	$ 300.00	$ CALL
Med SUV	$ 65.00	$ 390.00	$ CALL
Large SUV	$ 89.00	$ 534.00	$ CALL
Minivan	$ 63.00	$ 378.00	$ CALL
Pick-Up Truck	$ 48.00	$ 288.00	$ CALL
Luxury	$ 69.00	$ 414.00	$ CALL
15 Passenger	$ 98.00	$ 588.00	$ CALL

Rates include Collision Damage Waiver and Supplemental Liability Protection, so we strongly encourage you to use Enterprise. When signing the rental contract, decline all of these products as they are included in our contracted rates. Unlimited mileage is available on some car classes.

NOTE: Other types of vehicles not shown may be available. Please contact Enterprise for other vehicle types and prices, locations, and any other daily specials that might be applicable. Prices or Discounts shown do not include any North Carolina sales or use taxes.

Airport Rates
The State contract should be utilized at all Enterprise locations for airport travel in the US. Please utilize Commerce customer number **53E5000** for all rental vehicles at airports across the US to receive rate listed above. If Enterprise Rent A Car is not available, the employee must use the most economical rental vehicle service available.

Returning the Vehicle
If you wish to return the vehicle after operating hours you may leave the keys inside the key drop box located in front of their rental office.

Making a Reservation
You have several options when making a reservation with Enterprise.

1. Visit www.enterprise.com to make a reservation. In the reservation screen, use your

designated billing customer number to receive the contracted rates. The Division Fiscal Representative will provide the Division's customer number. Your PIN number is **NCC**. This is a specific billing customer number for the Department of Commerce employees only.

2. Call 1-800-RENT-A-CAR and provide the customer service representative with the customer number.
3. Call the local Enterprise branch directly. This is the option that should be used if a free pick up is needed. Please contact Division's Fiscal Representative, Enterprise website or contact personal from Enterprise for a list of all Enterprise locations. You will find that numerous locations are close to where you live and will be extremely convenient. You may also park your personal car at these locations when picking up a vehicle (airport offices are the exception to this rule).

Billing

Your billing customer number must be provided to have the rental direct billed (contact division fiscal representative) for in-state only. Each division will have an assigned customer number provided by Enterprise (obtained by Division Fiscal Representative) plus the Commerce customer number **53E5000**. The employee must provide the two customer numbers in order to rent a vehicle from Enterprise for direct billing.

Road Side Assistance

Road side assistance is provided free of charge for all renters. Please call 1-800-RENT-A-CAR for this option.

Contact Personnel at Enterprise:

Fred Black
Regional Corporate Sales Manager
Fred.c.black@erac.com
Office 919-657-8921

AIRLINE TRAVEL

- All travel utilizing a commercial airline (in-state, out-of-state, out-of-country) must receive prior approval through the BDA process approved by the Secretary or his/her designee. A BDA should be inclusive of all charges to be incurred with the associated expenses. Please attach the approved BDA to the Cash Disbursement Code Sheet and the invoice from the travel agent. If the employee receives reimbursement for the airfare, the canceled ticket/receipt should also be attached to the travel reimbursement form and all proper documentation to accommodate the reimbursement.

- Penalties for ticket changes or cancellation are the responsibility of the individual unless the change is at the direction of or for the convenience of the department; emergency situations are an exception.

- Air travel is reimbursable at actual coach fare only and must be substantiated by a receipt and approved BDA. The only exception is air travel internationally on overseas flights may be

reimbursed at the actual business class fare with an approved BDA. If there are unusual or extenuating circumstances, which should be considered, then a justification and explanation should be attached to the BDA seeking approval for an exception. **The airline itinerary must be attached to the reimbursement request. If the employee receives reimbursement for the airfare, the canceled ticket/receipt should also be attached to the travel reimbursement form** and all proper documentation to accommodate the reimbursement.

- **Reimbursement for check – in fees is limited to actual costs substantiated by receipt.** "Check-in" fees or "baggage fees" are presently being issued by more and more airlines, bus, or rail services.

- Frequent Flier Miles and Coupons/Certificates earned by a state employee while traveling on state business at state expense are property of the state and shall be used by the state employee on future state business trips.

STATE VEHICLES

- Procedures for obtaining and using state vehicles owned by the Division of Motor Fleet Management (Department of Administration) is set forth in the Rules and Regulations provided by that division. Every individual who uses a permanently assigned state-owned passenger motor vehicle, pickup truck, or van to drive between his official workstation and his home, shall reimburse the state for these trips at a rate computed by the Department of Administration.

- Expenses for state vehicles (gasoline, repairs, etc.) are the responsibility of DOA Motor Fleet Management (MFM). Any reimbursement for purchases made by the individual must be paid by MFM. .

- Permanently assigned vehicles must be driven 12,600 miles annually (1,050 miles monthly)

- Car logs should be completed and submitted to FMD (to the attention CASH MANAGER) by the 10th of each new month. If a travel log is not received, the division will be billed the minimum 1050 miles for that month and the actual mileage will be billed, when the travel log is received, on the next billing. The Division Director will be notified that a travel log was not received. **Effective July 2002, the travel log will no longer need to be submitted to Motor Fleet Management, but will be completed on-line.**

- For temporary assigned vehicles, the division must submit a copy of the temporary assignment form to the Cash Manager in FMD after the vehicle is returned to Motor Fleet Management.

- Make certain all information requested on the car log is completed before submission; particularly approved signature, employee driving, destination, purpose of visit and mileage.

- Verify total mileage for month, **Department # and Fund/RCC #**

- Other contact phone numbers for MFM are (919) 733-7776 and (919) 733-7777.

LUNCHEONS / DINNERS / RECEPTIONS / CONFERENCES / OTHER ACTIVITIES HOSTED BY THE DEPARTMENT

External Conferences

External conferences are those that involve the attendance of persons other than the employees of a single state department, institution or agency. **Payment for meals is allowable if included in the registration fee, but the fee must not consist exclusively of meal or it will not be allowable unless meeting overnight travel criteria.**

Requirements and Limitation for External Conferences

1. Function must be approved in writing in advance by the Secretary's Office through Fiscal Management with details, anticipated expenses, agenda and etc. spelled out.
2. There is written invitation to participants, setting forth the calendar of events, the social activities, if any, and the detailed schedule of costs.
3. Purchases connected with such activities must be approved by the Commerce's Purchasing Officer prior to any commitment; including personal services, use of buses, etc.
4. Assemblies should be held in state facilities; however, non-state facilities can be rented and the cost charged to a state agency without allocation to participants' daily subsistence allowances.
5. Break costs for conferences and etc. are limited to $4.50 per person per day with a minimum of 20 people required. Prior approval from the Secretary's Office must be obtained. Please provide list of attendees.
6. Individuals within the department are not authorized to sign binding contracts; only the Secretary or his/her designee.
7. A list of attendees and the agenda must be provided with invoices when submitted for payment with the approved Cash Disbursement Code Sheet.
8. Social security numbers must be obtained for payments to individuals for services rendered.
9. Purchases of flowers or gifts are not reimbursable.
10. Registration fees may be charged by the sponsoring department to participants for cost of external conferences.
11. Registration fees may not include costs of entertainment, alcoholic beverages, setups, or flowers. Registration fees collected (refer to FM-11, Cash Management) and not used to defray expenses of the particular conference may not be used for other programs and must revert to the general fund as applicable (G.S. 138-6(a)(4).

When assemblies are to be held under the sponsorship of a state department in which the funding for all participants is budgeted, lump-sum payments to a conference center or an organization may be made upon written authorization from the Secretary or his/her designee. The authorization must provide:

1. The purpose and duration of the conference.
2. The number of persons expected to attend.

3. The specific meals to be served at the conference **(law prohibits lunches being provided to state employees unless registration fees are charged to all attendees).**
4. The approximate daily subsistence cost per person; and
5. The name of the conference center, hotel, caterer, or other organization providing the service.

It is the responsibility of the divisions to ensure that reimbursement for meals included in the lump-sum payment is not also included in reimbursement payments made to state employees who are conference participants.

Internal Conferences

Internal conferences are those that involve the attendance of employees within that particular department, institution, or agency only. No payment for meals is allowable unless an overnight travel criterion is met. A routine staff meeting or retreat is not an internal conference.

Requirements and Limitations for Internal Conference:

1. The conference is planned in detail in advance, with a formal agenda or curriculum. Function must be approved in writing in advance by the Secretary's Office through Fiscal Management with details, anticipated expenses, agenda and etc. spelled out.

2. There is a written invitation to participants, setting forth the calendar of events and the detailed schedule of costs.

3. No excess travel subsistence may be granted for internal departmental meetings, conferences, seminars, etc., and such meetings must be held in state facilities when available. No registration fee may be charged.

4. Break costs for conferences and etc. are limited to $4.50 per person per day with a minimum of 20 people required. Prior approval from the Secretary's Office must be obtained. Please provide list of attendees.

5. A department cannot use state funds to support or underwrite a meeting, assembly, conference, seminar, rally, celebration or similar function by whatever name called that promotes any cause or purpose other that the mission and objectives of the department.

These guidelines must adhere to the above regulations for any luncheons, receptions and other activities.

- NO COFFEE, refreshments, cups, paper plates, etc. can be purchased with state funds for routine office use.

CORRECTIONS on Fiscal Management Forms

Please do not use white out or correction tape on any Fiscal Management Forms. The employee must mark through the error one time, make the correction, and initial the correction. The forms should be neat which will allow them to be processed in a timely manner.
If the Fiscal Representative from the Division receives a Fiscal Management form with several errors, the form must be redone before submitting to Fiscal Management.

The format of any Fiscal Management form should not be revised to accommodate the division. If the division has a concern or special need, please contact the Fiscal Management Division at 919-733-5940. The CFO of Dept. of Commerce issues approval of all forms generated by the Fiscal Management Division.

The travel reimbursement form allows the mileage rate to be changed. This is the only format that should be changed.

Any forms written in pencil (this includes corrections) will be returned as incomplete to the Division.

Bryan H. Browning, CFA, ASA

bbrowning@valuationresearch.com
414.221.6249

Professional Position

Managing director with Valuation Research Corporation. Specializes in financial studies and in the analysis of intellectual properties and other intangible assets. Mr. Browning conducts intangible-asset, capital stock, business enterprise, and solvency-related valuations. He also performed appraisals of real property.

Authorizations and Certifications

Charterholder of the Chartered Financial Analyst designation (CFA), granted by the CFA Institute

Accredited Senior Appraiser (ASA), The American Society of Appraisers

Education

M.B.A., finance and management, University of Wisconsin-La Crosse, 1981
B.S., economics, University of Wisconsin-Platteville, 1978

Professional Experience

1996 - Present
Rejoined Valuation Research Corporation as vice president and professional services manager-finance. Based in the company's New York and Milwaukee offices.

1993 - 1996
Vice president, Brownstone Associates Incorporated, Milwaukee. Provided financial consulting and advising services relating to corporate mergers and acquisitions and various securities transactions.

1982 - 1992
Various positions with Valuation Research Corporation. Started as financial analyst based in the company's Milwaukee office. Promoted to senior analyst in 1986 and to vice president in 1990. Named division manager and head of San Francisco office in 1991. Responsibilities included engagement management; financial, investment, and valuation analysis; industry and economic research; report writing and review; and client interviews and presentations.

Presentations

"What it Takes to Close Deals Now" for Financial Executives International, March 25, 2008

"Acquisition Valuation Issues – How Much to Pay?" for Milwaukee M&A Conference, May 16, 2006

"Accounting for Business Combinations and Asset Impairment, (SFAS 141, 142 and 144)" for Group of 100, Sydney, Australia, March 2-3, 2005

"Fairness Opinions in a Changing Environment," Valuation Research web seminar, August 7, 2003

Bryan H. Browning, CFA, ASA

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414.221.6249

Presentations (continued)

"Buying, Selling and Transferring a Business," for the Plumbing & Mechanical Contractors Association of Milwaukee, Inc., April 18, 2002

"Biotechnology: Strategies for Value Creation," for Northwestern University, September 29, 2001

"Valuing Privately Held Companies," for the Metropolitan Milwaukee Area Chamber of Commerce, October 26, 2000

"Valuation Trends in Non-Technology Companies," for the Strategic Research Institute, July 13, 2000

"Methods, Trends & Technologies for Valuing the Middle Market Company," for the Strategic Research Institute, October 18, 1999

Middle Market Finance & Investment Symposium, for the Strategic Research Institute, June 28-29, 1999

Published Articles

"True value?," *The Deal*, May 18, 2009

Co-authored "How Do You Put a Price Tag on the Panama Canal?," *The International: Cross Border Transactions Bulletin*, September 2006

Co-authored "Be Aware of Post-Acquisition 'Market Participant' Implications: Impending Fair Value Measurements Statement," *ACG Wisconsin Mergers & Acquisitions*, a *Business Journal* supplement, September 2006

Co-authored "Does Your Transaction Require a Fairness Opinion?," *ACG Wisconsin Mergers & Acquisitions*, a *Business Journal* supplement, September 2004

Co-authored "Pre-Transaction Analysis Crucial Due to New Accounting Rules," *ACG Wisconsin Mergers & Acquisitions*, a *Business Journal* supplement, September 2003

Co-authored "What Drives Value Perception Today?," *ACG Wisconsin Mergers & Acquisitions*, a *Business Journal* supplement, September 2002

Major Clients Served

3M Company
Aarrowcast, Inc.
Actuant Corporation
Air Wisconsin
Arby's Restaurant Group, Inc.
Ardent Health Services, Inc.
Associated Banc-Corp
Ataco Steel Products Corporation
Blanchard & Company, Inc.
Borders Group, Inc.
Buffets, Inc.
Cargill, Inc.

Bryan H. Browning, CFA, ASA

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Major Clients Served (continued)

Centex Corporation
Charter Communications, Inc.
Ciber, Inc.
CMGI, Inc.
Cochrane Compressor Company
Computer Sciences Corporation
Continental Mortgage Corporation
Cooper Tire Company
Crosstex Energy Services, LTD
Diesel & Gas Turbine Publications Inc.
Elmwood Financial Corporation
Emmis Communications Corp.
Heritage Propane Partners, LP
Huntsman Corporation
Energy Transfer Partners, L.P.
Equitrac Corporation
Expedited Freight Systems
Fairmount Minerals, LTD
Fiserv, Inc.
Global Pharmaceutical Devel
Golfsmith International Holdings
H&M Transportation International
Harley-Davidson, Inc.
Hatco Corporation
Hyster-Yale
IMC Global Operations, Inc.
Interactive Papyrus
Intermune, Inc.
JCDecaux
Johnson Controls Inc.
Journal Communications
Kinetic Co., Inc.
Kohler Company
Krause Publications, Inc.
Marconi Communications
Pepsico Inc.
Permian Corporation
Marquette Medical-Dental Center
MDC Vacuum Products Corp.
Medtronic, Inc.
Merge Technologies
MGM, Inc.
Michael Foods, Inc.
Miller Brewing Company
Movado Group, Inc.
Newell Rubbermaid
On Course Technologies, Inc.
Pabst Brewing Company
Panama Canal Authority
PDQ Food Stores, Inc.
Pennant Management, Inc.
Pentair, Inc.
Redox Brands
Rexnord Corporation
Riley Construction Co. Inc.
Salton, Inc.
Sat Technology Corporation
Schwartz Pharma
Sears, Roebuck and Company
Sensient Technologies
Shopko Stores
Sommer-Frey Laboratories, Inc.
Southland Corporation
Summit Healthcare Facilities
Terra Industries, Inc.
The James Company
Thermoset Inc.
Third Wave Technologies, Inc.
Triarc Companies
U.S. Oil Co., Inc
Unifrax
Universal Avionics Systems Co.
Value City Department Stores
Waukee Engineering Co., Inc.
Wesray Corporation
Westinghouse Broadcasting & Cable, Inc.
White International
Williams Energy Partners, L.P.
Wixon Industries, Inc.
Zorn Cochrane Compressor

Expert Testimony

United States District Court, New York, NY, Business enterprise review
Milwaukee Circuit Court, Milwaukee, Common stock valuation
Federal Bankruptcy Court, Dallas, Business enterprise valuation

Bryan H. Browning, CFA, ASA

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Expert Testimony (continued)

Federal Bankruptcy Court, Minneapolis, Business enterprise valuation
Chicago Circuit Court, Chicago, Business enterprise valuation
Federal Tax Court, San Francisco, Equity and controlling voting rights valuation
Federal Bankruptcy Court, Milwaukee, Business enterprise valuation
Milwaukee County Court, Milwaukee, Business enterprise valuation
Federal Bankruptcy Court, Worchester, Massachusetts, Solvency opinion
Waukesha County Court, Waukesha, WI, Business valuation

Mr. Browning has also been deposed on several occasions, principally regarding business enterprise valuations.

James T. Budyak, CPA/ABV, CFA, ASA

jbudyak@valuationresearch.com
414.221.6238

Professional Position

Senior vice president and senior financial analyst with Valuation Research Corporation. Mr. Budyak specializes in allocation of purchase price engagements, valuations of closely held stock, fairness and solvency opinions, bankruptcies and restructurings, and litigation support. He has extensive experience with income tax and financial reporting audits and has been deposed on valuation matters.

Authorizations and Certifications

Accredited Senior Appraiser (ASA), American Society of Appraisers
CFA charterholder
Certified Public Accountant (CPA), AICPA
Accredited in Business Valuation (ABV), AICPA

Education

M.B.A., double major: finance, investments & banking, computer-based information systems, University of Wisconsin – Madison, 1982

B.B.A., accounting, University of Wisconsin – Madison, 1979

Professional Experience

2006 – Present
Senior vice president and senior financial analyst, Valuation Research Corporation's Milwaukee office.

1985 – 2006
Various financial valuation positions with American Appraisal Associates.

1983 – 1985
Computer analyst, Wisconsin Bell

1982 – 1983
Auditor, Peat Marwick Mitchell

1979 – 1982
Accountant, Standard Oil Company, Indiana

Publications

"Discount Rate Considerations: A Market Participant Perspective," *Valuation Strategies*, July 2008

"Developing Discount Rates in a Global Environment," The Canadian Institute of Chartered Business Valuators, 2007 Journal of Business Valuation.

"Valuation Discounts are Linked to Capital Markets," Business Valuation Resources Guide to Discounts for Lack of Marketability, 2007

James T. Budyak, CPA/ABV, CFA, ASA

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Publications (continued)

"Getting Your Head Out of the Model: Due Diligence and Developing International Cost of Capital," *Business Valuation Update*, May 2006

"Developing Discount Rates in a Global Environment," *Valuation Strategies*, January 2006

"The Valuation of Collateral," (co-author) *The Secured Lender*, July/August 2005

"The Smart Way to Buy a Money Loser," (contributing author) *Mergers & Acquisitions*, October 2001

"Developing Discount Rates in a Global Environment," *Valuation Strategies*, May/June 2001

"Getting a Grip on Foreign Discount Rates," *Shannon Pratt's Business Valuation Update*, January 2000

"International Cost of Capital," *Handbook of Advanced Business Valuation*, Chapter 2, pp. 25-53, McGraw-Hill, 1999

"Discount Rates for Foreign Investments," *Valuation Strategies*, July 1998

"Estate Freeze Rules Affect Partnership Valuation Discounts," *Taxation for Lawyers*, January 1997

"Estate Freeze Rules Affect Partnership Valuation Discounts," *Taxation for Accountants*, 1996

Presentations

"Discount Rate Considerations in a Global Environment. A Market Participant Viewpoint," American Society of Appraisers Advanced Business Valuation Conference, San Diego, October 2007

Chicago M&A Conference, "Acquisition Valuation Issues" (Panel), Chicago, June 2007

"Hot Valuation Topics for Tax Professionals," Milwaukee Tax Club, March 2007

"Current Valuation Issues Affecting Financial Statement Preparation," CITE Advanced Tax Accounting Update, Chicago, November 2006

"Discount Rates in a Global Environment," ASA-CICBV Joint Business Valuation Conference, Toronto, October 2006

"International Cost of Capital," ASA-AICPA Joint Advanced Business Valuation Conference, Las Vegas, 2005 (also key conference planner)

"Developing Discount Rates in a Global Environment," ASA Center for Advanced Studies, Denver, April 2002, Atlanta, September, 2002

James T. Budyak, CPA/ABV, CFA, ASA

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Presentations (continued)

"Developing Discount Rates in a Global Environment," American Society of Appraisers International Conference, Pittsburgh, 2001

"Establishing Discount Rates in Global Markets," Merger and Acquisition Valuation for CFOs, Federated Press Conference, Toronto, 2001

"Discount Rates for Foreign Investments," American Society of Appraisers 18th Annual Advanced Business Valuation Conference, New Orleans, 1999

"Developing Discount Rates for Foreign Investments," ASA, Princeton Chapter, 1999

"Developing Discount Rates for Foreign Investments," ASA, Wisconsin Chapter, 1998

"Valuation Issues for Intellectual Property," Delegation of the State Science and Technology Commission of the People's Republic of China," Milwaukee, 1997

"Business Valuation Issues for Estates and Mergers and Acquisitions," Association for Corporate Growth, Pittsburgh Chapter, 1997

"Business Valuation Issues for Attorneys," Jenner & Block, Chicago, 1997

Professional Affiliations

Member, CFA Institute
Member, Milwaukee Investment Analyst Society (past board member)
Member, American Society of Appraisers (past board member - Business Valuation Committee)
Member, Wisconsin Institute of Certified Public Accountants
Member, American Institute of Certified Public Accountants

Major Clients Served

Banking, Insurance and Financial Services

Discount Brokerage Co.
Fiserv
Marshall & Ilsley Corp.
Metavante Corp.
M&I Investment Management
New American Savings & Loan
National Re Holdings
Prudential Insurance Co. of America

Distributors

Cochrane Compressor
Duncan Systems, Inc.
Hastings Air-Energy
Industrial Controls
Wisconsin Paper
York International

James T. Budyak, CPA/ABV, CFA, ASA

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Major Clients Served (continued)

Gaming & Casino

Bally's Grand
Bally's Las Vegas
Del Webb's Mint
Del Webb's High Sierra
Del Webb's Nevada Club
Desert Inn Hotel & Casino
Greenwood Racing
Holiday Casino
Harrahs Reno
Harrahs Tahoe
MGM Grand
MGM Sands
Ocean Showboat
Showboat Inc.

Investment Companies

Acadia Partners
Bain Capital
Blackstone Capital Partners
Carlyle Group
First Analysis Corporation
Lord Baltimore Corporation
Oakhill Strategic Partners
Thomas Lee

Manufacturing, Metals and Mining

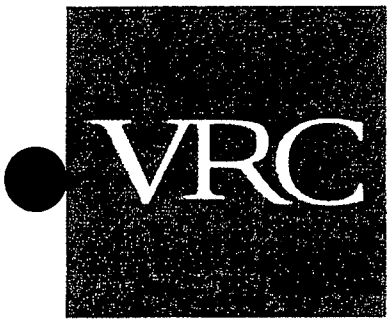
Actuant/Applied Power
Allen Bradley
Aluminum Holdings
Alvey Holdings
Bardes Corporation
Circuit Controls
CSR Limited
Delphi Automotive Systems
Delco Electronics
Eaton Corporation
Emerson Electric
Fibercast Corporation
General Motors
Giddings & Lewis
GTE Rotaflex
Horsehead Industries
Hoyt Brumm & Link
Industrial Dielectrics

Consumer Products

American Cold Storage
Beatrice Foods
Big Bear
Carolina Byproducts
Caterair International
Company Store
D. Canale & Company
Del Monte Foods
Kraft Foods
Mohasco Corporation
Morse Shoe
Nash Finch
National Pizza Company
Oral-B Labs
Playtex Holdings
Reynolds American
Reyes Holdings
Richardson Vicks
Quality Sausage
Seaman Furniture
Smithkline Beckman
Speciality Retailers
Travel Centers of America
Triumph Health Care

Energy, Chemicals and Related

Aristech Chemical (USX)
Ashland Oil
Dow Corning
Exxon Mobil Corporation
Equilon Motiva
Himont Chemicals
Koch Industries
Marathon Oil Corporation
Mitsubishi Chemicals
Monsanto
Motell Polyolefins
Motecatini, Grupo Montedison
Nalco
Reichhold
Royal Dutch Shell Group
Shell Chemicals
Soymor Cooperative
Total Elf Fina



James T. Budyak, CPA/ABV, CFA, ASA

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Major Clients Served (continued)

Manufacturing, Metals and Mining

Invista
Johnson Controls
Kaiser Aluminum
Koch Industries
Morris Material Handling
Noranda Aluminum
Owens Corning
Owens Illinois
Toyota Manufacturing
Twin Disc
UGS Corp.
United States Steel
W.R. Grace

Printing, Paper and Packaging

Boise Cascade
CST Office Products
Detroit Paper Mill
Fort Howard
Georgia Pacific
Great Northern Paper
Grand Slam Corporation
Harnischfeger (J&L Plate)
Ivex Packaging
Mead Corporation
Nekoosa Packaging Company
Printpack Europe
Repap Corporation
Smurfit Packaging
Stone Container
Verso Paper
Whiting Paper

Hotel, Lodging and Related

Choice Hotels
Econo Lodge
Friendship Inns
Hilton Hotels
Host Marriott Corporation
Host Marriott Travel Plazas
Manor Care
Marriott Corporation
Marriott International
Rodeway Inns

Media & Telecom

AirGate
American Media Incorporated
Bell & Howell
Media General
Park Communications
SPI Holding
Superior Telecom
Viacom International

Anthony D. Law

alaw@valuationresearch.com
414.221.6217

Professional Position

Senior vice president and supervising appraiser-finance with Valuation Research Corporation. Mr. Law specializes in allocation of purchase price engagements, business valuations, and valuations involving trade names, licensing, proprietary technologies, and other intangible assets. He also develops opinions of value regarding solvency and fairness issues. In addition to his business valuation experience, Mr. Law has extensive experience in financial, M & A, and capital raising advisory services to middle market companies throughout the United States.

Authorizations and Certifications

Completed Level 2, Chartered Financial Analyst, Candidate Level 3

Education

M.B.A., finance and accounting, University of Chicago Graduate School of Business, Chicago, Illinois, 1994

B.S., electrical engineering, University of Illinois, 1987

Professional Experience

2003 – Present

Member of the professional staff of Valuation Research Corporation.

2003

Independent Consultant, Chicago. Provided management consulting focused on valuation, strategic and tax planning, M & A, and capital sourcing.

2001 – 2002

Financial and technical consultant, Sargent & Lundy LLC, Chicago. Provided financial and technical due diligence support to investors, lending institutions, developers and owners of major fossil-fueled and solar electric generating stations throughout the world.

1998 – 2001

Assistant vice president, Dresner Companies, Inc., Chicago. Advised on buy-and sell-side, and capital raising transactions for privately-held businesses in the manufacturing, consumer goods, education and technology industries. Managed and established formal valuation practice.

1994 – 1998

Senior Consultant, Financial Advisory Group, Deloitte & Touche, Chicago. Performed business valuations for middle market businesses for such purposes as litigation, strategic planning, estate and tax planning, restructurings and buy-sell agreements.

Anthony D. Law

alaw@valuationresearch.com
414.221.6217

Professional Experience (continued)

1989 – 1993
Control and Instrumentation Engineer, Sargent & Lundy Engineers, Chicago. Designed and implemented computer control systems for major international and domestic fossil-fueled, gas fired and solar electric generating stations.

1987 – 1988
Electrical engineer, Cybernet Systems Management, Inc., Schaumberg, Illinois. Designed and implemented control systems for the food and chemical industries.

Major Clients Served

AT & T (Computer Division)
Bank One (formerly American National Bank)
Bass Pro Shops, Inc.
Borden, Inc.
Charter Communications, Inc.
Commonwealth Edison
Fairmont Minerals, Ltd.
Fiserv, Inc.
Fiskar Brands, Inc.
Illinois Power
International Finance Corporation
Kraft Foods
LaSalle Bank
Leggett & Platt, Inc.
Luz Industries
Marconi Communications
Michael Foods
Salton, Inc.
Sears, Roebuck and Co.
TXU Energy
Vutek, Inc.
Westdeutsche Landesbank

John C. Bintz

jbintz@valuationresearch.com
312.957.7505

Professional Position

Managing director with Valuation Research Corporation. Mr. Bintz specializes in the legal, corporate, hedge fund and private equity marketplace with a concentration on financial transactions including mergers and acquisitions.

Education

M.B.A., finance and economics, University of Chicago Graduate School of Business, Chicago, 1995
B.A., financial administration, Michigan State University, 1986

Professional Experience

2006 – Present
Member of the professional staff of Valuation Research Corporation.

1997 – 2006
Founder and president, Apple Tree Investments, Chicago. Directed numerous investment banking assignments involving client relationships, deal origination, contract negotiation, due diligence, valuation analysis, and strategic planning.

1996 – 1997
Associate, Dresner Investment Services, Inc., Chicago. Involved in private equity transactions and mergers and acquisitions activities in the middle market arena.

1995
Vice president, Tucker Anthony, Inc., Chicago. Actively identified, originated, and cultivated long-standing relationships with institutional money managers in underdeveloped territories.

1993 – 1995
Vice president, Donaldson, Lufkin & Jenrette Securities, Chicago.

1987 – 1992
Vice president, Hutchinson, Shockey, Erley & Co., Chicago.

Seminars and Presentations

Illinois Venture Capital Association Presentation – "9th Annual Illinois Venture Capital CFO Summit," (Panelist), October 2009

ACG International Conference – "Beyond Global Turmoil: Cross-Border Strategies for Surviving and Thriving," (Moderator), June 2009

"PE Analyzing Your Private Equity Portfolio: Seven Critical Issues That You Don't Want To Miss," (Co-Host with Neal, Gerber, Eisenberg and Panelist) June 2009

John C. Bintz

jbintz@valuationresearch.com
312.957.7505

Seminars and Presentations (continued)

"As the Dust Settles: What Lies Ahead for Alterative Investment Firms," (Co-Host with Drinker Biddle & Reath LLP and Panelist), February 2009

Illinois Venture Capital Association, Forum, (Panelist), 2008

Midwest Private Equity Conference, "Current State of the M & A and Debt Markets" (Panelist), 2008

Chicago M & A Conference, "Acquisition Valuation Issues" (Panelist), Chicago, June 2007

Numerous accredited State of Illinois MCLE Presentations on Valuation

Professional Affiliations

Member, Association for Group Growth (ACG), Awards & International Committees
Member, Turnaround Management Association (TMA)
Midwest Chapter of the Hedge Fund Association (HFA), Founding Member
DePaul University, Adjunct Professor, Department of Commerce

Guest Lectures

University of Chicago; Booth School of Business
Michigan State University; Accounting Faculty and Students
Illinois Institute of Technology
Northwood University
DePaul University; Coleman Entrepreneurship Center
University of Chicago New Venture Challenge judge (6 years) Business Plan competition
Illinois CPA Society

TV & Radio

Over 300 shows as guest and host commentator (economics and financial analysis):
WebFN
First Business
E*TRADE Radio

Major Clients Served

4 Life Research
Albertsons
Amstead Industries
Andrew Corporation
Anixter
APS Healthcare
Baird Capital Partners

John C. Bintz

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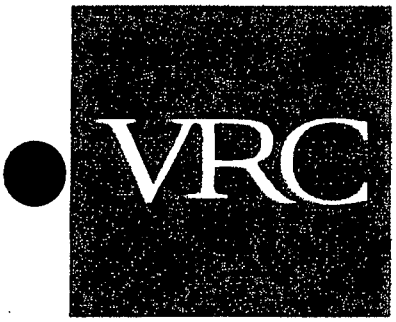
312.957.7505

Major Clients Served (continued)

Boise Cascade
Bolder Capital
Brentwood Associates
Brook Furniture Rental
Brown Brothers Harriman
Buffalo Wild Wings
Citadel Investment Group
Coast Asset Management
ConvergEx Holdings
Covanta
Draper and Kramer
Edgewater Funds
Fifth Third Bank
First Analysis
Foley and Lardner
Gardner Denver
GTCR Golder Rauner
Harris Bank
Hopewell Ventures
Initiate Systems
John Nuveen and Co.
Jordan & Co.
JPMorgan Chase
Keeley Asset Management
Kirkland and Ellis
Landmark Aviation
LaSalle Capital Group
Madison Dearborn Partners
Partners HealthCare
Playboy
Rita Restaurant Corporation
Sorenson Communications
Sterling Capital Partners
Trustwave Holdings
View Sonic
Wickes Furniture
Willis Stein & Partners
Ziff-Davis



William J. Hughes

whughes@valuationresearch.com
912.957.7504

Professional Position

As Co-CEO, senior executive vice president and senior managing director with Valuation Research Corporation, Mr. Hughes manages the professional, business development and administrative staffs of the Central and Western Regions. In addition, he is responsible for the development and quality execution of client engagements.

Education

Master of Science, DePaul University, Chicago, Illinois
Bachelor of Business, Western Illinois University, Macomb, Illinois

Professional Experience

1999 - Present
Member of the professional staff of Valuation Research Corporation.

1997 - 1999
Director of business development, Arthur Andersen, LLP, Chicago. Responsible for the development and implementation of an effective business development environment to support the sales growth objectives of the Arthur Andersen Business Consulting Practice. Among Mr. Hughes' more significant accomplishments was the development and implementation of a Business Developer Sales Group responsible for contributing 33 million of new business annually.

1993 - 1997
Business development manager, Arthur Andersen, LLP, Chicago. Responsible for new client business opportunities for the Arthur Andersen Business Advisory, Tax and Consulting Services. Focus areas included wholesale/distribution, consumer products, architectural/ engineering/construction, advertising, and healthcare.

1991 - 1993
District sales manager, CGI Systems, Rosemont, Illinois. Facilitated the sale of an integrated CASE software product line and CASE consulting services in a 12-state region.

1987 - 1991
Regional sales manager, Unisys, Joseph & Cogan Associates, Westlake Village, California. Sold strategic consulting services and software packages to upper management in large, targeted I/S accounts.

1982 - 1987
Sales representative, Honeywell Corporation, Minneapolis, Minnesota. Responsible for the sale of microprocessor based and electrical control systems for commercial and industrial buildings.

William J. Hughes

whughes@valuationresearch.com
912.957.7504

Professional Experience (continued)

1981 - 1982
Sales Engineer, Precision Enterprises Ltd., Glen Ellyn, Illinois. Developed an industrial sales territory and maintained existing accounts. Primary markets in the metal forming industry.

Professional Affiliations

Member, Association for Group Growth, International Committee
Member, Turnaround Management Association
Member, Midwest Chapter of the Hedge Fund Association (HFA)

Scott•Balice Strategies

Attachment 5 - Key Personnel

LOIS SCOTT

PRESIDENT AND CO-FOUNDER

♦Financial Strategy ♦Swaps and Derivative Structures ♦Debt Structures ♦
♦Rating Agency Strategy ♦Privatization Finance ♦

Lois, co-founder of Scott Balice Strategies, heads the Public Sector Advisory Team with 24 years experience at the highest levels of finance, management, strategic planning and government policymaking. The firm has been ranked as the Midwest's #1 Financial Advisory team, with more bankers on the ground in Chicago than most underwriters and an office in Anchorage. Lois's national reputation has been formally honored on numerous occasions, including earning "Deal of the Year" recognition by two leading financial and government journals in 1997, and again in both 2005 and 2006.

PROFESSIONAL BACKGROUND

- Helped found and lead the Chicago Public Finance practice for Donaldson Lufkin & Jenrette, Banc of America Securities and LF Rothschild
- Key participant in public sector and nonprofit projects worth over $35 billion, including over 300 assignments
- White House Fellow and subsequent Chair of the Management Committee of the Export-Import Bank of U.S.
- Financial Advisor or underwriter for government issuers in 15 states: AK, AZ, CA, DE, FL, IL, IN, MD, MI, MO, NJ, NY, OH, OK, PA, TN and WV

PROFESSIONAL AFFILIATIONS

- Government Accounting Standards Board Derivatives Task Force Member, charged with providing state-of-the-industry analysis to an advisory task force
- Co-founder of the Women in Public Finance Conference, a 500+ person annual conference supporting the work of women in the public finance field nationwide
- Actively involved in community organizations, presently serving as a Board or committee member for National Louis University, Leadership Greater Chicago and the White House Fellows Association

EDUCATION

- BS and MBA with honors from Cornell University. Accepted in the joint registrant program at age 19
- Awarded the Ives Award, Cornell's highest award for academic excellence and graduated #11 from her undergraduate college while taking a full load of graduate level courses and teaching accounting

REPRESENTATIVE CAPITAL AND DERIVATIVE MARKET TRANSACTIONS

Chicago Transit Authority

Lead Financial Advisor for four landmark CTA transactions

- Series 2008 $2.0 billion taxable POBs
- Series 2008 $120 million municipal lease transaction to acquire articulated buses
- Series 2006 $119 million restructuring of lease appropriation credit for financial flexibility
- Series 2004 $250 million securitization of 5307 grant revenue

Municipal Improvement Corporation of Los Angeles

Transaction execution and pricing support for Series 2008 $144.9 million refunding of commercial paper program into fixed rate bonds

Alaska Railroad Corporation

Lead Financial Advisor for firm in landmark Series 2006 5307/ 5309 bond financing, the first bond in its 92 year history

Lead Financial Advisor for firm in follow-on financing in 2007

Illinois State Toll Highway Authority

Midwest "Deal of the Year" winner for 2006 work as financial advisor to the Tollway, tackling the challenges of architecting the financial plan for an historic $5.3 billion capital program, developing a policy framework for interest rate swaps, and negotiating and executing the Tollway's first swap financing - freeing millions for road improvements

LOIS SCOTT

City of Chicago

Financial and swap advisor over several years including:

- Series 2008 Motor Fuel Tax Bonds, a 2-year engagement
- Constant Maturity Swap related to General Obligation Bonds, 2006
- Solar Panel tax credit analysis, 2005-2007
- Water Revenue Refunding Bonds, Series 2004

Illinois Finance Authority

Financial advisor to one of nation's leading issuers, representing over $2.5 billion in new issue volume each year for over 100 transactions. Key responsibilities include:

- Lead advisor on all health care transactions issued through the State conduit
- Lead advisor on housing transactions issued by IFA
- FA on numerous power transactions, including clean/green technologies
- Developing financing structures to accommodate State priorities

REPRESENTATIVE P3 AND STRATEGY TRANSACTIONS

Illinois Lottery

Project Leader for largest concession sale ever launched, an estimated $10 billion transaction. Coordinating the work of legal and financial advisors, developing communication strategy, designing bidding process and structuring the business package

U.S. Department of Transportation – Office of the Inspector General

Key team member for assignment to assess the pros and cons of privatization (P3) vs. traditional financing methods in the U.S.

Sound Transit (Seattle)

Team leader for Scott Balice to develop market access and alternative financing options for capital and debt financing programs

Navy Pier Parking Relocation Assessment

Analyzed funding and financing options for potential parking facility relocation to free up space within Chicago's #1 tourist attraction to add more diverse and commercially viable venues on the Pier

Tennessee State Funding Board

Senior advisor to State Funding Board (consisting of constitutional officers of the State) and the Department of Transportation in evaluating tolling and P3 alternatives to finance needed transportation improvements statewide

Illinois Sports Facilities Authority

Team leader for analysis of funding and financing options, including comprehensive analysis of revenue options, privatization and commercial redevelopment of adjacent parking lots.

Alaska International Airports System

Assisted Scott Balice team with assessment of restructuring options relating to Series 2006C $50 million variable rate revenue bonds, due to downgrade of MBIA bond insurance

University of Illinois

Financial Advisor to one of nation's largest university systems. Work includes:

- Certificates of Participation for academic and related needs
- Health care financing needs
- Credit rating defense, resulting in 3 consecutive rating upgrades since being retained in 2005
- Assist with assessment of restructuring options relating to downgrade of bond insurers, illiquidity of commercial banks providing backup facilities and related interest rate swap transactions

Chicago Children's Museum

Senior advisor to prominent cultural organization planning for a major capital plan. Oversaw development of cash flow models to reflect fund raising plans, debt strategies and investment alternatives.

ATTACHMENT 2

Joint Study Committee on Alcoholic Beverage Control: Issues in the ABC System

The state ABC Commission perspective

Jon Williams, Commission Chairman
March 24, 2010

Issue: Purpose of system

- Alcohol a unique product with significant public health and safety dangers
- 1933 Prohibition repealed, beer and wine legalized in NC
- 1933 NC voted against repeal; illegal liquor remained uncontrolled with related crime; other states adopted liquor control or regulation
- 1935 first local liquor boards created; 60 stores, 18 eastern counties; local option began
- Bounties paid to sheriffs for destroying stills, bootleggers' cars forfeited

Issue: Purpose of system (cont'd)

- "County Board of Alcoholic Control" before 1971
- Appointed by
  - board of education,
  - board of health, and
  - county commissioners
- No sales to
  - minors,
  - DWI offenders (DMV),
  - alcohol-related criminal sentences (Clerk of Court),
  - recent patients of inebriate wards & known "habitual drunkards"
- Local boards had own ABC officers to combat illegal trade and promote legally controlled sales
- 1958 ABC report on success: "[E]very dollar of profit for government . . . was a dollar taken from the bootlegger, the rum-runner and the moonshiner."

Issue: Purpose of system (cont'd)

- 1971 Ch. 18 replaced by Ch. 18A and local powers limited; 1970's various attempts to legalize mixed drinks; 1981 Ch. 18B included new mixed drink laws
- Today the North Carolina Alcoholic Beverage Control Commission regulates all sale, purchase, transportation, manufacture, consumption and possession of alcoholic beverages. The Commission oversees more than 25,000 permits in this $5 billion industry.
- Today the 410 local ABC liquor stores are just over 2% of places where the public buys alcohol.
- There are more than 17,000 other retail alcohol outlets across the state; 5,000 are private businesses selling liquor as mixed beverages.

Recent events

- 2008: P.E.D. study calls for modernization of local ABCs to increase profits; or privatization
- 2009: Governor Perdue's BRAC begins look at ABC privatization
- 2009: News of high salaries, bonuses, travel, vendor dinners offend public (see folder)
- 2010: General Assembly begins this study
- 2010: Governor Perdue calls for tighter state control, oversight and restrictions on local ABC boards; considering partial privatization

Issue: Efficiency

DOES N.C. HAVE A COHERENT SYSTEM OF LIQUOR SALES TODAY?

10 MILLION+ GALLONS OF LIQUOR/YEAR=$700M

TWO DIFFERENT ABC MARKETS

- 25 boards sold over $500 million in 2009 ($20 million/year average)
- 138 boards split the other $200 million ($1.5 million/year)
- MXB boards 3x more profitable

SMALL BOARDS ARE NOT WHERE THE SALES ARE; IT'S BIG BOARDS AND MXB ACCOUNTS

Issue: Efficiency (cont'd)

BOARD PROLIFERATION

- 158 local boards in 2008 during PED study
- 163 boards end of 2009
- 4 new boards already authorized for 2010
- 2009 board expenses up $8M, profit down $4.5M

CANNIBALIZATION OF MARKETS

- 410 stores in 98 counties; most votes pass (Valdese is latest on March 2, 2010)
- E.g. Woodfin's sales down 50% after Weaverville; Randleman's down 33% after Asheboro

Issue: Accountability

- GS 18B-101: local board is "an independent local political subdivision of the State [and not an] agency of a city or county or of the Commission."
- Disconnect between authority and accountability to public after 1971; public health? Public safety?
- 556 appointed board members cost $1M+/yr
  - paid $650K in salaries;
  - $350K travel to Arizona, Florida, Asheville, Myrtle Beach;
  - some have health, life, dental insurance
- Gifts, salaries, trips, bonuses: isn't the profit motive already in our alcohol sales?

Issue: Accountability (cont'd)

- Sometimes viewed as independent non-profit, not government (public records, meetings?)
- Whether mission is control, service, or revenue: no operating standards
- No standards for board or manager training
- ABC Commission sets reporting requirements and policy guidelines, only removes for violations of law

Options: Efficiency

- Consolidate to county-wide or even regional boards (majority are by county today) OR
- Consolidate into county governments (finance, HR, IT, audit, legal infrastructure not duplicated), advisory board optional
- Develop integrated financial and inventory information systems to increase efficiency
- Authorize agency stores where profitability is low
- Redirect law enforcement and alcohol education & treatment spending to ALE and DHHS to spend in community OR
- Distribute sums by population formula to cities and counties for same purposes

Options: Accountability

- Increase authority and involvement of appointing authority, possibly with consolidation into local government
- Greater authority for Commission to enforce standards (salary scale, profitability, product selection) and do standardized training, possibly through a permitting process for general managers (suspension/revocation)
- Add ABC boards and general managers to HB 1452 for ethics training specific to Ch. 18-B
- Develop integrated financial and inventory information systems to increase transparency

Questions?

Visit the North Carolina Alcoholic Beverage Control Commission on the web at www.ncabc.com

SAMPLE COVERAGE OF

ABC ISSUES

2006 - PRESENT

HIGH POINT

The North Carolina Piedmont Triad's top go-to source for News

a service of the News & Record, Greensboro, North Carolina

February 2006 Archives

February 2, 2006

Hittin' the books

The new High Point ABC Board spent its second meeting Wednesday looking over the system's books. The financial tutorial was needed - newly appointed Chairman David Wall thought the system made $8 million in revenue last year. It actually made $10 million.

New General Manager Rosalind Stewart and Finacial Director Cindy Wooten said they spent a lot of time interpreting the books before the meeting.

Stewart said she's not sure what at least one of the system's accounts - entitled miscellanous accounts payable - was used for. She said it hasn't been activite in a while and she wasn't sure why it was created.

Board member Beth Koonce asked if they were going to get rid of the "employee welfare fund". State investigators believe the fund was generated through the illegal sale of both promotional mini-bottles and extra cases of liquor accidentally sent by the state warehouse.

Wooten said they were keeping the fund for incidentals. She said the fund was first created when they needed to send an employee flowers after her mother had died.

No one said where the money for the fund was coming from - I bet they'll find a legitimate source this time.

During the meeting Wall also proposed expanding the board from three members to five.

"The cost to the board would be minimial," Wall said. And "five minds are better than three."

Board member James Tanner agreed, saying two members can't "hang out" because that makes a quorum, thus an official meeting.

High Point City Attorney Fred Baggett said they would have to get one of the local legislators to present a bill in the General Assembly. He said he didn't think it would be a problem.

Posted on February 2, 2006 11:28 AM | Permalink | Comments (0)

February 3, 2006

ABC Commission releases report

The state Alcoholic Beverage Control Commission released a damning report on the "slush fund" controversy at the High Point ABC Board, saying the local agency's conduct during the last four years included "serious ABC Law violations."

The report, unveiled Friday morning, aimed strong criticism at the agency's former general manager, George Humble Jr., and three ex-board members who resigned under fire last month.

"Our review confirmed that serious ABC law violations occurred at the High Point ABC Board," the state report said. "We identified a pattern of both unacceptable activities by the Board's General Manager as well as lax administrative oversight by the board members in conducting public business ..."

The High Point system has been under investigation since late August, when state ABC officials got a tip that the board was illegally selling promotional minibottles and keeping the money in a secret fund for incidental expenses and employee perks.

Check out the report, a timeline on the investigation and the N&R's ABC investigation stories at www.news-record.com/nr/abc

Posted on February 3, 2006 4:06 PM | Permalink | Comments (1)

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ABC system needs adult leadership

My column today:

"Fat, drunk and stupid is no way to go through life, son" – Dean Wormer to Flounder in "Animal House."

High Point's ABC system was run like a renegade fraternity. Bluto, Otter, Flounder and Pinto played loose with the rules, found themselves on double secret probation and finally were expelled by the dean.

Now, at last, Alpha Beta Gamma is being put under adult supervision. ...

The Alcoholic Beverage Control mismanagement in High Point, as uncovered by state administrator Michael Herring -- the Dean Wormer of this story -- and reported in detail by the N&R's Taft Wireback, Kory Dodd and Sue Schultz, has been more of an embarrassment than a scandal.

"If all that happened was somebody didn't get their mini-bottles or paid too much for their liquor, I'm not going to lose sleep over it," Mayor Becky Smothers told me Monday.

That's not quite all that happened, but it lies at the heart of the trouble. Under former manager George Humble Jr., High Point ABC stores sold promotional mini-bottles that should have been given away with certain purchases and failed to pass on state-mandated discounts to customers buying some expensive brands of liquor.

In blunt terms, they were stealing from customers. The extra revenue, reportedly about $14,000, went into a slush fund that paid for incidental expenses, including lunches for employees and board members.

An informant -- obviously an insider with a sense of decency -- put state investigators on to the case. The response of the three local ABC board members, Herring said, was "cover-up mode."

In fairness, those three individuals -- Fred Swartzberg, Charles McNeil and Gilbert "Skipper" Gates -- are not and never were fat, drunk and stupid. They're upstanding members of the community. Nor could they be expected to monitor the day-to-day operations of the city's six ABC stores. That was Humble's job, and they trusted him to do it properly.

Nevertheless, they began to make some glaring, not-so-smart mistakes.

First they hired a friendly local lawyer to conduct a separate investigation apparently for the purpose of absolving them of any blame. They initially didn't take official action to do this, as required by law, even though they committed $18,000 in public funds for the legal services. Herring believes, reasonably, that they should repay this money themselves.

Then, when Humble resigned under state pressure, the High Point board members sent him off with a bonus and extra month's pay -- improperly, according to Herring.

Later, they hired a new manager and refused to say who. It turns out she is Greensboro lawyer Rosalind Stewart, but her status is questionable because the board members who selected her have all been replaced. State officials encouraged the incoming board to re-interview her and make its own decision.

The good news here is that former City Councilman David Wall is the new chairman of the High Point board. His competence and integrity are beyond reproach. He has vowed to get things back on the right track, and I believe he will. The other two members, Beth Koonce and Jim Tanner, look like fine choices, too.

Wall expects plenty of help as the new board meets for the first time today. As he put it, the state will apply "close scrutiny." More positively, that means officials from Raleigh will provide plenty of guidance.

Clearly, there should have been scrutiny all along. Despite all the money that passes through ABC stores, the system isn't watched carefully enough by the media, local government officials or even board members. That has to change.

The thing is, it's not hard to run a local ABC system. Wall, a businessman, acknowledged as much.

The state determines the inventory, sets the prices and controls the distribution of profits. The product is always in demand, and there's *no competition*. Raleigh owns a monopoly on liquor sales.
All that local ABC people have to do is run their stores by the guidelines set by the state. It's easy, for those who want to follow the rules. But that just wasn't Bluto's style.

A big question for me is why it makes sense to have an ABC system anyway, other than as a means of raising more revenue for Raleigh. The state doesn't insist on selling beer and wine, so its control of alcoholic beverages is limited at best. The High Point experience shows that government stores can break the rules, too -- and when they overcharge, customers don't have the option of shopping around. Finally, a state monopoly just doesn't belong in a free-market economy. Yet, as long as it does exist, it needs to be operated honestly.

In "Animal House," Dean Wormer is an overbearing killjoy, even a villain. Some people in High Point view state ABC administrator Herring the same way.

I didn't like Wormer, either, but the man had a point: Fat, drunk and stupid is no way to go through life.

Posted by Doug Clark on January 25, 2006 3:00 AM | Permalink

Comments (4)

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Stormy said:

Doug,

This is another glaring example of Mayor Becky Smothers not representing the interests of the people of High Point. If she isn't going to lose sleep because illegal activites were committed by the ABC authority, she is abdicating her responsibities as mayor. This is the same thing that she initially did regarding the schools. There she said that the schools weren't her responsibility. When she was challenged in an election, she all of a sudden got religion and expressed concern. I am of the opinion that problems that exist in a city are the responsibility of the mayor, and they should at least be concerned when illegal activities occur.

I'm sorry to say, but your selection of Mayor Smothers as the best mayor in the Triad is bogus. I am solely unimpressed by her and how she handles herself in her office.

Report reveals 'slush fund,' other illegal ABC revenue.

Publication: High Point Enterprise (High Point, NC)
Date: Monday, February 6 2006

Byline: Pat Kimbrough

Feb. 6–HIGH POINT – The former local alcohol control board used money from unauthorized sales to build a "slush fund" of more than $11,000, according to a report released Friday.

State officials released the results of their investigation into High Point's ABC system.

The report also states that investigators found more than 4,500 bottles of liquor were sold without proper discounts, bringing in more than $14,000 in profits "that should have gone to the consuming public."

The state ABC Commission reviewed the fi

PEMBROKE

Theft of liquor from ABC store probed

Posted: October 24, 2008

PEMBROKE, N.C. — State authorities are investigating the theft of thousands of bottles of liquor from an Alcoholic Beverage Control Commission store in Pembroke.

An audit for the fiscal year that ended June 30 showed more than 3,000 bottles of liquor, valued at more than $20,000, were missing from the store, and officials have ordered another audit to cover the last three months.

The store, which is operated by the Pembroke ABC board, reported losing almost $35,000 last year on almost $500,000 in sales.

The state Division of Alcohol Law Enforcement has closed the store, pending the outcome of the investigation.

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Manager of Pembroke ABC store faces drug charges

Posted: December 2, 2008

PEMBROKE, N.C. — Pembroke police charged the manager of an ABC store with possession of marijuana, moonshine and drug paraphernalia, an Alcohol Law Enforcement agent said.

Agents searched Amelia Huggins' home at 209 Morrison St. in Pembroke in October.

ALE agents interviewed Huggins about **the disappearance of more than 3,000 bottles of alcohol from the store** she managed. Statements she made during those interviews led ALE agents to search her home, Agent Jason Locklear said.

Huggins' charges stem only from the search of her house and not from the missing alcohol at the ABC store. That case remains under investigation, Locklear said.

Huggins, 51, was cited at her home at the time of the search, along with an acquaintance, Dawn Marie Lowery. Lowery is charged with possession of marijuana and drug paraphernalia.

Related Stories

- Theft of liquor from ABC store probed

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TRIAD

WINSTON-SALEM JOURNAL

Regional Briefs: ABC Board fires its chief administrator

JOURNAL STAFF AND WIRE REPORT

Published: September 17, 2008

The Triad Municipal ABC Board has fired Jim Waddell, the agency's chief administrator.

Carl Salyer, the board's chairman, said that the board voted 9-0 yesterday to fire Waddell because of "inadequate job performance and job-related misconduct."

The board suspended Waddell with pay in mid-July pending the outcome of an investigation by Triad Municipal ABC Law Enforcement.

The suspension came after Danny Ray Burton, the former chief of Triad Municipal ABC Law Enforcement in Forsyth County, pleaded guilty on July 9 to federal charges that he twice stole money seized during investigations by his agency.

Under federal sentencing guidelines, Burton faces up to 10 years in prison, fines of up to $350,000 and three years of supervised release. A judge will sentence Burton on Nov. 19.

N.C. TV stations to perform digital TV test today

Television stations around North Carolina will perform a digital-television test today to raise awareness about the coming digital conversion.

Between 6 and 6:30 p.m., the stations will broadcast an image on their analog signal that is different from the one broadcast on their digital signal.

The analog signal will include a slide telling viewers that they are not watching a digital signal and telling them what they need to do to get ready for the digital

Ex-investigator pleads guilty to taking ABC money

By John Hinton

JOURNAL REPORTER

GREENSBORO

Danny Ray Burton, the former chief of the Triad Municipal ABC Law Enforcement in Forsyth County, pleaded guilty yesterday to federal charges that he twice stole money seized during investigations by his agency.

Burton, 52, who lives in Winston-Salem, pleaded guilty in U.S. District Court in Greensboro to two counts of theft of more than $1,000 in government property. Judge N. Carlton Tilley Jr. scheduled a sentencing hearing for Burton at 2 p.m. on Nov. 19.

Under federal sentencing guidelines, Burton faces up to 10 years in prison, fines up to $350,000 and three years of supervised release.

A federal probation officer will prepare a presentencing report about Burton.

Burton answered Tilley's questions about his plea with, "Yes sir," and "No sir."

He told Tilley that he agreed with the facts about the allegations against him.

"You deprived persons of their property without due process," Tilley said to Burton.

After his hearing, Burton left the courtroom without comment.

Burton will remain free on an unsecured bond until he is sentenced, said David Freedman, his attorney.

Burton has more than 30 years of experience as a law-enforcement officer, including experience as a Winston-Salem police officer.

The Triad Alcoholic Beverage Control Law Enforcement is an agency with five sworn agents who work undercover. Their main duties are investigating illegal drugs and violations of state alcohol laws.

According to a court record, ABC agents told federal agents that Burton had stolen money seized in ABC investigations. FBI agents then began an undercover operation in which Burton "was given an opportunity to steal" money from an illegal-gambling operation on May 2.

Agents put $6,584 that belonged to the FBI in a bank bag with gambling paraphernalia. The bag was placed in a car operated by an undercover agent.

An ABC agent called Burton to tell him that he saw someone receive a bank bag from another person

known to engage in illegal gambling, and that the unknown person had driven it to a shopping-center parking lot. Burton went to the scene and participated in the seizure of the bag from the undercover agent's car.

Burton took the bag to the ABC office and put it in his evidence locker, to which only he had access.

On May 6, Burton retrieved the bag from his evidence locker and watched as ABC agents counted the money. The count revealed that $1,040 had been removed, and Burton was arrested the next day.

Burton admitted to federal agents that he took the money from the May 2 seizure and that he had stolen seized money on at least one prior occasion.

He had $160 from the bank bag when he was arrested.

An additional $720 that had been removed from the bank bag was recovered from Burton's evidence locker.

The locker also contained evidence bags from prior ABC seizures that were marked as containing specific amounts of money.

The bags had been opened and no longer contained any money.

■ *John Hinton can be reached at 727-7299 or* jhinton@wsjournal.com.

ABC Cleanup

JOURNAL EDITORIAL STAFF

A former ABC law-enforcement chief pleaded guilty Wednesday to stealing money seized during investigations by his agency, but this case is far from over. The Triad Municipal ABC Board must move forward with its plans for safeguarding its procedures, and prosecutors must ensure that this officer didn't compromise justice in any cases. Public trust demands nothing less.

Danny Ray Burton of Winston-Salem had been the chief of Triad Municipal ABC Law Enforcement until he was charged this past spring as part of a probe into allegations that he stole money seized during ABC investigations at least four times between 2004 and 2007. He was caught in an undercover sting operation by the FBI. Burton, who is free on an unsecured bond, will be sentenced in federal court in November.

Meanwhile, he's left a lot of mess for others to clean up.

The agents with the local ABC law-enforcement agency concentrate on Forsyth County, investigating violations of drug and alcohol laws. The ABC board, which oversees the agency, hired a law firm to look into personnel issues in the wake of this case. An independent investigator and an auditor are also investigating.

The chief administrator of the ABC board, Jim Waddell, was suspended with pay pending the outcome of the investigation of Triad Municipal ABC Law Enforcement, said the chairman of the board, Carl Salyer. He said that was done so "people would feel free to talk."

As the investigation continues, the board should hammer out a clear-cut plan for safeguarding its procedures. "It's not business as usual," Salyer said last week. Changes will need to be made, he said.

He's right.

When the very people whom we are supposed to be able to trust to enforce the law break the law, we all suffer. Such crimes unfairly cast shadows on all law enforcement. The blow is especially hard when it happens at a small agency such as the local ABC law-enforcement agency.

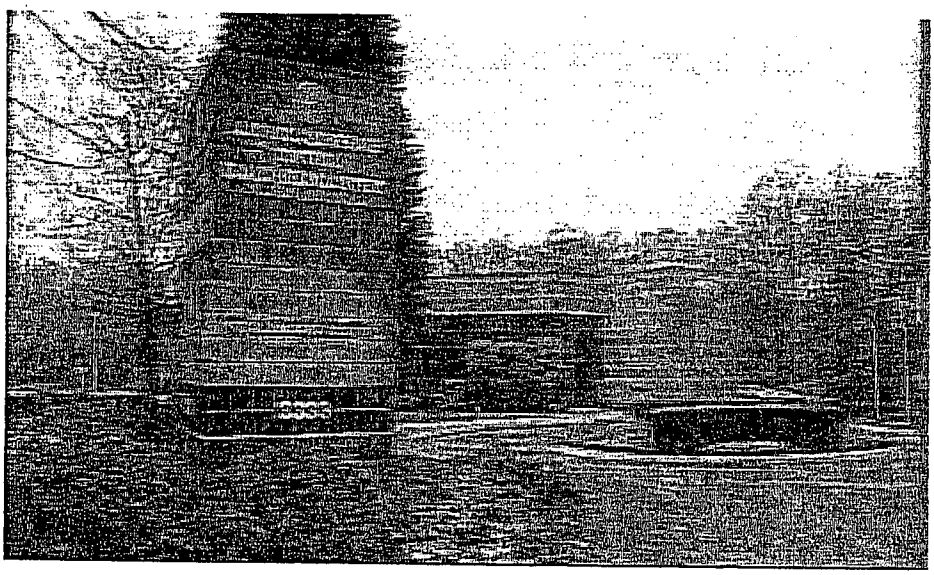
Whatever the reason for Burton's crimes, whether it was sheer greed or something else, he hurt his fellow officers and the public trust that they must uphold. He also created a lot of hard work and headaches.

Prosecutors have asked Burton's fellow officers to look at their cases to make sure that he didn't taint any convictions or pose a threat of tainting pending cases, Forsyth District Attorney Tom Keith said. He said that his office has already made plea agreements in other cases Burton was involved in, cases in which it probably could have gotten stiffer penalties.

For its part, the board should soon tell the public about its plans for an improved law-enforcement arm -- one where any betrayal of the public trust will be more rapidly detected and punished.

MECKLENBURG

Federal grand jury subpoenas Mecklenburg ABC employees



by NewsChannel 36 Staff

Posted on February 24, 2010 at 5:18 PM

Updated yesterday at 5:26 PM

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CHARLOTTE, N.C. -- The NewsChannel 36 I-Team has learned a federal grand jury has subpoenaed at least two Mecklenburg ABC employees.

An attorney for the ABC Board says the board is cooperating fully with the federal investigation.

The Mecklenburg ABC Board runs 23 liquor stores and oversees about $100 million a year.

An informed source says the grand jury is interested in no-bid contracts surrounding the purchase and development of real estate for stores.

The source says at least two employees -- administrative assistant Dawn Carey and Chief Financial Officer Mike Tulley -- received subpoenas several weeks ago from an FBI agent. who delivered them at the board's offices on North Tryon Street.

Both Carey and Tulley declined comment.

The board's attorney, Bryan Adams, faxed a letter to NewsChannel 36 late Wednesday afternoon saying, "The ABC Board has provided immediate and complete cooperation to th U.S. Attorney's Office and will continue to do so. The ABC Board is confident that it has engaged in no wrongdoing."

NewsChannel 36 and our news partners at the Charlotte Observer are filing open records requests to review no-bid contracts.

Add another comment

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Masthead
Published Thu, Feb 18, 2010 11:43 AM
Modified Thu, Feb 18, 2010 06:58 PM

NC panel fines liquor company $6K for dinner

RALEIGH, N.C. North Carolina's top alcohol regulators fined a liquor company $6,000 on Thursday following allegations it violated a gift ban when a company employee treated Mecklenburg County ABC board employees and leaders to an extravagant dinner in November.

The state Alcoholic Beverage Control Commission approved unanimously the compromise with Diageo North America, which said it accepted the settlement without admitting wrongdoing.

The company treated the Mecklenburg County board chairman, the board's chief executive officer, and nearly 30 employees, spouses and others to a dinner that ultimately cost $12,700 with the tip. According to the restaurant receipt, the group feasted on lobster, crab cakes and steak, drank Crown Royal and Dom Perignon, and had creme brulee for dessert.

The state ABC Commission originally accused the Mecklenburg board, Diageo and marketing director Andy Iredale of breaking a state law prohibiting gifts of anything of value.

The local board repaid the company more than $9,000, and Mecklenburg chairman Parks Helms and CEO Calvin McDougal have since resigned - proof that the "local board has been held accountable," state commission Chairman Jon Williams said. An investigation and interviews show that local ABC senior management requested the dinner, the state commission said in a news release.

Two fines of $3,000 each paid by Diageo "demonstrate the commission's commitment to hold the distiller appropriately accountable for their shared responsibility in this unauthorized event," Williams said.

The penalties came the same day the General Assembly announced the formation of a study committee to examine potential ABC reforms - a panel brought on by reports of the Nov. 18 meal and that New Hanover County's father-and-son store administrators got paid more than $400,000 combined.

The committee, among other things, will examine whether it makes sense to leave liquor sales solely to local ABC stores or to shift sales to private operators. The panel is supposed to make recommendations in time for the General Assembly when it reconvenes in May.

"Our ABC system needs to evolve just like any other business," House Speaker Joe Hackney, D-Orange, said in a release. "We need to determine how best to make these changes and bring our system in line with modern-day standards of ethics and transparency."

In a letter dated Wednesday, a lawyer for Diageo said the distiller had complied with ABC rules ands, including a 1997 memorandum that provided a gift ban exemption for business meals. Since the Mecklenburg ABC Board's law enforcement director attended the dinner, "Diageo was confident the business dinner fully complied with the law," attorney Keith Kapp wrote to state ABC officials.

But state officials said the business meal exemption involved beer and wine wholesalers and didn't apply to the event at Del Frisco's Double Eagle Steakhouse, which McDougal told a state Alcohol Law

Enforcement agent was a "holiday appreciation dinner" that he invited board staff members to attend. Iredale disagreed with McDougal's label. according to an agent who interviewed Iredale.

Diageo spokeswoman Zsoka McDonald said late Thursday the company was pleased the meal issue had been resolved and that it took regulatory compliance seriously.

Diageo and an affiliate of whiskey distiller Jim Beam have since provided expense receipts for other meals they bought for staff of several other local ABC boards. The state commission is still reviewing receipts for entertainment of more than $100, while those for lesser amounts have been referred to the local boards.

Williams last month decried what he called a "culture of entitlement" at some local liquor boards. With support from Gov. Beverly Perdue, the commission urged local boards to adopt ethics policies similar to Perdue's policy for state employees that ban gifts and meals.

Perdue also has a government-efficiency commission examining the ABC system.

Cookie Monster Sponsor

Posted: Monday, Jan. 25, 2010

The Observer's Cartoonist » Kevin Siers

Kevin Siers' cartoons are distributed to over 400 newspapers nationwide by King Features Syndicate. He and his wife and son reside in Charlotte.
E-mail Kevin

IN MY OPINION

Charlotte Observer

Whining, dining and the entitlement culture

By Ron Stodghill
rstodghill@charlotteobserver.com
Posted: Sunday, Jan. 24, 2010

Corporate America relishes catchy labels. It doesn't matter much whether those labels are entirely accurate. What's more important is that average products become "game changers," "environmentally friendly," "new and improved," and that average customers become "tastemakers," "impulse buyers" and "core customers."

Big business, along with social scientists, hatched a whopper of a label on some of its own employees. Remember the fuss over the cadre of cocky 20-somethings entering the work force? Compared to their buttoned-down, Dilbert-ized predecessors, this crop of newbies, aka Gen-Y, was plenty fascinating, and stirred debate about the future of corporate culture and who would shape it.

Gen-Y's debut signaled the end of traditional workplace etiquette and ethics, or so their bad press led us to believe. This strange bunch wore flip-flops to the office, challenged the boss at meetings, and required more coddling than a Montessori preschooler. High-maintenance and high-drama, these young recruits were their own narcissistic reality show, Grads Gone Wild. A label came easily: The Entitled Generation.

Boy, did we get that one wrong. In light of recent events, let's set the record straight: those glib, iPod-jamming, let's-save-the-planet, multitaskers tucked away in some windowless cubicle are not the real cultural threat to the nation's free enterprise system. They may act like the world owes them something, but their behavior pales against some superiors two and three times their age - the lobster-eating, plane-chartering, box-seat owning, limo-leasing executives running some of our biggest enterprises in private and public sector.

It is a sad spectacle watching our leaders in business and government falling from grace. To witness Parks Helms' resignation recently from the Mecklenburg ABC Board was to witness a modern Shakespearean tragedy. A loyal servant to the community and state for 35 years vanquished over a gluttonous dinner that included several lobsters and obscenely high-priced spirits. To be sure, his breach of public trust seems minor compared to many others.

Yet his resignation letter was a rueful soliloquy to the tiny souls who dethroned him. "I have reached a time in my life where all I have is my reputation," the 74-year-old Helms wrote. "My net worth does not consist of money or 'things of value.'... It is in family and true friends who

have stood by me in difficult times. I am deeply saddened by the events of recent days."

But this is our winter of discontent - not his. And we've heard enough excuses for their vainglorious ways: It's how business gets done in town, big perks attract big talent, it's the way we've always done things, it was an accounting oversight.

We've endured enough song and dance about perks and privilege. We've reached the end of our tolerance. We get it: Taxpayers rescue banks like Bank of America and Wells Fargo, and they are entitled to reward themselves with millions in bonuses while we scrape by hoping to have a job tomorrow. We dig into our pockets to give our hard-earned money to the local United Way, and Gloria Pace King is entitled to spend big chunks of it on fancy dinners, country clubs and a sweetened pension plan. We go out of our way to watch our water consumption during a drought, and Gov. Easley is entitled to hose down his golf course whenever it suits him.

When the state's top liquor regulator fingered Helms as an example of "a culture of entitlement," he could have been referring to any number of our leaders in business, government and nonprofit organizations.

Let's hope they were not only listening but are rethinking next week's reservations at Del Frisco's. Wherever they go, they should consider inviting that hard-working kid in the flip-flops. Mr. Gen-Y deserves to get out of the cubicle for some quality time with the boss. Remember, he's entitled to it.

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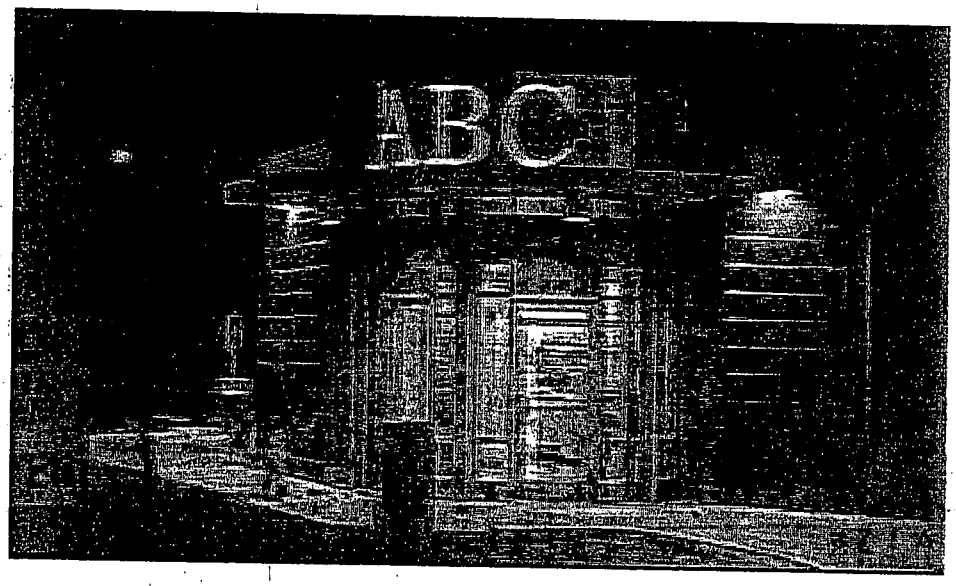
WCNC.com

NC Alcohol Commission turns focus to junkets, travel money



by STUART WATSON / NewsChannel 36
E-mail Stuart: SWatson@WCNC.com

Posted on January 21, 2010 at 5:24 PM

Updated Thursday, Jan 21 at 5:43 PM

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CHARLOTTE, N.C. -- Weary of embarrassing stories of junkets and first class travel on the public's dime, the North Carolina Alcoholic Beverage Control Commission is asking all loca liquor boards to adopt travel policies.

The call for uniform policies comes after news that two New Hanover County ABC executives, a father and son, flew first class to a conference in Phoenix last year and stayed in a hotel that cost several hundred dollars a night.

The NewsChannel 36 I-Team and the Charlotte Observer have also documented previous

junkets to Palm Springs, Calif., and Marco Island, Fla., as well as liquor "tastings" in Asheville and Myrtle Beach, S.C.

Commission Chairman Jon Williams told the I-Team in an earlier interview that he avoids such junkets.

The NC ABC Commission surveyed every local ABC board earlier this year and discovered almost one-third of the boards had no travel policy.

Mecklenburg County's ABC does have a policy, which dictates that staff fly coach and avoid luxury automobiles. (**Click here to view the policy**.)

The state Commission also released all 2009 receipts from liquor distributor Diageo (**click here to view receipts**), provided after the I-Team broke the story of the liquor dealer paying more than $12,000 for drinks and dinner for Mecklenburg ABC staff and guests. Th new receipts depict much more typical and modest lunches, but the Commission has issue a new policy banning all meals and gifts from liquor reps to ABC staff.

Add another comment

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Receipts show more ABC meals hosted by liquor company

By April Bethea
abethea@charlotteobserver.com
Posted: Thursday, Jan. 21, 2010

A marketing director for the Diageo liquor company – which hosted a lavish dinner for employees and the former chair of the Mecklenburg ABC board – has turned in receipts for about two dozen other meals involving ABC boards last year.

The receipts, totaling about $2,200, include at least three meals from last January, August and November attended from someone from the Mecklenburg ABC Board.

Andy Iredale, N.C. marketing director for Diageo, delivered the receipts to the N.C. Alcoholic Beverage Control Commission Thursday afternoon, said commission spokeswoman Agnes Stevens.

"The Commission is reviewing the receipts and has not determined next steps or potential timing for next steps at this time," Stevens said.

The commission requested the receipts after Andy Iredale, N.C. marketing director for Diageo, told state Alcohol Law Enforcement agents that he had previously paid for meals for ABC employees in Asheville, Greensboro, Winston-Salem and at least four other cities.

An ALE report has said the Mecklenburg County ABC Board and Diageo broke state law at a holiday dinner last November paid for by the liquor company.

See tomorrow's Charlotte Observer or www.charlotteobserver.com for more on this developing story.

NEW HANOVER

ABC skirted bidding laws in building stores

Little or no accountability seen in unusual bidding practices

By Chris Mazzolini & Veronica Gonzalez
Veronica.Gonzalez@StarNewsOnline.com

Published: Saturday, February 20, 2010 at 3:30 a.m.

Before New Hanover County's newest liquor stores were built, ABC Administrator Billy Williams knew exactly who he wanted to finish the jobs.

So he doled out most of the work to subcontractors he handpicked because "they were the best," he said.

But to build the stores, Williams and his bosses on the ABC board either ignored or skirted the state's competitive bidding laws designed to make sure government contracts are handed out fairly, a StarNews investigation shows.

But that was business as usual at the local Alcoholic Beverage Control, where several basic governmental procedures were not followed and many processes took place with little or no oversight from the board.

The StarNews found:

-- Construction contracts for three of the stores built since 2004 were never formally approved by the ABC board as required by state bidding laws. Instead, Williams approved them.

-- ABC officials restricted competition for construction work by seeking bids on just a fraction of the work, then later handed out millions of dollars to finish the stores with only Williams' blessing.

-- While state law allows governments to add work to construction projects without

competitive bidding, government contract experts say changes to contracts should be reserved for work "unforeseen" at the time of the original contract. The changes approved by Williams were already planned, but explicitly excluded from the bid specifications, documents show.

-- ABC officials followed an outdated policy for retaining public records, a process spelled out by a state agency. They did not retain some public records concerning construction projects, specifically bid documents received for three of the stores.

And they disposed of those records without seeking permission from the state, which is considered a misdemeanor punishable by a fine.

-- One Wilmington-based general contractor built all four ABC stores in the county since 2004. Lee F. Cowper Inc. was awarded $1.6 million in contracts but supervised $5 million worth of work, records show. The StarNews was unable to learn how much of that

$5 million was kept by Cowper and how much went to subcontractors.

Richard "Dick" Hanson, an ABC board member at the time two of the stores were built, said Williams excluded much of the work from the bids because he had a good relationship with subcontractors he had used in the past.

"They knew what we wanted and how to do it," Hanson said.

Cowper's attorney, Grady Richardson, said in a written statement that the company did nothing wrong and bid on the same specifications as everyone else.

The company won the work because it "submitted the best bids out of all the other contractors," Richardson said.

"Cowper has an impeccable reputation that it has earned over the past three decades in the construction industry," he said. "Cowper has done absolutely nothing improper."

Richardson would not provide details on the subcontractors or the change order work, referring those questions to the ABC.

Williams said he did nothing wrong, but refused to explain the reasons for the bidding method or what the change orders entailed, referring questions to the interim ABC board appointed in January after the former board resigned. The ABC provided copies of some of the change orders, and officials were working to gather the rest of them, but after repeated

requests, they could not produce them by close of business Friday.

County Manager Bruce Shell, who is interim ABC board chairman, said he didn't know why the ABC handled store construction the way it did.

"The ABC board appeared to have relied upon their administrator to make decisions about the construction of their projects and approval of change orders," Shell said. "My suspicion is they did what was expeditious and what was most cost-effective. The absence of documentation does beg the question."

SHELL GAME

The county's newest liquor stores all bear Williams' signature – the shiny ceramic tile, the translucent brick glass and the silver-and-red panels that wrap around the storefronts.

Williams, who has worked for the ABC since 1968, and other ABC officials take pride in the stores, saying they helped the system become one of the most profitable in the state with nearly $31 million in sales last year.

Since at least 2004, the ABC has used the same procedure to bid out its stores, seeking bids only on a building "shell" and excluding most of the work – the plumbing, electrical and ventilation systems and features such as flooring, counters and storefront designs – from the competitive process.

And since 2004, the same players participated in every project.

In March that year, Cowper provided the plans for the Wrightsville Beach store, which he built, to John Stirewalt, a Wilmington architect who used the plans to design a new store for South College Road, according to a letter from Stirewalt to Williams.

Eight months later, Williams advertised for bids to build the store shell.

Only one bidder showed up: Cowper.

The project was readvertised, and again Cowper was the only bidder. Cowper was awarded the project for $579,700.

During construction, Williams signed off on a change order worth $498,318 – nearly doubling the cost of the original contract.

In the years since, Cowper and Stirewalt worked on three more stores for the ABC, all of them bid the same way. And with each store, Cowper's bids decreased while the cost of later changes escalated dramatically.

In 2006, the ABC board built a new store in Porters Neck. Cowper outbid three other companies with his bid of $399,000 to win the Porters Neck project in March 2006. After two change orders totaling $873,293, the store ended up costing $1.27 million, an increase of 219 percent.

The store at 5410 Market St. was awarded to Cowper later in 2006 with a bid of $335,000, which was lower than that of two other contractors. A change order of $843,273 bumped up the store cost to $1.2 million, or 252 percent more than the original bid when it was finished in 2007.

A year later, Cowper under-bid 10 competitors to win the Carolina Beach store contract for $312,888. The store cost more than $1.5 million after contract changes – an increase of 385 percent.

Stirewalt, the architect on the projects, said Williams controlled what he wanted to put up for bid.

"That was the owner's decision what he wanted to bid and what he wanted to do," Stirewalt said.

While some contractors who bid on the ABC store projects said they found nothing unusual with the process, many said it wasn't typical of government projects they had bid on before.

"This situation just seemed like it was a little bit outside that normal set of procedures," said Ned R. Lavengood, owner of NRL Builders Inc. in Wilmington, the second-lowest bidder for the Carolina Beach project. He found it odd that the bid was for only the shell, rather than a complete building.

Another contractor who had bid on a past ABC project, and who spoke on condition of anonymity, said the projects were unusual because of Williams' involvement with the details and the fact that the same contractor kept winning the contracts.

"When we kept getting smacked, we just kind of figured he kind of knew how to do it," the contractor said of Cowper's company.

The contractor added that the skyrocketing increases in the change orders didn't make

sense either because the ABC was essentially replicating the stores, and he called the cost changes "unbelievable."

Local governments – including other ABC boards – contacted by the StarNews said it's the norm to seek bids on complete buildings.

Gregory Bradsher, the administrator of the Triad Municipal ABC Board in Winston-Salem, said when they build a new store, they bid out for the entire project. Randy Mills, general manager of the Durham County ABC, said the same thing.

"We are dealing with a general contractor who is building a complete package," Mills said.

THE ABCS OF BIDDING

The state's competitive bidding laws are designed to "prevent favoritism, corruption, fraud and imposition in the awarding of public contracts" and to assure "competition which in turn guarantees fair play and reasonable prices," according to the N.C. Supreme Court.

According to state law, projects that cost more than $500,000 must follow a formal bidding procedure that includes advertising the project, unsealing bids in public and awarding contracts by a vote of the governing body. Projects below the $500,000 threshold also need to be bid, but the process is largely informal – no advertisement is necessary and the contracts don't require a vote.

Three of the ABC store projects built since 2004 were above the threshold at the time. The exception was the Carolina Beach store in 2009, which had an original contract below the level. Even though they didn't have to follow the process, ABC officials followed the formal bidding process on that store.

But the laws leave one matter unclear: How much can a government agency add in new work to an existing contract without seeking bids?

State law permits government agencies to add work to an already-awarded contract without seeking bids, though the law provides no explanation on when such "change orders" are appropriate versus when the extra work should be bid out.

Besides the vague and open-ended law, there are no formal guidelines or case law for officials to refer to for guidance, according to experts at the University of North Carolina's School of Government in Chapel Hill.

When asked, they tell government officials that change orders should be used only when the new work fits in the original scope of the project and for work that was unforeseen when the original contract was awarded.

"It seems to me if you know this is part of the work, I don't see any reason why you shouldn't or couldn't bid that as part of the original bid or do a separate bidding process," said Frayda Bluestein, a professor with the school. "Doing the second part without bidding – there doesn't seem to be a justification for that."

In a post on the school's government blog, another professor, Eileen Youens, wrote that withholding known construction work from the original contract undermines the bid process.

"It's unfair to the other bidders on the original contract to allow a change order that, had it been included in the original specifications, might have changed the order of the bids," she wrote.

AN INFORMAL PROCESS

No formal vote took place and no meeting minutes exist to show that the board approved construction contracts signed by Cowper and Williams.

Hanson, the former board member, said the board was fully aware of the projects and insisted that it gave its approval.

"Everything that Mr. Williams did, we went over it and the board approved it," he said.

Hanson acknowledged that he didn't pay attention to whether meeting minutes were documented, and he said that's what ultimately led the three former board members to resign.

"I never have had anybody question what I've done," he said.

The county's liquor system also does not have complete records of the recent construction projects. ABC officials have acknowledged they don't have some public records – specifically bid documents – though it's unclear what happened to them.

Government agencies are required by the state to approve and follow a schedule that explains when they can get rid of certain types of public records. For example, the current schedule for ABC boards says they must keep successful bids for six years, but the ABC has

incomplete bid records from three of the four stores built in the past six years.

When a government entity does not agree to follow the state schedule for destruction of documents, it must request permission from the Department of Cultural Resources before getting rid of any public record – no matter how insignificant.

Shell said office manager Billie Connor followed a record retention schedule that was provided to her when she became office manager in 1989.

But the board never voted to approve the records schedule and never sought permission from the state to get rid of any records.

"There is no indication that they've signed off on a schedule in the past," said Dick Lankford, state archivist with the Department of Cultural Resources. "The schedule is there for them to follow, and we certainly want them to follow it, but they have not agreed."

After the StarNews inquired about record retention schedules, Shell said the staff is now adhering to the latest schedule released in 2009, and that he will recommend that the board formally adopt it.

Looking to the future, Shell said the interim board is working to create a number of policies to make the ABC operation more transparent and accountable under Williams' replacement. With Williams set to retire on Friday, Shell said they won't have his 42 years of experience to rely on.

"My view is they need more formal policies," he said. "With a new CEO coming in, they need a road map."

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BIDDING PROCESS | HOW IT WORKS

State law lays out a process that local governments must follow for major construction work, defined by a cost threshold. These steps are only a broad outline of the process. For a full understanding of North Carolina's bidding laws, refer to N.C. General Statutes Chapter 143, Article 8.

Step One: Advertise

The government agency advertises that they are seeking bids to build a project.

Step Two: Provide building specifications

The government will make available building specifications that general contractors can use to put together their bid describing at what cost they can complete the advertised project.

Step Three: Opening bids

All bids are opened in public at a place, day and time specified in the advertisement. The contractors bring with them sealed bids that are opened in public.

Step Four: Approval

The board or governing body of the agency then awards the contract to, as state law says, the "lowest responsible bidder or bidders, taking into consideration quality, performance and the time specified in the proposals..."

All construction contracts that meet the major threshold – today it's $500,000, upped from $300,000 in 2007 – must be approved by the agency's governing board.

A minimum of three bids is required for construction projects. If there are less than that, then the project must be advertised again. The second time through, the board can award the contract if there are fewer than three bidders.

Sources: N.C. General Statutes Chapter 143, Article 8 and UNC School of Government

– *Chris Mazzolini*

Williams' pay as New Hanover ABC chief up 143 percent since 2000

By Veronica Gonzalez
Veronica.Gonzalez@StarNewsOnline.com

Published: Tuesday, February 9, 2010 at 5:48 p.m.

In the last decade, Alcoholic Beverage Control Administrator Billy Williams' salary skyrocketed by 143 percent, according to new information provided to the StarNews.

The newly-released figures provide more perspective on Williams' salary, including eight consecutive years of thousands of dollars in travel pay.

This year, Williams' latest pay increase more than doubled his salary from the $96,300 he was earning in 2000. With the $12,000 he received a decade ago for travel that year and then another $6,750 in longevity pay, that put him at $115,050, according to figures provided in response to a StarNews inquiry about his and his son's salaries for the last 10 years. This year, he's earning $279,615 with a $30,000 bonus and longevity pay.

"If I were a trader on Wall Street, (my salary) might jump," said Joe Wall, executive director and general counsel of the N.C. Association of ABC Boards. "We don't see that kind of jump ordinarily."

Wall emphasized that the commission had nothing to do with Williams' salary.

"We all know that's not normal, but neither I nor any of the boards had any involvement in making those increases," he said Tuesday.

In response to the salary controversy in New Hanover County and a lavish meal for Mecklenburg County ABC officials and family members paid for by international liqour giant Diageo, the association drafted a position paper saying that boards should look to other comparable boards when setting salary and benefit information. The association also supported the state ABC Commission's efforts to gather salary data and benefit information from across the state and agreed that liquor reps shouldn't wine and dine ABC employees or board members.

At the local level, Williams received $12,000 in travel pay annually from 2000 to 2002, and then he started getting $13,200 every year from 2002 until 2008 before it suddenly ceased in 2008. It is unknown why he stopped getting travel pay.

On Tuesday, Williams said those travel allowances were to pay for gas to travel to the county's various liquor stores as well as for vehicle maintenance. The county's liquor stores are located within the county's 199 square miles of land. New Hanover County is the second-smallest county in the state.

Wall said he didn't know what other boards provided similar travel allowances, but added, "we are encouraging the boards to adopt travel polices and expense polices so that information will be available for review."

Before Williams stopped receiving the travel allowance, he started getting an additional $30,000 bonus every year, which he's been getting for the past four years.

The most notable increase in Williams' salary was a 27.5 percent hike from 2006 to 2007 when former ABC board members first started giving him a $30,000-a-year bonus. Other increases were more modest – although still substantial, and they fluctuated from as low as a 2.5 percent to the nearly 30-percent jump.

For Williams' son, Assistant Administrator Bradley Williams, his biggest percentage increase came at the same time as his father's when his salary shot up 36 percent (it was because of a $20,000 bonus). Bradley Williams' lowest year-over-year percentage increase was nearly 8 percent – much higher than his father's lowest percentage increase. He did not receive a travel allowance.

Billy Williams is retiring Feb. 26 after 42 years with the ABC. He has been administrator since 1987. Williams announced his retirement amid controversy over his and his son's six-figure salaries and hefty bonuses after the StarNews published stories on their pay.

The inquiries also led the three-member ABC board that consisted of Charles Wells, Richard "Dick" Hanson and Stephen Culbreth to resign last month. Shortly after Wells was appointed to the ABC board in June 2005, Williams began getting the yearly bonuses, with Hanson and – eventually Culbreth – also voting to approve the bonuses.

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GENERAL

OUR VIEWS

Liquor talking

More scrutiny is due the pay of local administrators in North Carolina's fragmented ABC system.

Perhaps it would be appropriate for members of the New Hanover County ABC Board, regulators of liquor sales there, to hoist a glass and offer a toast to their top administrator, Billy Williams, for a handsome profit margin of 14 percent. But paying him a salary of $232,000 a year seems a bit too much appreciation. And it's a family business as well, since Williams' son, Bradley Williams, makes $115,000 as the assistant administrator.

Reports from the Wilmington Star-News noted that Billy Williams' pay is handsome indeed, relatively speaking. Administrators at Triad Municipal ABC in Winston-Salem and Durham County make $96,000 and $112,000 respectively. Wake County's administrator makes $127,000.

Local boards have a say in salaries, which are approved by county commissioners. In the case of New Hanover, ABC board members are defensive about Williams' pay, which is predictable. They have the responsibility, after all. The Star-News also reported that some local boards are hesitant to give out salary information, even though it clearly is public.

Gary Pendleton, a conservative Republican and former Wake County commissioners' chairman, later chaired the Wake ABC board for five years. He characterizes the senior Williams' pay as "way too high." And Pendleton believes the state could help local boards without interfering in their business.

"The state ABC board," he said, "could hire a human resources analyst and someone on staff to develop salary ranges that would be tied to the profits of the (local) boards. The local boards could operate inside those guidelines."

He's got the right idea.

While it would be appropriate to have some variation in pay for top administrators depending upon how well they did in managing their operations, it seems entirely reasonable to say that their pay should have some limits.

At the state level, the ABC Commission has been a highly political operation in the past, though Gov. Bev Perdue has vowed to make it less so. That same kind of political influence can be felt at the local level.

In the wake of the reports from New Hanover, Perdue is getting involved and having state officials look into the situation.

Enough is known already, however, to justify the governor giving serious consideration to Pendleton's idea on salary oversight.

November 28, 2009

Notable numbers

Statistics from the past week that deserve a doubletake.

Arts dividends

Masthead
Published Sat, Dec 19, 2009 02:00 AM
Modified Fri, Dec 18, 2009 10:36 PM

ABC officials' pay rises, even if profits don't

RALEIGH Officials in charge of liquor stores in cities and counties across North Carolina received raises and, in many cases, bonuses last year regardless of their profit margin. In a few cases, raises were doled out even when the operations lost money.

Salaries, bonuses, personnel guidelines, ethics rules and other policies vary from one local Alcoholic Beverage Control board to the next, a further example of North Carolina's unique and oft-criticized patchwork system for liquor sales.

Asheville's ABC board, which has a profit margin that is half of Wake County's, saw its numbers drop last year. Profit slid from $1.77 million to $1.64 million. But CEO Curtis Canty's salary was up from $114,000 to $119,000, plus a $22,000 "incentive" bonus. He also used a car owned by the board.

Montgomery County's ABC system not only didn't turn a profit last year, but lost $6,200. Its supervisor, Phillip Richardson, received a $1,599 bonus.

Data on the raises and bonuses were released recently by state officials who are taking their first look at compensation among the locally controlled ABC boards. The additional pay was handed out as the state plunged further into recession and unemployment rose toward double digits. Across the private sector, companies laid off workers and cut salaries; in state government, lawmakers voted not to give workers a raise this year.

"The current system that North Carolina has with its ABC laws and how they are administered is nothing but a good ol' boy network. It's a relic of the past," said Dana Cope, executive director of the State Employees Association of North Carolina. "It's creating a confidence issue with the general public. I want them to understand this is not typical state government. These are not state employees. ... This is way over the top."

Liquor store staff and administrators are employees of the local ABC board.

The state ABC Commission has collected salary and other data about how the 163 local boards are run. The data are still in rough form, but The Charlotte Observer and The News & Observer reviewed a sampling of 40 boards from across the state -- one-fourth of the total -- and found that all but three gave their top administrator a raise or a bonus last year. Twenty-five of those boards awarded both, with bonuses ranging from less than $50 to $30,000.

The state ABC Commission runs the central warehouse through which local stores buy their liquor. It also oversees alcohol regulation for more than 17,000 restaurants, bars and stores, but it has little authority over the state's 411 liquor stores. Those are run by the local boards.

The state commission requested local boards' salary information several weeks ago after the New Hanover County ABC Board initially refused to disclose its executives' pay to reporters. Board officials later divulged the numbers: $245,000 in salary and bonus last year for the administrator, Billy Williams, and $127,000 for his son, Bradley, the assistant administrator. Their salaries rose by half during the past

four years.

"These positions are passed down in families like a smoking jacket," Cope said.

High expectations

Jon Williams, the new chairman of the state commission, said the commission is analyzing the salary data and will release a report later. But Williams echoed Gov. Bev Perdue's call for high expectations of accountability and transparency among all state agencies.

"We are interested in providing the local boards with ranges of compensation that may be helpful for them as they set their employees' compensation going forward," Williams said in a prepared statement. "We are asking other states that have a similar alcohol control system in place for some comparable data."

In the Triangle, top executives for the local ABC boards in Wake, Durham and Orange counties received raises. Craig Pleasants, general manager of Wake's ABC board, received salary plus a $10,000 bonus and $6,000 in longevity pay, for a total of $142,000. His total package the previous year was $139,000. Pleasants also got a car allowance - $4,200 last year.

The local boards have a simple explanation for pay raises: Their business was still making money last year. Sales grew from $692 million to $716 million statewide, which includes both liquor store sales and liquor sold to bars and restaurants for mixed drinks. The individual boards in the Charlotte and Raleigh areas also saw slight increases in overall sales.

Sales "are doing fair," said Larry Beck, general manager of the Gastonia ABC Board, who received a $4,300 bonus on top of his $80,000 salary. "But no one's been exempt from the impact of the recession."

Wake County's ABC board gave no raises to employees for the budget year that started July 1 but still provided a 1 percent cost-of-living adjustment. Mecklenburg County's board froze salaries for the first six months of the fiscal year, July through December, but has added 3 percent to the salary budget to be used for raises for the rest of the year.

Pleasants, general manager in Wake County, cautioned that salary increases last year were set during budget-writing in early 2008.

"In February of '08," Pleasants said, "it wasn't a terrible economy."

Asheville ABC board Chairman Charles Worley said the raise for the CEO there was based on a performance review and criteria that included meeting budget and keeping costs down.

The local ABC boards each answer to their county commissioners or city council, which appoint them. So the salaries, policies and organizations vary. One town may operate an ABC store that has the spiffy look of a chain retail outlet, while the neighboring county's board sells liquor out of a worn-down former convenience store.

Local boards emphasize how much money they return to their cities and counties. Wake County is the state's most profitable board, with a nearly 17 percent profit margin. Last year, the board handed $5.2 million to the county.

Mecklenburg County ranks 11th in profit with a little more than 12 percent margin.

The board funneled $7.4 million to the county last year, including an additional $2.2 million the board handed over in recognition of the recession's strain on local government budgets.

"We wanted to do as much as we could do to support the community," said CEO Calvin McDougal.

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ABC abuses increase calls for changes

Published: Thursday, January 14, 2010 at 3:26 p.m.

In most cases, local control is better than state or federal control. Numerous examples exist. County commissioners complain about state mandates that come with no money to pay for required changes. School boards lose the ability to set the start and end dates for school due to lawmakers in Raleigh. State politicians bemoan having to find money to pay for federal requirements.

However, sometimes situations arise in which local control fails, and having a centralized body overseeing units across the state offers a better system of governance. That appears to be the case with the state Alcoholic Beverage Control boards.

ABC boards find themselves under scrutiny due to the actions of the board in New Hanover County. Members there resigned after the salaries of the local administrator and his assistant - who also was his son - came to light. The administrator, Billy Williams, who announced this week he plans to retire, received a salary of $232,200 per year, his son $115,500. To put that in context, the top salary was more than the state's chief administrator makes. More details about the lavish lifestyle of the New Hanover County father and son continue to emerge.

Further damaging the credibility of ABC boards was a lavish party distiller Diageo held in Charlotte for ABC board employees and their spouses, complete with expensive alcohol (of course). These revelations underscore the charge state ABC Commission Chairman Jon Williams lodged against "a culture of entitlement."

While most ABC boards operate within the law and common sense, North Carolina's system begs for reform. The state has 161 independently run county and municipal liquor agencies. The state ABC Commission board has little control over much of the local operations. And taxpayers should take notice, too: Tax money goes to pay for many of the lavish salaries and expenses that are being reported.

Big money is at stake here - the local outlets sold more than $700 million worth of alcohol

last year, which put $259 million into the coffers of local and state governments. Whenever that type of money is involved, change won't come easy. But if the negative publicity continues, lawmakers may have little choice but to revisit the state's ABC laws to decide if a more centralized system is needed. After all, North Carolina is the only state that allows local ABC boards to sell alcohol to the public.

Jon Williams, Gov. Bev Perdue and other state leaders can continue to call for ethics reforms and spotlight the bad apples. They may have little real power over the local boards, but they can use their bully pulpit to call for change. County commissioners and city councils should also pay closer attention to their local boards and make sure no questionable spending is taking place. No one wants to be the next New Hanover County when it comes to ABC matters.

Getting a grip

Governor Perdue wants tighter rules on local ABC boards. An overhaul of the system is needed.

North Carolina's system of overseeing liquor sales is rather like a cutting-edge piece of modern art. Some think it's beautiful. Some don't understand it but are afraid to say so. And some think it would make nice kindling.

Mercy, what a confusing beast is the state ABC system. The state ABC Commission oversees the warehouse through which local boards buy liquor, and pursues liquor law violations. Local boards (which tend, like the commission, to be populated with politically well-connected people) run the liquor stores under their jurisdiction, and are virtually autonomous. The results of such a structure can be downright funny, if you have a rather peculiar sense of humor, or maddening.

Take the issue that has both stirred and shaken (pun on James Bond intended) those high up in North Carolina officialdom. Since local administrators have salaries set by local boards, the top two people in New Hanover County (father and son, by the way) together have been pulling down more than $330,000 in salaries and $50,000 in bonuses even though their salaries were much larger than those of administrators in bigger ABC jurisdictions. And how about those Mecklenburg County ABC officials having a lavish dinner paid for by a liquor company (later reimbursed)?

What's happened since the public became enlightened about those things is that elected officials in various state government posts are shocked, shocked they say, and are backing reform. But curiously, one senior legislator reckoned that the General Assembly might not be able to give the system the reform it needs in the "short" legislative session this summer. Might have to be done incrementally, he said. A 45-day session might not be long enough to consider major changes.

You have got to be kidding. Here's the deal. Senate President Pro Tem Marc Basnight, ruler of all he surveys on Jones Street, can get committee people working on major changes in the system and demand that they have their ideas ready by the time the session opens, and then they can get to it. Basnight knows reform is needed, and in fact cited as one example of problems the existence of multiple ABC boards within some counties, Brunswick being the prime example with nine boards.

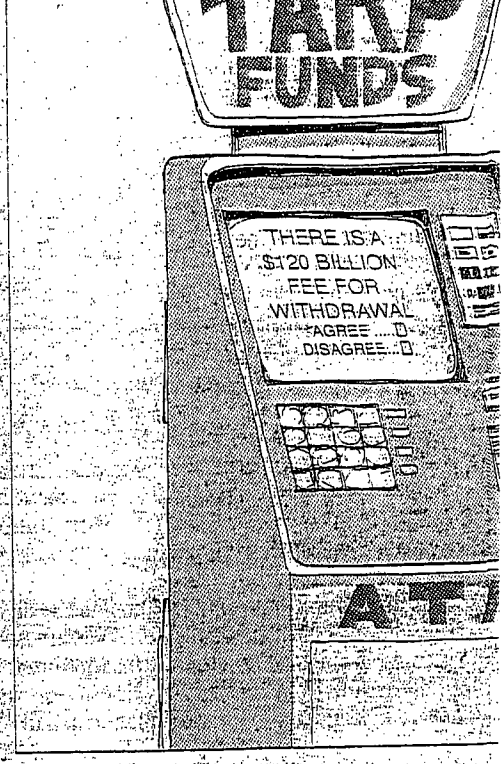
If there have been problems in a couple of places that have come to light, it's just barely possible there are problems elsewhere. Gov. Beverly Perdue wants the first step toward change to be an adoption by local ABC boards of the ban on gifts and tighter ethics rules that she's imposed on those agencies under her control. (It appears that would have to be voluntary, given the power that local boards have.)

That's a start, but obviously 163 local boards is too many. And the variations in salaries of administrators are nonsensical. There should be a rational structure, and it appears, in fact, that the state commission probably needs more say-so over how the local boards do business.

Liquor is a big money-maker for the state, and the idea behind public control, one idea anyway, is that in addition to generating revenue, the ABC system can keep liquor out of every corner grocery and thus protect neighborhoods or even protect folks from themselves a little.

The system also has undoubtedly been compatible with North Carolina's conservative views toward distribtion of the hard stuff. The state didn't allow public bars and restaurants to sell mixed drinks until the 1970s; and left the "wet or dry" decision to local communities.

But even taking all those factors into account, the problems, obvious problems, within the current regulatory system are in need of timely fixing. The revelations thus far have been, well, sobering.



Studying Singapore

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1. Length of a school day and number of hours of instruction.

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10. Specific recommendations of what we should do to improve based on the Singapore experience.

I would like a comprehensive and unbiased report on the educational system in Singapore from this group of travelers. Since this is the second delegation to Singapore in past 10 years, one can only hope this group will come back with more than jet lag.

Wayne Eberhardt, *Cary*

Reforming ABC

JOURNAL EDITORIAL STAFF

There's a lot of money to be made selling alcohol. That's why it's time that state government reform how hard liquor is sold to protect the money that is supposed to flow to the public.

In just the past month, two local Alcohol Beverage Control boards have become embroiled in controversies, and these stories demonstrate how the state system needs fixing.

In Wilmington, the local board has handed out $330,000 in salary and $50,000 in bonuses to a father-and-son team that runs New Hanover County's ABC operations. In Mecklenburg, a liquor distributor provided a lavish meal and night on the town to ABC board members.

Gov. Bev Perdue has called for tougher ethics standards for the state's 163 local ABC boards. (Under state law, local boards run their own stores under board policies set by the N.C. ABC Commission.) Each one of those boards, she has suggested, should adopt the same kind of ethics requirements that are now imposed on state agencies. Such a standard would make it very clear that board members cannot take gifts from suppliers.

The leader of the association representing the local boards says his members will probably support Perdue's suggestion, but stronger action is needed. The legislature should put the board members under the state's ethics law. There's simply too much money flowing into, and out of, these stores to trust their management to an honor system.

Furthermore, the state should regulate more closely how these individual systems operate. For example, they set their own salary and personnel policies. This is a scandal just waiting to happen. Perdue's budget chief is studying salary data from all 163 boards. He should be able to determine if salaries given by some boards are out of line with others and with the private sector.

The legislature should look at that study and empower state authorities to set an acceptable salary range for workers and managers in the various systems. Considering that these systems vary greatly in size, salaries should also vary compared to the business sophistication required of the individual managers.

The legislature should also consider whether 163 separate systems are needed. Brunswick County has nine different systems, and that almost certainly raises the administrative expense there. There are ways to consolidate these boards without taking away local control of alcohol sales, which has a strong tradition and a lot of support in the state.

When money and liquor are combined, there's enormous potential for abuse and scandal. Perdue and the legislature must move quickly to toughen standards at the local ABC boards.

Better guide: Stronger ABC rules help avoid lapses

Thursday, January 21, 2010

Pitt County ABC program administrator Teresa Campbell made an error in judgment by accepting tickets to Charlotte Motor Speedway offered by liquor representatives. Officials in her capacity are expected to avoid anything that appears to be a conflict of interest, and Campbell would have been better to steer clear of the racetrack.

When compared to violations by other ABC officers coming to light from around the state, this infraction is minor and does not appear to warrant punishment. Rather, it highlights a culture of corruption evident among ABC officials, one so pervasive that the lines are blurred for even capable and apparently well-intentioned administrators like Campbell.

Gov. Beverly Perdue's decision to review the operations of the Alcohol Beverage Control is the responsible reaction to revelations that some officials receive salaries far exceeding $100,000 while others have accepted five-figure bonuses in a year that saw deep cuts and higher taxes to balance the state budget. Additionally, Diageo, one of the largest distributors of liquor in the United States, purchased a series of pricey dinners for county ABC boards last year, with some costing thousands of dollars.

That may violate a state law prohibiting ABC officials from accepting anything of value from the liquor industry, but the rule is unclear on whether meals run afoul of the statute. Certainly something so lavish would constitute a conflict of interest and officials should have declined the offer or paid for the dinners. Their failure to do so has resulted in resignations and an investigation now under way.

Campbell's situation is different. Though she accepted tickets to the speedway on two occasions, she paid for her transportation, meals and lodging, so only the tickets — with a face value between $49 and $135 — would appear to be in violation. She admitted the mistake, but said she believed it was an accepted practice because other ABC administrators and board members did the same.

Local ABC stores generate about $1 million in profit for the county annually, an important sum that must not be compromised by ethical lapses, however minor. Officials are expected to avoid even the appearance of impropriety in the execution of their duties.

However, that can be assured through stronger, clearer ethical guidelines that erase any opportunity for impropriety. That would have helped Campbell avoid this error, and ensure that all ABC officials know the expectations, and limitations, of their office.

Published: 12:05 AM, Sun Feb 21, 2010

Our ABCs: Alcohol board study is needed, but with care, please.

The shenanigans of a few county Alcoholic Beverage Control boards in North Carolina have put a bad light on the whole process of alcohol sales by county government.

That's not fair, but it's still good that state legislative leaders have convened a committee to study the way booze is sold in North Carolina.

We're not at all comfortable with local government doing a job that's best suited for private business, which is how liquor sales are conducted in most states. But we're equally uncomfortable with what appears to be a state inclination to take liquor revenue away from the counties and send it to state coffers. There's some delicate balancing to be done here.

Privatization will be one item on the study committee's agenda, along with ethics considerations and the efficiency of the existing ABC structure. The committee is expected to make recommendations to the General Assembly when it returns to session in May.

Cumberland County is well represented on the panel, whose membership includes state Rep. Marvin Lucas, former state Rep. Bill Hurley and Hope Mills Commissioner Eddie Maynor, who chairs this county's ABC board.

This is no time to be cutting local revenue, but a good time to make better sense of the antiquated ABC system.

OUR VIEWS

Liquor talking

More scrutiny is due the pay of local administrators in North Carolina's fragmented ABC system.

Perhaps it would be appropriate for members of the New Hanover County ABC Board, regulators of liquor sales there, to hoist a glass and offer a toast to their top administrator, Billy Williams, for a handsome profit margin of 14 percent. But paying him a salary of $232,000 a year seems a bit too much appreciation. And it's a family business as well, since Williams' son, Bradley Williams, makes $115,000 as the assistant administrator.

Reports from the Wilmington Star-News noted that Billy Williams' pay is handsome indeed, relatively speaking. Administrators at Triad Municipal ABC in Winston-Salem and Durham County make $96,000 and $112,000 respectively. Wake County's administrator makes $127,000.

Local boards have a say in salaries, which are approved by county commissioners. In the case of New Hanover, ABC board members are defensive about Williams' pay, which is predictable. They have the responsibility, after all. The Star-News also reported that some local boards are hesitant to give out salary information, even though it clearly is public.

Gary Pendleton, a conservative Republican and former Wake County commissioners' chairman, later chaired the Wake ABC board for five years. He characterizes the senior Williams' pay as "way too high." And Pendleton believes the state could help local boards without interfering in their business.

"The state ABC board," he said, "could hire a human resources analyst and someone on staff to develop salary ranges that would be tied to the profits of the (local) boards. The local boards could operate inside those guidelines."

He's got the right idea.

While it would be appropriate to have some variation in pay for top administrators depending upon how well they did in managing their operations, it seems entirely reasonable to say that their pay should have some limits.

At the state level, the ABC Commission has been a highly political operation in the past, though Gov. Bev Perdue has vowed to make it less so. That same kind of political influence can be felt at the local level.

In the wake of the reports from New Hanover, Perdue is getting involved and having state officials look into the situation.

Enough is known already, however, to justify the governor giving serious consideration to Pendleton's idea on salary oversight.

November 28, 2009

Notable numbers

Statistics from the past week that deserve a doubletake.

Arts dividends

Masthead
Published Sat, Dec 19, 2009 02:00 AM
Modified Fri, Dec 18, 2009 10:36 PM

ABC officials' pay rises, even if profits don't

RALEIGH Officials in charge of liquor stores in cities and counties across North Carolina received raises and, in many cases, bonuses last year regardless of their profit margin. In a few cases, raises were doled out even when the operations lost money.

Salaries, bonuses, personnel guidelines, ethics rules and other policies vary from one local Alcoholic Beverage Control board to the next, a further example of North Carolina's unique and oft-criticized patchwork system for liquor sales.

Asheville's ABC board, which has a profit margin that is half of Wake County's, saw its numbers drop last year. Profit slid from $1.77 million to $1.64 million. But CEO Curtis Canty's salary was up from $114,000 to $119,000, plus a $22,000 "incentive" bonus. He also used a car owned by the board.

Montgomery County's ABC system not only didn't turn a profit last year, but lost $6,200. Its supervisor, Phillip Richardson, received a $1,599 bonus.

Data on the raises and bonuses were released recently by state officials who are taking their first look at compensation among the locally controlled ABC boards. The additional pay was handed out as the state plunged further into recession and unemployment rose toward double digits. Across the private sector, companies laid off workers and cut salaries; in state government, lawmakers voted not to give workers a raise this year.

"The current system that North Carolina has with its ABC laws and how they are administered is nothing but a good ol' boy network. It's a relic of the past," said Dana Cope, executive director of the State Employees Association of North Carolina. "It's creating a confidence issue with the general public. I want them to understand this is not typical state government. These are not state employees. ... This is way over the top."

Liquor store staff and administrators are employees of the local ABC board.

The state ABC Commission has collected salary and other data about how the 163 local boards are run. The data are still in rough form, but The Charlotte Observer and The News & Observer reviewed a sampling of 40 boards from across the state -- one-fourth of the total -- and found that all but three gave their top administrator a raise or a bonus last year. Twenty-five of those boards awarded both, with bonuses ranging from less than $50 to $30,000.

The state ABC Commission runs the central warehouse through which local stores buy their liquor. It also oversees alcohol regulation for more than 17,000 restaurants, bars and stores, but it has little authority over the state's 411 liquor stores. Those are run by the local boards.

The state commission requested local boards' salary information several weeks ago after the New Hanover County ABC Board initially refused to disclose its executives' pay to reporters. Board officials later divulged the numbers: $245,000 in salary and bonus last year for the administrator, Billy Williams, and $127,000 for his son, Bradley, the assistant administrator. Their salaries rose by half during the past

four years.

"These positions are passed down in families like a smoking jacket," Cope said.

High expectations

Jon Williams, the new chairman of the state commission, said the commission is analyzing the salary data and will release a report later. But Williams echoed Gov. Bev Perdue's call for high expectations of accountability and transparency among all state agencies.

"We are interested in providing the local boards with ranges of compensation that may be helpful for them as they set their employees' compensation going forward," Williams said in a prepared statement. "We are asking other states that have a similar alcohol control system in place for some comparable data."

In the Triangle, top executives for the local ABC boards in Wake, Durham and Orange counties received raises. Craig Pleasants, general manager of Wake's ABC board, received salary plus a $10,000 bonus and $6,000 in longevity pay, for a total of $142,000. His total package the previous year was $139,000. Pleasants also got a car allowance - $4,200 last year.

The local boards have a simple explanation for pay raises: Their business was still making money last year. Sales grew from $692 million to $716 million statewide, which includes both liquor store sales and liquor sold to bars and restaurants for mixed drinks. The individual boards in the Charlotte and Raleigh areas also saw slight increases in overall sales.

Sales "are doing fair," said Larry Beck, general manager of the Gastonia ABC Board, who received a $4,300 bonus on top of his $80,000 salary. "But no one's been exempt from the impact of the recession."

Wake County's ABC board gave no raises to employees for the budget year that started July 1 but still provided a 1 percent cost-of-living adjustment. Mecklenburg County's board froze salaries for the first six months of the fiscal year, July through December, but has added 3 percent to the salary budget to be used for raises for the rest of the year.

Pleasants, general manager in Wake County, cautioned that salary increases last year were set during budget-writing in early 2008.

"In February of '08," Pleasants said, "it wasn't a terrible economy."

Asheville ABC board Chairman Charles Worley said the raise for the CEO there was based on a performance review and criteria that included meeting budget and keeping costs down.

The local ABC boards each answer to their county commissioners or city council, which appoint them. So the salaries, policies and organizations vary. One town may operate an ABC store that has the spiffy look of a chain retail outlet, while the neighboring county's board sells liquor out of a worn-down former convenience store.

Local boards emphasize how much money they return to their cities and counties. Wake County is the state's most profitable board, with a nearly 17 percent profit margin. Last year, the board handed $5.2 million to the county.

Mecklenburg County ranks 11th in profit with a little more than 12 percent margin.

The board funneled $7.4 million to the county last year, including an additional $2.2 million the board handed over in recognition of the recession's strain on local government budgets.

"We wanted to do as much as we could do to support the community," said CEO Calvin McDougal.

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ABC abuses increase calls for changes

Published: Thursday, January 14, 2010 at 3:26 p.m.

In most cases, local control is better than state or federal control. Numerous examples exist. County commissioners complain about state mandates that come with no money to pay for required changes. School boards lose the ability to set the start and end dates for school due to lawmakers in Raleigh. State politicians bemoan having to find money to pay for federal requirements.

However, sometimes situations arise in which local control fails, and having a centralized body overseeing units across the state offers a better system of governance. That appears to be the case with the state Alcoholic Beverage Control boards.

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Further damaging the credibility of ABC boards was a lavish party distiller Diageo held in Charlotte for ABC board employees and their spouses, complete with expensive alcohol (of course). These revelations underscore the charge state ABC Commission Chairman Jon Williams lodged against "a culture of entitlement."

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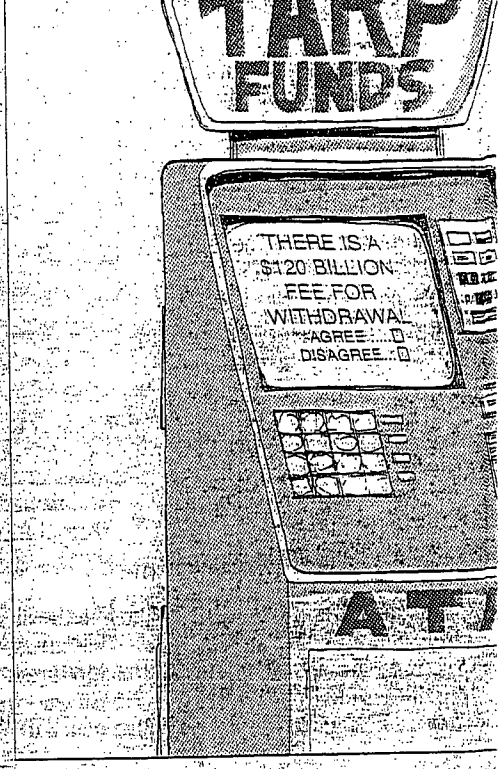

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Print Article

Print This Story

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The shenanigans of a few county Alcoholic Beverage Control boards in North Carolina have put a bad light on the whole process of alcohol sales by county government.

That's not fair, but it's still good that state legislative leaders have convened a committee to study the way booze is sold in North Carolina.

We're not at all comfortable with local government doing a job that's best suited for private business, which is how liquor sales are conducted in most states. But we're equally uncomfortable with what appears to be a state inclination to take liquor revenue away from the counties and send it to state coffers. There's some delicate balancing to be done here.

Privatization will be one item on the study committee's agenda, along with ethics considerations and the efficiency of the existing ABC structure. The committee is expected to make recommendations to the General Assembly when it returns to session in May.

Cumberland County is well represented on the panel, whose membership includes state Rep. Marvin Lucas, former state Rep. Bill Hurley and Hope Mills Commissioner Eddie Maynor, who chairs this county's ABC board.

This is no time to be cutting local revenue, but a good time to make better sense of the antiquated ABC system.

Comments of NC Association of ABC Boards
Presented to Joint Study Committee on Alcoholic Beverage Control
March 24, 2010

Good afternoon. I am Jon Carr. I practice law in Raleigh and am a lobbyist for the NC Association of ABC Boards, among others. Thank you for allowing me this opportunity to speak with you today.

Your Committee charge contains a wide-variety of issues that you may address, some of which are new issues. My comments today are with respect to positions that have been established by the Association.

Salaries

Much of the media attention on ABC boards has related to salaries and meals. The reports seem to indicate that the salaries in New Hanover County are the norm across the State. This is not the case. We have analyzed the salary information submitted to the ABC Commission, and offer the following observations.

The salary for the New Hanover County ABC Board's manager is not an accurate representation of other boards' managers across the State. The average salary for all ABC Boards' managers is $47,149; the average of the lowest 10 salaries is $15,148 and of the highest 10 salaries is $119,982. Because the ABC system is comprised of boards with varying number of stores, we calculated the average salary for the manager, by the number of stores, as follows: one store - $36,829; two to five stores - $49,017; six to ten stores - $83,356; and eleven or more stores - $121,894.

We supported the ABC Commission's recent directive to local ABC Boards to provide information on the ABC board's compensation and benefits to top employees. This data provides useful tools for ABC boards and for appointing authorities - the Cities, Towns and Counties that have ABC boards - to have in assessing and setting compensation and benefits. In past years, ABC boards have willingly provided the ABC Commission with information and data as requested. For at least the past 13 years, the Commission has annually requested, and ABC Boards have provided, information on Boards' managers' salaries.

We support regulatory changes to: (1) require ABC boards to adopt compensation ranges for all positions; (2) require ABC boards to include decisions about employee compensation and benefits in their meeting minutes; (3) require that ABC boards submit all meeting minutes to their appointing authority; and (4) require ABC boards to submit a copy of their annual audit to their appointing authority.

We request that the ABC Commission annually obtain compensation and benefit information for top employees of ABC boards, and compile and distribute this data to ABC Boards and to their respective appointing authorities. This data should include both the approved compensation range for the position and the actual salary of the top

employees. We request that the ABC Commission require ABC Boards to certify to the ABC Commission, when Boards provide this information to the Commission, that the Board has provided the same information to the Board's appointing authority.

Meals

The Mecklenburg County holiday dinner has garnered a lot of attention. I am not aware of similar meals of this nature with other ABC boards, and do not believe that there has been any. Pursuant to a 1996 ruling from the Commission, which permitted unsolicited business meals as an accepted practice, industry representatives have on occasion provided unsolicited business meals to some ABC board members and managers. This practice has not been widespread and has not been of the type or nature as the meal that was recently reported by the media. We support the ABC Commission's January 13, 2010 memorandum which prohibits industry members from providing meals to ABC board members and employees, and the Association urges its members to adopt a policy to decline such meals if offered. G.S. 18B-1116 already prohibits the alcohol industry from giving anything of value to any alcoholic beverage retailer or his employee and the Commission's rules prohibit distiller representatives from giving liquor or anything of value to store personnel and prohibit store personnel from accepting gifts from such representatives (4 NCAC 2T. 0910). Even so, we stand ready to work with you and legislators to improve upon the current law regulating these areas.

Ethics

We support regulatory changes that would require ABC Boards to adopt an ethics policy consistent with the policy required to be adopted by their appointing authority pursuant to recent law (Session Law 2009-403). This new law requires local governments to adopt ethics policies by January 1, 2011. At least 87 ABC boards already have an ethics policy and at least 81 Boards have a policy prohibiting gifts, as reported to the ABC Commission recently. The Commission has recently submitted an Ethics Resolution to the ABC boards. Currently, about half of the boards have adopted this suggested ethics policy and many more have this on their agenda for upcoming meetings. Ethics can be a very broad subject. There are already statutes and rules regarding gifts and meals. If there are gaps in the ethics standards applicable to ABC boards I think you will find that we will be supportive of filling those gaps.

PED Report

At the last meeting of this Committee, you heard from Carol Shaw with the Program Evaluation Division and the PED's Report on the ABC System. The PED Report makes several recommendations and the Association has taken a position on those recommendations.

1. Mission Statement. PED recommends that the General Assembly should clearly define the mission of local boards in Chapter 18B of the General Statutes. The Association supports a statutory mission statement.

2. Performance Standards. PED recommends that the General Assembly should direct the ABC Commission to develop performance standards for local boards. We support the development of performance standards ONLY IF those standards are promulgated by the ABC Commission through its rule-making authority.

3. Merger. PED recommends that the General Assembly should authorize the ABC Commission to require local board mergers (including new boards) as needed to improve the effectiveness and efficiency of the ABC system and to use performance standards when determining whether to require merger of boards. We support authorization for the ABC Commission to require mergers of certain boards (but not all boards), as a last resort, based on performance standards that are promulgated through the rule-making process.

I say "certain boards but not all boards" because the legislation introduced as a result of the PED Report (SB 839/HB 768) provides for mandatory mergers of all ABC boards in a county, regardless of performance or other factors, and authorizes the ABC Commission to merge two or more counties into a regional ABC board. Mandated merger with the end result of "one board per county" and exempting systems that are already merged would affect about 90 boards in about 27 counties. We do not support this type of mandated merger or geographic merger and note that this type of merger is not recommended by the PED Report.

In recommending mandated mergers of certain ABC boards that do not meet performance standards, the PED Report assumes that forced mergers will result in increased efficiencies, profits and distributions. Any increased efficiencies due to a merger will inure to the financial benefit of local government and the local community, and not the State. Some local governments will question the State's interest in requiring them to merge their ABC boards and will prefer to remain independent, and to ensure that a store will be able to serve their community, even if some additional profits could be gained from a merger.

In recommending forced mergers of ABC boards, the PED Report also assumes that there are too many ABC boards. However, NC has a low number of retail spirits outlets by comparison to other states. NC has about 410 ABC stores and over 6,000 outlets licensed to sell beer off-premises. In 2005, South Carolina, a license or open state, had more than twice the number of retail outlets for the sale of spirits with less than one-half of NC's population. The number of outlets in North Carolina is consistent with those in Virginia, where all spirits are sold at retail through state-owned ABC stores. In 2008, Virginia had 332 stores serving a population of 7.7 million.

Current law allows ABC boards to voluntarily merge, even across county lines. The Association has historically supported the voluntary merger of ABC boards, and prompted the General Assembly to authorize boards to jointly operate ABC stores, which it did in 2001. We encourage ABC boards to consider voluntary merger and joint operation of stores, where appropriate. However, it is not appropriate for all boards and all situations. Local governments that want to voluntarily merge ABC boards can do so.

Local governments have not, and are not, asking the General Assembly to mandate merger of all ABC boards.

4. Increased Threshold for Elections. PED recommends increasing the registered voter threshold for a city ABC store election from 500 to 5,000 voters. We support this recommendation, and also the PED recommendation to allow the towns in NC's dry counties in western North Carolina to qualify at the current threshold (because no town in these counties has a population of 5,000 registered voters). The Association would not oppose "grandfathering" cities with between 500 and 5,000 registered voters if those new boards were merged or jointly operated with another board.

5. Technical Assistance Fund. PED recommends that the General Assembly authorize the ABC Commission to levy a bailment surcharge up to $0.10 per case to create a non-reverting revolving no interest loan fund to pay for technical and financial assistance for local boards. The Association supports and requests the ABC Commission to provide technical assistances to ABC boards (particularly to assist them in voluntarily merging or jointly operating stores), but does not support a levy or the establishment of this fund.

6. Mixed Beverage Election. PED recommends the elimination of the requirement that a city must operate an ABC store or hold an ABC store election in order to hold a mixed-beverage election. The PED Report noted that several towns had placed ABC store authorization and mixed beverage authorization on a referendum with no intention of establishing the ABC store, so that the mixed beverage authorization could be voted upon. We support this recommendation.

7. Agency Stores. PED recommends that the General Assembly should authorize the ABC Commission to require local boards to contract with an agency store (privately owned and operated retail outlet) to sell liquor when performance standards indicate efficient operation of an ABC store by a board is not possible. Stated another way, this means that over the objection of an ABC board, its appointing authority and the local community, the Commission could require the board to enter into a contract with a grocery store, pharmacy, convenience store or other private party to sell liquor at retail in that jurisdiction. We oppose agency stores. Significantly, the Alcohol Beverage Council of North Carolina strongly opposes agency stores. The Alcohol Beverage Council of North Carolina is comprised of companies that, acting as brokers, market spirits in this state and that represent the interest of liquor distillers in North Carolina.

The PED recommendation would apparently limit agency stores to jurisdictions where it deems that the efficient operation of an ABC board is not possible, and notes that other states have agency stores in rural areas that cannot support a stand-alone retail liquor store. However, agency stores will lead to efforts to allow spirits to be sold in all jurisdictions by private sellers, not just rural areas. Currently, there are about 6,000 outlets licensed to sell beer off-premises in NC. Local voters did not vote to allow spirits to be sold in private retail establishments, only through ABC boards; local referenda to

establish ABC boards (and other alcohol referenda) are hotly contested. This "control" over the sale of spirits was an important factor in these referenda.

8. Privatization. The Association opposes privatization. The PED was directed to address the issue of privatization. While the PED Report examined North Carolina's control system in comparison to other control states and in comparison to certain other license or open states, the PED did not recommend privatization. There are numerous findings in the PED Report which support its reasoned decision not to recommend privatization. Three of these key findings are that:

(a) First, among the other 18 control states, North Carolina ranks 12th lowest in the number of retail outlets, 4th highest in revenue per gallon, and 3rd lowest in adult per capita consumption.

(b) Second, in comparison to the 12 license or "open" states who are similar to North Carolina in that they limit sales of spirits to package stores (that are privately owned), North Carolina has the fewest retail outlets (except for Delaware, a much smaller state), receives the most public revenues/gallon, and has the lowest per capita consumption.

(c) Third, control states may not convert from a control system to a license system because a reduction in revenues is likely, in that control states received an average of $25.36 per wine gallon[1] in state and local revenues in 2006 from spirits while license states received an average of only $11.65 per wine gallon.

North Carolina ranks 3rd among the 50 states and the District of Columbia in revenue per capita from the sale of spirits and 48th in per capita consumption. This information comes from DISCUS, the national association of liquor distillers, which published this information in 2009 for the year 2007.

The PED Report focuses on profits. The PED Report noted 43 ABC boards had profits of less than 5% (FYE 07) --- I note that only 23 of these boards have mixed beverage sales to bars and restaurants and that mixed beverage sales have to be authorized by voting citizens in the jurisdiction. However, sales from these boards constituted only 5.53% of the total sales for the ABC system. The PED Report explains that population shifts have affected profitability, with the population shifting over the past few decades away from rural areas to urban areas, surrounding counties and tourist areas.

The PED Report also noted that some ABC boards did not make a distribution of profits (FYE 07). Sales from those 28 ABC boards constitute only 4.43% of the total sales for the ABC system. Further, these 28 boards still collected $7.7 million in state sales and excise taxes, $300,000 in other taxes, and contributed $150,000 to law enforcement and alcohol education, and paid $170,000 to operate the ABC Commission and its warehouse. Nine of these 28 boards had profit percentages greater than 5%.

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[1] A wine gallon is a measurement volume that is equivalent to a standard U.S. bulk or liquid gallon

These boards may be retaining distributions for capital purchases and improvements or for payment of debt beyond loan requirements, with the knowledge and agreement of their appointing authority.

Local governments benefit from profitable ABC stores, not the State. As you heard from Carol Shaw with the PED at the last meeting, State revenues are based on dollar volume of spirits sold. State alcohol taxes are paid to the State for every sale, which is another advantage of the control system, regardless of whether of the store is profitable or not. Local governments should be able to balance profits with providing its citizens with a convenient location to purchase liquor.

Profits and revenues are just one aspect of the sale of spirits. Societal costs and the public's health and safety are also very important factors. The North Carolina Institute of Medicine, in its 2008 Task Force on Substance Abuse Services Report to the General Assembly, noted that the consequences of underage drinking cost the State $1.2 billion in 2005.

The bottom line is that alcohol will never come close to "paying its way" in our society; its negative effects far exceed any possible measure of revenue generated. But our current ABC System is meeting its core mission of "control, service and revenue" better than could any form of privatized liquor sales and is accomplishing important public health and revenue objectives.

Submitted by Jon Carr, lobbyist, NC Association of ABC Boards, on March 24, 2010.
Jon Carr, Jordan Price Wall Gray Jones & Carlton, 919-828-2501;
jcarr@jordanprice.com

NORTH CAROLINA GENERAL ASSEMBLY
STATE LEGISLATIVE BUILDING
RALEIGH 27603

March 25, 2010

MEMORANDUM

TO: Members of the Joint Study Committee on Alcoholic Beverage Control

FROM: Representative Ray Warren, Presiding Co-Chair
Senator Donald Vaughan, Co-Chair

SUBJECT: Meeting Notice

The Joint Study Committee on Alcoholic Beverage Control will meet on the following date:

DAY:	Thursday
DATE:	April 8, 2010
TIME:	2:00 p.m.
LOCATION:	Legislative Office Building, Room 643

Express your views on Alcoholic Beverage Control in North Carolina"
The Joint Study Committee on Alcoholic Beverage Control invites public comment. Please visit the NCGA website, under Committee Websites (Joint Study Committee on Alcoholic Beverage Control), for instructions.

Parking for non-legislative members of the committee/commission is available in the visitor parking deck #75 located on Salisbury Street across from the Legislative Office Building. Parking is also available in the parking lot across Jones Street from the State Library/Archives (see attached map). The cost for visitor parking is $1.00 per hour or $8.00 per day and may be reimbursed with a parking receipt submitted with your travel reimbursement form.

Please advise Theresa Lopez, Committee Assistant, by phone (919-715-8361) or email warrenrla@ncleg.net, or Dora Morgan, Committee Assistant, at (919) 733-5856, or email vaughanla@ncleg.net if you will be unable to attend or have questions.

Posted: March 25, 2010
cc. Committee Record X
Interested Parties X

Joint Study Committee on Alcoholic Beverage Control

AGENDA

April 8, 2010
Room 643, Legislative Office Building
2:00 PM

Representative Ray Warren, Co-Chair- Presiding
Senator Don Vaughan, Co-Chair

WELCOME AND INTRODUCTORY REMARKS

ADOPTION OF MINUTES – March 24, 2010 Meeting

PUBLIC COMMENT

Registered Parties

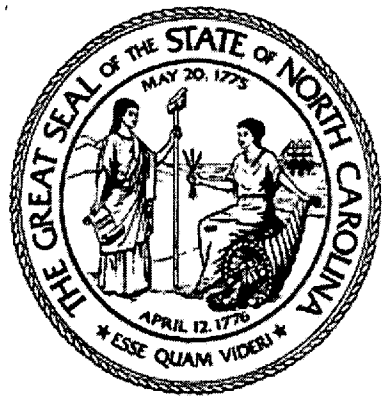
STAFF PRESENTATION

Mikael Gross, Committee Co-Counsel

COMMITTEE DISCUSSION

NEXT MEETING DATE

ADJOURNMENT



Minutes

Joint Study Committee in Alcoholic Beverage Control

Thursday April 8, 2010
2:00 p.m.
Room 643, Legislative Office Building

The Joint Study Committee on Alcoholic Beverage Control met on Thursday, March 9, 2010, in Room 643 of the Legislative Office Building. Representative Ray Warren, presiding chair, called the meeting to order at 2:00 p.m. The following House Members were present: Representatives Ray Warren, Co-Chair; Representatives Bell, Crawford, Gibson, Hill, Lucas, Starnes, and Steen. Senate members present were: Senator Don Vaughan, Co-Chair; Senators Bingham, Blue, Clodfelter, Goss, and Hartsell. The following Public Members were in attendance: Chief Tim Adams, Mr. Ronald Bogle, Ms. Karen Eckberg Gottovi, Mr. Howard Hunter, Mr. John Hurley, Mr. Edward Holmes, Mr. Walter Harris, Mr. Paul Powell, Mr. Fields Scarborough, and Dr. Peggy Richmond.

Representative Warren called the meeting to order, welcomed everyone to the Joint Study Committee on Alcoholic Beverage Control, and provided reminders concerning travel reimbursement forms, the committee notebooks, and the committee's website. He then recognized Committee Co-Chair Senator Don Vaughan, and committee assistants Theresa Lopez and Dora King-Morgan. Representative Warren noted there was a quorum and proceeded with the transaction of business.

Representative Warren asked the committee to read over the minutes from the Joint Study Committee on Alcoholic Beverage Control meeting on March 9, 2010 and to note any necessary corrections or changes. After review by the members, Representative Warren accepted a motion by Representative Bell for adoption of the minutes, seconded by Senator Goss. Without any objections the motion carried and the March 24, 2010 minutes were approved.

Representative Warren then introduced for recognition several Governors' Pages who were in attendance from across the State. The Chair also introduced House Sergeant-At-Arms Carlton Adams, Fred Hines, John Brandon, and Mike Martin. Senate Sergeant-At-Arms was Chester White, Leslie Wright and Charles Marsalis. Committee Staff in attendance included Attorneys Brenda Carter and Susan Sitze from the Research Division, Lanier McRee from the Fiscal Research Division, and Attorney Mikael Gross from the Bill Drafting Division.

PUBLIC COMMENTS

Russ Stephenson, Raleigh City Council & Chair, League of Municipalities Planning and Services Legislative Action Committee

Mr. Stephenson proposed two options to the committee, shared by both the City of Raleigh and the League, for more local control in regulating the sale of alcohol in our community: 1) allow the city to administer its own program for issuing ABC permits; 2) apply local zoning rules to control the location of alcohol selling-businesses. Full text attached; **Attachment 1**.

Harry Dolan, Raleigh Chief of Police

The following recommendations were presented by Chief Dolan, based upon responding to alcohol related crimes and disorderly incidents generated by a small number of establishments:

- Structure legislation and corresponding regulations/penalties to support local government's critical need to have greater involvement in the alcohol licensing process.
- Review current laws and operating guidelines and make appropriate changes to support the ability of local government to respond more effectively to chronic nuisance alcohol establishments.
- Enhance law enforcement resources and funding directed toward supporting enforcement of current laws. Full text attached; **Attachment 2**.

Ms. Octavia Rainey, Chair, North Central Citizens Advisory Council

Ms. Rainey reinforced recommendations made by Chief Dolan and Mr. Stephenson concerning local control of alcohol. Ms. Rainey, a neighborhood activist, referred to the Neighborhood Quality Team Summary Report and the six year accounting of the Alcohol Law Enforcement Agencies special projects in Southeast Raleigh where a number of violations occurred repeatedly in stores located in that area. Full report attached; **Attachment 3**.

Mayor Robert Howard, City of Southport

Mayor Howard spoke on behalf of the Southport Board of Aldermen. He urged the members of the committee to oppose any State-mandated merger of non-

profitable ABC Boards. Mr. Howard stated some reform of the system that will hold local government entities accountable for the actions of their ABC Boards is recommended, Full text attached; **Attachment 4**.

Shawn Arledge, Prevention Coordinator Coastal Horizons, Inc.
Mr. Arledge, representing over 30 organizations across the state through the North Carolina Substance Abuse Providers Association, spoke in support of the current system of State control over the ABC System. Mr. Arledge noted that alcohol control is an important tool in alcohol prevention. In comparison of control states to licensure states, research indicates that alcohol control has been shown to reduce overall consumption, reduce outlet density, and generate more revenue. Full text attached; **Attachment 5**.

Alice Lutz, CEO, Triangle Family Service
Ms. Lutz informed the Committee that Triangle Family Services responds to family violence issues through one of the largest abuser treatment programs in North Carolina; the Domestic Offenders Sentenced to Education (DOSE) program. In 2009; 946 clients were served with the primary objective of keeping families safe. Ms. Lutz stated that the current ABC system in our state provides assistance to programs like DOSE and the current support of the Wake County ABC Board makes this possible. Full text attached; **Attachment 6**.

H.A. Fernandez, Vice President, NC ABC Law Enforcement Officer's Association & Lieutenant with Triad Municipal ABC Law Enforcement
Mr. Fernandez presented his statements on behalf of the NC ABC Law Enforcement Officers Association. He stated doing away with local ABC Law Enforcement is not the solution. Each board is unique due to their geographical location and the demographics of the local population. It is natural for each board to have different needs and they should be resolved at the local level. Mr. Fernandez encourages the committee to keep the current control of the States ABC system. Full text attached: **Attachment 7**

Karen Webb, Elon Coalition to Prevent Underage Drinking
Ms. Webb, representing the Local Coalition of Alamance County to Prevent Underage Drinking and member of the North Carolina Substance Abuse Prevention Partners Organization, encouraged the committee to take into account the increased accessibility of alcohol if the ABC system is privatized. In addition, Ms. Webb stated that a higher density of outlet stores selling alcoholic beverages is correlated with underage drinking crashes and other socially unhealthy disruptive behaviors. According to Ms. Webb, recent results in a local survey show that 11% of Middle School students, 20% of High School students and 31% of College student's indicated that when they consume alcohol, it is alcohol from the ABC store. Full text attached; **Attachment 8**.

Jessica Harris
Ms. Harris, a 17 year old student from the Alamance County Advisory Council and an activist for underage drinking prevention, expressed concerns that with privatization the number of liquor stores would outnumber the playgrounds in our communities. Ms. Harris indicated that privatizing would be a short economic solution creating a longer term problem for communities.

Bill Brooks, President, North Carolina Family Policy Council
Mr. Brooks spoke against privatization by highlighting what he deems to be one of the most important findings in the Program Evaluation Division Report on the State's ABC System. The State of North Carolina boasts the third lowest per capita consumption of alcohol and the fourth highest revenue per gallon of the 18 control states. Mr. Brooks stated the recommendation by the PED to increase the threshold for ABC store elections would address the many complaints recently introduced about the inefficiency of the state's ABC boards and stores while maintaining North Carolina's unique approach to alcohol sales. Full text attached; **Attachment 9**.

Jim Nance, Lexington Alcohol Beverage Control Board
Mr. Nance presented remarks on behalf of the Lexington ABC Board. He indicated that since the Lexington Board was established, the board has returned over $9,000,000 in profits to the general fund, schools, parks, recreation and law enforcement. According to Mr. Nance the City of Lexington has come to depend on the revenue generated by the sale of alcohol. Mr. Nance added that the North Carolina ABC system has been abused by rare and specific instances of salary and ethics, but overall it remains effective. Full text attached: **Attachment 10**

Reynolds (Tad) Clodfelter, Southlight
Dr.Clodfelter representing Southlight (a local treatment provider) and serving as president of the Substance Abuse Federation for the State of North Carolina, spoke on the topic of privatization from both a business and treatment perspective. Clodfelter indicated that when revenue remains local, substantial charitable dollars are used to prevent and treat alcohol related problems. He stated that if NC privatizes its system and increases the number of outlets selling alcohol, statistics show increased problems with alcohol related issues. Full text attached; **Attachment 11**.

William Belvin, Chief ABC Officer, Cumberland County
Mr. Belvin presented information regarding the Cumberland County ABC system. The Cumberland County has maintained a Law Enforcement Agency since 1937 and currently is made up of 5 full-time officers, with authorization for 6 reserve officers. The ABC officers work duties and priorities mandated by: 1) State law, 2) Direction from chain-of-command (Board, Director, and Chief ABC Officer), 3) Requests from other law enforcement agencies. The Cumberland County ABC

officers have very positive relationship with the community and that relationship would be jeopardized if the system were to be privatized. Full text attached: **Attachment 12**

Dennis Parnell, President, The Healing Place of Wake County
Mr. Parnell represented The Healing Place of Wake County, a non-profit agency specializing in a recovery program for homeless individuals with alcohol and drug addictions. Mr. Parnell explained that since 1999, The Healing Place has focused on one important component of the cause of homelessness: addiction. Currently there are two Healing Place recovery facilities operating in Wake County with approximately 68% of their alumni sober 12 months after graduation. Mr. Parnell noted that The Healing Place of Wake County is one of several ABC board supported organizations that have a positive impact on the community. Full text attached; **Attachment 13**.

Ms. Lawless Bean, Assistant to City Manager for Legislative Affairs, City of Wilmington
Ms. Bean stated that while the City of Wilmington continues to improve standards for a safe and enjoyable nightlife for their citizens and visitors, there are several persistent issues that are beyond the city's control under current State statutes. On March 23, 2010, the Wilmington City Council directed its staff to develop a clear set of objectives to support or object to requests for ABC permits. The two criteria in this proposal are: the locations previous use as a bar and an applicant's criminal history and background. The Wilmington City Council will review the proposal of these two criteria at its April 20th meeting. Full text attached; **Attachment 14**.

End of Public Comments

At the end of the Public Comment Period Representative Warren asked the Committee if there were any questions for the Public Speakers, hearing none, the chair directed the committee member's attention to a response from Jon Carr to Mr. Paul Powell's question from the March 24th meeting. "What performance standards would the North Carolina Association of ABC Boards support"? Mr Carr stated in his response that the Association supports standards for profitability and for operating efficiency and that adequate time should be provided to meet these standards before the Commission requires a board to merge. Full text is attached: **Attachment 15**

Representative Warren called upon Mr. Mikael Gross, Committee Co-Counsel, to provide an overview of draft legislation for consideration by the committee. Mr. Gross first responded to a question raised at the previous meeting on March 24, 2010:

QUESTION PRESENTED:

Why can't local law enforcement officers "inspect" ABC licensed premises in the same manner as local ABC officers or alcohol law-enforcement agents? Full text is attached; **Attachment 16**.

Following his presentation concerning law enforcement, Mr. Gross responded to additional questions from committee members.

At the direction of the Committee Co-Chairs, Mr. Gross presented for discussion Bill Draft 2009-MAz-412* [v.4] (03/30), A BILL TO BE ENTITLED AN ACT TO MODERNIZE THE NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL SYSTEM, AS RECOMMENDED BY THE JOINT STUDY COMMITTEE ON ALCOHOLIC BEVERAGE CONTROL Full text attached: **Attachment 17**

After no further questions or comments, The Joint Study Committee on Alcoholic Beverage Control adjourned at 4:50 pm.

Representative Ray Warren

Theresa Lopez, Committee Assistant

Joint Study Committee on Alcoholic Beverage Control
April 8, 2010

Attachments:
Agenda
Visitor Log
Public Comments
Attachment(s): 1 – 14
Public Comments
Attachment 15:
Jon Carr, Lobbyist for the North Carolina Association of ABC Board's response to the question Public Member Mr. Paul Powell asked at the March 24th Committee Meeting, "What performance standards would the North Carolina Association of ABC Boards support?
Attachment 16:
Mikal Gross's response to a question, "Why can't local law enforcement officer's "inspect" ABC Licensed premises in the same manner as local ABC officers or alcohol law-enforcement agents raised at the March 24th Committee Meeting.
Attachment 17:
Bill Draft 2009-MAz-412* [v.4] (03/30) Modernization of the State ABC System, Sponsors- Representative Ray Warren & Senator Don Vaughan
Attachment 18:
North Carolina ABC Boards Profit Percent to Revenue all ABC Boards Fiscal Year Ended June 30, 2009
Attachment 19:
Cindy Murphy, Anuvia Prevention & Recovery Center
Attachment 20:
Follow –up response to Senator Dan Clodfelter's request at the March 24th meeting to examine the Local Government Commission as an option or a model for increased oversight of local ABC Boards.

VISITOR REGISTRATION SHEET

Joint Study Committee on Alcoholic Beverage Control — April 8, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Craig Pleasants	Wake County ABC Board
Richard Fitzgerald	Raleigh Rescue Mission
Scott A. Smith	TRIAD ABC Law Enf.
H.A. Fernandez	TRIAD ABC Law Enforcement
Bill Belvin	ABC Law Enforcement - Cumberland
Lew Nuckles	Wake Co. ABC Board Law Enforcement
Mike Myrick	Wayne Co ABC Board
Sara A. Brewer	Wake County Department of Health
Rhett P. Dusenbury	Town of Mooresville
Alice Lutz	Triangle Family Services

VISITOR REGISTRATION SHEET

Joint Study Committee on Alcoholic Beverage Control April 8, 2010

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
BARRETT JOYNER	THE HEALING PLACE
DENNIS PARNELL	THE HEALING PLACE
Daniel Mitchell J.	Self
Alberto Blanco	ReStart, Inc.
Jim Nance	Lexington ABC Board
Steve Hewitt	Cumberland County ABC Board
GENE WEBB	CUMBERLAND COUNTY ABC
Betty Hamm	Mt Airy ABC
Chris Valenti	NC Beer & Wine Wholesalers Assoc
DAVID JUSTICE	EBCI ABC

VISITOR REGISTRATION SHEET

Joint Study Committee on Alcoholic Beverage Control April 8, 2010

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Patrick Gannon	Wilmington StarNews
Mark Johnson	News & Observer/Charlotte Observer
John Fuller	MVC
Gary Robertson	AP
George Dickel	NCDA
Gary Harris	NCPCM

VISITOR REGISTRATION SHEET

Joint Study Committee on Alcoholic Beverage Control April 8, 2010

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Andrew Meehan	Capstrat
Paul Meyer	NCLM
Amy Hibbs	MWC
Rev. Mack Creech	CAL
Ken G Lemond	NCACC
Sharon Sudder	NCACC
Dean Plunkett	NCB+W
Michael Houser	NC DOR
Fred P Baggett	Smith Moore
Bill Brooks	NCFPC
Nigel Carlton	Visitor

VISITOR REGISTRATION SHEET

Joint Study Committee on Alcoholic Beverage Control April 8, 2010

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Barbara Carlton	Parent & NCCI
John Sanders	taxpayer / Cheapside HCA
Cindy Murphy	Parent, Vice Chair NC Substance Abuse Prevention Providers Assoc. Anuvia Prevention & Recovery Center
Kim Anthony-Byrd	Anuvia Prevention & Recov. Ctr.
Allen Page	CCPS - ALE HQ, ~~Raleigh~~
Octavia Paine	Southeast Raleigh
Thomas C. Caves, Jr.	NC Dept. of Crime Control & Public Safety
Robert D. Howard	City of Southport, NC Mayor
Russ Stephenson	Raleigh City Councilor
Kristen Rossetti	City of Raleigh - Community Services
LaTasha Murray	citizen of Robeson Cty. / NCSAPPA

VISITOR REGISTRATION SHEET

Joint Study Committee on Alcoholic Beverage Control April 8, 2010

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Ann R Hancock	Alamance Caswell LME 319 N. Graham Hopedale Rd. Burlington 27217
PHIL MOORING	NC Substance Abuse Prevention Providers Ass
Brittany Farrell	NCFPC
Rebekah Sharpe	NCFPC
Eddie Greene	Alcohol Beverage Control
KRIS GARDNER	NCBWWA | THARRINGTON SMITH, LLP
Crockett Long	NCBWWA/LONG BEVERAGE
TOM HARRIS	
Michelle Frazier	MF+S
JEFFREY COLLEN	legislative Staff
MICHAEL CRAWELL	UNC SCHOOL OF GOV'T

VISITOR REGISTRATION SHEET

Joint Study Committee on Alcoholic Beverage Control April 8, 2010

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Agnes Stevens	NC ABC Commission - Raleigh
Mike Henning	NC ABC Commission
Tim Morse	NC ABC Commission
Jan Williams	" "
Lisa Perry	Ragsdale Liggett PLLC
Michael Hauser	NC DOR

HOUSE PAGES

NAME OF COMMITTEE Alcoholic Beverage Control DATE 4.8.2010

1. Name: _____

County: _____

Sponsor: _____

2. Name: _____

County: _____

Sponsor: _____

3. Name: _____

County: _____

Sponsor: _____

4. Name: _____

County: _____

Sponsor: _____

5. Name: _____

County: _____

Sponsor: _____

SGT-AT-ARM (House) (Senate)

1. Name: Carlton Adams Chester White
2. Name: FRED Hines Leslie Wright
3. Name: John Brandon Charles Marsalis
4. Name: Mike Martin

Good afternoon and thank you for the opportunity to address this committee on issues related to North Carolina's Alcoholic Beverage Control System

My name is Russ Stephenson and I am here today wearing two hats. First, as a 3rd-term at-large councilor representing the citizens of Raleigh. Second, as chair of the League of Municipalities Planning and Services Legislative Action Committee. Our's is one of two committees developing the League's statewide Advocacy Agenda.

I am here today to speak about an advocacy item shared by Raleigh and the League and that is: Our need for more local control in regulating the sale of alcohol in our communities. In support of our request I would like to offer two options and then introduce two speakers from Raleigh.

We are proposing two (2) options for local control of businesses that sell alcohol:

Option 1: Allow the city to administer its own program for issuing ABC permits to businesses. Through the permitting process, city officials would decide whether to grant a permit to a particular business and where businesses that sell alcohol can locate.

Option 2: Apply local zoning rules to control the location of alcohol-selling businesses. City officials would be able to limit the concentration of alcohol-selling businesses in low-wealth and at-risk neighborhoods.

Now I would like to introduce Raleigh Police Chief Harry Dolan, followed by the 'Dean-Emeritus' of Raleigh citizen advocacy, Ms Octavia Rainey. With the Chair's permission, I would defer the remainder of my time to them.

Thank you
Russ Stephenson

ATTACHMENT 2

CITY OF RALEIGH

NORTH CAROLINA

INTER-OFFICE CORRESPONDENCE

To: Members of the Joint Study Committee on Alcoholic Beverages

From: Harry Dolan, Chief of Police Date: 04-08-10

The Raleigh Police Department and the citizens we serve have benefited considerably from our long standing professional working relationship with our local ABC Officers and State ALE Agents. As we continue to focus our efforts at developing proactive partnerships with our law abiding citizens and community groups, support from these officers and their respective agencies has become even more vital to our success at addressing contemporary community problems.

My recommendations to the Members of the Joint Study Committee on Alcoholic Beverage are based upon our department's work focused upon responding to alcohol related crime and disorder incidents generated by a small number of alcohol establishments. These establishments represent a significant drain on public safety services and serve to negatively impact neighborhood quality of life. I respectfully submit that as the committee proceeds with its important work gathering input from community and government representatives that you consider the following;

- Structure legislation and corresponding regulations/penalties to support local governments' critical need to have greater involvement in the alcohol licensing process. In particular, provide local government entities with an opportunity to be involved in the permitting review process from the very beginning as opposed to the end stages where recommendations are more a formality than impactful.

- Review current laws and operating guidelines and make appropriate changes to support the ability of local government to respond more effectively to chronic nuisance alcohol establishments. We absolutely must establish a more expedited response to address problem locations in the interest of public safety.

- Lastly, I would recommend that the committee place strong emphasis on enhancing law enforcement resources and funding directed toward supporting enforcement of current laws, such as Serving Intoxicated Persons violations (SIPS).

Thank you for the opportunity to provide feedback and please allow me to express our department's appreciation for your attention to the public safety needs of our neighborhoods and businesses.

Neighborhood Quality Team

Summary Report
December 5, 2006

The STRIKE Team provided high visibility control throughout the year and continued to be the most successful RPD initiative for District 24 for 2003 (numerous drug trafficking charges, weapons recovered, trespassing charges and arrest warrants served). Several stolen vehicles were recovered and arrests made near the store at Pender and Hill streets. Business owners in the North Tarboro Road/Oakwood Avenue area adjoining St. Augustine's College were invited to the NCCAC meetings and invited to participate in anti-crime efforts. Inspections and Solid Waste Services monitored curb trash complaints and worked with the businesses to resolve them.

Primary among the concerns expressed by the North Central CAC about the Tarboro Road business area was the lack of enforcement of the "No Parking" zones. This is a popular point for vehicles to drop-off passengers who run into the stores to make purchases of items or services. The Raleigh Transportation Division studied the area and made several recommendations and changes to help abate the problem, but the area is small and with the heavy traffic and drop-offs, parking enforcement is difficult to achieve. The North Central CAC requested foot patrols for these business areas, but it was conveyed back to the NCCAC that current manpower limitations made this unfeasible. Police efforts are continuing in all areas, both residential and commercial. Police bike patrols have been used sporadically and undercover projects have been used successfully in minimizing neighborhood problems from businesses.

As a result of prior community concerns (before the implementation of the NQTeam initiative) and in working with the N.C. General Assembly, Southeast Raleigh is the only area in the state of NC that has its own ALE agent assigned specifically to the redevelopment areas. After the NQTeam commenced its operations in the area, and after Representatives Deborah Ross and Bernard Allen were invited to one of the NCCAC meetings and heard the concerns regarding repeat violations, they were able to introduce legislation which passed and resulted in requirements that any store with two proven violations within a year within the Redevelopment Areas would have their ABC permit revoked (House Bill 1174 – An Act to Amend the Alcoholic Beverage Control Laws Regarding the Issuance and Revocation of Permits at Locations that are or Become Unsuitable to Hold ABC Permits).

The liaison to Senator Richard Burr, Ms. Betty Jo Shephard, came out and made a tour with Octavia Rainey and others to view the areas of concern firsthand. NC General Assembly Representatives Deborah Ross, Bernard Allen, Jennifer Weiss, Larry Womble and Senator Vernon Malone, along with U.S. Representative Brad Miller, St. Augustine's College President, Diane Boardley Suber, Mayor Pro Tem James West and Reginald Holley from Senator Elizabeth Dole's office also participated in tours of the area to see the state of the concerns. Dialogue was initiated toward improving these conditions and awareness levels have been raised.

NCCAC Chair Rainey also researched the District of Columbia's City Council's actions toward legislation to enact a four-year ban on the sale of single containers of beer in Ward 4 of the District of Columbia. Consideration is being given to model this or similar legislation in North Carolina.

Attached is a report entitled, "Southeast Raleigh Redevelopment Area Campaigns/Special Projects: Jan. 1999 – January 2005" [Attachment 3] shows a six year accounting of the Alcohol Law Enforcement Agency's special projects in the southeast Raleigh area, which includes College Park and Idlewild neighborhoods. A number of violations occurred repeatedly in stores located in these two areas. On this report, "check marks" denote those facilities in the College Park and Idlewild areas.

SOUTHEAST RALEIGH REDEVELOPMENT AREA
VIOLATIONS
January, 1999 through September 2006

BUSINESS NAME	DATE	VIOLATION	FINAL ORDER
Davie Street Mini Mart & Rest.	01/09/99	Allow violations/Stolen property	$100 Fine
Franks Mini Mart	01/19/99	Allow violations/Stolen property	$100 Fine
In and Out	01/19/99	Allow violations/Stolen property	$100 Fine
Lighthouse Food Mart	01/19/99	Allow violations/Stolen property	$100 Fine
New Bern Mini Mart	01/19/99	Allow violations/Stolen property	$100 Fine
Quick Shop	01/19/99	Allow violations/Stolen property	$100 Fine
Poole Road Mart	01/19/99	Allow violations/Stolen property	$900 Fine
Quick Stop	01/19/99	Allow violations/Stolen property	Permits Revoked
Variety Pic Up 9	01/19/99	Allow violations/Stolen property	$900 Fine
Zacks Grocery Mart	01/19/99	Allow violations/Stolen property	$100 Fine
Cross Link Mart	01/19/99	Allow violations/Stolen property	$100 Fine
One Stop Mart	01/19/99	Allow violations/Stolen property	$100 Fine
Highway 64 BP	01/19/99	Allow violations/Stolen property	1 Day Suspension
Raleigh Sandwich Shop		No longer suitable	Permits Revoked
Wee Bob Mini Mart	03/27/99	Drugs	80 Day Susp.
Variety Pic Up #9	03/26/99	STM/Drugs	$900 Fine
Poole Road Mart	03/27/99	STM	$900 Fine
ASA Food Mart	04/11/99	Sunday Sales	$1000 Fine
Starvin Marvin	04/11/99	Sunday Sales	$500 Fine

BUSINESS NAME	DATE	VIOLATION	FINAL ORDER
ahara Mini Mart	05/06/99	Drugs	5 Day Susp/$2500 Fine
av a Ton	05/06/99	Drugs	$1000 Fine
/atson's Mini Mart	06/14/99	Drugs	Permits Revoked
uick Stop	06/24/99	Allow violations/STM	Permits Revoked
/ee Bobs Mini Mart	06/24/99	Drugs	80 Day Susp.
/atson's Mini Mart	09/11/99	Drugs	Summary Suspension
amilies Mini Mart	09/11/99	STM	$800 Fine
oole Road Mart	09/11/99	STM	$1500 Fine
top N Quick	09/11/99	STM	5 Day Susp/$2500 Fine
arner Road Mart	01/08/00	STM	$800 Fine
our House	02/19/00	STM	$1,000 Fine
amilies Mini Mart	02/19/00	STM	$1,000 Fine
ew Bern Avenue Mart	02/19/00	STM	$1,000 Fine
ongview Grocery	02/19/00	STM	$2,500 Fine
's		STM	$1,200 Fine
Sahara Mini Mart	04/11/01	Drugs	Dismissed by ABCC
Variety Pic Up 9	05/30/01	Allow Violation/Stolen Property	$5,000 Fine/14 Day Suspension
ew Bern Avenue Mini Mart	05/30/01	Allow Violation/Stolen Property	Permits Revoked
ntz's Grocery	06/23/01	STM	$500 Fine
Longview Grocery	06/23/01	STM	45 day Susp.
Raleigh Live	12/23/01	Give alcohol to underage Allow violations to occur	$800.00 fine
Variety Pic Up 9	04/07/02	Selling alcohol after hours	Consolidate with 05/30/01 violation
Lincoln Theatre	06/12/02	Failure to comply as eating est Allow violations of controlled substance to occur. Allow criminal activity to occur	$800.00 fine
Variety Pic Up 9	06/30/02	Allow 18B violations to occur Failure to supervise the premise.	Consolidated with 05/30/01 violation.
Martin Street Mini Mart	09/26/02	Failure to allow inspection	$ 800.00 fine
Poole Road Mart	09/29/02	Sell alcohol after hours	$1,000.00 fine
Variety Pic up 9	10/05/02	Allow 18B violations to occur Allow controlled substance violations to occur Allow unlawful acts to occur Failure to supervise the Licensed premise	$5,000.00 fine

DATE	CAMPAIGN/SPECIAL PROJECT	RESULTS
3/16/00	Drug campaign with Raleigh PD	3 arrests, 7 charges
5/26/00	Search Warrant Illegal Liquor House	1 arrest, 6 charges
5/26/00	Search Warrant Illegal Liquor House	1 arrest. 4 charges
8/11/00	Search Warrant Illegal Liquor House	2arrests, 8 Charges
8/11/00	Search Warrant Illegal Liquor House	1 arrest, 4 charges
2/12/01 thru 3/09/01	District IV personnel assisted Raleigh P.D. with a new community policing effort titled "Nuisance Abatement Task Force" which was centered around ABC Licensed outlets in the redevelopment area. The effort included "cops at shops" and "cops in shops" operations.	800 criminal charges seized: 350 grams marijuana 250 grams of cocaine $25, 000.00 in cash 12 weapons two stolen vehicles
4/02/01	Drug investigation with Raleigh P.D. at outlet	2 arrest, 2 charges, 1 violation
4/25/01	Minor campaign for tobacco	1 arrest, 1 charge
4/30/01	Stolen property investigation with Raleigh P.D. at two outlets	4 arrest, 7 charges, 2 violations
6/08/01	Search warrants, 2 illegal liquor houses	7 arrest, 13 charges 30 grams marijuana 20 grams cocaine $256.00 cash 3 Felony arrest PWISD Cocaine Maintain a Drug Dwelling
6/23/01	Minor campaign for alcohol	1 arrest, 1 charge, 1 violation
7/03/01	Bragg Street Littering Campaign	4 arrest, 6 charges
7/27/01	Cops-at-Shops	10 arrests, 14 charges
8/03/01	Search Warrant, 1 illegal liquor house	2 arrests, 4 charges
9/15/01	Wolf Pack Operation	15 arrests, 18 charges 2 felony B & E a motor vehicle 2 Felony Drug charges
11/03/01	Cops in Shops Operation	25 arrests, 30 charges
12/06/01 thru 12/29/01	Assisted R.P.D. with a criminal nuisance enforcement project in the redevelopment area. The project centered around two ABC outlets	ALE had 44 arrests, 61 charges, 1 violation 1 stolen vehicle recovery
1/02/02 thru 1/31/02	Overt enforcement at ABC outlets	33 arrests 18 of which for drugs PWISD Crack Cocaine 2 Sell/Deliver Crack 1 PWISD Marijuana 1 Possess Crack Cocaine 3 Possess Marijuana 11 Possess Drug Para. 6 Alcohol Charges 15

Attachment 3

SOUTHEAST RALEIGH REDEVELOPMENT AREA
CAMPAIGNS/SPECIAL PROJECTS
January, 1999 through January, 2005

DATE	CAMPAIGN/SPECIAL PROJECT	RESULTS
03/26/99	Cops N Shops	76 arrests, 103 charges, 22 felonies
03/27/99	Drug investigation with Raleigh PD at outlet	2 arrests, 5 charges
05/06/99	Drug Investigation with Raleigh PD at outlet	1 arrest, 4 charges
05/06/99	Drug Investigation with Raleigh PD	
06/14/99	Drug Investigation with Raleigh PD at outlet	1 arrests, 3 charges
05/16/99	Stolen Property Campaign with Raleigh PD at outlet	
05/21/99	Stolen Property Campaign with Raleigh PD at outlet	
06/15/99	Stolen Property Campaign with Raleigh PD at outlet	
06/30/99	Stolen Property Campaign with Raleigh PD at outlet	1 arrests, 1 violation
06/18/99	Cops At Shops	26 arrests, 28 charges
05/09/99	Search of liquor house with Raleigh PD	2 arrests, 5 charges
04/11/99	Sunday Sales Campaign	2 arrests. 2 violations
05/08/99	Drug investigation with Raleigh PD at outlet	2 arrests, 3 charges
07/15/99	Drug investigation with Raleigh PD	4 arrests, 8 charges
07/16/99	Drug investigation with Raleigh PD	4 arrests, 8 charges
07/17/99	Drug investigation with Raleigh PD	4 arrests, 9 charges (4 store employees)
09/11/99	Drug investigation with Raleigh PD at outlets	6 arrests, 6 charges, 4 violations
11/17/99	Minor Campaign	5 arrests, 8 charges
11/18/99	Drug campaign with Raleigh PD	4 arrests, 9 charges
12/11/99	Cops N Shops	28 arrests, 40 charges
01/13/00	Drug campaign with Raleigh PD	7 arrests, 13 charges
01/14/00	Drug campaign with Raleigh PD	7 arrests, 13 charges
02/19/00	Minor Campaign	4 arrests, 4 charges, 4 violations
02/24/00	Drug campaign with Raleigh PD	4 arrests, 9 charges
03/15/00	Drug campaign with Raleigh PD	4 arrests, 7 charges

DATE	CAMPAIGN/SPECIAL PROJECT	RESULTS
04/02/02 thru 04/30/02	Covert surveillance operation at ABC outlets Along Bragg Street	8 arrests, 7 on felony charges PWISD cocaine 1 Possess cocaine 3 Possess marijuana 2 PWISD marijuana 1 Possess drug paraphernalia 2 Give alcohol to underage 1 Possess alcohol by underage 1 State Wanted Persons 2
06/04/02 thru 06/25/02	Juvenile drug sale operation. (15 y.o. females selling crack cocaine)	15 arrests PWISD crack cocaine 4 Sell and Deliver 4 Possess controlled substance 6 Possess drug paraphernalia 6 Alcohol violations 6 Litter 1 Crack cocaine seized 17 dosage units Marijuana 114.5 grams
07/11/02	Undercover Operation for City Attorneys Nuisance Abatement Case	1 arrest PWISD Crack Cocaine Sell and Deliver Crack Cocaine
06/29/02	Search Warrant 1 liquor house	5 arrests 1 carry concealed weapon 2 Possession of controlled sub. 3 possess for sell alcohol 2 sell alcohol w/o permit 1 gambling law violation
09/13/02	Overt enforcement operation	12 arrests 4 drug charges 1 RDO by running 3 underage possess alcohol 1 purchase alcohol by underage 5 open container charges
09/29/02	Sunday morning sales operation	1 arrest
10/01/02	Conducted inspections on each outlet in the area	Inspections
11/25/02	Search Warrant Crack/Liquor house	3 arrests 1 PWISD crack cocaine 2 Possess Crack Cocaine 2 Possess drug paraphernalia 1 Possess for sale alcohol without permit.

DATE	CAMPAIGN/SPECIAL PROJECT	RESULTS
12/01/02 thru 11/02/03	"Operation New Year" 5 search warrants served	25 total arrests, 14 on felony charges 4 pounds marijuana seized 57 dosage units of cocaine seized $2,500.00 seized 2 firearms seized 12.8 liters of liquor seized 8 liters of "moonshine" seized 1 bar and 3 barstools seized
02/15/03 thru 11/15/2003	Undercover operations in the Redevelopment Area.	***Total for 2003*** 15 search warrants 42 felony arrests over 80 charges
04/24/03	Minor campaign for alcohol	4 arrest, 4 charges, 4 violations
6/26/03	Executed five search warrants targeting liquor/drug houses and suppliers to drug dealers operating on the premise of ABC establishments	5 search warrants 6 felony arrests 10 charges
07/5/03	Search warrant for liquor house	1 arrest 3 charges
08/28/03	Search warrant for residence turned into a club house for member of the street gang known as the "Bloods"	4 arrests 10 charges seized drugs/stolen guns and property/alcohol
09/24/03	Search warrant liquor/drug house	1 arrest 3 charges
10/03/03 thru 11/15/03	Lee and Bragg Street drug operation targeting four main suppliers to dealers operating on ABC licensed premises.	5 felony arrest 15 charges
02/10/04	City Market operation	5 arrests 1 violation
4/19/04 thru 4/20/04	Overt enforcement of felony activity at Franks Mini Mart and Family Grocery	3 arrests 2 violations 2 employees arrested
06/15/04	Search Warrant of Upchurch Street, "blood gang" liquor house	2 arrests, alcohol and drugs seized. 6 charges
06/20/04	Search Warrant 122 Russ Street liquor/drug house.	3 arrests, alcohol seized, drugs seized, 5 charges
01/02/04 thru 07/01/04	Investigation of 1103 S. Blount Street (drug house) and Community Mart (drug packaging supplier)	22 Felony arrests 38 Felony charges 1 search warrant
07/16/04	Cops-in-Shops Operation	35 arrests, 1 violation
10/11/04	Search Warrant, King Charles Street	3 arrests, drugs seized, drug paraphernalia seized

Mayor Robert Howard-City of Southport

Thank you for allowing us to appear before you today to discuss the Southport Board of Aldermen's concerns regarding the potential loss of revenue that will come about if the local ABC systems are restructured. Southport has a single store operation with a focus on profitability. We understand that obtaining the desired profitability ratios require having sound business principals with a focus on management and cost controls in place.

I am proud that my City of Southport recognized more than fifty (50) years ago that profitability would become a reality only with good management together with strong oversight of our ABC system from the Board of Aldermen.

Authorization for citizens of Southport to determine whether Alcoholic Beverage Control Stores could be established within the City was granted on May 24, 1957 as found in Chapter 819 of the 1957 Sessions Laws of the North Carolina General Assembly. Shortly thereafter voter approval was attained, resulting in a generous revenue source for the City beginning in 1959 and continuing each year thereafter. In fact this year we are on target to reach our projections of attaining an enviable 2.77¢ ad valorem tax off-set for use in our General Fund.

As a percent of sales, Southport's store for many years has been in the top five most profitable stores in the State. In fact during 2007 we were the 2nd most profitable store trailing Wake County and in 2008 were third trailing Wake and Moore counties a few basis points. We are proud that Southport's return to the General fund during 2008 was 12.23% of sales. We anticipate this percentage will increase again this year.

We have a three person board whose combined compensation during 2008 was $2,275.00. Our total staff compensation was $128, 286.00 or 9.07%, leading the way for a total operating expense of 13.31% for the same period.

Regretfully the recent mismanagement, salary and ethics events of a couple of the state's ABC systems have caused all local ABC systems to be in the unfortunate position of potentially loosing a valued revenue source. We understand and even recommend some reform of the system, especially reform that will hold governmental entities accountable for their ABC board's egregious actions; particularly those events that have resulted in our being here today. The appropriate changes can improve our State's fundamentally sound system that has served Municipalities and Counties well for many years.

I join with other Mayors around our great State asking for careful consideration and deliberations that will provide for reasonable reforms while perpetuating the integrity of our local control system that is serving our Citizens effectively.

On behalf or the Southport Board of Aldermen, thank you for allowing us to express our concern about the potential loss of a direly needed revenue source that would devastate

our financial position as we go about providing for our citizens during these unprecedented economic conditions.

Alcohol Beverage Control:
The Policy Implications

In 2007 underage drinking cost the state of North Carolina $1.4 billion[1]. The North Carolina Institute of Medicine estimates that alcohol and drug abuse cost our economy **$12.4 billion** in direct and indirect costs annually. There are multiple evidenced based strategies identified by researchers and expert panels across the world that address abusive drinking; particular significance has been given to alcohol beverage control.

In their draft *Global Strategy to Reduce the Harmful Use of Alcohol,* the World Health Organization identified alcohol control as an important tool in preventing the harmful use of alcohol[2]. In scores of peer reviewed scientific journal articles, alcohol control has been shown to reduce alcohol outlet density, overall consumption and generate more revenue than the private sale of alcohol.

Alcohol Control and Outlet Density:

- In the six States surrounding and including North Carolina, three of which are control states and three of which are license states, ***control states average 7 outlets*** per 100k residents whereas ***license states average 44 outlets*** per 100k residents. **That is over 6 times as many outlets** (per capita) **in license states as are in control states!** [3, 4, 5, 6]
- For direct comparison, **North Carolina has 6 outlets per 100,000 people and Kentucky has 105.** [3,4,5,6]
- And the negative effect of increased outlet density is clear. Higher outlet density is correlated with:
  - Higher levels of alcoholism and violence; [7, 8]
  - Increased physical assaults (by 3.4 assaults per additional outlet);[9]
  - Increased alcohol-related injury crashes;[10]
  - Increased alcohol consumption by college students;[11]
  - Increased underage drinking; [12]
  - Economic decline in neighborhoods; and[13]
  - Higher murder rates. [14]

Alcohol Control and State Revenue:

- In the six States surrounding and including North Carolina, 3 of which are control states and 3 of which are license states, ***control states average $140,000 per 100k citizens in state liquor revenue*** **compared to an average of only** ***$52,000 per 100k citizens in state liquor revenue for license states.*** [15, 16, 17, 18]
- That equates to control states like North Carolina making nearly 3 times as much in state revenue from liquor sales as private sale states. [3,4,5,6]

Alcohol Control and Consumption Levels:

- Among all 50 states, **North Carolina ranks 48th per capita in consumption per gallon and 6th in revenue per gallon. Therefore alcohol beverage control is good for both public health and state revenue.** In comparison, South Carolina,

a state with private sales, ranks 30th in consumption per gallon and 26th in revenue per gallon.[19]

- **A substantial body of research links overall alcohol consumption in a society to a variety of alcohol-related harms including deaths and injuries from accidents, homicides and other violent assaults, suicide, cirrhosis and other diseases.** [20]
- **Higher consumption of alcohol across populations has also been linked to fetal alcohol syndrome, reduced worker productivity and increased crime.** [21], [22]
- **Finally, compared to private sale states, control states consume 14% less spirits and 7% less alcohol per person aged 15 and older, while bringing in more than *three times as much state revenue* per gallon of alcohol sold.** 3,4,5,6

A Cautionary Tale: Iowa

One of the few cases of a state switching from the controlled sale of spirits to privatization occurred in Iowa. The change was found to increase spirits consumption by 10% and overall consumption of alcohol by 5%. [23],[24]

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ATTACHMENT 6

Triangle Family Services

Helping families in crisis

Mailing Address All Locations
PO Box 33393
Raleigh, NC 27636

Phone All Locations
919-821-0790

Web Address
www.tfsnc.org

Offices

3937 Western Blvd
Raleigh, NC 27606
Fax: 919-863-0526

700-101 Blue Ridge Rd
Raleigh, NC 27606
Fax: (919) 839-2264

Triangle Family Services builds a strong community by strengthening families in crisis.

- a local United Way agency that has helped Triangle children and families since 1937
- one of the oldest and most comprehensive nonprofits in the region
- Last year, TFS experienced a **significant** increase in the number and variety of clients served --- 7,224 families were assisted in at least one of the focus areas of TFS that include **family safety**, **financial security** and **mental health**.

Wake County Alcohol Beverage and Control Board has significantly supported Triangle Family Services through Change our Domestic Offenders to Education (DOSE) Program in our Family Safety Division:

2009	946 clients served
2008	649
2007	370

2009 Highlights:

- Clients received nearly 25,000 of direct service hours
- 22 sessions each week mostly at the Triangle Family Services offices on Western Blvd
- Yearly recidivism rate between 75-85%

Keeping families safe is a primary objective.

- Triangle Family Services responds to the issue of family violence through the Domestic Offenders Sentenced to Education (DOSE) program, one of the largest abuser treatment programs in North Carolina; and through Time Together Visitation Center, Wake County's first supervised visitation and exchange program.
- In 2009, DOSE had a high success rate of 74 percent, serving 758 unduplicated clients. This included.

ATTACHMENT 7 H A Fernandez

I would first like to thank you for the opportunity to speak before you representing the NC ABC Law Enforcement Officers' Association. I am H. A. Fernandez the Vice-President of the Association and a Lieutenant with Triad Municipal ABC Law Enforcement.

I was present at the March 24th meeting and heard much about not privatizing and keeping the control local. We as an association are very much in favor of that. ABC Commission Chairman Jon Williams in his report mentioned doing away with local ABC Law Enforcement and giving the 5% to ALE, a Division of Crime Control and Public Safety. There was a small group led by a permit holder from Wilmington, who also spoke of doing away with local ABC and giving the money to ALE due to problems in the downtown area of Wilmington. Doing away with local ABC Law Enforcement is not the solution, my suggestion would be to speak with the local Board where he has issues and that permmittees work out concerns at the local level. After all that is how our ABC System was established, where those who chose to have alcohol, whether it be malt beverages, wine or liquor in their community could vote it in, and not have it forced on them by State Government and private corporations.

As it was mentioned several times at the March 24th meeting there are different dynamics that are unique to each Board. Due to their geographic location, and the demographics of the local population it is natural for each Board to have different needs, which would trickle down to their law enforcement departments. Even within one Board, there will be different activities required of the local ABC Law Enforcement at different stores and different bars. Stores located near college campuses will require agents to be more aware of underage sales and train not only ABC Store employees but outlets on various key things to look for. In other areas, agents may just provide information from time to time to the ABC store employees; certain outlets may require monitoring in the early evening hours and others, late night, at closing or after hours.

Local ABC Law Enforcement is tasked with primarily enforcing the laws in Chapter 18B which relate to alcohol and Chapter 90 which relate to drugs. **But in 18B-501(b) *Subject Matter Jurisdiction*, it first states "a local ABC officer may arrest and take other investigatory and enforcement action for any criminal offense;" then it adds "however, the primary responsibility of a local officer is enforcement of the ABC laws and Article 5 of Chapter 90 (Controlled Substance Act)."** To say local ABC Law Enforcement has no place in ABC stores, would not be a correct statement.

Questions have arisen as to local ABC officers being in local ABC stores. Officers in stores are there more than to protect the investment of the Board; whether it be apprehending shoplifters or deterring a possible robbery, funds which would not otherwise reach the community and state are protected. Triad ABC officers while at ABC stores are also looking for other violations such as: persons making purchases who operate illegal bars, known as shot houses or drinkhouses; mixed beverage permittees who wish to save a few dollars by purchasing liquor to refill bottles which already have a tax stamp, both of which deprive the local community and the State of funds; underage person entering and attempting to purchase inside the store as well as underage persons approaching people in the parking lot and those who would purchase alcoholic beverages for the underage; and of course the intoxicated customer, who may have driven himself to the store. Outside of the ABC stores these local officers provide training to alcohol outlets free of charge, conduct inspections of those outlets to assure compliance, conduct underage operations, execute Search Warrants on illegal drinking establishments, and investigate the occasional moonshiner as well as narcotics investigations. Triad ABC officers, as do others, also work special events, such as Wake Forest sporting events alongside campus police, local fairs and wine festivals.

Local officers assist each other whether it is for manpower or an expertise one officer at one Board may possess. Triad ABC officers also work with police and

sheriff's departments in and around their jurisdiction. This may be to assist or again provide expertise. Officers for other areas are brought in to work in an undercover capacity where the local ABC officer is known. Some local ABC officers like Triad, Wake and Cumberland work with Federal Law Enforcement Agencies like ICE, DEA, FBI and ATF. This may be in a drug investigation, an alcohol investigation, which has crossed over to a Federal investigation or a corruption investigation.

Local ABC officers are just that, local; they live with their families in, and may have grown-up in the community they serve. Most local ABC officers came from a local police or sheriff's department and can quickly call on old friends for assistance if needed. In other words they are part of the community and know firsthand the problems and needs of their community.

There is no doubt that some things in the current system could be improved, but to start dismantling a proven system does not seem well ordered. We have several ideas to generate funds for the State, while at the same time providing better control of the outlets, the permittees, and the employees. If members from your committee would like to meet with members from our association, we would be happy to share these ideas with then.

Thank you for your time and the opportunity to speak to you about an organization I feel very strongly about and one that provides a service to their community.

NC ABC ASSOCIATION MEMBER STATS

Triad, Cumberland, High Point, Asheville Burham ABC Boards

JANUARY 2008 THRUOGH FEBUARY 2010

ALCOHOL ARREST	1354
DRUG ARREST	383
ALL OTHER ARREST	603
MIXED BEVERAGE OUTLET INSPECTIONS	4660
MIXED BEVERAGE OUTLETS CHECKED (NOT INSPECTED)	357
VERBAL WARNINGS	325
WRITTEN WARNINGS	362
WRITTEN VIOLATIONS	299
TRAINING PROVIDED TO OUTLETS	160

OTHER OPERATIONS AT MIXED BEVERAGE OUTLETS

1. MEMBERSHIP RULES	19
2. UNDERAGE	23
3. SIP (SALE TO INTOXICATED PERSONS)	1
4. AFTER HOURS/SUNDAY - CHECKED	40

UNDERAGE OPERATIONS

1. NUMBER OF OUTLETS CHECKED	721
2. NUMBER OF OUTLETS VIOLATED	153

ILLEGAL OUTLETS

1. NUMBER OF SEARCH WARRANTS EXECUTED	38
2. NUMBER OF ARREST	22

NUMBER OF OFFICERS	19 FULL TIME

Comments from Karen Webb-Alamance County, NC

An effective state alcohol control system limits the physical and social damage caused by the misuse of alcohol and reduces the costs borne by citizens that result from abusive alcohol consumption.

Counties distribute revenue back to the state and local community based on state law (GS. 18b) 7% revenue generated at the local level is mandated to go towards alcohol prevention and education

In the six States surrounding and including North Carolina, three of which are control states and three of which are license states *Control states average 7 outlets* per 100k residents whereas *License States average 44 outlets* per 100k residents. That is over 6 times as many outlets (per capita) in license states as are in control states!

There is a relationship between liquor store presence and enhance criminal activity. And higher outlet density (more outlets per 100k) is correlated with violence, crime, homicide, underage drinking traffic crashes and other such unhealthy and socially disruptive behaviors.

Although the current system may have flaws the value of control is undeniable.

Government is often our last line of defense and in the case of alcohol the public good, not profit, should be our motivating force.

Government = support for the public good
Private alcohol sales = motivated by profit

ABC Committee Testimony
Thursday – 8 March 2010

Thank you, Mr. Chairman and members of the committee. I am Bill Brooks, president of the North Carolina Family Policy Council. I want to begin my remarks by highlighting one of the most telling findings of the Program Evaluation Division's report, which is that North Carolina simultaneously boasts the third lowest per capita consumption and fourth highest per gallon revenue of the 18 control states. Even more impressive is that North Carolina beats all the licensure states in both of these categories. So, while we agree that there is a need for some beneficial reforms to the system, we would hasten point out that the current system, according to the numbers, is working quite well, so it is both unnecessary and unwise to overhaul and replace our local control system. We are opposed to any efforts to privatize or begin to privatize North Carolina's Alcohol Beverage Control system.

We recognize the economic and government interest in streamlining efficiency in the system. However, we would like to remind you that North Carolina's long history of alcohol beverage control—at least 136 years old—has never had profit as its primary motivation, but rather the regulation and control of an unique commodity, which has the potential to contribute to both individual and societal harm—liquor. The shift in focus we have heard more recently concerns us that the purpose of the state's involvement in the alcohol industry, whatever form it may take, is changing from one of public interest to one of filling government coffers.

In light of this we are encouraged in our agreement with the Program Evaluation Division's recommendation to raise the threshold for ABC store elections. Such a change simultaneously respects the local authority of citizens to determine whether or not to allow alcohol sales in their communities and serves to alleviate the financial difficulties presented by over-saturation of small markets. Many of the stores and boards cited in the report as being financially unstable are a direct result of too few patrons for too few stores. Rather than throwing out North Carolina's long and impressive legacy of acting in the best interest of public health by taking authority away from local citizens and doing away with state control of a risky substance, raising the threshold for ABC elections would better ensure efficiently operated stores by requiring a more sustainable level of support in the community. This one simple change, supported by the Program Evaluation Report, would address the root of many of the complaints we have heard about the inefficiency of the state's ABC boards and stores, while maintaining North Carolina's unique citizen-oriented approach to alcohol sales.

The Lexington ABC Board was established in 1972. Since its inception, the Board has returned over $ 9,000,000 in profits to the City of Lexington for use in the general fund, schools, parks and recreation and law enforcement.

As the only legal outlet for alcoholic beverages in our community, we believe we provide the best system for combating under-age drinking and illegal "drink-houses".
We have done this while maintaining a profit margin of around 8% and without a hint of impropriety with-in our board or management staff.

I tell you this because we believe that this is similar to the history and experience of the overwhelming majority of ABC Boards in the state.

We believe that these issues, profitability and control, are best served by the current ABC system and would be seriously threatened by privatization.

The privatization advocates will tell you the system is broken, antiquated, and rife with abuse. Surely the system has been abused in rare and specific instances, but overall it remains effective, primarily as a vital revenue source for the participating counties and municipalities such as ours in Lexington. A revenue source we have come to depend on.

Obviously, selling the system in some form would result in a large influx of cash at a time when we desperately need it, but the appeal of that option is classic short-term thinking. A one-time pay out for a value you can never get back. I would contend it is 30 years of that management style that has largely created the economic hardship we all face today.

I fear that those who support privatization perhaps do so at the behest of large retailers who would enjoy the profits that now go to the cities and counties. The elimination of this income stream to Lexington and to all the local governments would inevitably result in decreased services or increased taxes, or both.

At a time when all governments are struggling, it may be difficult to answer the constituent's questions of why this income source, which was created for the benefit of our communities, has disappeared and the profits are now going to Bentonville, Arkansas or somewhere.

The increased difficulty in ABC enforcement would be an additional, unimaginable burden at every level.

The original ABC referendum in Lexington was the first election in which I voted as an 18 year old. It passed by one vote. I recall it as a contentious issue where the people of Lexington only agreed to alcohol sales if they were controlled and the profits went to the City. I imagined the same was true across the state. I don't think the state government should be considering breaking that covenant with its citizens.

Rather than scrap a proven, effective system and the benefits that inure from it, the problems that exists would be better addressed through increased supervision, uniform operating and compensation guidelines, better board and management training, and clear reporting standards.

As my grandmother would say, "There is no need to throw the baby out with the bathwater."

Thank you for your kind attention and for all you do for the citizens of North Carolina.

Jim Nance, Lexington ABC Board

ABC Joint Study Committee
Public Hearing
Talking Points

I speak on the topic of privatization from both business and treatment perspectives. From a business perspective, our current state controlled system is far superior to a privatized system, as evidenced by:

- NC is 3rd in the US in revenues for liquor sales and 48th (50th being best) in alcohol consumption.
- When revenues remain local, as in our current NC system, charitable dollars, to prevent and treat alcohol related problems, remain local. Monies from alcohol sales profits need to be realized in local communities (i.e. substantial dollars for prevention and treatment from liquor profits at the local level)
    - Our State benefits from huge revenues but has relatively fewer alcohol related problems than states with privatized alcohol sales. That is a win-win for NC.
- Several national research studies show that limiting access to spirits substantially decreases violence, criminal behavior, and other alcohol-related problems.
    - Our current state/local system limits access by having fewer stores and limited hours of operation of current ABC stores.
    - A private model/system will provide the public almost around-the-clock availability to hard liquor.

If NC privatizes its system and increases access to the number of vendors selling spirits, including increased times in which to purchase alcohol, data show we will increase the problems with alcohol. Those increased problems will subsequently create a tremendous additional burden on the substance abuse treatment system. This is a burden the system cannot afford or sustain. The SA/MH system received substantial cuts in the current fiscal year's state budget with more reductions anticipated in the upcoming budget. There will be no safety net or treatment dollars available to meet additional treatment demands realized, if our system if privatized.

The State of North Carolina has increased its penetration rate, of meeting alcohol treatment needs, from 7% to 10% over the past 3 years. While seemingly small, this is an important trend. The treatment progress has stalled in the current fiscal year.

The persons who are most vulnerable – through genetic or environmental or age predispositions – to alcohol abuse and addiction will be the most negatively impacted if the availability of hard liquor changes dramatically – via privatization. Our communities will witness a greater increase in problems related to alcohol consumption if privatization occurs. Privatization will move us backwards in the treatment of alcohol abuse and its consequences. We cannot afford that cost from a treatment or business perspective.

Respectfully submitted,

Reynolds (Tad) Clodfelter

ALCOHOLIC BEVERAGE CONTROL LAW ENFORCEMENT
CUMBERLAND COUNTY DIVISION
1705 OWEN DRIVE
FAYETTEVILLE, NC 28304
OFFICE: 910-484-8167 FAX: 910-484-1255

April 8, 2010

Presentation to the Joint Study Committee on Alcohol Beverage Control
by William Belvin, Chief ABC Officer

The Cumberland County ABC Board has maintained a Law Enforcement Division since 1937. The Law Enforcement Division is currently made up of 5 full-time officers, with authorization for 6 reserve officers. These officers work Monday through Saturday, and random Sundays to check permitted outlets for violations, ensure compliance with ABC regulations, and otherwise enforce the State's ABC and Controlled Substance laws. These officers work to provide a local solution to local issues, practicing their profession in the community in which we live.

Cumberland County ABC Officers work the following duties and priorities as mandated by 1) State law, 2) Direction from their chain-of-command (Board, Director, and Chief ABC Officer), 3) Requests from other law enforcement agencies.

Cumberland County ABC Officers work together with other law enforcement agencies in our community and region to address the community's complaints and concerns. ABC officers are not in competition with any other law enforcement agency, including those tasked with similar duties, but instead work to augment each other's efforts to provide safe local communities. The Cumberland County area has a unique population considering the large military community, and our ABC Officers have a very positive relationship with the military that enhances the local community's desire to support our military community while still enforcing and regulating the ABC industry.

Cumberland County ABC Officers investigate and enforce violations of the ABC Laws (Chapter 18B) and the Controlled Substances Act (Chapter 90). While officers are not restricted to enforcing only these laws (ABC Officers have General Jurisdiction), they focus their efforts in this area (Alcohol) and try to pay special attention to offenses that occur in or around, or have a nexus to establishments that serve/sell alcoholic beverages. Our officers regularly work with local agencies to investigate and resolve problem locations and establishments within our community. With the emphasis on ABC Law, these officers are a resource that we encourage local agencies to call upon. Our officers regularly respond to underage parties with local law enforcement to conduct investigations into sources of alcohol illegally possessed by teens. ABC Officers conduct underage checks to determine outlets that are selling to underage teens, and investigate service-to-intoxicated complaints at on-premise establishments where patrons are being served too much to drink. ABC Officers file criminal charges and/or civil violations in these instances as the severity of the case dictates

Cumberland ABC Officers conduct inspections of permitted establishments in accordance with their authority. Our ABC Officers focus on Mixed-beverage outlets as a priority, but work with all permitted outlets within the area. ABC Officers investigate violations of the ABC Laws, as well as the chapters of NC Administrative Code governing permitted establishments. ABC Officers work with outlets and their staff to ensure compliance, not only by inspecting and enforcing the regulations, but by providing Seller/Server training to permit holders addressing the basic requirements of Retail Service/Sales of Alcohol. ABC Officers provide follow-up with these outlets to answer more specific questions as needed.

Cumberland County ABC Officers are charged with securing the property of the ABC Board, and ensuring the security of employees and the customers that patronize the ABC Retail Stores. ABC Officers perform frequent and random checks of the ABC Retail Stores to deter crime at these outlets, seeking to detect underage buyers, fraudulent ID's, intoxicated persons, etc. ABC Officers also investigate crimes that occur in the ABC Retail Stores or on ABC Board property. In the case of serious crimes or incidents that require manpower beyond what is available, our ABC Officers work together with the local agencies to conduct these investigations. Cumberland County ABC Officers do perform some administrative functions at the request of the ABC System's Board and Director, but the need to perform these tasks is based on the reduction of risk to staff and customers versus similar tasks being performed by civilian employees.

During the calendar year of 2009, Cumberland County ABC Officers conducted 1,641 Outlet Inspections, Submitted 70 Violations to the ABC Commission, provided assistance to other agencies in 65 incidents or investigations, presented 22 training classes, conducted 11 search warrants, and made 316 arrests (194 for ABC Law violations and 114 for criminal/drug violations, 8 DWI arrests).

Cumberland County ABC Officers have a responsibility to the local citizens and community, including those outlets and establishments we regulate. This local connection provides a working relationship with the people and businesses that assist greatly with providing a safer environment for the customers and staff of local establishments and the public in general. The day to day duties of our ABC Officer vary as they address the input of our community's needs and concerns.

William Belvin, Chief ABC Officer
Email: bill.belvin@cumberlandabc.com
Cell: 910-624-8098

Joint Study Committee
on Alcoholic Beverage Control

April 8, 2010

Dennis Parnell

The Healing Place of Wake County

President and CEO

the healing place of wake county

1251 Goode St, Raleigh NC 27603

Contacts: Dennis Parnell dparnell@hpowc.org
Barrett Joyner bjoyner@hpowc.org (919) 838-9800

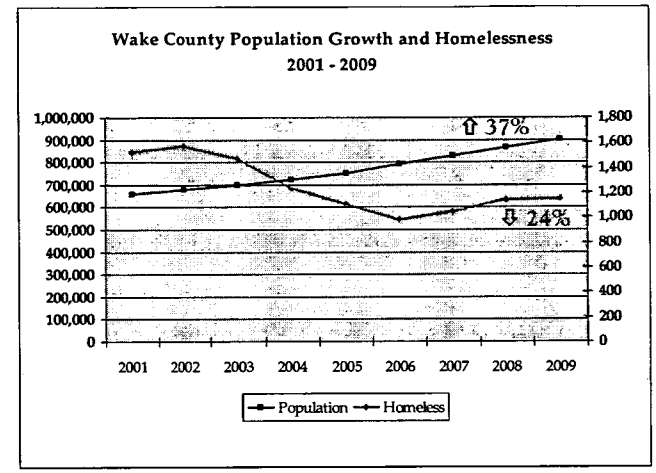
SLIDE 1

Good afternoon and thank you for your time today.

My name is Dennis Parnell and I am President and CEO of The Healing Place of Wake County, a nonprofit agency that operates a men's and women's shelter and recovery program for homeless individuals with alcohol and other drug addictions.

I welcome the opportunity to talk about the importance of the Wake County ABC Board in meeting our mission.

Having been the Executive Director from the beginning of our program, I remember 10 years ago when The Healing Place didn't exist.

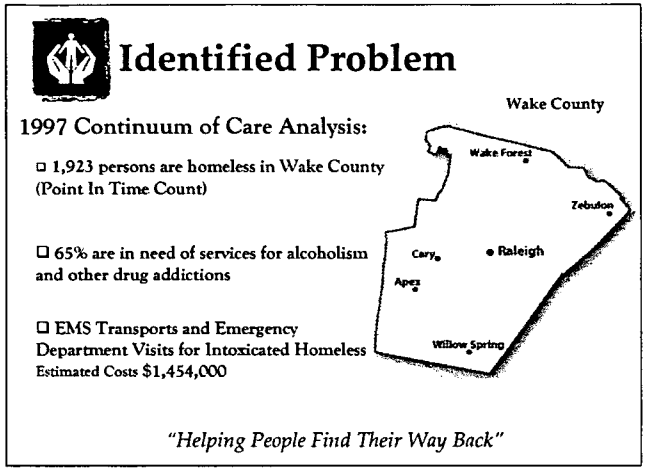


SLIDE 2

Wake County had an ever increasingly homeless population. In 2000 over 1900 individuals were found homeless in our community and approximately 65% of them dealing with addiction. Raleigh and Wake County have made great strides in the last decade: the general population of the county has increased 37 percent; Raleigh has seen its downtown flourish; we have added a new convention center, families and young professionals are moving into mixed use housing downtown--all this occurring in part while the homeless population has been decreasing by 24%.

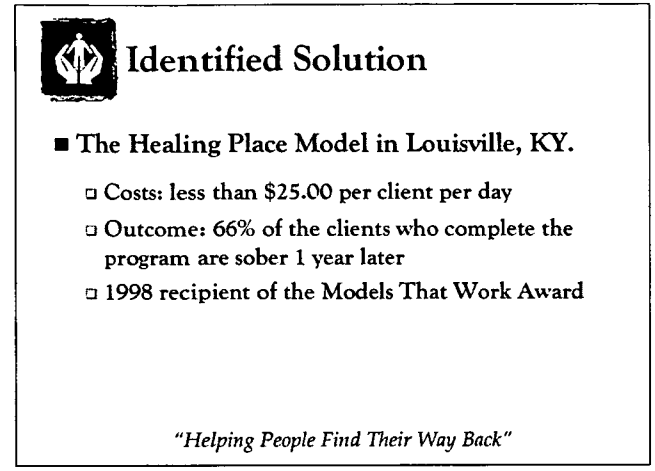
The 10 year partnership between The Healing Place and the Wake County ABC Board helped facilitate these changes.

I would like to take a few minutes to highlight the major impact that The Healing Place has had on our community and our strong desire to keep the ABC system as it is now.



SLIDE 3

In 1999 when the problem of homelessness was at its peak a task force that was formed to look for solutions to reducing the addicted homeless population. A wide range of citizen groups and government organizations comprised this task force--and the Wake County ABC Board was an early partner in this endeavor.

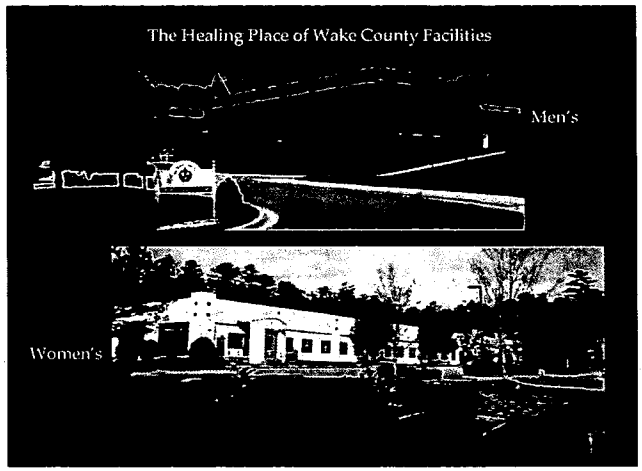


SLIDE 4

The task force found a very impressive recovery program in Kentucky at The Healing Place of Louisville.

Two characteristics of this program stood out: the costs of the program were extremely low compared to other programs, less than $25 per client per day and the outcome measures were extremely high. Remarkably, 2/3 of the clients who successfully completed the program were still sober and employed one year after they graduated.

The task force decided the way to reduce homelessness in Wake County was to bring that model to our community.

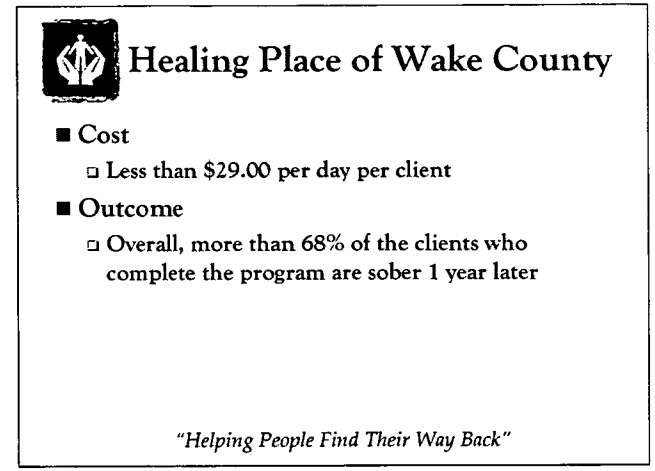


SLIDE 5

Two Healing Place facilities are now in operation in Wake County--a 180 bed men's facility and a 100 bed women's facility.

The Healing Place Of Wake County was implemented as a replication of the Louisville program and the outcomes have been similar.

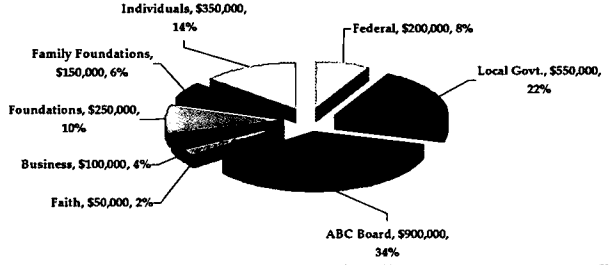
Ten years later, costs are approximately $29.00 per day and about 68 percent of alumni are still sober 12 months after graduating.



SLIDE 6

As Senator Richard Burr stated on March 24, 2010 at the US Senate Committee Hearings on Ending Homelessness among Veterans--and I quote the Senator... " I believe we have some models of success out there that provide us with a promising way forward. Through its public/private partnerships, the Healing Place is able to boast of a sobriety recovery rate of over 68% one year after individuals complete the program--- that success rate is 3 times the national average. And this success leads directly to the Healing Place's stellar record in reducing homelessness in Wake County." (end quote)

- **Wake ABC Board and The Healing Place**
  - Wake ABC Board has a Solid Understanding of Local Needs and Local Programs
  - Board Provides Comprehensive Evaluation and Local Program Review
  - The Healing Place is One of Several Board Supported Organizations having an impact in the community
  - Long Standing Partnership Starting in 1999



SLIDE 7

Over the years, The Healing Place has focused on one important component of the cause of homelessness: addiction. Throughout these years, the Wake ABC Board has brought its solid understanding of local needs and local programs to the table. This broad community perspective is obtained from the analysis of a variety of programs which the board supports. With this understanding, the Board has provided local program review (including site visits) to insure that The Healing Place program remains cost effective.

The Wake ABC Board is efficient, very profitable, and contributes a substantial amount of money to local government and local non profit organizations, such as The Healing Place. The Healing Place story is an important one and the Wake ABC Board is an important part of that story.

Thank you for providing this opportunity to speak today.

References

- Parnell, D. (1999). The Healing Place of Wake County: Social and Medical Outreach to the Homeless - Proposal.
- Point in Time Counts 2000 and 2009 Wake Continuum of Care. Contacts: Ken Maness (City of Raleigh) kmaness@unitedwaytriangle.org (919) 605-8933 Dr. Jean Williams (Wake Continuum of Care) jeanwms@bellsouth.net (919) 829-3711 Emily Fischbein (Wake County) emily.fischbein@co.wake.nc.us (919) 212-7874

"Helping People Find Their Way Back"

SLIDE 8

Dennis Parnell, President and CEO
The Healing Place of Wake County

Barrett Joyner, Staff
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1251 Goode St
Raleigh, NC 27603
(919) 838-9800

CITY OF WILMINGTON
NORTH CAROLINA

Good afternoon Chairman Vaughan, Chairman Warren, and members of the committee. My name is Lawless Bean and I am the Assistant to the City Manager for Legislative Affairs at the City of Wilmington. Thank you for the opportunity to speak with you today on behalf of the Wilmington City Council.

The City of Wilmington continues to work to provide a safe and enjoyable nightlife experience for our citizens and visitors with the tools we currently have available. At their March 23 meeting, the Wilmington City Council directed staff to develop a clear set of objective criteria that could be utilized to either support or object to requests for ABC permits. Council is scheduled to consider this item at their April 20 meeting. I would like to provide you with a interim update.

Council has provided staff with preliminary approval of two criteria in this proposal: 1) the location's previous use as a bar and 2) the applicant's criminal history and/or background. The Committee will note that these criteria address input into siting of establishments that serve and sell alcohol, as well as the applicant's suitability. Additional similar objective criteria will likely be included in the final proposal for Council which will allow for consistent local input into the ABC permitting process. In addition, the proposal may include recommendations concerning the timing and format of local input into the ABC permit process. Finally, because there are several persistent issues which remain beyond the City's ability to address under current statutes, the proposal may include requests for assistance from the General Assembly.

We look forward to the opportunity to return with the results of Council's decisions. Many of the issues that Wilmington faces are not unique to us. We, therefore, provide our experiences as a resource to the Committee for making recommendations that will be beneficial for the entire State.

Thank you for your time.

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To: Sen. Don Vaughan, Co-Chair, Joint Study Committee on Alcoholic Beverage Control
Rep. Ray Warren, Co-Chair, Joint Study Committee on Alcoholic Beverage Control

From: Jon Carr, lobbyist, NC Association of ABC Boards

Cc: Jon Williams, Chairman, NC ABC Commission

Re: Response to Inquiry of Paul Powell, Member of the Committee

Date: April 8, 2010

At the last meeting of the Study Committee, Committee Member Paul Powell asked me what performance standards the NC Association of ABC Boards would support. The question was asked in the context of my statement to the Committee that the Association supports authorization for the ABC Commission to require mergers of certain boards (but not all boards), as a last resort, based on performance standards that are promulgated through the rule-making process. In response to the question, the Association supports standards for profitability and for operating efficiency. Adequate time should be provided for an ABC board to meet these standards prior to a mandate of the Commission to require the board to merge. I submit that the period of time should be greater than the 12 month period of time provided for in the legislation introduced to implement the Program Evaluation Division's recommendations (SB 839/HB 768). The Association opposes standards for store appearance and customer service as a basis for requiring an ABC board to merge.

Thank you for your consideration of our position on this issue. If you have any questions or comments or would like to discuss, please let me know.

* * *

ABC STUDY COMMITTEE April 8, 2009

Warrantless Administrative Inspection by Law-Enforcement

QUESTION PRESENTED:

Why can't local law enforcement officers "inspect" ABC licensed premises in the same manner as local ABC officers or alcohol law-enforcement agents?

In order to fully answer this question one must review the Fourth Amendment to the United States Constitution and the current statute granting authority to conduct inspections at ABC licensed premises.

With respect to the Fourth Amendment, it is clear that no searches or seizures may be made of a person or place unless such search is based upon probable cause, a warrant has been issued, and the manner and method of the search or seizure is reasonable. However, the United State Supreme Court has made several exceptions to this requirement, specifically with respect to pervasive industries such as food, intoxicating beverages, medicines, weapons, and other commercial areas due to the sensitive nature and high potential for corruption and vice within these industries.[1]

The Courts have held that in the case of commercial premises permitted for the sale and consumption of alcoholic beverages, the provision for warrantless administrative inspections must fit within a regulatory scheme that recognizes the expectation of privacy in the area to be searched, the importance of the governmental interest justifying the search, and the degree to which authority is given for such a search is tailored to that interest in order to minimize the intrusion by the government. In compliance with the Fourth Amendment's requirements for reasonableness, the North Carolina General Assembly has passed G.S. 18B-502 as noted below:

§ 18B-502. Inspection of licensed premises.

(a) Authority. – To procure evidence of violations of the ABC law, alcohol law-enforcement agents, employees of the Commission, local ABC officers, and officers of local law-enforcement agencies that have contracted to provide ABC enforcement under G.S. 18B-501(f) shall have authority to investigate the operation of each licensed premises for which an ABC permit has been issued, to make inspections that include viewing the entire premises, and to examine the books and records of the permittee. The inspection authorized by this section may be made at any time it reasonably appears that someone is on the premises. Alcohol law-enforcement agents are also authorized to be on the premises to the extent necessary to enforce the provisions of Article 68 of Chapter 143 of the General Statutes.

(b) Interference with Inspection. – Refusal by a permittee or by any employee of a permittee to permit officers to enter the premises to make an inspection authorized by subsection (a) shall be cause for revocation, suspension or other action against the permit of the permittee as provided in G.S. 18B-104. It shall be a Class 2 misdemeanor for any person to resist or obstruct an officer attempting to make a lawful inspection under this section.

[1] *Donovan v. Dewey*, 452 U.S. 307, (1978)

Warrantless Administrative Inspection by Law-Enforcement

It is not a contested issue that the alcoholic beverage industry is pervasive and that the government, particularly the State, has an interest in the operation of such systems of sales and consumption. The issue before the Committee is whether allowing local law-enforcement officers to conduct administrative inspections is reasonable under the given guidelines. In answering this question, the courts have noted that "warrantless inspections of commercial property may be unreasonable if they are unnecessary to further an important governmental interest, or if there occurrence is so random, infrequent, or unpredictable, that the owner has no real expectation that the property will from time to time be inspected."[2]

Therefore, the current statute meets the Court's requirements to comply with the provisions of the Fourth Amendment by limiting the time, place, and manner of inspection and further restricts the inspection to particular officers.[3] Allowing local law-enforcement officers the same authority to inspect ABC licensed premises as ALE agents of ABC officers places a permittee in jeopardy of having such warrantless administrative inspections performed randomly or unpredictably and without the sole purpose being to ensure the permittee is in compliance with all provisions of the ABC law as that term is defined in Chapter 18B.

Currently the ALE Division conducts these inspections in written form at least once a year for every ABC licensed premises in the state. Another question may be whether local-law-enforcement agencies want to incur the cost of establishing a standardized inspection program and "inspecting" not only the problem outlets, but every outlet within their territorial jurisdiction. Allowing local law-enforcement officers to use the same authority as ALE agents and ABC officers to enter ABC licensed premises raises an important issue, training. Local law-enforcement officers are not trained in the Commission's rules and regulations, the administrative violation process, the accounting process, and the tier system of sales and service within this state, making it virtually impossible to conduct the warrantless administrative inspection authorized by G.S. 18B-502.

Excepting inspections authorized under G.S. 18B-502, local law-enforcement officers still have avenues of detection that do not require the use of the "inspection authority" of G.S. 18B-502. A local law-enforcement officer may still enter the premises of a public place at anytime unless entry is refused by the permittee. Local law-enforcement may conduct undercover operations in any premises to detect any criminal activity.[4] The only type of establishment that creates an issue for local law-enforcement officers is a private club. When officers try to enter into private clubs, which by their very nature and definition increase the expectation of privacy, they must have express permission, be a member, or be conducting an undercover investigation that does not implicate the Fourth Amendment.

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[2] *State v. Nobles*, 107 N.C.App. 627, 422 S.E.2d 78 (1992) citing Donovan v. Dewey 452 U.S. 594.
[3] G.S. 18B-502 (2009)
[4] *Greensboro Elks Lodge v. NC Board of Alcoholic Control*, 27 N.C.App. 594, 220 S.E.2d 106, (1975)

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H/S **D**

BILL DRAFT 2009-MAz-412* [v.4] (03/30)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
4/5/2010 4:27:33 PM

Short Title:	Modernization of the State ABC System.	(Public)
Sponsors:	Representative R. Warren./Senator Vaughan.	
Referred to:		

A BILL TO BE ENTITLED

AN ACT TO MODERNIZE THE NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL SYSTEM, AS RECOMMENDED BY THE JOINT STUDY COMMITTEE ON ALCOHOLIC BEVERAGE CONTROL.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-203(a) is amended by adding a new subdivision to read:

"**§ 18B-203. Powers and duties of the Commission.**

(a) Powers. – The Commission shall have authority to:

...

(20) Establish performance standards for local ABC boards. Performance standards established pursuant to this subdivision shall include, but not be limited to, standards that address store appearance, operating efficiency, profitability, and customer service.

(21) Establish mandatory training requirements for local board members, managers, and employees."

SECTION 2. G.S. 18B-501 reads as rewritten:

"(f) Contracts with ~~Other Agencies.~~the ALE Division. – Instead of hiring local ABC officers, a local board may contract to pay its enforcement funds to ~~a sheriff's department, city police department, or other local law enforcement agency~~the ALE Division for enforcement of the ABC laws.~~laws within the law enforcement agency's territorial jurisdiction. Enforcement agreements may be made with more than one agency at the same time. When such a contract for enforcement exists, the officers of the contracting law enforcement agency shall have the same authority to inspect under G.S. 18B-502 that an ABC officer employed by that local board would have. If a city located in two or more counties approves the sale of some type of alcoholic beverage pursuant to the provisions of G.S. 18B-600(e4), and there are no local ABC boards established in the city and one of the counties in which the city is located, the local ABC board of any county in which the city is located may enter into an enforcement agreement with the city's police department for enforcement of the ABC laws within the entire city, including that portion of the city located in the county of the ABC board entering into the enforcement agreement.~~"

[THIS SECTION HAS BEEN PLACED HERE AS A PLACE HOLDER FOR LAW ENFORCEMENT RELATED ISSUES. THE ABOVE MODIFIED STATUTE IS BASED ON RECOMMENDATIONS FROM THE PUBLIC COMMENTS AT THE MARCH 24, 2010 MEETING.]

SECTION 3. G.S. 18B-600(d) reads as rewritten:

"(d) City ABC Store Elections. – A city may hold an ABC store election only if:
(1) The city has at least ~~500~~ 5,000 registered voters; and
(2) The county in which the city is located does not operate ABC stores."

SECTION 4. G.S. 18B-600(e) reads as rewritten:

"(e) City Mixed Beverage Elections. – A city may hold a mixed beverage election ~~only if:~~ if the city has at least 500 registered voters.

~~(1) The city has at least 500 registered voters; and~~
~~(2) Either:~~
~~a. The city already operates a city ABC store; or~~
~~b. A city ABC store election is to be held at the same time as the mixed beverage election; or~~
~~c. The city does not operate a city ABC store but:~~
~~1. The county operates an ABC store;~~
~~2. The county has already held a mixed beverage election; and~~
~~3. The vote in the last county election was against the sale of mixed beverages.~~"

SECTION 5. G.S. 18B-700 is amended by adding a new subsection to read:

"(a1) Mission. – The mission of ABC boards and their employees shall be to responsibly serve their localities by controlling the sale of spirituous liquor in customer-friendly, modern, and efficient stores in order to optimize revenue distributions."

SECTION 6. G.S. 18B-700(f) reads as rewritten:

"(f) Removal. – A member of a local board may be removed for cause at any time by the appointing ~~authority.~~ authority or the Commission. The Commission shall remove any local board member that fail to successfully complete the mandatory training requirements required by G.S. 18B-203(a)(21). Local board members and employees are subject to the removal provisions of G.S. 18B-202."

SECTION 7. G.S. 18B-700(g) reads as rewritten:

"(g) Salary. – A local board member may be compensated as determined by the appointing authority. No local board member may be compensated for service if the profit margin for the local board falls below five percent (5%) based on information in the annual audit."

[THIS SECTION HAS BEEN PLACED HERE AS A PLACE HOLDER FOR SALARY RELATED ISSUES. THE ABOVE MODIFIED STATUTE IS FROM THE PROGRAM EVALUATION COMMITTEE'S RECOMMENDATIONS FOR MODERNIZATION OF THE ABC SYSTEM.]

SECTION 8. G.S. 18B-701 reads as rewritten:

"**§ 18B-701. Powers and duties of local ABC boards.**

(a) Powers. – A local board shall have authority to:
(1) Buy, sell, transport, and possess alcoholic beverages as necessary for the operation of its ABC stores;
(2) Adopt rules for its ABC system, subject to the approval of the Commission;
(3) Hire and fire employees for the ABC system;
(4) Designate one employee as manager of the ABC system and determine his responsibilities;
(5) Require bonds of employees as provided in the rules of the Commission;
(6) Operate ABC stores as provided in Article 8;
(7) Issue purchase-transportation permits as provided in Article 4;
(8) Employ local ABC officers or make other provision for enforcement of ABC laws as provided in Article 5;
(9) Borrow money as provided in G.S. 18B-702;

(10) Buy and lease real and personal property, and receive property bequeathed or given, as necessary for the operation of the ABC system;
(11) Invest surplus funds as provided in G.S. 18B-702;
(12) Dispose of property in the same manner as a city council may under Article 12 of Chapter 160A of the General Statutes; and
(13) Perform any other activity authorized or required by the ABC law.

(b) Duties. – A local board shall have the duty to comply with all directives of the Commission and meet all standards for performance and training established by the Commission pursuant to G.S. 18B-203(a)(20) and (21).Failure to comply with Commission directives and rules shall be cause for removal."

SECTION 9. G.S. 18B-702 reads as rewritten:

"**§ 18B-702. Financial operations of local boards.**

(a) Generally. – A local board may transact business as a corporate body, except as limited by this section. A local board shall not be considered a public authority under G.S. 159-7(b)(10).

(b) Borrowing Money. – A local board may borrow money only for the purchase of land, buildings, equipment and stock needed for the operation of its ABC system. A local board may pledge a security interest in any real or personal property it owns other than alcoholic beverages. A city or county whose governing body appoints a local board shall not in any way be held responsible for the debts of that board.

(c) Audits. – A local board shall submit to the Commission an annual independent audit of its operations, performed in accordance with generally accepted accounting standards and in compliance with a chart of accounts prescribed by the Commission. The audit report shall contain a summary of the requirements of this Chapter, or of any local act applicable to that local board, concerning the distribution of profits of that board and a description of how those distributions have been made, including the names of recipients of the profits and the activities for which the funds were distributed. A local board shall also submit to any other audits and submit any reports demanded by the Commission.

(d) Deposits and Investments. – A local board may deposit moneys at interest in any bank or trust company in this State in the form of savings accounts or certificates of deposit. Investment deposits shall be secured as provided in G.S. 159-31(b) and the reports required by G.S. 159-33 shall be submitted. A local board may invest all or part of the cash balance of any fund as provided in G.S. 159-30(c) and (d), and may deposit any portion of those funds for investment with the State Treasurer in the same manner as State boards and commissions under G.S. 147-69.3.

(e) Compliance with Commission Rules. – The Commission shall adopt, and each local board shall comply with, fiscal control rules concerning the borrowing of money, maintenance of working capital, investments, appointment of a financial officer, daily deposit of funds, bonding of employees, auditing of operations, and the schedule, manner and other procedures for distribution of profits. The Commission may also adopt any other rules concerning the financial operations of local boards which are needed to assure the proper accountability of public funds.

(f) Applicability of Criminal Statutes. – The provisions of G.S. 14-90 and G.S. 14-254 shall apply to any person appointed to or employed by a local board, and any person convicted of a violation of G.S. 14-90 or G.S. 14-254 shall be punished as a Class H felon."

[THIS SECTION HAS BEEN PLACED HERE AS A PLACE HOLDER FOR FINANCE RELATED ISSUES. ***SEE SUBSECTION (C) OF 18B-705 IN SECTION 9 OF THIS BILL. THAT SECTION ALLOWS THE ABC COMMISSION TO TAKE OVER ASSETS OF A LOCAL BOARD IF THEY ARE NOT IN COMPLIANCE WITH PERFORMANCE STANDARDS, WHICH INCLUDES FINANCIAL SOLVENCY ISSUES AND IRREGULAR AUDITS.]

SECTION 10. Chapter 18B of the General Statutes is amended by adding a new section to read:

"**§ 18B-704. Number of local boards; mergers required.**

(a) Number of Local Boards. – There shall be no more than one local ABC board per county. In any county where more than one local ABC board exists, the governing bodies of any city or county having a local board shall meet and develop a plan to consolidate all assets and operations of each board into a merged system as provided for in G.S. 18B-703. Any new board authorized by statute or lawful election after July 1, 2011, shall join an existing local or regional board.

(b) Mergers Required. – If after July 1, 2011, any county still has more than one local board in existence, the Commission shall develop a plan pursuant to G.S. 18B-703 merging all assets and operations of each local board into one local board. If the plan is not accepted by the affected governing bodies, the Commission shall merge the local boards.

(c) Regional Boards. – As used in the section, a regional board is an ABC board that crosses county lines. If the Commission determines that the merger of two or more local boards into a regional local ABC board would best serve the needs of the public, increase profitability, enhance revenue distributions to the affected local governments, and streamline the operation and oversight of the State's ABC System, then the Commission shall merge the boards pursuant to G.S. 18B-703.

(d) Local Acts or Modifications. – Any local act or modification regarding the establishment and operation of a local ABC board is repealed effective July 1, 2011. On and after July 1, 2011, every local board shall be subject to the provisions of this Chapter. Any and all mergers that have been approved by the Commission shall be governed by the provisions of the merger agreement established pursuant to G.S. 18B-703.

(e) Prior Mergers. – This section shall not affect a merger that created a regional board and was approved by the Commission prior to July 1, 2011."

SECTION 11. Chapter 18B of the General Statutes is amended by adding a new section to read:

"**§ 18B-705. Compliance with performance standards; remedies.**

(a) Local Board Compliance. – The Commission shall ensure that all local boards comply with performance standards established pursuant to G.S. 18B-203(a)(20) by conducting regular or special audits, conducting performance evaluations, or taking other measures which may include inspections by Commission auditors and alcohol law-enforcement agents.

(b) Performance Improvement Plans. – The Commission, upon determining that a local board is failing to meet performance standards established pursuant to G.S. 18B-203(a)(20), shall meet with the chair of the local board, issue a statement of findings, and deliver a performance improvement plan. The performance improvement plan shall include, but not be limited to, recommendations for improved performance based on the performance standards established by the Commission. The plan shall also state a period of time in which the performance improvements are to occur and what action will be taken by the Commission if performance standards are not met within the given time limits. The Commission shall allow up to, but no more than, six months' time to the local board to implement and show improvement under the performance improvement plan. The Commission, upon good cause shown, may allow up to an additional six-month period of time for the local board to meet all requirements in the performance improvement plan and to establish that the performance standards established by the Commission are met.

(c) Remedies. – If the Commission determines that the established performance standards cannot be met after a performance improvement plan has been implemented and adequate time has been given, but in no case more than 12 months, the Commission shall seize all assets of the local board and take appropriate action to ensure profitability. This action may include closing the board, a store, multiple stores, merging the local board with another local

board, or merging the local board with another local board to create a regional board in order to maintain solvency and meet community needs."

SECTION 12. Chapter 18B of the General Statutes is amended by adding a new section to read:

"**§ 18B-706. Ethics requirements for local boards.**

[THIS SECTION HAS BEEN PLACED HERE AS A PLACE HOLDER FOR ETHICS RELATED ISSUES.]

SECTION 13. G.S. 18B-801(b) is amended by adding a new subdivision to read:

"(b) Location of Stores. – A local board may choose the location of the ABC stores within its jurisdiction, subject to the approval of the Commission. In making its decision on a location, the Commission may consider:

(1) Whether the health, safety, or general welfare of the community will be adversely ~~affected; and~~affected.

(2) Whether the citizens of the community or city in which the proposed store is to be located voted for or against ABC stores in the last election on the question.

(3) The proximity of the new location to existing ABC stores operated by the local board or any other boards."

SECTION 14. This act becomes effective October 1, 2010.

ABC Ethics Reform Act

This language strikes a balance between ensuring appropriate local control of ABC matters while also significantly increasing ethical accountability and ensuring an appropriate salary system. It also puts rigor and discipline into the entire process, ensuring that the appointing authorities have all of the information they need about the activities of their ABC Boards.

This draft proposes the following changes:

1. Requires all ABC boards to meet the same ethics standards as are required of cities and counties in the local government ethics act.

2. Requires all ABC boards to adopt an ethics policy consistent with what is required of the local appointing authority.

3. Clarifies that prohibition on "gifts and favors" from vendors applies to ABC Boards.

4. Of particular importance, appointing authorities will be able to suspend or remove ABC board members for any violation of the adopted ethics policy.

5. Requires significantly increased reporting requirements for ABC boards to their appointing authorities. This includes salaries / benefits, certain employment actions, and financial audits..

6. Requires ABC Commission to collect and distribute salary / pay and benefits information to all ABC boards and their appointing authorities. This will in effect establish a salary/pay scale system that can be used to determine the appropriate salary levels.

North Carolina ABC Boards
Profit Percent to Revenue
All ABC Boards
Fiscal Year Ended June 30, 2009

	Board Name	Retail Sales	Mixed Beverage Sales	Total Liquor Sales	Profit Before Distrib.	Profit Percent	# of Stores
1	Wake County	54,098,405	21,235,200	75,333,605	12,770,023	16.84%	21
2	Southport	1,472,411	377,128	1,849,539	273,092	14.65%	1
3	Sylva	2,037,872	618,217	2,656,089	389,915	14.55%	1
4	Boone	3,949,115	635,180	4,584,295	652,679	14.20%	1
5	New Hanover County	20,477,668	10,147,920	30,625,588	4,344,760	14.15%	7
6	Morganton	2,815,119	278,563	3,093,682	427,302	13.76%	1
7	Moore County	5,902,547	2,002,882	7,905,429	1,059,314	13.28%	4
8	Dare County	9,563,469	2,797,188	12,360,657	1,612,414	12.87%	5
9	Lincoln County	1,681,063	279,977	1,961,040	242,441	12.31%	1
10	Onslow County	8,510,349	3,612,767	12,123,116	1,501,264	12.30%	6
11	Mecklenburg County	61,185,914	34,587,212	95,773,126	11,644,657	12.11%	23
12	Gates County [1]	468,670	0	468,670	63,051	11.97%	2
13	Blowing Rock	905,016	625,266	1,530,282	184,023	11.94%	1
14	Wallace	1,139,220	83,552	1,222,772	145,991	11.94%	1
15	Nash County	7,146,381	1,055,405	8,201,786	982,375	11.94%	9
	Greensboro	24,019,616	8,370,432	32,390,048	3,859,359	11.88%	14
17	Pasquotank County	2,126,366	502,213	2,628,579	308,524	11.76%	1
18	Marion	1,850,230	204,093	2,054,323	240,061	11.59%	1
19	Murphy	3,011,886	122,384	3,134,270	363,450	11.40%	1
20	Granville County	2,836,958	121,791	2,958,749	336,384	11.34%	2
21	West Jefferson	1,281,921	72,867	1,354,788	152,599	11.31%	1
22	Elizabethtown	1,088,191	32,176	1,120,367	127,379	11.30%	1
23	Mooresville	6,222,208	1,279,108	7,501,316	849,522	11.26%	3
24	Monroe	4,145,105	758,902	4,904,007	549,588	11.23%	1
25	Calabash	1,210,114	251,459	1,461,573	167,171	11.22%	1
26	Pitt County	10,689,514	3,209,050	13,898,564	1,572,453	11.22%	10
27	Cumberland County	17,961,734	6,572,747	24,534,481	2,749,110	11.16%	10
28	High Country	2,169,849	561,412	2,731,261	305,612	11.10%	1
29	Waynesville	2,194,114	206,852	2,400,966	263,229	10.89%	1
30	Clinton	1,382,703	111,436	1,494,139	162,281	10.83%	1
31	West Columbus	596,741	0	596,741	62,157	10.38%	1
32	Johnston County	8,082,222	953,276	9,035,498	942,755	10.36%	7
33	Person County	2,277,946	182,030	2,459,976	251,686	10.22%	2
34	Sparta	623,716	39,344	663,060	67,890	10.19%	1
35	Hoke County	848,984	65,664	914,648	92,922	10.16%	1
	Lincolnton	1,748,526	209,434	1,957,960	194,236	9.86%	1
37	Mount Airy	1,962,955	263,064	2,226,019	221,249	9.86%	1

North Carolina ABC Boards
Profit Percent to Revenue
All ABC Boards
Fiscal Year Ended June 30, 2009

	Board Name	Retail Sales	Mixed Beverage Sales	Total Liquor Sales	Profit Before Distrib.	Profit Percent	# of Stores
38	Craven County	5,984,582	1,290,995	7,275,577	717,695	9.81%	6
39	Brevard	2,160,044	442,154	2,602,198	252,098	9.59%	1
40	Shallotte	1,287,575	145,546	1,433,121	134,752	9.39%	1
41	Andrews	603,435	1,306	604,741	55,750	9.14%	1
42	Forest City	1,545,545	94,999	1,640,544	150,203	9.07%	1
43	High Point	10,101,173	1,743,103	11,844,276	1,063,537	8.98%	6
44	Oak Island	1,463,511	362,241	1,825,752	163,401	8.95%	1
45	Triad Municipal	25,637,031	5,238,740	30,875,771	2,757,478	8.92%	14
46	Asheboro [2]	1,333,128	136,037	1,469,165	129,639	8.80%	1
47	Lenoir City	2,700,717	229,707	2,930,424	259,027	8.79%	2
48	Randleman	1,771,420	92,100	1,863,520	163,474	8.71%	1
49	Tabor City	588,142	0	588,142	52,552	8.66%	1
50	Asheville	13,034,735	6,086,753	19,121,488	1,647,496	8.61%	7
51	Albemarle	1,990,824	221,767	2,212,591	190,284	8.55%	1
52	Alamance Municipal	7,002,038	1,601,122	8,603,160	734,021	8.45%	4
	Pender County	4,271,145	309,927	4,581,072	385,099	8.40%	5
54	Sanford	3,661,337	519,372	4,180,709	351,064	8.31%	2
55	Ocean Isle	1,018,480	302,304	1,320,784	110,360	8.21%	1
56	Hendersonville	4,007,445	801,491	4,808,936	396,058	8.16%	2
57	Lexington	3,008,550	240,053	3,248,603	265,487	8.16%	2
58	Dunn	1,820,758	98,541	1,919,299	156,001	8.10%	2
59	Fletcher	2,056,794	74,237	2,131,031	165,288	7.83%	1
60	Wadesboro	1,175,643	27,295	1,202,938	93,427	7.72%	1
61	Brunswick	459,120	0	459,120	35,432	7.70%	1
62	Gastonia	6,158,547	1,407,108	7,565,655	584,851	7.63%	5
63	Taylorsville	942,742	1,982	944,724	72,131	7.61%	1
64	Catawba County	11,530,194	2,472,870	14,003,064	1,070,427	7.61%	9
65	Durham County	18,394,435	4,433,027	22,827,462	1,736,371	7.58%	10
66	Woodfin	2,797,961	57,248	2,855,209	215,477	7.56%	1
67	Louisburg	1,108,297	56,137	1,164,434	88,358	7.54%	1
68	Lumberton	2,836,803	496,824	3,333,627	251,660	7.53%	2
69	Wayne County	5,821,473	776,136	6,597,609	492,780	7.43%	6
70	Scotland County	1,559,063	93,719	1,652,782	122,730	7.42%	1
71	Whiteville	930,423	107,051	1,037,474	75,793	7.27%	1
72	Hertford	709,347	8,174	717,521	51,501	7.17%	1
	Vance County	2,829,480	163,752	2,993,232	213,344	7.11%	2
74	Currituck County	3,646,663	400,157	4,046,820	289,147	7.05%	3

North Carolina ABC Boards
Profit Percent to Revenue
All ABC Boards
Fiscal Year Ended June 30, 2009

	Board Name	Retail Sales	Mixed Beverage Sales	Total Liquor Sales	Profit Before Distrib.	Profit Percent	# of Stores
75	Orange County	10,153,975	3,370,650	13,524,625	946,115	6.96%	8
76	Mount Holly	1,612,349	0	1,612,349	105,460	6.65%	1
77	Saint Pauls	934,759	0	934,759	61,807	6.59%	1
78	Reidsville	1,819,781	126,302	1,946,083	126,797	6.54%	1
79	Elkin	1,076,296	68,191	1,144,487	75,317	6.50%	1
80	Hamlet	760,596	10,473	771,069	49,818	6.46%	1
81	Laurel Park	991,835	98,652	1,090,487	70,214	6.35%	1
82	Wilson County	5,455,111	601,813	6,056,924	380,180	6.25%	7
83	Concord	7,231,158	1,787,286	9,018,444	570,378	6.24%	5
84	Siler City	1,036,308	20,652	1,056,960	65,774	6.21%	1
85	Eden	1,399,872	149,276	1,549,148	96,625	6.21%	1
86	Bryson City	1,428,479	137,707	1,566,186	97,311	6.18%	1
87	Lake Lure	457,628	162,859	620,487	38,155	6.09%	1
88	Carteret County	8,750,423	1,998,264	10,748,687	651,566	6.03%	6
89	Cramerton	1,276,455	122,920	1,399,375	82,337	5.89%	1
90	Chatham County	2,056,300	101,383	2,157,683	126,515	5.82%	3
91	Beaufort County	3,825,550	304,874	4,130,424	231,500	5.57%	6
92	Wilkesboro	1,144,149	149,638	1,293,787	72,236	5.55%	1
93	Franklin	2,202,445	243,078	2,445,523	136,929	5.53%	1
94	Halifax County	3,976,824	207,567	4,184,391	231,141	5.51%	5
95	Lenoir County	2,814,685	232,042	3,046,727	166,270	5.45%	3
96	Newton Grove	381,440	0	381,440	20,508	5.38%	1
97	Pamlico County	1,026,415	79,382	1,105,797	59,185	5.32%	2
98	Cherryville	874,701	46,736	921,437	48,478	5.23%	1
99	Dobson	541,671	0	541,671	28,239	5.18%	1
100	Bunn	689,292	0	689,292	35,640	5.16%	1
101	Edgecombe County	3,669,670	46,751	3,716,421	192,186	5.16%	6
102	Shelby	3,091,353	283,066	3,374,419	174,393	5.15%	2
103	Granite Falls	905,040	38,580	943,620	47,717	5.05%	1
104	Warsaw	479,594	0	479,594	24,158	5.04%	1
105	Red Springs	620,644	0	620,644	30,785	4.96%	1
106	Cooleemee	617,878	16,057	633,935	31,858	4.94%	1
107	Statesville	3,946,815	607,296	4,554,111	219,690	4.81%	2
108	Black Mountain	1,517,501	0	1,517,501	71,645	4.72%	1
109	Pittsboro	761,855	9,354	771,209	36,119	4.65%	1
110	Brunswick County	1,790,246	371,855	2,162,101	96,825	4.57%	2
111	Columbus	517,377	42,432	559,809	25,750	4.56%	1

North Carolina ABC Boards
Profit Percent to Revenue
All ABC Boards
Fiscal Year Ended June 30, 2009

	Board Name	Retail Sales	Mixed Beverage Sales	Total Liquor Sales	Profit Before Distrib.	Profit Percent	# of Stores
112	Highlands	1,246,308	199,161	1,445,469	64,341	4.41%	1
113	Youngsville	713,971	0	713,971	31,171	4.37%	1
114	Kings Mountain	1,027,797	6,348	1,034,145	44,291	4.26%	1
115	Martin County	1,536,473	56,356	1,592,829	65,286	4.10%	2
116	Thomasville	2,381,330	201,665	2,582,995	106,240	4.08%	2
117	Bessemer City	471,080	10,714	481,794	19,414	4.00%	1
118	Rowan/Kannapolis	8,429,843	839,792	9,269,635	368,815	3.97%	7
119	Tyrrell County	256,062	0	256,062	10,155	3.95%	1
120	Waxhaw	1,050,827	0	1,050,827	40,008	3.80%	1
121	Lillington	897,084	83,297	980,381	37,164	3.78%	1
122	Madison	992,774	32,519	1,025,293	38,427	3.74%	1
123	Roseboro	559,142	0	559,142	20,832	3.72%	1
124	Rowland	198,490	0	198,490	7,116	3.59%	1
125	Franklinton	643,943	0	643,943	22,628	3.50%	1
126	Hertford County	1,859,186	106,218	1,965,404	67,563	3.43%	3
127	Boiling Spring Lakes	503,651	2,314	505,965	16,651	3.29%	1
128	Camden County	1,049,696	0	1,049,696	34,007	3.23%	2
129	Chowan County	1,075,959	63,929	1,139,888	36,426	3.21%	1
130	Greene County	633,643	0	633,643	19,832	3.11%	2
131	Liberty	699,103	0	699,103	21,642	3.09%	1
132	Sunset Beach	1,106,610	140,398	1,247,008	37,715	3.07%	1
133	Rockingham	1,496,758	120,733	1,617,491	48,655	3.01%	2
134	Rutherfordton	960,509	86,143	1,046,652	31,495	2.99%	1
135	Walnut Cove	730,891	0	730,891	20,716	2.82%	1
136	Warren County	1,733,608	48,527	1,782,135	49,416	2.77%	3
137	Washington County	755,744	8,454	764,198	21,058	2.75%	1
138	Belville	2,121,711	0	2,121,711	57,759	2.72%	2
139	Angier	1,038,170	3,153	1,041,323	24,046	2.30%	1
140	North Wilkesboro	963,224	85,535	1,048,759	22,306	2.12%	1
141	Norwood	445,160	5,436	450,596	8,349	1.88%	1
142	Caswell County	1,779,205	0	1,779,205	33,317	1.87%	4
143	Fairmont	538,870	0	538,870	8,375	1.55%	1
144	Kenansville	408,044	20,064	428,108	5,793	1.35%	1
145	Gibsonville	675,888	21,114	697,002	8,323	1.19%	1
146	Lake Waccamaw	289,908	0	289,908	1,986	0.68%	1
147	Maxton	489,697	728	490,425	2,062	0.42%	1
148	Garland	247,905	0	247,905	444	0.18%	1

North Carolina ABC Boards
Profit Percent to Revenue
All ABC Boards
Fiscal Year Ended June 30, 2009

	Board Name	Retail Sales	Mixed Beverage Sales	Total Liquor Sales	Profit Before Distrib.	Profit Percent	# of Stores
149	Jones County	879,825	0	879,825	1,324	0.15%	3
150	Canton	988,884	20,085	1,008,969	769	0.08%	1
151	Montgomery	1,210,446	66,531	1,276,977	-6,223	-0.48%	2
152	Northampton County	1,039,006	0	1,039,006	-5,295	-0.51%	4
153	Tryon	307,367	67,274	374,641	-5,431	-1.43%	1
154	Mount Pleasant	452,018	0	452,018	-11,966	-2.64%	1
155	Maggie Valley	1,009,413	225,817	1,235,230	-34,025	-2.79%	2
156	Hyde County	411,357	169,757	581,114	-16,814	-2.89%	2
157	Pembroke [3]	180,142	0	180,142	-6,672	-3.86%	0
158	Bertie County	656,678	0	656,678	-48,185	-7.26%	1
159	Locust [4]	743,427	10,586	754,013	-85,832	-11.38%	1
	Totals	569,356,715	147,097,950	716,454,665	72,588,206	10.09%	410

[1] Other income includes insurance payment for fire

[2] Opened November 18, 2008

[3] Closed temporarily October 22, 2008

[4] Opened July 1, 2008

Good Afternoon.

My name is Cindy Murphy. I am here today to share some positive things that occur in Mecklenburg County as a result of our current system of ABC. I represent Anuvia Prevention and Recovery Center, a non-profit substance abuse prevention and treatment organization in Charlotte. At Anuvia, I am the Director of Prevention Services and I am here with my co-worker, Kim Anthony-Byng, the Director of Clinical Services.

After the passage of the 1957 Enabling Act, the Mecklenburg County ABC Board identified the need for an agency to address the issue of substance abuse. The Charlotte Council on Alcoholism was established in 1958 and became the major resource for information, advocacy, and referral regarding alcoholism. A second agency, The Randolph Clinic, was later established by the Board in 1969 to provide treatment at reduced or no cost to residents of the growing Charlotte-Mecklenburg community.

In 1971, the Mecklenburg County ABC Board built a new facility to house these agencies, which became a central place for people to turn for substance abuse prevention, assessment, and treatment, as well as a meeting place for many of the area's 12 Step self-help groups. Ultimately, these sister agencies merged and expanded to provide a full continuum of substance abuse services under one roof. First called the Chemical Dependency Center, today this agency is known as Anuvia Prevention and Recovery Center.

The Mecklenburg County ABC Board has continued to be the primary funding source for Anuvia Prevention and Recovery Center since its beginnings in 1958. In addition to profits returned to Mecklenburg County, the City of Charlotte, the Public Library System, and Law Enforcement, the Mecklenburg County ABC Board has directed $51,661,014 to alcohol prevention, education, treatment, and research since 1947. Beyond its support of Anuvia, the Mecklenburg County ABC Board has supported a multitude of other local substance abuse service agencies through a grants program.

Last fiscal year, Anuvia staff delivered substance abuse prevention services to 20,053 persons. And 2,636 persons received assessments and outpatient drug and alcohol treatment services. These much needed services which are provided without regard to a person's ability to pay are made available due to the generous support of the Mecklenburg County ABC Board. This strategy allows access to substance abuse services for many people in need who otherwise would not receive this help.

Substance prevention and treatment services have been repeatedly determined to have cost benefit both in terms of finances and social outcomes. Numerous studies indicate that for each dollar invested in these services the return is exponential. Privatization of the ABC System in North Carolina could result in this resource being diminished or eliminated in Mecklenburg County and throughout our State.

Your consideration of the Mecklenburg County ABC Board's longstanding role in and commitment to the prevention and treatment of substance abuse issues in our community is greatly appreciated.

Due to the State ~~& county~~ budget cuts for State hospitals, money is not as readily available for those who are dually diagnosed or have SA & mh issues. ~~Due to~~ With the generosity of our local ABC board, we have been able to serve these people at Anuvia in on of our pres-ens which has reduced the need for hospitalmatic and kept this population in the community & functioning as productive members of society.

Add how the nature of a private system promotes abuse.

If you don't prevent substance abuse issues and you don't treat those in need, who can't afford services... we as a society will pay for it later...in the form of elevated crime,vhospitalization,

It is unlikely, in the current ecomonic situation that these services could be funded by other means.

ATTACHMENT 20

State of North Carolina
ALCOHOLIC BEVERAGE CONTROL COMMISSION

JONATHAN S. WILLIAMS
CHAIRMAN

MICHAEL C. HERRING
ADMINISTRATOR

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COMMISSION MEMBERS:
J. D. LYON, JR.
RALEIGH
A. D. "ZANDER" GUY, JR.
SURF CITY

April 8, 2010

VIA HAND DELIVERY

Sen. Dan Clodfelter
North Carolina General Assembly
300 North Salisbury Street, Room 408
Raleigh, NC 27603

Dear Senator Clodfelter:

I have followed up on your request to examine the Local Government Commission as an option or as a model for increased oversight of local ABC boards. On April 6, I met with School of Government Professors Michael Crowell and Kara Millonzi, Gerry Cohen and Mikael Gross of Legislative Bill Drafting, and attorney Tim Morse of my office. The discussion was excellent, and Professor Millonzi had prepared a detailed analysis comparing ABC financial statutes and rules and what differences would occur if placed under the Chapter 159 LGC purview. This revealed a few places where ABC control provisions are superior, and many where LGC control provisions are superior.

On balance, my reaction is that local boards should incorporate several of the LGC controls into ABC financial rules rather than place ABC boards under the LGC itself. My review of Chapter 159, confirmed by Professor Millonzi, is that the crucial mission of the LGC is to provide assurance to the bond market that it can trust our local government financial management and reporting. This process is premised on an established class of professional local government finance directors and approximately 10 LGC staff. Long-term bonded debt obligations and default risks are not a feature of local ABC board operations, so much of the added expenditure and procedures would not add value in managing the actual financial risks they face. ABC financial operations are comparatively uncomplicated and short term.

The most attractive LGC controls that ABC boards lack are noted in Tim Morse's attached memo. I have also attached Professor Millonzi's analysis. Gerry Cohen has shown from the legislative history that the drafters of Chapter 18B intentionally expanded state ABC oversight authority of local board finances in 1981. Major steps were accomplished on financial reporting through rule-making in the early 1980's through standard charts of accounts, audit

requirements, and so on, but less so on financial controls which have been left to local board policy. My observation as the new chair is that any existing statutory authority to mandate financial controls is residual, without an explicit legislative declaration of any change of policy from the 18B-101 declaration that local boards are independent units of government.

If it is the policy of the legislature that the ABC Commission promulgate mandatory uniform financial controls (such as a public budgeting process and expenditure controls as a method of checking excessive travel, salaries, benefits, and construction costs), I would ask that this be expressly placed among the powers and duties of the Commission in G.S. 18B-203, and added to the specific financial directives in G.S. 18B-205 that currently includes only uniform accounting and reporting. I would envision that a process of public budgeting would involve communication with the local government authority that appoints the ABC board, since the ABC board cannot adopt a budget by ordinance comparable to LGC requirements. A statutory duty for local governments who benefit from ABC profits to provide the public budget hearing might be desirable to perfect this control and promote public accountability.

Thank you for the suggested comparison with the LGC, and please let me know how our office can assist you further with this or other ABC issues.

Yours very truly,

Jonathan S. Williams

Cc: Sen. Don Vaughan
Rep. Ray Warren

State of North Carolina
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RALEIGH

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SURF CITY

MEMORANDUM

TO: Jonathan S. Williams, Chairman

FROM: Tim Morse, Assistant Counsel

RE: Local ABC Boards - Budgetary Oversight and Responsibility

DATE: 4/7/2010

Pursuant to our meeting and discussion at the North Carolina School of Government concerning the current fiscal control requirements for local ABC boards (G.S. 18B-702) and possible additions thereto from the Local Government Budget and Fiscal Control Act, we have identified the following provisions as valuable potential additions to the current budgetary controls contained in Chapter 18B. The provisions listed below track the attached chart drafted by Kara A. Millonzi of the School of Government.

Budgeting (G.S. 159-7 through 159-17.1), specifically

> Local ABC Board subject to a detailed budgeting process with public inspection of the proposed budget and public hearing required.
>
> Budget prepared in sufficient detail to show proposed expenditures for salary, benefits, travel, and capital improvements.

Expenditure Control (G.S. 159-28) Official or member of the Local board as designated by the Local Board to act as finance officer shall:

> Pre-audit all obligations,
>
> Sign pre-audit certificate on all documents evidencing obligations,
>
> Sign all checks disbursing funds (with another Local Board official or employee), and
>
> Assume personal liability for any unauthorized sums committed or dispersed.

Fidelity Bonds (G.S. 159-29)

Designated financial officer must obtain a faithful performance bond of not less than $50,000.

Annual Audit (G.S. 159-34)

The Local Board has the authority and responsibility to evaluate the pre-audit, audit contract and final audit. The final audit shall be submitted to the ABC Commission for approval.

Travel Policy

Local Boards shall establish a travel policy substantially similar to the policy followed by State employees or in the alternative, the Local Board may petition the ABC Commission to use the travel policy established by their appointing authority.

Fiscal Control Requirements for Local ABC Boards

The following chart details the current fiscal control requirements for local ABC boards, as reflected in G.S. 18B-702 and corresponding Rules adopted by the State ABC Commission. See Column 3. It also details the major provisions/requirements that would be imposed on local ABC boards if these boards were deemed to be *public authorities*, subject to the Local Government Budget and Fiscal Control Act (LGBFCA) (G.S. Ch. 159, Art. 3). See Column 2.

The chart does not include all of the LGBFCA provisions—only those that likely will impact a local ABC Board's current budgeting and fiscal control processes. The full text of the LGBFCA is appended to this chart.

Highlighted below are the provisions that would be "lost" if the General Assembly repealed G.S. 18B-702 (and the applicable State ABC Commission rules) and made local ABC Boards subject to the LGBFCA.

Subject Area	If Local ABC Boards Subject to LGBFCA Provisions (G.S. Ch. 159, Art. 3)	Current 18B-702 Statutory and 2R .0900 Rule Provisions
Budgeting	**(G.S. 159-7 through 159-17.1)** • Local Board must adopt annual balanced budget ordinance (July 1 – June 30) o Adopt by simple majority of board by simple majority of those present and voting if quorum present • Budget ordinance must include all monies received and expended by Local Board, except those included in project ordinance, intergovernmental service fund or trust and agency fund. • Local Board must appoint budget officer (may appoint on chairman or any member of governing board or any other officer or employee) • Local Board subject to detailed budgeting process for preparing and adopting budget	

April 2010
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UNC-CH School of Government

Subject Area	If Local ABC Boards Subject to LGBFCA Provisions (G.S. Ch. 159, Art. 3)	Current 18B-702 Statutory and 2R .0900 Rule Provisions
	ordinance, including allowing public inspection of proposed budget ordinance and holding at least one public hearing before its adoption • Local Board limited in budget ordinance detail (may only specify appropriations by department, function, or project) • Local Board subject to several directions and limitations including the following: o Limitations on contingency appropriations o Requires appropriations to cover any prior year deficits o Reasonable estimation of revenues o Requires appropriations to cover continuing contract obligations • Local Board may amend annual budget ordinance at any time, but budget ordinance must remain balanced throughout fiscal year	
Working Capital	**(LGC Regulation, pursuant to G.S. 159-25)** • Fund balance (cash reserves) requirement—8 percent of expenditures in each Fund	**(Rule 2R .0902)** • Board must set working capital (total of cash, investments and inventory less all unsecured liabilities) at not less than 2 weeks' average gross sales of latest fiscal year nor greater than four months' average gross sales of the latest fiscal year
Finance Officer	**(G.S. 159-24 through 159-25)** • Local Board must appoint finance officer (may be budget officer or any other officer or employee on whom the duties of a budget	**(Rule 2R .0906)** • General manager of each Local Board shall serve as finance officer • Local Board may designate deputy finance officers

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Subject Area	If Local ABC Boards Subject to LGBFCA Provisions (G.S. Ch. 159, Art. 3)	Current 18B-702 Statutory and 2R .0900 Rule Provisions
	officer may be imposed) • Finance officer has certain statutory duties, including: o Keep accounts in accordance with GAAP o Receive, deposit, and disburse all monies in accordance with LGBFCA o Supervise investments o Prepare reports and maintain records as required by law or the governing board	to aid the finance officer • Finance officer must: o Keep accounts in accordance with GAAP and rules of State ABC Commission o Disburse all moneys in strict compliance with State ABC Commission rules o Prepare reports and maintain records as required by governing board o Receive and deposit of all moneys o Supervise investments o Ensure that internal controls established by Local Board are followed o Perform other duties assigned by Local Board or by State ABC Commission
Accounting System	**(G.S. 159-26)** • Local Board required to establish and maintain accounting system that is capable of displaying financial information in a certain manner • Local Board must establish and maintain certain funds • Local Board required to use modified accrual basis of accounting	**(Rule 2R .0908)** • Local Board required to establish and maintain accounting system that is capable of displaying financial information in a certain manner • Fiscal year begins July 1 and ends June 30
Expenditure Control	**(G.S. 159-28)** • Finance officer (or deputy finance officer) must pre-audit all obligations (encumbrances and liabilities) • Finance officer (or deputy finance officer) must include and sign pre-audit certificate on all written contracts or agreement evidencing obligations	**(Rule 2R .0908)** • All checks must be signed by finance officer, deputy finance officer, or by another official or member of the Local Board as designated by Local Board

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Subject Area	If Local ABC Boards Subject to LGBFCA Provisions (G.S. Ch. 159, Art. 3)	Current 18B-702 Statutory and 2R .0900 Rule Provisions
	• Finance officer (or deputy finance officer) plus another local board official or employee must sign all checks and drafts disbursing funds, indicating compliance with all LGBFCA disbursement requirements • Anyone who signs pre-audit certificate or disbursement certificate in violation of LGBFCA or otherwise authorizes funds to be obligated or disbursed in violation of the LGBFCA is liable for any sums so committed or disbursed	
Fidelity Bonds	**(G.S. 159-29)** • Finance officer must give true accounting and faithful performance bond of not less than $50,000 (Board must pay for bond) • All other officers, employees or agents that handle or have in their custody more than $100 or who have access to the local Board's inventories must give bond in amount determined by local Board (Board may pay for bond)	
Investments	**(G.S. 159-30 through 159-31)** • Finance officer manages investments, subject to restrictions of local Board • Authorizes deposits at interest in any bank, savings and loan association, or trust company in the State in form of savings accounts or certificates of deposit • Authorizes deposits in a bank or savings and loan associations outside the State under	**(G.S. 18B-702 and Rule 2R .0903)** • Authorizes deposits at interest in any bank or trust company in the State in form of savings accounts or certificates of deposit • Deposits must be secured in accordance with provisions in G.S. 159-31(b) and Local Government Commission rules • Authorizes investments in same classes of securities as authorized under the LGBFCA

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Subject Area	If Local ABC Boards Subject to LGBFCA Provisions (G.S. Ch. 159, Art. 3)	Current 18B-702 Statutory and 2R .0900 Rule Provisions
	certain circumstances • Deposits must be secured according to provisions in G.S. 159-31(b) and Local Government Commission rules • Authorizes investments in only specified classes of securities	**(Rule 2R .0904)** • Local Board must adopt investment program suitable to its own needs • Investment program must be designed so that investments and deposits at interest can be converted to cash when needed • Finance officer must manage investment program subject to directives and restrictions of Local Board
Daily Deposits	**(G.S. 159-31)** • Local Board must select official depositories **(G.S. 159-32)** • All monies received by local ABC stores and Local Board must be deposited daily in official depository or with finance officer	**(Rule 2R .0903)** • Local Board must designate as official depositories one or more banks, savings and loan associations or trust companies in State **(Rule 2R .0905)** • Each officer must deposit in official depository the collections and receipts daily • Change fund necessary for daily operation of ABC store must be established by each Local Board and maintained in a secure place on the store's premises and is not subject to the daily deposit rule. • Finance officer may audit the records maintained by any employee collecting sales revenue and may prescribe the form and detail of the records • The State ABC Commission shall waive the daily deposit requirement for any local board for good cause shown and where adequate security for the funds involved is demonstrated
Special Reports	**(G.S. 159-33)**	

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Subject Area	If Local ABC Boards Subject to LGBFCA Provisions (G.S. Ch. 159, Art. 3)	Current 18B-702 Statutory and 2R .0900 Rule Provisions
	• Finance officer (or other officer having custody of local ABC funds) must report to Local Government Commission twice a year about amounts of funds in custody, amounts of deposits in official depositories, and list of all investment securities and time deposits. **(G.S. 159-33.1)** • Finance officer must submit a statement of financial information twice a year to Secretary of the Local Government Commission, including any information prescribed by the Secretary	
Annual Audit	**(G.S. 159-34)** • Accounts must be audited each year by certified public accountant or by accountant approved by the Local Government Commission • Audit contract must be approved by Secretary of Local Government Commission • Final audit must be submitted to Local Government Commission for review	**(18B-702)** • Board must submit to the State ABC Commission an annual independent audit performed in accordance with GAAP and in compliance with a chart of accounts prescribed by the State ABC Commission • Audit must contain a summary of requirements of G.S. Ch. 18B or any local act applicable to that local board, concerning the distribution of profits of that board and a description of how those distributions have been made • Board must submit to any other audits and submit any reports demanded by the State ABC Commission **(Rule 2R .0907)** • Local Board must have accounts audited as soon as

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Subject Area	If Local ABC Boards Subject to LGBFCA Provisions (G.S. Ch. 159, Art. 3)	Current 18B-702 Statutory and 2R .0900 Rule Provisions
		possible after each fiscal year by independent certified public accountant • Auditor selected by and reports to Local Board • Audit contract form must be approved by State ABC Commission • Audit report must be submitted to State ABC Commission 90 days after the end of the fiscal year • Each officer and employee of Local Board must produce any books or records requested by auditor or by State ABC Commission o If officer or employee refuses to divulge any records, or falsifies or conceals any records, he/she is subject to removal for cause • Disclosure of distribution of profits must include every element that is applicable under G.S. 18B-805 in schedule submitted with audit o Schedule must be supported by a listing of each person who receives moneys from the Local Board, the date of payment, and, if applicable, the purpose for which the payment was made and restrictions on use of the payment.
Local Government Commission (LGC) Oversight / Remedial Powers	**(G.S. 159-4)** • LGC may prescribe different fiscal year (other than July 1—June 30) **(G.S. 159-25)** • LGC has authority to issue rules and regulations having the force of law governing	

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Subject Area	If Local ABC Boards Subject to LGBFCA Provisions (G.S. Ch. 159, Art. 3)	Current 18B-702 Statutory and 2R .0900 Rule Provisions
	procedures for the receipt, deposit, investment, transfer, and disbursement of money and other assets • LGC may investigate the internal control procedures and may require any modifications in internal control procedures that are necessary or desirable to prevent embezzlement or mishandling of funds **(G.S. 159-26)** • LGC may prescribe rules and regulations having the force of law as to (1) features of accounting systems; (2) bases of accounting; and (3) definitions of terms not clearly defined in LGBFCA **(G.S. 159-30)** • LGC may approve alternative forms of time deposit **(G.S. 159-31)** • LGC may allow designation of a state bank or trust company located in another state as an official depository for purpose of acting as fiscal agent • LGC may prescribe rules and regulations governing security of deposits **(G.S. 159-34)** • LGC may issue rules and regulations for the	

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Subject Area	If Local ABC Boards Subject to LGBFCA Provisions (G.S. Ch. 159, Art. 3)	Current 18B-702 Statutory and 2R .0900 Rule Provisions
	purpose of improving the quality of auditing and the quality and comparability of reporting **(G.S. 159-35)** • LGC must notify Board of its debt service obligations in May of each year **(G.S. 159-36)** • If the Board fails to refuses to allocate revenues in an amount sufficient to meet principal and interest falling due on its debt during the budget year, the LGC must enter an order directing and commanding the Board to enact a budget ordinance appropriating the necessary revenue to meet the debt service obligations • If the Board refuses the LGC's order, the LGC may take the action itself and any officer, employee or Board member who fails to implement the LGC order forfeits his/her office or position **(G.S. 159-181)** • LGC may impound the books and records of any public authority and assume full control of all its financial affairs if (1) the authority defaults on any debt service payment or will default on a future debt service payment if its financial policies and practices are not improved, or (2) the authority persists, after	

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UNC-CH School of Government

Subject Area	If Local ABC Boards Subject to LGBFCA Provisions (G.S. Ch. 159, Art. 3)	Current 18B-702 Statutory and 2R .0900 Rule Provisions
	notice and warning from the LGC, in willfully or negligently failing or refusing to comply with the provisions in G.S. Ch. 159 o LGC is vested with all of the powers of the Board as to expenditure of money, adoption of budgets, and all other financial powers conferred upon the governing board by law **(G.S. 159-182)** • LGC may remove officer of employee for failure or refusal to comply with any of the provisions of G.S. Ch. 159, after notice and appropriate warning o Quo warranto proceedings initiated by Attorney General	
ABC Commission Oversight / Remedial Powers		**(G.S. 18B-702)** • The State ABC Commission must adopt fiscal control rules concerning the borrowing of money, maintenance of working capital, investments, appointment of a financial officer, daily deposit of funds, bonding of employees, auditing of operations, and the schedule, manner and other procedures for distribution of profits • The State ABC Commission may adopt any other rules concerning the financial operations of local boards which are needed to assure the proper accountability of public funds
Criminal Statutes	**(G.S. 159-181)**	**(G.S. 18B-702)**

Kara A. Millonzi, Millonzi@sog.unc.edu
UNC-CH School of Government

Subject Area	If Local ABC Boards Subject to LGBFCA Provisions (G.S. Ch. 159, Art. 3)	Current 18B-702 Statutory and 2R .0900 Rule Provisions
		• Provisions of G.S. 14-90 and 14-254 apply to any person appointed to or employed by a local board
Borrowing Money		**(18B-702)** • Authorizes a local board to borrow money for purchase of land, buildings, equipment and stock needed for the operation of its ABC systems. **(Rule 2R .0901)** • Prescribes certain factors that a local Board must consider before borrowing money
Travel Policies		**(Rule 2R .0909)** • Requires each Local Board to adopt and adhere to certain rules with respect to travel policies • Travel policy rules must be filed with State ABC Commission

Kara A. Millonzi, Millonzi@sog.unc.edu
UNC-CH School of Government

Presentation Request Form

North Carolina Joint Study Committee on Alcoholic Beverage Control

(Please print legibly)

Meeting Date: April 8, 2010

Presenter's Name: H.A. Fernandez

Mailing Address: 3127 Starlight Dr. Winston-Salem, NC 27107

Email: efernandez@triadabc.org

Telephone: 336 784 5808

Organization: (if applicable)
North Carolina ABC officers Assoc.

Please provide a one- or two-sentence description of your presentation.
Discuss local ABC Law Enforcement Role with local Board and Community
Followed by Hard copy in the Mail

Please return to:

Senator Don Vaughan
Room 622 Legislative Office Building
300 N. Salisbury Street
Raleigh, NC 27603-5925
Fax: 919-754-3165
Email: vaughanla@ncleg.net

or

Representative Ray Warren
Room 306C Legislative Office Building
300 N. Salisbury Street
Raleigh, NC 27603-5925
Fax: 919-754-3276
Email: warrenrla@ncleg.net

Theresa Lopez (Rep. Ray Warren)

From: Dora King-Morgan (Sen. Vaughan)
Sent: Tuesday, March 30, 2010 4:05 PM
To: Theresa Lopez (Rep. Ray Warren)
Subject: FW: Fax received from 336 784 0243 (TA:172.16.117.37:53474,33678402)

Attachments: 20100330_153351_00039.pdf

20100330_153351_00039.pdf (66 ...

Dora King-Morgan
Legislative Assistant
Office of Senator Don Vaughan
vaughanla@ncleg.net
(919) 733-5856 office
(919) 754-3165 fax
622 Legislative Office Building
300 North Salisbury Street
Raleigh, North Carolina 27603
To subscribe to Senator Vaughan's e-newsletter, click here.

-----Original Message-----
From: 336 784 0243 [mailto:"172161173753474.33678402"@faxmaker.com]
Sent: Tuesday, March 30, 2010 03:34 PM
To: Sen. Don Vaughan
Subject: Fax received from 336 784 0243 (TA:172.16.117.37:53474,33678402)

****
INCOMING FAX REPORT
****

Status: Received
Date/Time: 03/30/2010 03:33:52 PM
Speed: 14400 bps
Connection time: 00:33
Pages: 1
Resolution: Normal
Remote ID: 336 784 0243
Line number: 0
DTMF/DID: 3165
Description: Fax received from 336 784 0243 (TA:172.16.117.37:53474,33678402)

****

Presentation Request Form

North Carolina Joint Study Committee on Alcoholic Beverage Control

(Please print legibly)

Meeting Date: April 8, 2010

Presenter's Name: Reynolds (Tad) Clodfelter

Mailing Address: 3100 Anderson Dr., Raleigh 27609

Email: clodfelter+@southlight.org

Telephone: (919) 906-6110

Organization: (if applicable)

Please provide a one- or two-sentence description of your presentation.

A review of the research indicates that limiting access to alcohol (liquor) decreases violence, accidents, negative outcomes, and consumption. Also, the current state/local system ensures that prevention and treatment monies are realized @ the local level, which is important for the health and well being of our communities.

Please return to:

Senator Don Vaughan
Room 622 Legislative Office Building
300 N. Salisbury Street
Raleigh, NC 27603-5925
Fax: 919-754-3165
Email: vaughanla@ncleg.net

or

Representative Ray Warren
Room 306C Legislative Office Building
300 N. Salisbury Street
Raleigh, NC 27603-5925
Fax: 919-754-3276
Email: warrenrla@ncleg.net

Theresa Lopez (Rep. Ray Warren)

From: Kim Stone [stonek@southlight.org]
Sent: Friday, March 26, 2010 11:56 AM
To: Theresa Lopez (Rep. Ray Warren)
Subject: Presentation Request Form
Follow Up Flag: Follow up
Flag Status: Yellow
Attachments: Presentation Request Form.pdf

Teresa,

Thank you so much for your help!

...let me make a difference today

Kimberly R. Stone
Executive Assistant
SouthLight, Inc.
3125 Poplarwood Ct., Ste 203
Raleigh, NC 27604
919.787.6131, x1115

Presentation Request Form
North Carolina Joint Study Committee on Alcoholic Beverage Control
(Please print legibly)

Meeting Date: _____Thurs. April 8, 2010_____
Presenter's Name: __Karen Webb _____
Mailing Address: _6645 Snow Camp Road, Snow Camp, NC 27349
Email: kwebb7@bellsouth.net_____
Telephone: 336-266-1695 _____
Organization: (if applicable)
Elon Community Coalition to Prevent Underage Drinking _____

Please provide a one- or two-sentence description of your presentation.
I would like to speak briefly on why I support the continued
State oversight of the N.C. Alcohol Boards as opposed to the considerations of privatizing them.

Please return to:

Senator Don Vaughan
Room 622 Legislative Office Building
N. Salisbury Street
Raleigh, NC 27603-5925
Fax: 919-754-3165
Email: vaughanla@ncleg.net

Representative Ray Warren
Room 306C Legislative Office 300
300 N. Salisbury Street
Raleigh, NC 27603-5925
Fax: 919-754-3276
Email: warrenrla@ncleg.net

Theresa Lopez (Rep. Ray Warren)

From: Dora King-Morgan (Sen. Vaughan)
Sent: Wednesday, March 31, 2010 2:25 PM
To: Theresa Lopez (Rep. Ray Warren)
Subject: FW: request to speak at the Ap. 8th Hearing
Follow Up Flag: Follow up
Flag Status: Yellow
Attachments: Presentation Request Form.doc

Dora King-Morgan
Legislative Assistant
Office of Senator Don Vaughan
vaughanla@ncleg.net
(919) 733-5856 office
(919) 754-3165 fax
622 Legislative Office Building
300 North Salisbury Street
Raleigh, North Carolina 27603
To subscribe to Senator Vaughan's e-newsletter, click here.

From: KAREN WEBB [mailto:kwebb7@bellsouth.net]
Sent: Wednesday, March 31, 2010 02:23 PM
To: Dora King-Morgan (Sen. Vaughan)
Subject: request to speak at the Ap. 8th Hearing

Thank you. Please let me know if there is any more I need to do.

Presentation Request Form

North Carolina Joint Study Committee on Alcoholic Beverage Control

(Please print legibly)

Meeting Date: 4/8/10

Presenter's Name: Lestine H. Hutchens

Mailing Address: PO Box

Email: lhhutchens@gmail.com

Telephone: 336-835-7739

Organization: (if applicable) Town of Elkin

Please provide a one- or two-sentence description of your presentation.
Importance of ABC Revenues to small towns - Tier I County -

Please return to:

Senator Don Vaughan
Room 622 Legislative Office Building
300 N. Salisbury Street
Raleigh, NC 27603-5925
Fax: 919-754-3165
Email: vaughanla@ncleg.net

or

Representative Ray Warren
Room 306C Legislative Office Building
300 N. Salisbury Street
Raleigh, NC 27603-5925
Fax: 919-754-3276
Email: warrenrla@ncleg.net

Theresa Lopez (Rep. Ray Warren)

From: Dora King-Morgan (Sen. Vaughan)
Sent: Monday, April 05, 2010 7:15 AM
To: Theresa Lopez (Rep. Ray Warren)
Subject: FW: Comment on ABC April 8
Follow Up Flag: Follow up
Flag Status: Yellow
Attachments: comment letter abc store.tif

Dora King-Morgan
Legislative Assistant
Office of Senator Don Vaughan
vaughanla@ncleg.net
(919) 733-5856 office
(919) 754-3165 fax
622 Legislative Office Building
300 North Salisbury Street
Raleigh, North Carolina 27603
To subscribe to Senator Vaughan's e-newsletter, click here.

From: Lestine Hutchens [mailto:lhhutchens@gmail.com]
Sent: Saturday, April 03, 2010 10:44 AM
To: Dora King-Morgan (Sen. Vaughan)
Subject: Comment on ABC April 8

Sorry if this is late. Let me know if it's too late.

Presentation Request Form

North Carolina Joint Study Committee on Alcoholic Beverage Control

(Please print legibly)

Meeting Date: ___4/7/10_____

Presenter's Name: ___Police Chief Harry Dolan_____

Mailing Address: ___PO Box 590, Raleigh 27602_____

Email: __harry.dolan@ci.raleigh.nc.us_____

Telephone: ___919-996-6100 (CSD)_____

Organization: (if applicable) ____City of Raleigh_____

Please provide a one- or two-sentence description of your presentation.
_Speak in favor of local authority to regulate businesses that sell alcohol_____

Please return to:

Senator Don Vaughan
Room 622 Legislative Office Building
300 N. Salisbury Street
Raleigh, NC 27603-5925
Fax: 919-754-3165
Email: vaughanla@ncleg.net

or

Representative Ray Warren
Room 306C Legislative Office Building
300 N. Salisbury Street
Raleigh, NC 27603-5925
Fax: 919-754-3276
Email: warrenrla@ncleg.net

Presentation Request Form

North Carolina Joint Study Committee on Alcoholic Beverage Control

(Please print legibly)

Meeting Date: _April 8, 2010__

Presenter's Name: _Ms. Octavia Rainey_____

Mailing Address: 315 1/2 Carver Street, Raleigh, NC 27610

Email: ____ Octavia.Rainey@yahoo.com _____

Telephone: ___ (919) 889-2590 _____

Organization: (if applicable) __Chair, North Central Citizens Advisory Council_____

Please provide a one- or two-sentence description of your presentation.
Speak in support of local control and discuss negative impact current system has on neighborhoods

Please return to:

Senator Don Vaughan
Room 622 Legislative Office Building
300 N. Salisbury Street
Raleigh, NC 27603-5925
Fax: 919-754-3165
Email: vaughanla@ncleg.net

or

Representative Ray Warren
Room 306C Legislative Office Building
300 N. Salisbury Street
Raleigh, NC 27603-5925
Fax: 919-754-3276
Email: warrenrla@ncleg.net

Theresa Lopez (Rep. Ray Warren)

From: 919 8316123 ["172161173731100.91983161"@faxmaker.com]
Sent: Monday, April 05, 2010 2:40 PM
To: Rep. Ray Warren
Subject: Fax received from 919 8316123 (TA:172.16.117.37:31100,91983161)

Attachments: 20100405_143942_00034.pdf

20100405_143942_00034.pdf (163...

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INCOMING FAX REPORT

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Date/Time: 04/05/2010 02:39:44 PM
Speed: 14400 bps
Connection time: 00:47
Pages: 2
Resolution: Fine
Remote ID: 919 8316123
Line number: 1
DTMF/DID: 3276
Description: Fax received from 919 8316123 (TA:172.16.117.37:31100,91983161)

****

City of Raleigh
North Carolina

Community Services Department

Fax Transmission Cover Sheet

To:	Rep. Ray Warren	**Fax#:**	919-754-3276
From:	Octavia Rainey	**Date:**	4-5-2010
Re:		**Pages:**	2
Cc:			

☐ Urgent	☐ For review	☐ Please comment	☐ Please reply	☐ Please recycle

FAX #: 831-6123 **Department Telephone #: 996-6100**

MESSAGE:

If you have any problems receiving this transmission, or if it is illegible, please call (919) 996-6100.

Thank you!!!

Offices: 310 West Martin Street, Suite 201

PO Box 590, Raleigh, NC 27602

Presentation Request Form

North Carolina Joint Study Committee on Alcoholic Beverage Control

(Please print legibly)

Meeting Date: _April 8, 2010__

Presenter's Name: _Ms. Octavia Rainey_____

Mailing Address: 1516 E. Lane Street, Raleigh, NC 27610

Email: ____ Octavia.Rainey@yahoo.com _____

Telephone: ___ (919) 889-2590 _____

Organization: (if applicable) __Chair, North Central Citizens Advisory Council_____

Please provide a one- or two-sentence description of your presentation.
Speak in support of local control and discuss negative impact current system has on neighborhoods

Please return to:

Senator Don Vaughan
Room 622 Legislative Office Building
300 N. Salisbury Street
Raleigh, NC 27603-5925
Fax: 919-754-3165
Email: vaughanla@ncleg.net

or

Representative Ray Warren
Room 306C Legislative Office Building
300 N. Salisbury Street
Raleigh, NC 27603-5925
Fax: 919-754-3276
Email: warrenrla@ncleg.net

Presentation Request Form

North Carolina Joint Study Committee on Alcoholic Beverage Control

(Please print legibly)

Meeting Date: April 8, 2010

Presenter's Name: Lawless Bean, Assistant to the City Manager for Legislative Affairs

Mailing Address: P. O. Box 1810 Wilmington, NC 28402-1810

Email:
lawless.bean@wilmingtonnc.gov

Telephone: 910.341.4665 910.465.0967 (m)

Organization: (if applicable) City of Wilmington

Please provide a one- or two-sentence description of your presentation.
On behalf of the City of Wilmington Council, the presentation will provide preliminary information about the recommendations the City is developing concerning increased local input into the ABC permitting process and nightlife issues. It will also outline the issues of increased public safety costs and appropriate siting of establishments that serve alcohol and the need for local governments to be empowered to address them.

Please return to:

Senator Don Vaughan
Room 622 Legislative Office Building
300 N. Salisbury Street
Raleigh, NC 27603-5925
Fax: 919-754-3165
Email: vaughanla@ncleg.net

or

Representative Ray Warren
Room 306C Legislative Office Building
300 N. Salisbury Street
Raleigh, NC 27603-5925
Fax: 919-754-3276
Email: warrenrla@ncleg.net

Theresa Lopez (Rep. Ray Warren)

From: Lawless.Bean@wilmingtonnc.gov
Sent: Thursday, April 01, 2010 4:00 PM
To: Dora King-Morgan (Sen. Vaughan)
Cc: Theresa Lopez (Rep. Ray Warren)
Subject: Request for Public Comment-City of Wilmington

Follow Up Flag: Follow up
Flag Status: Yellow

Attachments: Public Comment Form-Joint Study Committee on Alcoholic Beverage Control_L.Bean4.8.10.doc

Public Comment Form-Joint Stud...

(See attached file: Public Comment Form-Joint Study Committee on Alcoholic Beverage Control_L.Bean4.8.10.doc)

Attached please find the City of Wilmington's request for public comment.

Thank you,
Lawless Bean

Lawless Bean
Assistant to the City Manager for Legislative Affairs City of Wilmington P.O. Box 1810 Wilmington, NC 28402-1810
910.341.4665 fax 910.341.7801

Presentation Request Form

North Carolina Joint Study Committee on Alcoholic Beverage Control

(Please print legibly)

Meeting Date: ___April 8, 2010_____

Presenter's Name: _____Alice Lutz_____

Mailing Address: _____700 Blue Ridge Road Suite 101 Raleigh, NC 27606_____

Email: ____alutz@tfsnc.org_____

Telephone: _____919-821-0790 X 107_____

Organization: (if applicable) __Triangle Family Services_____

Please provide a one- or two-sentence description of your presentation.
Triangle Family Services has received significant funding from ABC Board in support of our Domestic Offenders to Education (DOSE) program. Triangle Family Services is the lead agency providing interagency coordination, case coordination, and psycho-educational treatment to over 900 offenders per year in Wake County

Please return to:

Senator Don Vaughan
Room 622 Legislative Office Building
300 N. Salisbury Street
Raleigh, NC 27603-5925
Fax: 919-754-3165
Email: vaughanla@ncleg.net

or

Representative Ray Warren
Room 306C Legislative Office Building
300 N. Salisbury Street
Raleigh, NC 27603-5925
Fax: 919-754-3276
Email: warrenrla@ncleg.net

Theresa Lopez (Rep. Ray Warren)

From: Alice Lutz [ALutz@tfsnc.org]
Sent: Friday, March 26, 2010 10:54 AM
To: Theresa Lopez (Rep. Ray Warren)
Subject: RE: can you tell me about April 8th
Follow Up Flag: Follow up
Flag Status: Yellow
Attachments: April 8 public forum request.doc

Thanks you please find attached the completed form. I look forward to being there at 2:00PM on April 8th. Can you please provide directions and or where I need to be?

Thanks
Alice

From: Theresa Lopez (Rep. Ray Warren) [mailto:Warrenrla@ncleg.net]
Sent: Thursday, March 25, 2010 4:19 PM
To: Alice Lutz
Subject: RE: can you tell me about April 8th

Yes there will, I have attached the form, please email or fax back to me as I will be clerking this meeting. Thanks!

Theresa Lopez

Legislative Assistant to Representative Ray Warren

House District #88

warrenrla@ncleg.net

919-715-8361 Fax: 919-754-3276

From: Alice Lutz [mailto:ALutz@tfsnc.org]
Sent: Thursday, March 25, 2010 04:19 PM
To: Theresa Lopez (Rep. Ray Warren)
Subject: can you tell me about April 8th

Will there be open comment for the April 8th meeting

Alice

Alice Lutz, CEO
Triangle Family Services
"Building a stronger community by strengthening the family"
919.821.0790 x 107
alutz@tfsnc.org

Presentation Request Form

North Carolina Joint Study Committee on Alcoholic Beverage Control

(Please print legibly)

REVISED
Meeting Date: April 8, 2010

Presenter's Name: Russ Stephenson & Kristen Rosselli

Mailing Address: 213 Oberlin Rd, Raleigh, NC 27605

Email: Russ.Stephenson@ci.Raleigh.nc.us, Russ@RussStephenson.com, Kristen.Rosselli@ci.Raleigh.nc.us

Telephone: (919) 828-3699

Organization: Raleigh City Councilor At-Large & Raleigh Community Services Director

Please provide a one- or two-sentence description of your presentation.

We wish to speak in favor of more local control over ABC permitting in municipalities.

Please return to:

Senator Don Vaughan
Room 622 Legislative Office Building
300 N. Salisbury Street
Raleigh, NC 27603-5925
Fax: 919-754-3165
Email: vaughanla@ncleg.net

or

Representative Ray Warren
Room 306C Legislative Office Building
300 N. Salisbury Street
Raleigh, NC 27603-5925
Fax: 919-754-3276
Email: warrenrla@ncleg.net

Theresa Lopez (Rep. Ray Warren)

From: Russ Stephenson [Russ@RussStephenson.com]
Sent: Wednesday, March 31, 2010 3:50 PM
To: Theresa Lopez (Rep. Ray Warren)
Cc: Kristen Rosselli
Subject: REVISED Comment Form-Joint Study Committee on ABC - April 8th
Follow Up Flag: Follow up
Flag Status: Yellow
Attachments: REVISED Comment Form-Joint Study Committee on ABC - April 8th.pdf

Ms. Lopez

After sending you my comment form earlier today, I spoke with Ms Morgan in Sen. Vaughan's office. She advised me to submit a REVISED form including an additional speaker who will be accompanying me on the 8th.

Regards
Russ
--
Russ Stephenson AIA, LEED-AP
Raleigh City Council At-Large
(919) 828-3699

Presentation Request Form

North Carolina Joint Study Committee on Alcoholic Beverage Control

(Please print legibly)

Meeting Date: 8 April 2010

Presenter's Name: Bill Brooks

Mailing Address: PO Box 20607 Raleigh, NC 27619

Email: bbrooks@ncfamily.org

Telephone: 919-807-0800

Organization: (if applicable)
North Carolina Family Policy Council

Please provide a one- or two-sentence description of your presentation.
Will highlight the primary reasons why we oppose any efforts to privatize the sale of liquor in North Carolina

Please return to:

Senator Don Vaughan
Room 622 Legislative Office Building
300 N. Salisbury Street
Raleigh, NC 27603-5925
Fax: 919-754-3165
Email: vaughanla@ncleg.net

or

Representative Ray Warren
Room 306C Legislative Office Building
300 N. Salisbury Street
Raleigh, NC 27603-5925
Fax: 919-754-3276
Email: warrenrla@ncleg.net

Theresa Lopez (Rep. Ray Warren)

From: Dora King-Morgan (Sen. Vaughan)
Sent: Monday, March 29, 2010 10:02 AM
To: Theresa Lopez (Rep. Ray Warren)
Subject: FW: Fax received from TA:172.16.117.37:64043,91980709

Attachments: 20100329_100318_00008.pdf

20100329_100318_
00008.pdf (69 ...

Dora King-Morgan
Legislative Assistant
Office of Senator Don Vaughan
vaughanla@ncleg.net
(919) 733-5856 office
(919) 754-3165 fax
622 Legislative Office Building
300 North Salisbury Street
Raleigh, North Carolina 27603
To subscribe to Senator Vaughan's e-newsletter, click here.

-----Original Message-----
From: "172161173764043.91980709"@faxmaker.com [mailto:"172161173764043.91980709"@faxmaker.com]
Sent: Monday, March 29, 2010 10:03 AM
To: Sen. Don Vaughan
Subject: Fax received from TA:172.16.117.37:64043,91980709

****
INCOMING FAX REPORT
****

Status: Received
Date/Time: 03/29/2010 10:03:20 AM
Speed: 14400 bps
Connection time: 00:42
Pages: 1
Resolution: Fine
Remote ID:
Line number: 1
DTMF/DID: 3165
Description: Fax received from TA:172.16.117.37:64043,91980709

****

Presentation Request Form

North Carolina Joint Study Committee on Alcoholic Beverage Control

(Please print legibly)

Meeting Date: **April 8, 2010**

Presenter's Name: **Jim Nance**

Mailing Address: **119 West First Avenue, Lexington, NC**

Email: **jananceco@lexcominc.net**

Telephone: **336-248-8079 (H) / 336-425-4456 (C) / 336-249-0296 (W)**

Organization: (if applicable) **Lexington Alcoholic Beverage Control Board**

Please provide a one- or two-sentence description of your presentation.

Concerns with modernization of the Alcoholic Beverage Control System in NC

Please return to:

Senator Don Vaughan
Room 622 Legislative Office Building
300 N. Salisbury Street
Raleigh, NC 27603-5925
Fax: 919-754-3165
Email: vaughanla@ncleg.net

or

Representative Ray Warren
Room 306C Legislative Office Building
300 N. Salisbury Street
Raleigh, NC 27603-5925
Fax: 919-754-3276
Email: warrenrla@ncleg.net

Presentation Request Form

North Carolina Joint Study Committee on Alcoholic Beverage Control

(Please print legibly)

Meeting Date: **April 8, 2010**
Presenter's Name: **Dennis Parnell, MSW, LCSW, LCAS, CCS**
Mailing Address: **1251 Goode Street, Raleigh, NC 27603**
Email: **DParnell@hpowc.org**
Telephone: **(919) 838-9800**
Organization: (if applicable)
The Healing Place of Wake County

Please provide a one- or two-sentence description of your presentation.
Relationship and Funding of The Healing Place of Wake County and the Wake County Board of Alcoholic Control

Please return to:

Senator Don Vaughan
Room 622 Legislative Office Building
300 N. Salisbury Street
Raleigh, NC 27603-5925
Fax: 919-754-3165
Email: vaughanla@ncleg.net

or

Representative Ray Warren
Room 306C Legislative Office Building
300 N. Salisbury Street
Raleigh, NC 27603-5925
Fax: 919-754-3276
Email: warrenrla@ncleg.net

Theresa Lopez (Rep. Ray Warren)

From: Dora King-Morgan (Sen. Vaughan)
Sent: Thursday, April 01, 2010 2:31 PM
To: Theresa Lopez (Rep. Ray Warren)
Subject: FW: The Healing Place of Wake County
Follow Up Flag: Follow up
Flag Status: Yellow
Attachments: Presentation Request Form 4 1 10.doc

Dora King-Morgan
Legislative Assistant
Office of Senator Don Vaughan
vaughanla@ncleg.net
(919) 733-5856 office
(919) 754-3165 fax
622 Legislative Office Building
300 North Salisbury Street
Raleigh, North Carolina 27603
Website: www.senatordonvaughan.com
To subscribe to Senator Vaughan's e-newsletter, click here.

From: Terri Conyers [mailto:tconyers@hpowc.org]
Sent: Thursday, April 01, 2010 2:29 PM
To: Dora King-Morgan (Sen. Vaughan)
Subject: The Healing Place of Wake County

Dear Senator Vaughan,

Attached is the request to present form for the April 8th ABC Board Legislative Study Committee Public Hearing.

Thank you for the opportunity to address the Committee.

Sincerely,

Terri Conyers
Development Associate
The Healing Place of Wake County
(919) 829-0701

"Helping people find their way back"

Presentation Request Form

North Carolina Joint Study Committee on Alcoholic Beverage Control

(Please print legibly)

Meeting Date: April 8, 2010

Presenter's Name: William Belvin, Chief ABC Officer

Mailing Address: 1705 Owen Drive Fayetteville NC 28304

Email: bill.belvin@cumberlandabc.com

Telephone: 910-624-8098

Organization: (if applicable)
Alcohol Beverage Control Law Enforcement – Cumberland County ABC System

Please provide a one- or two-sentence description of your presentation.
Function of ABC Law Enforcement

Please return to:

Senator Don Vaughan
Room 622 Legislative Office Building
300 N. Salisbury Street
Raleigh, NC 27603-5925
Fax: 919-754-3165
Email: vaughanla@ncleg.net

or

Representative Ray Warren
Room 306C Legislative Office Building
300 N. Salisbury Street
Raleigh, NC 27603-5925
Fax: 919-754-3276
Email: warrenrla@nclcg.net

Theresa Lopez (Rep. Ray Warren)

From: 9104841255 ["172161173717780.91048412"@faxmaker.com]
Sent: Tuesday, March 30, 2010 1:25 PM
To: Rep. Ray Warren
Subject: Fax received from 9104841255 (TA:172.16.117.37:17780,91048412)

Follow Up Flag: Follow up
Flag Status: Yellow

Attachments: 20100330_132503_00026.pdf

20100330_132503_00026.pdf (110...

****

INCOMING FAX REPORT

****

Status: Received
Date/Time: 03/30/2010 01:25:05 PM
Speed: 14400 bps
Connection time: 00:36
Pages: 2
Resolution: Normal
Remote ID: 9104841255
Line number: 0
DTMF/DID: 3276
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****

Presentation Request Form

North Carolina Joint Study Committee on Alcoholic Beverage Control

(Please print legibly)

Meeting Date: April 8th 2010

Presenter's Name: Alberto Blanco

Mailing Address: 2602 Courtier Dr. Greenville, NC, 27858

Email: a.blanco@restarthumanservices.com

Telephone: 252-355-4725

Organization: (if applicable) ReStart, Inc.

Please provide a one- or two-sentence description of your presentation.

Dr. Tom McLellan, ONDCP's new prevention policy framework shows how the large base of the addiction pyramid is conformed by chronic repetitive users. The purpose of ABC's should be FIRST public health prevention, THEN revenue generation. Else, whatever pennies we make by privatizing, will mean thousands spent later on treatment.

Please return to:

Senator Don Vaughan
Room 622 Legislative Office Building
300 N. Salisbury Street
Raleigh, NC 27603-5925
Fax: 919-754-3165
Email: vaughanla@ncleg.net

or

Representative Ray Warren
Room 306C Legislative Office Building
300 N. Salisbury Street
Raleigh, NC 27603-5925
Fax: 919-754-3276
Email: warrenrla@ncleg.net

Theresa Lopez (Rep. Ray Warren)

From: Dora King-Morgan (Sen. Vaughan)
Sent: Monday, April 05, 2010 5:49 PM
To: Theresa Lopez (Rep. Ray Warren)
Subject: FW: Fax received from 2523558357 (TA:172.16.117.37:52452,25235583)

Attachments: 20100405_174835_00070.pdf

20100405_174835_00070.pdf (72 ...

Dora King-Morgan
Legislative Assistant
Office of Senator Don Vaughan
vaughanla@ncleg.net
(919) 733-5856 office
(919) 754-3165 fax
622 Legislative Office Building
300 North Salisbury Street
Raleigh, North Carolina 27603
To subscribe to Senator Vaughan's e-newsletter, click here.

-----Original Message-----
From: 2523558357 [mailto:"172161173752452.25235583"@faxmaker.com]
Sent: Monday, April 05, 2010 05:49 PM
To: Sen. Don Vaughan
Subject: Fax received from 2523558357 (TA:172.16.117.37:52452,25235583)

****
INCOMING FAX REPORT
****

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Resolution: Normal
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Line number: 1
DTMF/DID: 3165
Description: Fax received from 2523558357 (TA:172.16.117.37:52452,25235583)

****

Joint Study Committee on Alcoholic Beverage Control

Presentation Request Form

North Carolina Joint Study Committee on Alcoholic Beverage Control

Meeting Date: April 8, 2010

Presenter's Name: Mayor William H. Knight, City of Greensboro

Mailing Address: P.O. Box 3136, Greensboro, NC 27402-3136

Email: Bill.Knight@Greensboro-NC.gov

Telephone: 336-373-2396

Organization: (if applicable) City of Greensboro

Please provide a one- or two-sentence description of your presentation.

Greensboro has enjoyed the benefits of an ethical and efficient ABC Board since 1937. There is need to "fine tune" this current system while preserving the many benefits it affords our local communities.

Please return to:

Senator Don Vaughan
Room 622 Legislative Office Building
300 N. Salisbury Street
Raleigh, NC 27603-5925
Fax: 919-754-3165
Email: vaughanla@ncleg.net

or

Representative Ray Warren
Room 306C Legislative Office Building
300 N. Salisbury Street
Raleigh, NC 27603-5925
Fax: 919-754-3276
Email: warrenrla@ncleg.net

Presentation Request Form

North Carolina Joint Study Committee on Alcoholic Beverage Control

(Please print legibly)

Meeting Date: April 8, 2010

Presenter's Name: Mayor Robert D. Howard

Mailing Address: 201 E. Moore Street, Southport, NC 28461

Email: robertd_howard@southportnc.org

Telephone: 910-457-7949

Organization: (if applicable)
City of Southport

Please provide a one- or two-sentence description of your presentation.

Speak in support of Cities/Towns maintaining control of ABC stores

Please return to:
Senator Don Vaughan
Room 622 Legislative Office Building
300 N. Salisbury Street
Raleigh, NC 27603-5925
Fax: 919-754-3165
Email: vaughanla@ncleg.net

or

Representative Ray Warren
Room 306C Legislative Office Building
300 N. Salisbury Street
Raleigh, NC 27603-5925
Fax: 919-754-3276
Email: warrenrla@ncleg.net

Theresa Lopez (Rep. Ray Warren)

From: Dora King-Morgan (Sen. Vaughan)
Sent: Tuesday, March 23, 2010 11:05 AM
To: Theresa Lopez (Rep. Ray Warren)
Subject: FW: Fax received from 9104577948 (TA:172.16.117.37:63359,91045779)

Follow Up Flag: Follow up
Flag Status: Yellow

Attachments: 20100323_110431_00013.pdf

20100323_110431_
00013.pdf (119...

Dora King-Morgan
Legislative Assistant
Office of Senator Don Vaughan
vaughanla@ncleg.net
(919) 733-5856 office
(919) 754-3165 fax
622 Legislative Office Building
300 North Salisbury Street
Raleigh, North Carolina 27603
To subscribe to Senator Vaughan's e-newsletter, click here.

-----Original Message-----
From: 9104577948 [mailto:"172161173763359.91045779"@faxmaker.com]
Sent: Tuesday, March 23, 2010 11:05 AM
To: Sen. Don Vaughan
Subject: Fax received from 9104577948 (TA:172.16.117.37:63359,91045779)

****
INCOMING FAX REPORT
****

Status: Received
Date/Time: 03/23/2010 11:04:33 AM
Speed: 14400 bps
Connection time: 00:58
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Resolution: Fine
Remote ID: 9104577948
Line number: 1
DTMF/DID: 3165
Description: Fax received from 9104577948 (TA:172.16.117.37:63359,91045779)

****

Joint Study Committee on Alcoholic Beverage Control

AGENDA

April 22, 2010
Room 643, Legislative Office Building
2:00 PM

Senator Don Vaughan, Co-Chair- Presiding
Representative Ray Warren, Co-Chair

WELCOME AND INTRODUCTORY REMARKS

ADOPTION OF MINUTES – April 8, 2010 Meeting

PRESENTATIONS

State Government Ethics Act
Mary Shuping, Education Officer
State Ethics Commission

Ethics & Local ABC Boards
Eileen R. Youens, Assistant Professor of Public Law and Government
School of Government, The University of North Carolina at Chapel Hill

Draft Legislation
Mikael Gross, Committee Co-Counsel

COMMITTEE DISCUSSION

NEXT MEETING DATE

ADJOURNMENT

STATE GOVERNMENT ETHICS ACT

Presentation to the Joint Study Committee on Alcoholic Beverage Control

April 22, 2010

Presenter: Mary Shuping, Education Officer
State Ethics Commission

1

OVERVIEW OF THE STATE GOVERNMENT ETHICS ACT

- Effective January 1, 2007.
- All or parts apply to certain State-level public officials in all 3 branches of government.
- Establishes transparency & code of conduct.
- State Ethics Commission:
  - Administers financial disclosure process.
  - Provides advice and formal advisory opinions.
  - Conducts education presentations.
  - Investigates complaints.

2

WHO IS COVERED

- **Legislators & Legislative Employees.**
- **"Judicial Officers"** – justices, judges, district attorneys, clerks of court.
- **"Public Servants"** -- Executive branch elected officials; certain policy-makers; Governor's office employees; certain officials in UNC & Community College systems, including Board of Governors, State Board of Community College and boards of trustees; **voting members of State non-advisory boards**; Governor may designate others in principal State departments.

3

WHO IS NOT COVERED

- All State employees.
- Local government officials, unless they are also serving as "public servants," *e.g., a county commissioner who is a member of the local community college board of trustees.*

4

STATE ABC COMMISSION

- Non-advisory board.
- Members of the Commission are "public servants" covered by the State Government Ethics Act (SGEA).
- Certain duties & responsibilities:
  - Filing annual financial disclosure (Statement of Economic Interest or "SEI").
  - Identifying & avoiding "conflicts of interest".
  - Not taking prohibited gifts.
  - Other prohibitions.
  - Attending ethics education.

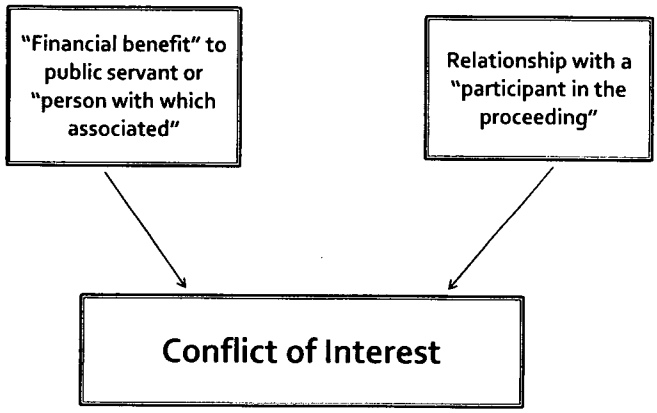
5

STATEMENTS OF ECONOMIC INTEREST ("SEI")

- Disclosure of certain financial, professional, & other information about the filer and his or her immediate family.
- Must be filed prior to initial appointment and no later than April 15th every year thereafter.
- State Ethics Commission must evaluate the SEI to identify actual and potential conflicts of interest.
- SEI & evaluation letter are public record.

6

CONFLICTS OF INTEREST UNDER THE SGEA



7

Conflict of Interest: Financial Benefit to Public Servant or Person With Which Associated

WHAT KIND OF ACTION? "Official Action".
- **Any decision,** including administration, approval, disapproval, preparation, recommendation, rendering of advice, and investigation.
- **Made or contemplated in any** proceeding, application, submission, request for ruling or other determination, contract, claim, controversy, investigation, charge, or rule-making.

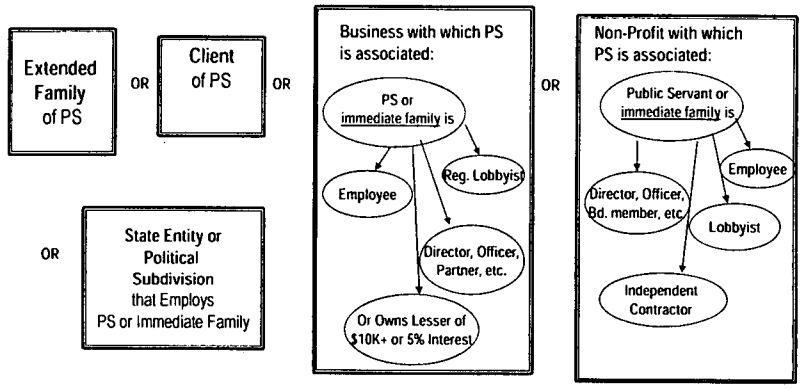
WHO BENEFITS?
- Public servant or
- "Person with which associated"

WHAT KIND OF BENEFIT? **"Financial Benefit".** Direct pecuniary gain or loss to public servant, a person with which associated, ***or*** a direct pecuniary loss to a business competitor of the public servant, or a person with which associated.

8

ANALYSIS

I. - Public Servant may not participate in Official Action if Public Servant Knows that he/she or a Person With Which Associated:



- May Incur a Reasonably Foreseeable Financial Benefit from the action.

AND

II. Financial Benefit would Impair PS's Independence of Judgment or it could be reasonably inferred that benefit would influence participation.

9

Conflict of Interest: Relationship with "Participant in the Proceeding"

- Public servant has duty to remove himself or herself
- From any proceeding
- In which impartiality might reasonably be questioned due to a familial, personal, or financial relationship with a ***"participant in the proceeding"***
  - Employee, agent, officer or director of a business, organization or group involved in the proceeding; **OR,**
  - Has some specific unique, and substantial interest in the proceeding.

10

Conflicts of Interest: Permitted Participation Exceptions

PUBLIC SERVANT MAY TAKE OFFICIAL ACTION UNDER CERTAIN CIRCUMSTANCES. FOR EXAMPLE, IF...

1. The benefit is no greater than benefit to all members of profession, occupation, or general class.
2. A written advisory opinion authorized the participation.
3. Before participating, public servant disclosed interest to employing entity which determined interest would not influence the public servant & determination was filed with the State Ethics Commission.
4. No quorum — public servant may be included for purposes of establishing a quorum.
5. Public servant is the only individual having legal authority to take an official action & discloses interest.

11

Conflict Avoidance

DISCLOSE	RECUSE
Disclose the conflict.	▪ Refrain from participating. ▪ Includes direct (voting) and indirect (deliberations & discussion) participation.

12

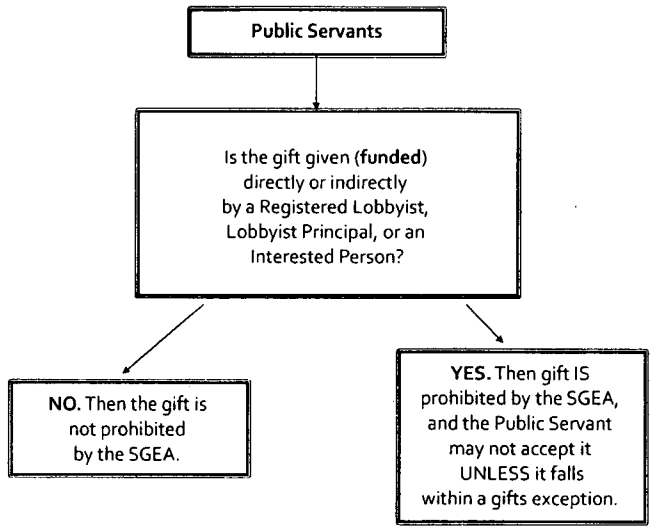
GIFT BAN: NO "QUID PRO QUO"

Other than what is received from the State for acting in an official capacity:

- Cannot accept, demand, exact, solicit, seek, assign, receive, or agree to receive
- Anything of value
- For self or another person
- In return for being influenced in the discharge of official responsibilities.

13

GIFT BAN: GIFTS FROM CERTAIN PERSONS



14

GIFT BAN: General Rule

Unless there is an exception, public servants cannot accept "gifts," either directly or indirectly from:

- Lobbyists
- Lobbyist Principals
- "Interested Persons"

Gift ban applies <u>at all times</u>. ("24/7")

15

Lobbyists & Lobbyist Principals

- **Lobbyist.** Generally speaking, someone who is paid to advocate the position of another in an effort to influence legislative or executive action.
- **Lobbyist Principal.** Person on whose behalf the lobbyist lobbies.
  - Both must register with the Secretary of State.
  - List available on Secretary of State's website.

16

"Interested Persons"

- For ***public servants,*** gift ban also applies to gifts from "interested persons."
- **"Interested Persons."** Persons who:
  - **Business.** Are doing or seeking to do business with the agency or board; or,
  - **Regulated.** Are engaged in activities that are regulated or controlled by the agency or board; or,
  - **Financial.** Have financial interests that may be substantially & materially affected by the performance or nonperformance of the public servant's official duties.

    - **There is no list of interested persons.**

17

What is a "Gift"?

- A gift is anything of monetary value that received without valuable consideration from lobbyist, lobbyist principal, or interested person.
- **No de minimis exception!**

A Gift is NOT

- Something you paid fair market or face value for.
- Commercially available loans made on same terms & not for purpose of lobbying.
- Contractual or commercial arrangements not made for purpose of lobbying.
- Academic or athletic scholarships.
- Campaign contributions.
- Certain expressions of condolence.
- Cards, letters, notes, e-mails, etc (State Ethics Commission determination)

18

Gift Ban: Exceptions & Reporting

- There are exceptions to the gift ban.
- Specific criteria must be met for each one.
- Generally, gifts must be reported to the Secretary of State's Office by the person giving the gift.
- Generally, reports must include the name of the recipient, along with the value and description of the gift.

19

Gift Ban: Common Exceptions for Public Servants

- Food & beverage for immediate consumption at certain types of meetings or gatherings.
- Expenses for attending certain meetings & conferences.
- Expenses that would otherwise be reimbursable by the State.
- Relationships with prohibited givers where relationship is not related to public position.
- Informational materials relevant to official duties.
- Anything made available to general public or all other State employees.
- Plaque or similar non-monetary memento recognizing service to field or charity.

20

Prohibited Gifts Must Be *Promptly*

- Declined.
- Returned.
- Paid fair market value for.
- Donated to State or charity.

21

USE OF PUBLIC POSITION IN NON-GOVERNMENTAL ADVERTISING PROHIBITED

- Cannot mention public position or permit another to mention public position
- In nongovernmental advertising
- Which advances private interest of self or others.

- ***Exceptions:***
  - Political advertising.
  - News stories or articles.
  - Directories or biographical listings.
  - Charitable solicitations for 501(c)(3).
  - It is not "advertising" to disclose public position to individual customer or client when relevant or material.

22

OTHER PROHIBITIONS PERTAINING TO PUBLIC SERVANTS

- **CANNOT BE PAID TWICE.** Cannot receive personal financial gain for performing official duties, other than what authorized to receive by the State.
- **CANNOT MISUSE CONFIDENTIAL INFORMATION.** Cannot use inside information obtained in course of duties or for private gain.
- **CANNOT HIRE OR SUPERVISE FAMILY MEMBER.** Cannot employ or supervise family member.
- **CANNOT SOLICIT CHARITABLE DONATIONS FROM SUBORDINATE STATE EMPLOYEES.** Cannot solicit charitable donations from subordinate State employees; exceptions for generic solicitation to class & serving as honorary State Employees' Combined Campaign Chair.
- **CANNOT ACCEPT HONORARIA.** Cannot accept honoraria under certain circumstances; exceptions for reimbursement or payment of a fee to the agency or board.

23

REQUESTS FOR ADVICE & ADVISORY OPINIONS ON THE SGEA

- Informal advice from State Ethics Commission staff or formal advisory opinion from State Ethics Commission.
- Formal advisory opinion confers limited immunity. Does not confer immunity for violations of criminal law in performance of official duties.
- Confidential.

24

COMPLAINTS AGAINST PUBLIC SERVANTS

- Can be filed by anyone.
- Must be in writing, signed, & sworn.
- Confidential unless public servant waives confidentiality ***or*** hearing commences or sanctions recommended without hearing.
- Public servants → open hearing before the State Ethics Commission.

25

VIOLATION CONSEQUENCES

- **Public Servants Who Are Employees.** Willful noncompliance considered violation of written work order.
- **Public Servants Serving on Boards & Commissions.** Misfeasance, malfeasance, or nonfeasance and may be removed.

26

OTHER LAWS & EXECUTIVE ORDERS

In addition to the State Government Ethics Act & Lobbying Law, other laws may apply:

- G.S. 18B-201: Conflict of Interest Standard for State ABC Commission members & others.
- G.S. 133-32: Gifts To/From Contractors.
- G.S. 14-234: "Self-Dealing" Statute.

27

Executive Order 34: Ethics & Attendance Standards for Gubernatorial Appointees to Boards

Gubernatorial appointees, including State ABC Commission members:

- Must **recuse** themselves from voting on matters in which they have a "financial interest."
- Must **not accept gifts from contractors, subcontractors, or suppliers** of the board. (Appointees may accept gifts permitted by the SGEA whether or not the appointee is covered by the SGEA.)
- May be **removed if indicted for a felony** by State or federal grand jury **or if refuse to cooperate in an investigation** conducted by a State or federal agency.
- Must **attend at least 75%** of regularly scheduled board meetings.

28

Bill Draft 2009-MAz-412*: Modernization of the State ABC System.

2009-2010 General Assembly

Committee:	Joint Study Committee on ABC	**Date:**	April 22, 2010
Summary of:	2009-MAz-412*	**Prepared by:**	Brenda J. Carter Committee Co-Counsel

SUMMARY:

Section 1 would amend the powers and duties of the ABC Commission, authorizing the Commission to make rules establishing performance standards for local ABC boards. The rules would address enforcement of ABC laws, store appearance, operating efficiency, profitability, customer service, and other matters. The Commission would also be authorized to make rules establishing mandatory training requirements for local board members, managers, and employees.

Section 2 would require enforcement officers employed by or under contract with a local board to make monthly reports to the local board detailing the number of arrests made for ABC, drug, or other violations at ABC permitted outlets and at other locations, and the number of agencies assisted with ABC law or drug related matters. The local board would be required to submit a copy of the report to its appointing authority and to the ABC Commission, and the Commission would publish the information on its Web site.

Section 3 would make it clear that an officer who is under contract with a local board for enforcement of the ABC laws is subject to discharge from employment if convicted of any violation of the ABC laws or of any felony. The officer would be ineligible for membership or employment with the ABC Commission, any local board, or the ALE Division, for at least three years. This is the same provision that currently applies to members and employees of the ABC Commission and local boards, and to ALE agents.

Section 4 would raise the threshold for ABC store elections, requiring that a city have at least 5,000 registered voters to hold the election. The current threshold is 500 registered voters.

Section 5 would allow any city that has at least 500 registered voters to hold a mixed beverage election, eliminating the current requirement that the city operate an ABC store, hold an ABC election, or be located in a county that operates an ABC store.

Section 6 would establish as the mission of local ABC board and their employees to control the sale of liquor in "customer-friendly, modern, and efficient stores in order to optimize revenue distribution."

Section 7 would set a limit on the compensation of local ABC board members. The specified limit is $150 per board meeting, and no other compensation or benefits would be permitted. Under current law, a local board member may be compensated as determined by the appointing authority.

Section 8 would set a limit for the compensation of general managers of local ABC boards. The amount of compensation could not exceed the amount authorized by the General Assembly for the clerk of superior court of the county in which the appointing authority was originally incorporated. This would apply the schedule set out in G.S. 7A-101(a) which currently provides for an annual salary, payable in equal monthly installments, based on the population of the county, according to the following schedule:

Population	Annual Salary
Less than 100,000	$ 82,401
100,000 to 149,999	92,468
150,000 to 249,999	102,536
250,000 and above	112,607.

Section 9 would allow for travel reimbursement and per diem rates for local ABC board members and employees, consistent with rates established by the State Budget Office..

Section 10 would increase the bond amount for local ABC board members from $5,000 to $100,000, and eliminate the exemption for board members who do not handle board funds. The bonding requirement would also apply to the general manager or the financial officer of the local board. The amount of the bond may be increased for any member or employee who handles board funds.

Section 11 would establish a nepotism policy to prohibit a local board member or a local board's general manager or financial officer from hiring, managing or supervising a board employee that is a close relative.

Section 12 would amend the powers and duties of a local board to require that a local board comply with all the directives of the State ABC Commission and meet required performance and training standards. Failure to comply with the standards would be cause for removal.

Section 13 currently contains no substantive provisions, but is set out as a reference point for any finance related issues that may arise.

Section 14 would provide for the removal of local board members and employees in the event of disqualification, violation of the law, failure to complete training requirements, or engaging in certain egregious conduct. This section provides for a hearing before the ABC Commission. The Commission's decision is final, and may be appealed to the Court of Appeals.

Section 15 would authorize the ABC Commission to establish performance standards for local boards, and to conduct regular or special audits to insure compliance. A local board that fails to meet performance standards would be subject to a performance improvement plan, and allowed up to 6 months to implement the plan and show improvement. An additional 6-month period may be allowed upon good cause. If the ABC Commission determines that the established performance standards cannot be met, the Commission must seize the board's assets and take appropriate action that may include closing the board or one or more of its stores, merging the local board with another local board, or merging the local board with another local board to create a regional board.

Section 16 would establish ethics requirements for local boards, making members of local ABC boards subject to the provisions of the State Government Ethics Act. Members of the local board would be subject to the same provisions as the State ABC Commission, general managers and financial officers of local boards would be subject to the same provisions as the Administrator of the ABC Commission, and other local board employees would be subject to the same provisions as other ABC Commission employees.

Section 17 would require the ABC Commission to consider the proximity of existing ABC stores when approving the location of a new ABC store.

Section 18 would increase the minimum bond for store managers from $5,000 to $100,000; a higher amount may be established by the appointing authority. This section would also establish a nepotism policy to prohibit a store manager from hiring, managing or supervising a close relative.

Section 19 would require all local ABC boards to transfer monthly 2% of its gross receipts to the Alcohol Law Enforcement Division to provide uniform state-wide enforcement of the ABC laws.

Section 20 specifies that the provisions of the General Statutes concerning the distribution of revenue would apply to all local boards.

EFFECTIVE DATE: The act would become effective October 1, 2010.

2009-MAz-412-SMRV-119 v1*

April 19, 2010

Subject: Local Government & ABC Boards request regarding Study Committee Draft Bill # 1 (dated April 5, 2010)

Representatives of the NC Association of County Commissioners, NC League of Municipalities and NC Association of ABC Boards have meet and reviewed the draft bill discussed at the April 8, 2010 Study Committee.

The below attempts to focus on major issues in the draft bill and makes recommendations:

Item # 1 - Delete Section 10 (Forced Merger) and Section 11 (Remedies for Performance Standards) of the Draft Bill.

Section 10 provides authority for ABC Commission to force mergers to the end that there would be one ABC board per county, and provides authority to also merge those merged boards into regional ABC boards. NCLOM and NC Assoc. ABC Boards oppose all mandated or forced geographic merger, including regional merger. NCAC opposes regional merger. Current law allows voluntary merger and voluntary joint operation of ABC stores.

Section 11 provides for compliance with performance standards, performance improvement plans, and for drastic remedies available to the Commission for a board's failure to comply. These remedies include seizing assets and ensuring profitability, closing a store and forcing merger. Current law allows the Commission to close an unprofitable store and also allows the Commission to close an insolvent system.

NC Assoc. of ABC Boards supports authority for the Commission to merge certain boards as a last resort for failure to comply with certain performance standards, however, NCLOM opposes all mandated or forced merger, including what the Association of ABC Boards supports.

Action requested: Therefore, the three organizations request that Section 10 and Section 11 be deleted from any legislation presented by the Study Committee.

Item # 2 - Add new Section G.S. 18B-705 Compliance with performance standards; remedies

Action requested: The three organizations request that new section (labeled Section 11 in the attached draft alternative language) be added, which is a new version of GS 18B-705 in lieu of the version proposed as Section 11 in the draft Study Bill.

Explanation of revised Section 11: This new version is substantially similar to the one proposed in the Study Bill, except it requires ABC boards to make their mandatory distributions pursuant to GS 18B-0805 as well as to meet performance standards. And,

instead of allowing the Commission authority to seize assets, close stores and force merger, it requires the Commission to make recommendations to the local board and appointing authority as to whether stores should be closed, merger, etc. and leaves the decision to do so with the local board and appointing authority.

Item # 3 -- Delete Section 2 of the draft Study Bill

Section 2 of the draft Study Bill would eliminate current authority for a local board to contact to pay its law enforcement funds to a sheriff, police department or other local law enforcement agency and would eliminate all of those local contacts. This Section would require an ABC board to pay its law enforcement funds to ALE unless it has its own ABC law enforcement officers. The Sheriffs and Police Chiefs oppose this section, as does NCACC, NCLOM and NC Assoc. of ABC Boards.

Action requested: Delete Section 2 of Study Bill.

Item # 4 -- Add new Section XX "Satellite ABC stores"

The Commission currently has the authority to close an insolvent system. New Section XX, which modifies existing GS 18B-801, should be added to any legislation proposed by the Study Committee. If the Commission closed an insolvent system, this provision would allow the Commission to authorize one or more boards to operate one or more stores in the jurisdiction of the closed system. This allows the continued access to spirits where voters have requested it and provides an additional remedy for the Commission to use to leverage change in an ABC board's operations.

Action requested: Add this section.

This request is particularly made by the NC Association of ABC Boards; NCLOM and NCAC have seen this provision and have not expressed concern, and are aware that this request is being made, but need to review it again.

4/8/16

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H/S D

BILL DRAFT 2009-MAz-412* [v.4] (03/30)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
4/5/2010 4:27:33 PM

Short Title: Modernization of the State ABC System. (Public)

Sponsors: Representative R. Warren./Senator Vaughan.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO MODERNIZE THE NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL SYSTEM, AS RECOMMENDED BY THE JOINT STUDY COMMITTEE ON ALCOHOLIC BEVERAGE CONTROL.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-203(a) is amended by adding a new subdivision to read:

"**§ 18B-203. Powers and duties of the Commission.**

(a) Powers. – The Commission shall have authority to:

...

(20) Establish performance standards for local ABC boards. Performance standards established pursuant to this subdivision shall include, but not be limited to, standards that address store appearance, operating efficiency, profitability, and customer service.

(21) Establish mandatory training requirements for local board members, managers, and employees."

SECTION 2. G.S. 18B-501 reads as rewritten:

"(f) Contracts with ~~Other Agencies~~the ALE Division. – Instead of hiring local ABC officers, a local board may contract to pay its enforcement funds to ~~a sheriff's department, city police department, or other local law enforcement agency~~the ALE Division for enforcement of the ABC laws.~~laws within the law enforcement agency's territorial jurisdiction. Enforcement agreements may be made with more than one agency at the same time. When such a contract for enforcement exists, the officers of the contracting law enforcement agency shall have the same authority to inspect under G.S. 18B-502 that an ABC officer employed by that local board would have. If a city located in two or more counties approves the sale of some type of alcoholic beverage pursuant to the provisions of G.S. 18B-600(e4), and there are no local ABC boards established in the city and one of the counties in which the city is located, the local ABC board of any county in which the city is located may enter into an enforcement agreement with the city's police department for enforcement of the ABC laws within the entire city, including that portion of the city located in the county of the ABC board entering into the enforcement agreement.~~"

delete

[THIS SECTION HAS BEEN PLACED HERE AS A PLACE HOLDER FOR LAW ENFORCEMENT RELATED ISSUES. THE ABOVE MODIFIED STATUTE IS BASED ON RECOMMENDATIONS FROM THE PUBLIC COMMENTS AT THE MARCH 24, 2010 MEETING.]

SECTION 3. G.S. 18B-600(d) reads as rewritten:

"(d) City ABC Store Elections. – A city may hold an ABC store election only if:
(1) The city has at least ~~500~~ 5,000 registered voters; and
(2) The county in which the city is located does not operate ABC stores."

SECTION 4. G.S. 18B-600(e) reads as rewritten:

"(e) City Mixed Beverage Elections. – A city may hold a mixed beverage election ~~only if:~~ if the city has at least 500 registered voters.

~~(1) The city has at least 500 registered voters; and~~
~~(2) Either:~~
~~a. The city already operates a city ABC store; or~~
~~b. A city ABC store election is to be held at the same time as the mixed beverage election; or~~
~~c. The city does not operate a city ABC store but:~~
~~1. The county operates an ABC store;~~
~~2. The county has already held a mixed beverage election; and~~
~~3. The vote in the last county election was against the sale of mixed beverages.~~"

SECTION 5. G.S. 18B-700 is amended by adding a new subsection to read:

"(a1) Mission. – The mission of ABC boards and their employees shall be to responsibly serve their localities by controlling the sale of spirituous liquor in customer-friendly, modern, and efficient stores in order to optimize revenue distributions."

SECTION 6. G.S. 18B-700(f) reads as rewritten:

"(f) Removal. – A member of a local board may be removed for cause at any time by the appointing ~~authority.~~authority or the Commission. The Commission shall remove any local board member that fail to successfully complete the mandatory training requirements required by G.S. 18B-203(a)(21). Local board members and employees are subject to the removal provisions of G.S. 18B-202."

SECTION 7. G.S. 18B-700(g) reads as rewritten:

"(g) Salary. – A local board member may be compensated as determined by the appointing authority. No local board member may be compensated for service if the profit margin for the local board falls below five percent (5%) based on information in the annual audit."

[THIS SECTION HAS BEEN PLACED HERE AS A PLACE HOLDER FOR SALARY RELATED ISSUES. THE ABOVE MODIFIED STATUTE IS FROM THE PROGRAM EVALUATION COMMITTEE'S RECOMMENDATIONS FOR MODERNIZATION OF THE ABC SYSTEM.]

SECTION 8. G.S. 18B-701 reads as rewritten:

"**§ 18B-701. Powers and duties of local ABC boards.**

(a) Powers. – A local board shall have authority to:
(1) Buy, sell, transport, and possess alcoholic beverages as necessary for the operation of its ABC stores;
(2) Adopt rules for its ABC system, subject to the approval of the Commission;
(3) Hire and fire employees for the ABC system;
(4) Designate one employee as manager of the ABC system and determine his responsibilities;
(5) Require bonds of employees as provided in the rules of the Commission;
(6) Operate ABC stores as provided in Article 8;
(7) Issue purchase-transportation permits as provided in Article 4;
(8) Employ local ABC officers or make other provision for enforcement of ABC laws as provided in Article 5;
(9) Borrow money as provided in G.S. 18B-702;

(10) Buy and lease real and personal property, and receive property bequeathed or given, as necessary for the operation of the ABC system;
(11) Invest surplus funds as provided in G.S. 18B-702;
(12) Dispose of property in the same manner as a city council may under Article 12 of Chapter 160A of the General Statutes; and
(13) Perform any other activity authorized or required by the ABC law.

(b) Duties. – A local board shall have the duty to comply with all directives of the Commission and meet all standards for performance and training established by the Commission pursuant to G.S. 18B-203(a)(20) and (21).Failure to comply with Commission directives and rules shall be cause for removal."

SECTION 9. G.S. 18B-702 reads as rewritten:

"**§ 18B-702. Financial operations of local boards.**

(a) Generally. – A local board may transact business as a corporate body, except as limited by this section. A local board shall not be considered a public authority under G.S. 159-7(b)(10).

(b) Borrowing Money. – A local board may borrow money only for the purchase of land, buildings, equipment and stock needed for the operation of its ABC system. A local board may pledge a security interest in any real or personal property it owns other than alcoholic beverages. A city or county whose governing body appoints a local board shall not in any way be held responsible for the debts of that board.

(c) Audits. – A local board shall submit to the Commission an annual independent audit of its operations, performed in accordance with generally accepted accounting standards and in compliance with a chart of accounts prescribed by the Commission. The audit report shall contain a summary of the requirements of this Chapter, or of any local act applicable to that local board, concerning the distribution of profits of that board and a description of how those distributions have been made, including the names of recipients of the profits and the activities for which the funds were distributed. A local board shall also submit to any other audits and submit any reports demanded by the Commission.

(d) Deposits and Investments. – A local board may deposit moneys at interest in any bank or trust company in this State in the form of savings accounts or certificates of deposit. Investment deposits shall be secured as provided in G.S. 159-31(b) and the reports required by G.S. 159-33 shall be submitted. A local board may invest all or part of the cash balance of any fund as provided in G.S. 159-30(c) and (d), and may deposit any portion of those funds for investment with the State Treasurer in the same manner as State boards and commissions under G.S. 147-69.3.

(e) Compliance with Commission Rules. – The Commission shall adopt, and each local board shall comply with, fiscal control rules concerning the borrowing of money, maintenance of working capital, investments, appointment of a financial officer, daily deposit of funds, bonding of employees, auditing of operations, and the schedule, manner and other procedures for distribution of profits. The Commission may also adopt any other rules concerning the financial operations of local boards which are needed to assure the proper accountability of public funds.

(f) Applicability of Criminal Statutes. – The provisions of G.S. 14-90 and G.S. 14-254 shall apply to any person appointed to or employed by a local board, and any person convicted of a violation of G.S. 14-90 or G.S. 14-254 shall be punished as a Class H felon."

[THIS SECTION HAS BEEN PLACED HERE AS A PLACE HOLDER FOR FINANCE RELATED ISSUES. ***SEE SUBSECTION (C) OF 18B-705 IN SECTION 9 OF THIS BILL. THAT SECTION ALLOWS THE ABC COMMISSION TO TAKE OVER ASSETS OF A LOCAL BOARD IF THEY ARE NOT IN COMPLIANCE WITH PERFORMANCE STANDARDS, WHICH INCLUDES FINANCIAL SOLVENCY ISSUES AND IRREGULAR AUDITS.]

SECTION 10. Chapter 18B of the General Statutes is amended by adding a new section to read:

"**§ 18B-704. Number of local boards; mergers required.**

(a) Number of Local Boards. – There shall be no more than one local ABC board per county. In any county where more than one local ABC board exists, the governing bodies of any city or county having a local board shall meet and develop a plan to consolidate all assets and operations of each board into a merged system as provided for in G.S. 18B-703. Any new board authorized by statute or lawful election after July 1, 2011, shall join an existing local or regional board.

(b) Mergers Required. – If after July 1, 2011, any county still has more than one local board in existence, the Commission shall develop a plan pursuant to G.S. 18B-703 merging all assets and operations of each local board into one local board. If the plan is not accepted by the affected governing bodies, the Commission shall merge the local boards.

(c) Regional Boards. – As used in the section, a regional board is an ABC board that crosses county lines. If the Commission determines that the merger of two or more local boards into a regional local ABC board would best serve the needs of the public, increase profitability, enhance revenue distributions to the affected local governments, and streamline the operation and oversight of the State's ABC System, then the Commission shall merge the boards pursuant to G.S. 18B-703.

(d) Local Acts or Modifications. – Any local act or modification regarding the establishment and operation of a local ABC board is repealed effective July 1, 2011. On and after July 1, 2011, every local board shall be subject to the provisions of this Chapter. Any and all mergers that have been approved by the Commission shall be governed by the provisions of the merger agreement established pursuant to G.S. 18B-703.

(e) Prior Mergers. – This section shall not affect a merger that created a regional board and was approved by the Commission prior to July 1, 2011."

SECTION 11. Chapter 18B of the General Statutes is amended by adding a new section to read:

"**§ 18B-705. Compliance with performance standards; remedies.**

(a) Local Board Compliance. – The Commission shall ensure that all local boards comply with performance standards established pursuant to G.S. 18B-203(a)(20) by conducting regular or special audits, conducting performance evaluations, or taking other measures which may include inspections by Commission auditors and alcohol law-enforcement agents.

(b) Performance Improvement Plans. – The Commission, upon determining that a local board is failing to meet performance standards established pursuant to G.S. 18B-203(a)(20), shall meet with the chair of the local board, issue a statement of findings, and deliver a performance improvement plan. The performance improvement plan shall include, but not be limited to, recommendations for improved performance based on the performance standards established by the Commission. The plan shall also state a period of time in which the performance improvements are to occur and what action will be taken by the Commission if performance standards are not met within the given time limits. The Commission shall allow up to, but no more than, six months' time to the local board to implement and show improvement under the performance improvement plan. The Commission, upon good cause shown, may allow up to an additional six-month period of time for the local board to meet all requirements in the performance improvement plan and to establish that the performance standards established by the Commission are met.

(c) Remedies. – If the Commission determines that the established performance standards cannot be met after a performance improvement plan has been implemented and adequate time has been given, but in no case more than 12 months, the Commission shall seize all assets of the local board and take appropriate action to ensure profitability. This action may include closing the board, a store, multiple stores, merging the local board with another local

board, or merging the local board with another local board to create a regional board in order to maintain solvency and meet community needs."

SECTION 12. Chapter 18B of the General Statutes is amended by adding a new section to read:

"**§ 18B-706. Ethics requirements for local boards.**

[THIS SECTION HAS BEEN PLACED HERE AS A PLACE HOLDER FOR ETHICS RELATED ISSUES.]

SECTION 13. G.S. 18B-801(b) is amended by adding a new subdivision to read:

"(b) Location of Stores. – A local board may choose the location of the ABC stores within its jurisdiction, subject to the approval of the Commission. In making its decision on a location, the Commission may consider:

(1) Whether the health, safety, or general welfare of the community will be adversely ~~affected; and~~affected.

(2) Whether the citizens of the community or city in which the proposed store is to be located voted for or against ABC stores in the last election on the question.

(3) The proximity of the new location to existing ABC stores operated by the local board or any other boards."

SECTION 14. This act becomes effective October 1, 2010.

Insert in lieu of Section 11 of

SECTION 11. Chapter 18B of the General Statutes is amended by adding a new section to read:

Study 3:11

"**§ 18B-705. Compliance with performance standards; remedies.**

(a) Local Board Compliance. – The Commission shall ensure that all local boards comply with performance standards established pursuant to G.S. 18B-203(a)(20) and make all distributions required by G.S. 18B-805 by conducting regular or special audits, conducting performance evaluations, or taking other measures which may include inspections by the Commission auditors and alcohol law enforcement agents.

(b) Performance Improvement Plans. – The Commission, upon determining that a local board is failing to meet performance standards established pursuant to G.S. 18B-203(a)(20) or is failing to make all distributions required by G.S. 18B-805 shall meet with the chair of the local board, issue a statement of findings, and deliver a written performance improvement plan. The Commission shall provide a copy of the findings and written performance plan to the appointing authority. The performance improvement plan shall include, but not be limited to, recommendations for improved performance based on the performance standards established by the Commission and recommendations to ensure that all distributions required by G.S. 18B-805 are made. The plan shall also state a period of time for the local board to implement and show improvement under the performance improvement plan.

(c) Remedies. – If the Commission determines that the local board has not implemented the recommendations for improved performance in a timely manner and the local board is not meeting the performance standards established pursuant to G.S. 18B-203(a)(20) or is failing to make all distributions required by G.S. 18B-805, the Commission shall notify the local board and the appointing authority and may make additional recommendations to the local board and appointing authority including closing a store or stores, relocating store locations, merging the local board with another local board, or entering into an agreement for joint store operations, or abolishing the local board.

(d) Notification to Appointing Authorities – The Commission shall annually provide the appointing authority for any local board with information for all of the local boards on the sales, distributions, taxes paid, operating efficiency and other information by which local board performance may be compared to other local boards. "

Insert as additional Section in Study bill

SECTION XX. G.S. 18B-801(d) reads as rewritten:

"(d) Insolvent ABC System. – If an ABC system is insolvent, the local board or the appointing authority for the local board may apply to the Commission for an order to close the system. Upon receipt of an application, or upon its own motion, the Commission shall investigate the system, and if it finds that further operation of the ABC stores will not be profitable, it may order the system closed. If the Commission orders a local system to close, the Commission may:

(1) After consultation with the local board, its creditors, and other interested parties, schedule a phase out of the system's business activities;

(2) Represent the local board in negotiations with creditors and other interested parties;

(3) Require an accounting or auditing of the local system;

(4) Take possession or arrange for the disposition of any liquor for which the local board has not paid;

(5) Apply to the Superior Court to be appointed as receiver for the local board with all powers and duties of a receiver for a corporation under Article 38 of Chapter 1 of the General Statutes, except that the Commission shall not be required to post the bond required by G.S. 1-504; ~~or~~

(6) Authorize one or more local boards in close proximity to the city or county of the closed system to operate one or more satellite ABC stores within the jurisdiction in which the closed ABC system was authorized to operate. Unless otherwise agreed by the respective appointing authorities, twenty percent of any profits from the operation of each satellite ABC store shall be distributed by the local board operating the satellite store to the appointing authority in whose jurisdiction the satellite ABC stores is operated; or

(7) Take any other reasonable steps to promote an orderly closing of the system."

NORTH CAROLINA GENERAL ASSEMBLY
STATE LEGISLATIVE BUILDING
RALEIGH 27603

April 26, 2010

MEMORANDUM

TO: Members of the Joint Study Committee on Alcoholic Beverage Control

FROM: Representative Ray Warren, Presiding Co-Chair
Senator Don Vaughan, Co-Chair

SUBJECT: Meeting Notice

There will be a meeting of the Joint Study Committee on Alcoholic Beverage Control:

DAY:	Wednesday	TIME:	2:00 p.m.
DATE:	May 5, 2010		
LOCATION:	Legislative Office Building, Room 643		

Committee members, please advise Theresa Lopez, Committee Assistant, at 919-715-8361, or e-mail warrenrla@ncleg.net or Dora King-Morgan, at 919-733-5856, or e-mail vaughanla@ncleg.net, if you are unable to attend or have questions.

Posted: April 23, 2010

cc: Committee Record X
Interested Parties X

Joint Study Committee on Alcoholic Beverage Control

AGENDA

May 5, 2010
Room 643, Legislative Office Building
2:00 PM

Representative Ray Warren, Co-Chair- Presiding
Senator Don Vaughan, Co-Chair

WELCOME AND INTRODUCTORY REMARKS

REVIEW AND DISCUSSION OF DRAFT LEGISLATION

Mikael Gross, Committee Co-Counsel

ADOPTION OF COMMITTEE REPORT

ADJOURNMENT

North Carolina General Assembly
House of Representatives
State Legislative Building
Raleigh 27601-1096

Minutes

Joint Study Committee on Alcoholic Beverage Control
Wednesday May 5, 2010
2:00 p.m.
Room 643, Legislative Office Building

The Joint Study Committee on Alcoholic Beverage Control met on Wednesday, May 5, 2010, in Room 643 of the Legislative Office Building. Representative Ray Warren, presiding chair, called the meeting to order at 2:00 p.m. The following House Members were present: Representative Ray Warren, Co-Chair; Representatives Bell, Crawford, Gibson, Hill, Lucas, Starnes, and Steen. Senate members present were: Senator Vaughan, Co-Chair; Senators Albertson, Bingham, Blue, Clodfelter, Goss, and Hartsell. The following Public Members were in attendance: Chief Tim Adams, Mr. Edward Cook, Mr. Howard Hunter, Commissioner Eddie Maynor, Mr. Paul Powell, Mr. Fields Scarborough, Honorable Ronald Bogle, Honorable Karen Eckberg Gottovi, Honorable John Hurley, Honorable Edward Holmes, Mr. Walter Harris and Dr. Peggy Richmond.

Representative Warren called the meeting to order, welcomed everyone to the Joint Study Committee on Alcoholic Beverage Control. The House SGT-AT-ARM's were introduced: Mr. Carlton Adams, Mr. Bob Rossi, Mrs. Martha Parrish and Mr. Trey Railey. The Senate SGT-AT-ARMS's present were: Mr. Stan Johnson, Mr. Curtis Dowd, and Mr. Wade Anders.

Representative Warren then introduced Mikael Gross from bill drafting to explain the changes to the Draft Bill- Modernization of the State's Alcoholic Beverage Control System. When explanations were finished Representative Warren then asked for any Amendments to the Draft Bill.

The following Amendments were presented:

ARV-25 [v.1] – Proposed by Mr. Fields Scarborough, amends Section 1, the Amendment was withdrawn.

ASA-54 [v.2] – Proposed by Mr. Tim Adams, amends Sections 3 & 4, the Amendment passes.

ASA-46 [v.3] – Proposed by Representative Gibson, deletes Section 5, the Amendment passes.

ASA-51 [v.1] – Proposed by Representative Crawford, amends Sections 8, 9, & 10, the Amendment passed.

ARV-21 [v.3] – Proposed by Mr. Walter Harris, amends Sections 8, 9, & 10, the Amendment was withdrawn.

ARV-26 [v.1] – Proposed by Mr. Fields Scarborough, amends Sections 8, 9, 10, & 11, the Amendment failed.

ARV-24 [v.1] – Proposed by Mr. Walter Harris, deletes Section 11, the Amendment failed.

ASA-56 [v.1] – Proposed by Mr. Paul Powell, amends Section 14, the Amendment passed.

ARV-23 [v.1] – Proposed by Mr. Walter Harris, amends Section 14, the Amendment was withdrawn.

ARV-27 [v.1] – Proposed by Mr. Fields Scarborough, deletes Section 15, the Amendment failed.

ASA-49 [v.2] – Proposed by Representative Gibson, amends Section 17, the Amendment passed.

ASA-50 [v.2] – Proposed by Mr. Howard Hunter, amends Section 18, the Amendment passed.

ARV-28 [v.1] – Proposed by Mr. Fields Scarborough, deletes Section 18, the Amendment was withdrawn.

ARV-29 [v.1] – Proposed by Mr. Fields Scarborough, amends Section 21, the Amendment was withdrawn.

ARV-31 [v.1] – Proposed by Mr. Fields Scarborough, deletes Section 22, the Amendment is withdrawn.

ASA-45 [v.4] – Proposed by Representative Gibson, deletes Sections 22 & 25, the Amendment passed.

ASA-58 [v.1] – Proposed by Mr. Paul Powell, deletes Sections 23 & 24, the Amendment passed.

ARV-30 [v.2] – Proposed by Mr. Fields Scarborough, deletes Sections 23 & 24, the Amendment was withdrawn.

Arv-22 [v.1] – Proposed by Mr. Walter Harris, deletes Sections 22, 23, 24, the Amendment was withdrawn.

After amendments, Representative Warren asked for additional comments then called for a vote on the HB-1717, Modernization of the States Alcoholic Beverage Control System. Senator Blue motioned to adopt the bill as amended, Representative Bell second the motion the vote was taken and the bill was adopted as amended. Representative Warren then called for a vote on the final report. The report was approved.

Representative Warren thanked everyone for the hard work in the Joint Study Committee on Alcoholic Beverage Control and adjourned the meeting at 3:55 pm.

Representative Ray Warren

Theresa Lopez, Committee Assistant

Joint Study Committee on Alcoholic Beverage Control
May 5, 2010

Attachments:
Agenda
Visitors Log
Amendments:
ARV-25 [v.1]
ASA-54 [v.2]
ASA-46 [v.3]
ASA-51 [v.1]
ARV-21 [v.3]
ARV-26 [v.1]
ARV-24 [v.1]
ASA-56 [v.1]
ARV-23 [v.1]
ARV-27 [v.1]
ASA-49 [v.2]
ASA-50 [v.2]
ARV-28 [v.1]
ARV-29 [v.1]
ARV-31 [v.1]
ASA-45 [v.4]
ASA-58 [v.1]
ARV-30 [v.2]
ARV-22 [v.1]

Data Related to Draft Legislation

Joint Study Committee on Alcoholic Beverage Control

I. Section 8

Section 8 would limit the compensation of local ABC board members to $150 per meeting and disallow other compensation or benefits. Assuming that all local ABC boards meet monthly, which, admittedly, is not correct (some boards meet quarterly), in 2009, 14.5 percent board members (82 of 567), representing 44 boards, received more than $150 per meeting. Ten boards provide no direct compensation though some of these allow gifts, meals, travel, etc.

Many local ABC boards provide benefits other than direct compensation.

- 10 boards provide some form of other compensation (gift cards, Christmas presents, etc)
- 9 boards provide some form of insurance (health, life, etc)
- 27 boards provide some form of compensation for vehicle use (reimbursement, vehicle access)

Source: Compensation Survey December 2009, NC ABC Commission

II. Section 9

Section 9 would limit the compensation of the General Manager of each local ABC Boards and require that salaries of other employees not exceed that of the General Manager. The following table provides a list of the positions/ boards that currently pay salaries greater than the proposed cap. Section 9 would hold the current employees in these positions harmless; only employees hired after the effective date would be subject to the cap.

Table 1. Boards/ Positions Potentially Impacted by Cap on General Manager Salary

Board	Title	Salary + Bonus/ Longevity[1]	County Population[2]	Proposed Cap	Difference (Actual - Cap)
General Manager Positions					
New Hanover Co	Administrator	$260,867	160,307	$102,536	$158,331
Mecklenburg Co	CEO	$158,760	695,454	$112,607	$46,153
Asheville	CEO	$141,651	206,330	$102,536	$39,115
Wake Co	General Manager	$141,719	627,846	$112,607	$29,112
Durham Co	General Manager	$112,093	223,314	$102,536	$9,557
Dare Co	Supervisor	$91,093	29,967	$82,401	$8,692
Greensboro	General Manager	$120,217	421,048	$112,607	$7,610
Non-General Manager Positions					
New Hanover Co	Asst. Administrator	$129,265	160,307	$102,536	$26,729
Mecklenburg Co	Chief Financial Off.	$129,931	695,454	$112,607	$17,324
Mecklenburg Co	Dir. of Operations	$119,663	695,454	$112,607	$7,056
Mecklenburg Co	Dir. of H.R.	$114,728	695,454	$112,607	$2,121

Sources:

[1] Compensation Survey December 2009, NC ABC Commission

[2] 2000 Census, US Census Bureau

III. Section 12

Section 12 would establish a nepotism policy for all local ABC boards.

- 73 local ABC boards have some form of nepotism policy
- Six of these boards note that they allow the hiring of relatives.

Source: Compensation Survey December 2009, NC ABC Commission

IV. Section 18

Section 18 would establish ethics requirements for local boards, making members of local ABC boards subject to the State Government Ethics Act.

- 87 local ABC boards have some form of ethics policy
- 18 of the boards with an ethics policy do not prohibit gifts
- 23 of the boards with an ethics policy allow meals to be purchased for board members

Source: Compensation Survey December 2009, NC ABC Commission

V. Section 22

Section 22 would require all local ABC boards to transfer monthly 2% of its gross receipts to the Alcohol Law Enforcement (ALE) Division to provide uniform state-wide enforcement of the ABC laws.

- For FY 08-09 local boards generated $718.7 million in gross receipts. Two percent of this figure, the amount transferred to ALE, equals roughly $14 million per fiscal year.
- Local ABC receipts during the past two fiscal years have increased by 3% annually.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H/S D

BILL DRAFT 2009-MAz-412* [v.23] (03/30)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
5/1/2010 10:01:41 PM

Short Title:	Modernization of the State ABC System.	(Public)
Sponsors:	Representative R. Warren./Senator Vaughan.	
Referred to:		

A BILL TO BE ENTITLED

AN ACT TO MODERNIZE THE NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL SYSTEM, AS RECOMMENDED BY THE JOINT STUDY COMMITTEE ON ALCOHOLIC BEVERAGE CONTROL.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-101 reads as rewritten:

"**§ 18B-101. Definitions.**

As used in this Chapter, unless the context requires otherwise:

...

(6f) "Finance officer" means the local board employee, other than a general manager, that is responsible for keeping the accounts of the local board, receiving and depositing receipts, disbursing funds, and any other duties assigned by the local board or Commission.

(7) "Fortified wine" means any wine, of more than sixteen percent (16%) and no more than twenty-four percent (24%) alcohol by volume, made by fermentation from grapes, fruits, berries, rice, or honey; or by the addition of pure cane, beet, or dextrose sugar; or by the addition of pure brandy from the same type of grape, fruit, berry, rice, or honey that is contained in the base wine and produced in accordance with the regulations of the United States.

(7d) "General manager" means the local board employee that is responsible for the oversight of daily operations of the ABC system and any other duties assigned by the local board or Commission. The board may designate only one employee to be the general manager.

~~(7a)~~(7g) "Historic ABC establishment" means a restaurant or hotel that meets all of the following requirements:

a. Is on the national register of historic places or located within a State historic district.

b. Is a property designed to attract local, State, national, and international tourists located on a State Route (SR) and with a property line located within 1.5 miles of the intersection of a designated North Carolina scenic byway as defined in G.S. 136-18(31).

c. Is located within 15 miles of a national scenic highway.

d. Is located in a county in which the on-premises sale of malt beverages or unfortified wine is authorized in two or more cities in the county.

~~(7b)~~(7k) "Keg" means a portable container designed to hold and dispense 7.75 gallons or more of malt beverage.

...."

SECTION 2. G.S. 18B-203(a) is amended by adding a new subdivision to read:

"**§ 18B-203. Powers and duties of the Commission.**

(a) Powers. – The Commission shall have authority to:

...

(20) Promulgate rules to establish performance standards for local boards. Performance standards established pursuant to this subdivision shall include, but not be limited to, standards that address enforcement of ABC laws, store appearance, operating efficiency, and customer service.

(21) Promulgate rules to establish mandatory training requirements for local board members, managers, and employees."

SECTION 3. G.S. 18B-501 is amended by adding a new subsection to read:

"(f1) Accountability; Enforcement Reports. – To ensure accountability to the appointing authority and the Commission, every local board's ABC officers and those law-enforcement agencies subject to an enforcement agreement entered into pursuant to subsection (f) of this section shall report to the local board, by the fifth business day of each month, on a form developed by the Commission, the following:

1. The number of arrests made for ABC law, Controlled Substance Act, or other violations, by category, at ABC permitted outlets.
2. The number of arrests made for ABC law, Controlled Substance Act, or other violations, by category, at other locations.
3. The number of agencies assisted with ABC law or controlled substance related matters.
4. The number of alcohol education and responsible server programs presented.

The local board shall submit a copy of the enforcement report to the appointing authority and the Commission not later than five business days after receipt of the enforcement report by the local board. The Commission shall publish this information, by local board and enforcement agency, on a public Internet Web site maintained by the Commission."

SECTION 4. G.S. 18B-501(g) reads as rewritten:

"(g) Discharge. – Local ABC officers and officers of agencies which contract with local boards for enforcement of the ABC laws are subject to the discharge provisions of G.S. 18B-202."

SECTION 5. G.S. 18B-600(d) reads as rewritten:

"(d) City ABC Store Elections. – A city may hold an ABC store election only if:

(1) The city has at least ~~500~~ 5,000 registered voters; and

(2) The county in which the city is located does not operate ABC stores."

SECTION 6. G.S. 18B-600(e) reads as rewritten:

"(e) City Mixed Beverage Elections. – A city may hold a mixed beverage election ~~only if:~~ if the city has at least 500 registered voters.

~~(1) The city has at least 500 registered voters; and~~

~~(2) Either:~~

~~a. The city already operates a city ABC store; or~~

~~b. A city ABC store election is to be held at the same time as the mixed beverage election; or~~

~~c. The city does not operate a city ABC store but:~~

~~1. The county operates an ABC store;~~

~~2. The county has already held a mixed beverage election; and~~
~~3. The vote in the last county election was against the sale of mixed beverages.~~"

SECTION 7. G.S. 18B-700 is amended by adding a new subsection to read:

"(a1) Mission. – The mission of local ABC boards and their employees shall be to responsibly serve their localities by controlling the sale of spirituous liquor and promoting customer-friendly, modern, and efficient stores."

SECTION 8. G.S. 18B-700(g) reads as rewritten:

"(g) ~~Salary.~~Compensation of Board Members. – A local board member ~~may be compensated as determined by the appointing authority.~~shall receive compensation in an amount not to exceed $150.00 per board meeting. No local board member may receive any other compensation or benefits unless specifically authorized by this section."

SECTION 9. G.S. 18B-700 is amended by adding a new subsection to read:

"(g1) Compensation of General Managers of Local Boards. – The salary authorized for the general manager of a local board shall not exceed the salary authorized by the General Assembly for the clerk of superior court of the county in which the appointing authority was originally incorporated. The general manager of a local board may receive any other benefits to which all employees of the local board are entitled. The salary authorized for other employees of a local board may not exceed that of the general manager."

SECTION 10. G.S. 18B-700 is amended by adding a new subsection to read:

"(g2) Travel allowance and per diem rates. – Approved travel on official business by the members and employees of local boards shall be reimbursed pursuant to G.S. 138-6."

SECTION 11. G.S. 18B-700(i) reads as rewritten:

"(i) Bond. – Each local board member and the employees designated as the general manager or finance officer of the local board shall be bonded in an amount not less than ~~five thousand dollars ($5,000),~~one hundred thousand dollars ($100,000) secured by a corporate surety, for the faithful performance of his duties. A public employees' blanket position bond in the required amount satisfies the requirements of this subsection. The bond shall be payable to the local board and shall be approved by the appointing authority for the local board. The appointing authority may ~~exempt from this bond requirement any board member who does not handle board funds, and it may also~~ increase the amount of the bond required for any member or employee who ~~does handle~~handles board funds."

SECTION 12. G.S. 18B-700 is amended by adding a new subsection to read:

"(k) Nepotism. – Members of an immediate family shall not be employed within the local board if such employment will result in one member of the immediate family supervising another member of the immediate family, or if one member of the immediate family will occupy a position which has influence over another member's employment, promotion, salary administration, or other related management or personnel considerations. This subsection applies to local board members and employees.

For the purpose of this subsection, the term immediate family includes wife, husband, mother, father, brother, sister, son, daughter, grandmother, grandfather, grandson and granddaughter. Also included are the step-, half- and in-law relationships. It also includes other people living in the same household, who share a relationship comparable to immediate family members, if either occupies a position which requires influence over the other's employment, promotion, salary administration, or other related management or personnel considerations."

SECTION 13. G.S. 18B-700 is amended by adding a new subsection to read:

"(l) Local Acts. – Notwithstanding the provisions of any local act, this section applies to all local boards."

SECTION 14. G.S. 18B-701 reads as rewritten:

"**§ 18B-701. Powers and duties of local ABC boards.**

(a) Powers. – A local board shall have authority to:

(1) Buy, sell, transport, and possess alcoholic beverages as necessary for the operation of its ABC stores;
(2) Adopt rules for its ABC system, subject to the approval of the Commission;
(3) Hire and fire employees for the ABC system;
(4) Designate one employee as manager of the ABC system and determine his responsibilities;
(5) Require bonds of employees as provided in the rules of the Commission;
(6) Operate ABC stores as provided in Article 8;
(7) Issue purchase-transportation permits as provided in Article 4;
(8) Employ local ABC officers or make other provision for enforcement of ABC laws as provided in Article 5;
(9) Borrow money as provided in G.S. 18B-702;
(10) Buy and lease real and personal property, and receive property bequeathed or given, as necessary for the operation of the ABC system;
(11) Invest surplus funds as provided in G.S. 18B-702;
(12) Dispose of property in the same manner as a city council may under Article 12 of Chapter 160A of the General Statutes; and
(13) Perform any other activity authorized or required by the ABC law.

(b) Duties. – A local board shall have the duty to comply with all directives of the Commission and meet all standards for performance and training established by the Commission pursuant to G.S. 18B-203(a)(20) and (21). Failure to comply with Commission directives and rules shall be cause for removal."

SECTION 15. G.S. 18B-702 reads as rewritten:

"**§ 18B-702. Financial operations of local boards.**

(a) Generally. – A local board may transact business as a corporate body, except as limited by this section. A local board shall not be considered a public authority under G.S. 159-7(b)(10).

(b) Budget Officer. – The general manager of the local board shall be the budget officer for the local board. In the absence of a general manager, a local board may impose the duties of budget officer on the chairman or any member of the local board or any other employee of the board.

(c) Annual Balanced Budget. – Each local board shall operate under an annual balanced budget administered in accordance with this section. A budget is balanced when the sum of estimated gross revenues and both restricted and unrestricted funds are equal to appropriations. Expenditures shall not exceed the amount of funds received or in reserve for the purpose to which the funds are appropriated. It is the intent of this section that all monies received and expended by a local board should be included in the budget. Therefore, notwithstanding any other provision of law, no local board may expend any monies, regardless of their source except in accordance with a budget adopted under this section. The budget of a local board shall cover a fiscal year beginning July 1 and ending June 30.

(d) Preparation and Submission of Budget and Budget Message. – Upon receipt of the budget requests and revenue estimates and the financial information supplied by the finance officer, the budget officer shall prepare a budget for consideration by the local board in such form and detail as may have been prescribed by the budget officer or the local board. The budget, together with a budget message, shall be submitted to the local board, the appointing authority, and the Commission not later than June 1. The budget and budget message should, but need not, be submitted at a formal meeting of the board. The budget message should contain a concise explanation of the goals fixed by the budget for the budget year, should explain important features of the activities anticipated in the budget, should set forth the reasons for stated changes from the previous year in appropriation levels and should explain any major changes in fiscal policy.

(e) Filing and publication of the budget. – On the same day the budget officer submits the budget to the local board, the budget officer shall make a copy for public inspection and it shall remain available for public inspection until the budget is adopted. The budget officer shall make a copy of the budget available to all news media in the county. The budget officer shall also publish a statement that the budget has been submitted to the local board, and is available for public inspection in the office of the general manager of the local board. The statement shall also give notice of the time and place of the budget hearing required by subsection (f) of this section.

(f) Budget hearings. –Before adopting the budget, the board shall hold a public hearing at which time any persons who wish to be heard on the budget may appear.

(g) Adoption of Budget. – Not earlier than 10 days after the day the budget is presented to the board and not later than July 1, the local board shall adopt a budget making appropriations for the budget year in such sums as the board may consider sufficient and proper, whether greater or less than the sums recommended in the budget. The budget shall authorize all financial transactions of the local board. The budget may be in any form that the board considers most efficient in enabling it to make the fiscal policy decisions embodied therein, but it shall make appropriations by department, function, or project and show revenues by major source. The following directions and limitations shall bind the local board in adopting the budget:

(1) The full amount estimated by the finance officer to be required for debt service during the budget year shall be appropriated.

(2) The full amount of any deficit in each fund shall be appropriated.

(3) Working capital funds set aside pursuant to G.S. 18B-805 shall be no less than two weeks' average gross sales of the latest fiscal year or greater than two months' average gross sales of the latest fiscal year. "Working Capital" means the total of cash, investments, and inventory less all unsecured liabilities. Gross sales means gross receipts from the sale of alcoholic beverages less distributions as defined in G.S. 18B-805(b)(2), (3), (4) and (5). Any expenditure to be charged against working capital funds shall be authorized by resolution of the local board, which resolution shall be deemed an amendment to the budget setting up an appropriation for the object of expenditure authorized. The local board may authorize the budget officer to authorize expenditures from working capital funds subject to such limitations and procedures as it may prescribe. Any such expenditure shall be deemed an amendment and reported to the board at its next regular meeting and recorded in the minutes.

(4) Estimated revenues shall include only those revenues reasonably expected to be realized in the budget year.

(5) Sufficient funds to meet the amounts to be paid during the fiscal year under continuing contracts previously entered into shall be appropriated unless such contract reserves to the local board the right to limit or not to make such appropriation.

(6) The sum of estimated net revenues and appropriated fund balance in each fund shall be equal to appropriations in that fund. Appropriated fund balance in a fund shall not exceed the sum of cash and investments minus the sum of liabilities, encumbrances, and deferred revenues arising from cash receipts, as those figures stand at the close of the fiscal year next preceding the budget year.

The budget shall be entered in the minutes of the local board and within five days after adoption and copies thereof shall be filed with the finance officer, the budget officer, the appointing authority, and the Commission.

(h) Amendments to the Budget. – Except as otherwise restricted by law, the local board may amend the budget at any time after adoption, in any manner, so long as the budget, as amended, continues to satisfy the requirements of this section. The local board by appropriate resolution may authorize the budget officer to transfer monies from one appropriation to another within the same fund subject to such limitations and procedures as it may prescribe. Any such transfers shall be reported to the local board at its next regular meeting and shall be entered in the minutes. Amendments to the adopted budget shall also be provided to the appointing authority and the Commission.

(i) Interim Budget. – In case the adoption of the budget is delayed until after July 1, the local board shall make interim appropriations for the purpose of paying salaries, debt service payments, and the usual ordinary expenses of the local board for the interval between the beginning of the budget year and the adoption of the budget. Interim appropriations so made shall be charged to the proper appropriations in the adopted budget.

(j) Finance Officer. – The local board shall designate an employee of the board, other than the general manager, to be the finance officer for the local board. The Commission, for good cause shown, may allow the general manager of a board to also be the finance officer.

(k) Duties and Powers of the Finance Officer. – The finance officer for a local board shall:

(1) Keep the accounts of the local board in accordance with generally accepted principles of governmental accounting and the rules and regulations of the Commission.

(2) Disburse all funds of the local board in strict compliance with this Chapter, the budget, and preaudit obligations and disbursements as required by this section.

(3) As often as may be requested by the local board or the general manager, prepare and file with the board a statement of the financial condition of the local board.

(4) Receive and deposit all monies accruing to the local board, or supervise the receipt and deposit of money by other duly authorized employees.

(5) Maintain all records concerning the debt and other obligations of the local board, determine the amount of money that will be required for debt service or the payment of other obligations during each fiscal year, and maintain all funds.

(6) Supervise the investment of idle funds of the local board pursuant to subsection (t) of this section.

The finance officer shall perform such other duties as may be assigned to him by law, by the general manager, budget officer, or local board, or by rules and regulations of the Commission.

(l) Accounting System. – Each local board shall establish and maintain an accounting system designed to show in detail its assets, liabilities, equities, revenues, and expenditures. The system shall also be designed to show appropriations and estimated revenues as established in the budget originally adopted and subsequently amended.

(m) Incurring Obligations. – No obligation may be incurred in a program, function, or activity accounted for in a fund included in the budget unless the budget includes an appropriation authorizing the obligation and an unencumbered balance remains in the appropriation sufficient to pay in the current fiscal year the sums obligated by the transaction for the current fiscal year. No obligation may be incurred for a capital project unless the budget authorizing the obligation and an unencumbered balance remains in the appropriation sufficient to pay the sums obligated by the transaction. If an obligation is evidenced by a contract or agreement requiring the payment of money or by a purchase order for supplies and materials, the contract, agreement, or purchase order shall include on its face a certificate stating that the

instrument has been preaudited to assure compliance with this subsection. The certificate, which shall be signed by the finance officer or any deputy finance officer approved for this purpose by the local board, shall take substantially the following form:

"This instrument has been preaudited in the manner required by G.S. 18B-702.

_____

(Signature of finance officer)."

An obligation incurred in violation of this subsection is invalid and may not be enforced. The finance officer shall establish procedures to assure compliance with this subsection.

(n) Disbursements. – When a bill, invoice, or other claim against a local board is presented, the finance officer shall either approve or disapprove the necessary disbursement. If the claim involves a program, function, or activity accounted for in a fund included in the budget or a capital project or a grant project authorized by the budget, the finance officer may approve the claim only if

(1) He determines the amount to be payable; and

(2) The budget includes an appropriation authorizing the expenditure and either (i) an encumbrance has been previously created for the transaction or (ii) an unencumbered balance remains in the appropriation sufficient to pay the amount to be disbursed.

A bill, invoice, or other claim may not be paid unless it has been approved by the finance officer or, under subsection (o) of this section, by the local board. The finance officer shall establish procedures to assure compliance with this subsection.

(o) Local Board Approval of Bills, Invoices, or Claims. – The local board may, as permitted by this subsection, approve a bill, invoice, or other claim against the local board that has been disapproved by the finance officer. It may not approve a claim for which no appropriation appears in the budget, or for which the appropriation contains no encumbrance and the unencumbered balance is less than the amount to be paid. The local board shall approve payment by formal resolution stating the board's reasons for allowing the bill, invoice, or other claim. The resolution shall be entered in the minutes together with the names of those voting in the affirmative. The chairman of the board or some other member designated for this purpose shall sign the certificate on the check or draft given in payment of the bill, invoice, or other claim. If payment results in a violation of law, each member of the board voting to allow payment is jointly and severally liable for the full amount of the check or draft given in payment.

(p) Checks or Drafts signed by Finance Officer. – Except as otherwise provided by law, all checks or drafts on an official depository shall be signed by the finance officer or a properly designated deputy finance officer. The chairman of the local board or general manager of the local board shall countersign these checks and drafts. The Commission may waive the requirements of this subsection if the board determines that the internal control procedures of the unit or authority will be satisfactory in the absence of dual signatures.

(q) Payment of a Bill, Invoice, Salary or Claim. – A local board may not pay a bill, invoice, salary, or other claim except by a check or draft on an official depository or by a bank wire transfer from an official depository. Except as provided in this subsection each check or draft on an official depository shall bear on its face a certificate signed by the finance officer or a deputy finance officer approved for this purpose by the local board (or signed by the chairman or some other member of the board pursuant to subsection (c) of this section). The certificate shall take substantially the following form:

"This disbursement has been approved in the manner required by G.S. 18B-702

"

_____

(Signature of finance officer).

No certificate is required on payroll checks or drafts on an imprest account in an official depository, if the check or draft depositing the funds in the imprest account carried a signed

certificate. No certificate is required for expenditures of fifty dollars ($50.00) or less from a petty cash fund provided the expenditure is accounted for by a receipt for the expended item.

~~(b)~~(r) Borrowing Money. – A local board may borrow money only for the purchase of land, buildings, equipment and stock needed for the operation of its ABC system. A local board may pledge a security interest in any real or personal property it owns other than alcoholic beverages. A city or county whose governing body appoints a local board shall not in any way be held responsible for the debts of that board.

~~(c)~~(s) Audits. – A local board shall submit to the appointing authority and Commission an annual independent audit of its operations, performed in accordance with generally accepted accounting standards and in compliance with a chart of accounts prescribed by the Commission. The audit report shall contain a summary of the requirements of this Chapter, or of any local act applicable to that local board, concerning the distribution of profits of that board and a description of how those distributions have been made, including the names of recipients of the profits and the activities for which the funds were distributed. A local board shall also submit to any other audits and submit any reports demanded by the appointing authority or the Commission.

~~(d)~~(t) Deposits and Investments. – A local board may deposit ~~moneys~~monies at interest in any bank or trust company in this State in the form of savings accounts or certificates of deposit. Investment deposits shall be secured as provided in G.S. 159-31(b) and the reports required by G.S. 159-33 shall be submitted. A local board may invest all or part of the cash balance of any fund as provided in G.S. 159-30(c) and (d), and may deposit any portion of those funds for investment with the State Treasurer in the same manner as State boards and commissions under G.S. 147-69.3.

~~(e)~~(u) Compliance with Commission Rules. – The Commission shall adopt, and each local board shall comply with, fiscal control rules concerning the borrowing of money, maintenance of working capital, investments, appointment of a budget officer, appointment of a financial officer, daily deposit of funds, bonding of employees, auditing of operations, and the schedule, manner and other procedures for distribution of profits. The Commission may also adopt any other rules concerning the financial operations of local boards which are needed to assure the proper accountability of public funds. The Commission may vary these rules and regulations according to any other criteria reasonably related to the purpose or complexity of the financial operations involved. The Commission has the authority to inquire into and investigate the internal control procedures of a local board, and may require any modifications in internal control procedures which, in the opinion of the Commission, are necessary or desirable to prevent embezzlements or mishandling of public monies.

(v) Penalties. – If a board member or employee of a local board incurs an obligation or pays out or causes to be paid out any funds in violation of this section, he and the sureties on his official bond are liable for any sums so committed or disbursed. If the finance officer or any properly designated deputy finance officer gives a false certificate to any contract, agreement, purchase order, check, draft, or other document, he and the sureties on his official bond are liable for any sums illegally committed or disbursed thereby.

~~(f)~~(w) Applicability of Criminal Statutes. – The provisions of G.S. 14-90 and G.S. 14-254 shall apply to any person appointed to or employed by a local board, and any person convicted of a violation of G.S. 14-90 or G.S. 14-254 shall be punished as a Class H felon.

(x) Local Acts. – Notwithstanding the provisions of any local act, this section applies to all local boards."

SECTION 16. Chapter 18B of the General Statutes is amended by adding a new section to read:

"**§ 18B-704. Removal of local board members and employees.**

(a) Improper Influence. – Neither the Commission nor its individual members shall attempt to coerce any appointing authority to appoint a particular person as a member of a local board or attempt to coerce a local board to employ any particular applicant.

(b) Purpose. – This section is intended to provide a uniform system of removal for appointing authorities and the Commission.

(c) Cause for Removal. – Disqualification of a local board member or employee under the law, a violation of the ABC laws, failure to complete training required by this Chapter or the Commission, or engaging in any conduct constituting moral turpitude or which brings the local board or the ABC system into disrepute is cause for the Commission to remove any member or employee of a local board. The employment or retention of any employee who is known to be disqualified under the law to hold a position with a local board is cause for the Commission to remove the board members involved.

(d) Removal Process. – The Commission or appointing authority shall provide, in writing, to the local board member or employee the findings of fact upon which the decision for removal is based. The Commission or appointing authority shall also provide the local board member or employee with notice of the availability of a hearing before the Commission to review the removal.

(e) Removal Hearing. – Any local board member or employee removed from office or discharged by the Commission or the appointing authority may request a hearing before the Commission. Such a request operates to stay the action of the Commission or the appointing authority with regard to the matter until after the hearing, unless the Commission finds that the public interest requires immediate action. At the hearing, the employee or his counsel may examine all evidence used against him and present evidence in his own behalf. A removal hearing is not subject to the provisions of Chapter 150B of the General Statutes. All hearings shall be conducted informally and in such manner as to preserve the substantial rights of the parties.

(f) Hearing Procedure. – The Commission shall hold the hearing required by subsection (d) of this section within 15 days of the member's or employee's request for a hearing. The standard of review by the Commission is de novo. The Commission or appointing authority shall be represented by a Commission Hearing Officer. The Commission shall discharge the member or employee if two-thirds of the Commission's members vote for removal. The Commission shall make findings of fact. The Commission may adopt the findings of fact of the Commission or the appointing authority, may add new findings of fact to the original findings of fact, or may substitute new findings of fact for the original findings of fact. The Commission shall make conclusions of law and shall issue a written decision to the member or employee of the local board, and to the appointing authority, within 15 days of the hearing.

(g) Commission Authority. – The Commission shall have the sole power, in its discretion, to determine if cause exists for removal of a local board member or employee who has requested a hearing before the Commission. The Commission's decision in a removal hearing is final.

(h) Appeal. – A local board member or employee may appeal the Commission's final decision to the Court of Appeals. The standard of review shall be abuse of discretion. The sole remedy for a local board member or employee shall be the reinstatement of the board member or employee to the local board with back-pay. All awards for back-pay shall be paid by the local board form which the board member or employee was removed.

(i) Removal Hearing not a Substitute for Termination of Employee. – Nothing in this section replaces or is intended to replace a local board's policy regarding the termination of an employee for personnel reasons. The removal process under this section is reserved solely for the appointing authority or the Commission to remove a board member or employee for cause.

(j) Local Acts. – Notwithstanding the provisions of any local act, this section applies to all local boards."

SECTION 17. Chapter 18B of the General Statutes is amended by adding a new section to read:

"**§ 18B-705. Compliance with performance standards; remedies.**

(a) Local Board Compliance. – The Commission shall establish performance standards pursuant to G.S. 18B-203(a)(20). The Commission shall ensure that all local boards comply with established performance standards by conducting regular or special audits, conducting performance evaluations, monitoring ABC law enforcement efforts, or taking other measures which may include inspections by Commission auditors or alcohol law-enforcement agents.

(b) Performance Improvement Plans. – The Commission, upon determining that a local board is failing to meet performance standards established pursuant to G.S. 18B-203(a)(20), shall meet with the chair of the local board and the appointing authority and issue a statement of findings. The appointing authority, in consultation with the Commission, shall develop for and deliver a performance improvement plan to the local board within 30 days of the meeting with the Commission. The performance improvement plan shall include, but not be limited to, recommendations for improved performance based on the performance standards established by the Commission. The plan shall also state a period of time in which the performance improvements are to occur and what action will be taken by the Commission if performance standards are not met within the given time limits. The appointing authority shall allow up to, but no more than, six months' time to the local board to implement and show improvement under the performance improvement plan. The local appointing authority, in consultation with the Commission and upon good cause shown, may allow up to an additional six-month period of time for the local board to meet all requirements in the performance improvement plan and to establish that the performance standards established by the Commission are met.

(c) Remedies. – If the Commission determines that the established performance standards cannot be met after a performance improvement plan has been implemented and adequate time has been given, but in no case more than 12 months, the Commission shall take appropriate action to ensure profitability. This action may include closing the board, a store, multiple stores, or merging the local board with another local board in order to maintain solvency and meet community needs. The Commission may also seize the assets of the local board and liquidate any assets necessary to satisfy any debt and maintain the solvency of the local board.

(d) Local Acts. – Notwithstanding the provisions of any local act, this section applies to all local boards."

SECTION 18. Chapter 18B of the General Statutes is amended by adding a new section to read:

"**§ 18B-706. Ethics requirements for local boards.**

(a) Members of local ABC boards shall be subject to the provisions of Chapter 138A of the General Statutes, the State Government Ethics Act. For the purposes of this section, a local ABC board shall be deemed a non-advisory board. The Commission may also designate certain employees of local boards to be subject to the provisions of the State Government Ethics Act. The Commission shall establish criteria for this designation and publish it to the local boards and appointing authorities. The Commission shall provide a list of local board members and designated employees subject to the provisions of the State Government Ethics Act to the State Ethics Commission pursuant to G.S. 138A-15(h)(i) and shall provide all information required by G.S. 138A-15(h)(ii) to the local board members and designated employees.

(b) Local Acts. – Notwithstanding the provisions of any local act, this section applies to all local boards."

SECTION 19. G.S. 138A-3(30) is amended by adding a new subsubdivision to read:

"n. All members of local ABC boards and any employees of local ABC boards as may be designated by the North Carolina Alcoholic

Beverage Control Commission in accordance with the procedures set forth in G.S. 18B-706."

SECTION 20. G.S. 18B-801(b) is amended by adding a new subdivision to read:

"(b) Location of Stores. – A local board may choose the location of the ABC stores within its jurisdiction, subject to the approval of the Commission. In making its decision on a location, the Commission may consider:

(1) Whether the health, safety, or general welfare of the community will be adversely ~~affected; and~~affected.

(2) Whether the citizens of the community or city in which the proposed store is to be located voted for or against ABC stores in the last election on the question.

(3) The proximity of the new location to existing ABC stores operated by the local board or any other boards."

SECTION 21. G.S. 18B-803 reads as rewritten:

"**§ 18B-803. Store management.**

(a) Manager. – A local board shall provide for the management of each store operated by it. The board shall employ at least one manager for each store, who shall operate the store pursuant to the directions of that board.

(b) Bonding of Manager. – Each store manager shall be bonded in an amount not less than ~~five thousand dollars ($5,000),~~ one hundred thousand dollars ($100,000) secured by a corporate surety, for the honest performance of his duties. A public employees' blanket position bond, honesty form, in the required amount satisfies the requirements of this subsection. The bond shall be payable to the local board and shall be approved by the appointing authority for the local board. The appointing authority may increase the amount of bond required for store managers under this subsection.

(c) Bonding of Other Employees. – A local board or the appointing authority may require any of its other employees who handle funds to obtain bonds. The amount and form of those bonds shall be determined by the local board.

(d) Local Acts. – Notwithstanding the provisions of any local act, this section applies to all local boards."

SECTION 22. G.S. 18B-805(b) is amended by adding a new subdivision to read:

"(5) The local board shall transfer monthly an amount equal to one-twelfth (1/12) of two percent (2%) of the gross receipts for fiscal year 2008-2009 to the ALE Division to provide for and ensure uniform state-wide enforcement of the ABC laws. Notwithstanding the provisions of any local act, this subsection applies to all local boards. Transfers to the ALE Division under this subdivision shall be made on the first day of each month and shall begin on October 1, 2010."

SECTION 23. G.S. 18B-805(c)(3) reads as rewritten:

"(3) The local board shall spend, or pay to the county commissioners to spend, for the purposes stated in subsection (h), an amount set by the board which shall be at least seven percent (7%) of the gross receipts remaining after the distribution required by subdivision (1). ~~This provision shall not be applicable to a local board which is subject to a local act setting a different distribution.~~"

SECTION 24.

"(e) Other Distributions. – After making the distributions provided in subsections (b), (c), and (d), the local board shall pay each quarter the remaining gross receipts to the general fund of the city or county for which the board is ~~established, unless some other distribution or some other schedule is provided for by law.~~established. If the governing body of each city and county receiving revenue from an ABC system agrees, those governing bodies may alter at any

time the distribution to be made under this subsection or under any local act. Copies of the governing body resolutions agreeing to a new distribution formula and a copy of the approved new distribution formula shall be submitted to the Commission for review and audit purposes. If any one of the governing bodies later withdraws its consent to the change in distribution, profits shall be distributed according to the original formula, beginning with the next quarter."

SECTION 24. G.S.18B-805 is amended by adding a new subsection to read:

"(i) Local Acts. – Notwithstanding the provisions of any local act, this section applies to all local boards. "

SECTION 25. It is the intent of the General Assembly that the ALE Division becomes a receipt supported agency and that no General Fund monies shall be appropriated to the Division for operations beyond November 1, 2010.

SECTION 26. Section 8 of this act becomes effective on January 1, 2011. Sections 9 and 12 of this act become effective October, 1, 2010 and applies to general managers and employees hired on or after that date. Section 15 of this act becomes effective May 1, 2010. Section 22 of this act becomes effective September 30, 2010. The remainder of this act becomes effective October 1, 2010.

Amends Section I

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT

_____ Bill _____

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

_____ARV-25 [v.1]

Comm. Sub. [NO]
Amends Title [NO]

Date May 5 ,2010

Fields Scarborough

moves to amend the bill on page 1, lines 10-11, by deleting ",other than a general manager,"

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

Withdrawn

Amends Sections 3 & 4

Passed ✓

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
_____ Bill _____

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

_____ASA-54 [v.2]

Comm. Sub. [NO]
Amends Title [NO]

Date _____,2010

Tim Adams

moves to amend the bill on page 2, lines 17 - 37
by rewriting those lines to read:

"**SECTION 3.** G.S. 18B-501 reads as rewritten:

'**§ 18B-501. Local ABC officers.**

(a) Appointment. – Except as provided in subsection (f), each local board shall hire one or more ABC enforcement officers. Local ABC enforcement officers shall be designated as "ABC Officers". The local board may designate one officer as the chief ABC officer for that board.

(b) Subject Matter Jurisdiction. – After taking the oath prescribed for a peace officer, a local ABC officer may arrest and take other investigatory and enforcement actions for any criminal offense; however, the primary responsibility of a local ABC officer is enforcement of the ABC laws and Article 5 of Chapter 90 (The Controlled Substances Act).

(c) Territorial Jurisdiction. – A local ABC officer has jurisdiction anywhere in the county in which he is employed except that a city ABC officer's territorial jurisdiction is subject to any limitation included in any local act governing that city ABC system. A local ABC officer may pursue outside his normal territorial jurisdiction anyone who commits an offense within that jurisdiction, as provided in G.S. 15A-402(d).

(d) Assisting Other Local Agencies. – The local ABC officers employed by a local board shall constitute a "law-enforcement agency" for purposes of G.S. 160A-288, and a local board shall have the same authority as a city or county governing body to approve cooperation between law-enforcement agencies under that section.

(e) Assisting State and Federal Enforcement. – A local ABC officer may assist State and federal law-enforcement agencies in the investigation of criminal offenses in North Carolina, under the following conditions:

(1) The local board employing the officer has adopted a resolution approving such assistance and stating the conditions under which it may be provided;

(2) The State or federal agency has made a written request for assistance from that local board, either for a particular investigation or for any investigation that might require assistance within a certain period of time;

(3) The local ABC officer is supervised by someone in the requesting agency; and

(4) As soon as practical after the assistance begins, an acknowledgement of the action is placed in the records of the local board.

A local ABC officer shall have territorial jurisdiction throughout North Carolina while assisting a State or federal agency under this section. While providing that assistance the officer shall continue to be considered an employee of the local board for purposes of salary, worker's compensation, and other benefits, unless a different arrangement is negotiated between the local board and the requesting agency.

(f) Contracts with Other Agencies. – Instead ~~of~~ of, or in addition to, hiring local ABC officers, a local board may contract ~~to pay its enforcement funds to~~with a sheriff's department, city police department, or other local law-enforcement agency for enforcement of the ABC laws within the law-enforcement agency's territorial jurisdiction. Enforcement agreements may be made with more than one agency at the same time. When such a contract for enforcement exists, ~~the~~ those officers of the contracting law-enforcement agency who have been designated by the agency head shall have the same authority to inspect under G.S. 18B-502 that an ABC officer employed by that local board would ~~have~~have once the designated officers of the contracting law enforcement agency have been certified by the chief ABC officer as having been trained. In order to be certified, the designated officers shall receive the same training in the enforcement of ABC laws as is provided to local ABC officers. If a city located in two or more counties approves the sale of some type of alcoholic beverage pursuant to the provisions of G.S. 18B-600(e4), and there are no local ABC boards established in the city and one of the counties in which the city is located, the local ABC board of any county in which the city is located may enter into an enforcement agreement with the city's police department for enforcement of the ABC laws within the entire city, including that portion of the city located in the county of the ABC board entering into the enforcement agreement.

(f1) ABC Enforcement in Absence of Contract. – In those cities and counties in which no contract exists between the local board and a local law enforcement agency for enforcement of ABC laws, officers of a local law enforcement agency shall have the same authority to inspect under G.S. 18B-502 that an ABC officer employed by that board would have, provided:

(1) The local law enforcement agency head or sheriff has designated one or more officers of the agency to conduct inspections under G.S. 18B-502.

(2) The designated officers of the law enforcement agency have been certified by the chief ABC officer as having been trained.

(3) The designated officers have received the same training in the enforcement of ABC laws as that provided to local ABC officers.

(f2) Accountability; Enforcement Reports. – To ensure accountability to the appointing authority and the Commission, every local board's ABC officers and those law enforcement agencies subject to an enforcement agreement entered into pursuant to subsection (f) of this section shall report to the local board, by the fifth business day of each moth, on a form developed by the Commission, the following:

(1) The number of arrests made for ABC law, Controlled Substance Act, or other violations, by category, at ABC permitted outlets.

(2) The number of arrests made for ABC law, Controlled Substance Act, or other violations, by category, at other locations.

(3) The number of agencies assisted with ABC law or controlled substance related matters.

(4) The number of alcohol education and responsible server programs presented. The local board shall submit a copy of the enforcement report to the appointing authority and the Commission not later than five business days after receipt of the enforcement report by the local board. The Commission shall publish this information, by local board and enforcement agency, on a public Internet Web site maintained by the Commission.

(g) Discharge. – Local ABC officers and officers of agencies which contract with local boards for enforcement of the ABC laws are subject to the discharge provisions of G.S. 18B-202.

And by renumbering the remaining sections accordingly.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

Deletes Section 5

Passed ✓

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
_____ Bill _____

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

_____ASA-46 [v.3]

Comm. Sub. [NO]
Amends Title [NO]

Date _____,2010

Gibson

moves to amend the bill on page 2, lines 38-41
by deleting those lines

and by renumbering the remaining sections accordingly.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

Amends Sections 8, 9, & 10

Passed. ✓

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT

_____ Bill _____

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

_____ASA-51 [v.1]

Comm. Sub. [NO]
Amends Title [NO]

Date _____,2010

Crawford

moves to amend the bill on page 3, lines 11-12
by rewriting those lines to read:
"amount not to exceed $150 per board meeting unless a different level of monetary compensation is approved by the appointing authority. If a different level is approved by the appointing authority, the appointing authority shall notify the Commission of the approved level of compensation in writing. No local board member shall receive any non-monetary compensation or benefits unless specifically authorized by this section."

And on page 3, line 17 by rewriting that line to read:
"originally incorporated unless such compensation is otherwise approved by the appointing authority. The local board shall provide the appointing authority's written confirmation of such approval to the Commission. The general manager of a local board may receive any other benefits to"

And on page 3, line 22 by rewriting that line to read:
"members and employees of local boards shall be reimbursed pursuant to G.S. 138-6 unless the local board adopts a travel policy that conforms to the travel policy of the appointing authority and such policy is approved by the appointing authority. The local board shall provide the appointing authority's written confirmation of such approval to the Commission."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

Amends Sections 8, 9, 10

Copies handed out

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
_____ Bill _____

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

_____ARV-21 [v.3]

Comm. Sub. [NO]
Amends Title [NO]

Date _____,2010

Walter Harris

moves to amend the bill on page 3, line 12 by deleting " specifically authorized by this section" and substituting "such compensation or benefit is otherwise approved by the appointing authority. The local board shall provide the appointing authority's written confirmation of such approval to the Commission.";

and on page 3, line 17 by inserting a comma after the word "incorporated", and by inserting before the period the following: "unless such compensation is otherwise approved by the appointing authority. The local board shall provide the appointing authority's written confirmation of such approval to the Commission, and the Commission shall annually compile and distribute a report on salary deviations to all boards and appointing authorities.";

and on page 3, lines 20-22 by deleting those lines in their entirety and by renumbering the remaining sections of the bill accordingly.

SIGNED _____
Amendment Sponsor

Withdrawn

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

Deletes Sections 8, 9, 10 & 11

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT

_____ Bill _____

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

_____ARV-26 [v.1]

Comm. Sub. [NO]
Amends Title [NO]

Date MAY 5 ,2010

Fields Scarborough

moves to amend the bill on page 3, lines 8-32 by deleting those lines in their entirety, and by renumbering the remaining sections of the bill accordingly.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED ✓ TABLED _____

Deletes Section 11

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
_____ Bill _____

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

_____ARV-24 [v.1]

Comm. Sub. [NO]
Amends Title [NO]

Date _____,2010

Walter Harris

1 moves to amend the bill on page 3, lines 23-32 by deleting those lines in their entirety.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED ✓ TABLED _____

Amends Section 14

Powell V

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT

_____ Bill _____

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

_____ASA-56 [v.1]

Comm. Sub. [NO]
Amends Title [NO]

Date 5/5/ ,2010

Paul Powell

moves to amend the bill on page 4, lines 19-22
by rewriting those lines to read:
"(b) Duties. - A local board shall have the duty to comply with all rules adopted by the Commission pursuant to 18B and meet all standards for performance and training established by the Commission pursuant to G.S. 18B-203(a)(20) and (21). Failure to comply with Commission rules shall be cause for removal."

SIGNED W. Paul Powell
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

Amends Sect. 14

Copies handed out

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT

_____ Bill _____

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

_____ARV-23 [v.1]

Comm. Sub. [NO]
Amends Title [NO]

Date _____,2010

Walter Harris

moves to amend the bill on page 4, lines 19-20 by deleting the phrase "comply with all directives of the Commission";

and on page 4, line 22 by deleting "all directives and".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

Withdrawn

Deletes Section 15

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
_____ Bill _____

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

_____ARV-27 [v.1]

Comm. Sub. [NO]
Amends Title [NO]

Date May 5 ,2010

Fields Scarborough

moves to amend the bill on page 4, line 23 through page 8, line 46 by deleting those lines in their entirety and by renumbering the remaining sections of the bill accordingly.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED ✓ TABLED _____

Amends Sec. 17 New Section regarding insolvent systems

Passed ✓

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
_____ Bill _____

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

_____ASA-49 [v.2]

Comm. Sub. [NO]
Amends Title [NO]

Date _____,2010

Gibson

moves to amend the bill on page 10, lines 24-31
by rewriting those lines to read:

"(c) Remedies. – If the Commission determines that the local board has not implemented the recommendations for improved performance in a timely manner and the local board is not meeting the performance standards or is failing to make all distributions required by G.S. 18B-805(b), the Commission shall notify the local board and the appointing authority and may make additional recommendations to the local board and appointing authority including closing a store or stores, relocating store locations, merging the local board with another local board, or entering into an agreement for joint store operations, or abolishing the local board."

And on page 10, lines 33-34,
By inserting between those lines the following:

"**SECTION 18.** G.S. 18B-801(d) reads as rewritten:

'(d) Insolvent ABC System. – If an ABC system is insolvent, the local board may apply to the Commission for an order to close the system. Upon receipt of an application, or upon its own motion, the Commission shall investigate the system, and if it finds that ~~further operation of the ABC stores will not be profitable,~~the system is insolvent, it may order the system closed. If the Commission orders a local system to close, the Commission may:

(1) After consultation with the local board, its creditors, and other interested parties, schedule a phase out of the system's business activities;
(2) Represent the local board in negotiations with creditors and other interested parties;
(3) Require an accounting or auditing of the local system;
(4) Take possession or arrange for the disposition of any liquor for which the local board has not paid;
(5) Apply to the Superior Court to be appointed as receiver for the local board with all powers and duties of a receiver for a corporation under Article 38 of Chapter 1 of the General Statutes, except that the Commission shall not be required to post the bond required by G.S. 1-504; or
(6) Take any other reasonable steps to promote an orderly closing of the system.

In lieu of closing an insolvent system, the commission may, in acting as appointed receiver for the local board, enter into a voluntary agreement to merge the local board with another local

board pursuant to G.S. 18B-703, or may enter into a voluntary agreement with one or more local boards to jointly operate one or more stores pursuant to G.S. 18B-703(h).'"

And be renumbering the remaining sections accordingly.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

Amends Section 18

Passed ✓

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
_____ Bill _____

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

_____ASA-50 [v.2]

Comm. Sub. [NO]
Amends Title [NO]

Date _____,2010

Howard Hunter III

moves to amend the bill on page 10, line 36 through page 11, line 2,
by rewriting those lines to read:

"**§ 18B-706. Ethics requirements for local boards.**

(a) Each local board shall adopt a policy containing a code of ethics to guide actions by the board members and employees of the ABC board in the performance of their official duties. The policy shall address at least all of the following:

(1) The need to obey all applicable laws regarding official actions taken as a board member or employee.

(2) The need to uphold the integrity and independence of the board member or employee's position.

(3) The need to avoid impropriety in the exercise of official duties.

(4) The need to faithfully perform the duties of the position.

(5) The need to conduct the affairs of the board in an open and public manner, including complying with all applicable laws governing open meetings and public records.

(b) Each member of a local board shall receive a minimum of two hours of ethics education within 12 months after initial appointment to the office and again within 12 months after each subsequent appointment to the office. The ethics education shall cover laws and principles that govern conflicts of interest and ethical standards of conduct for local ABC boards. The education may be provided by the Commission or other qualified source approved by the Commission. The local board shall maintain a record verifying receipt of the ethics education by each member of the board. The local board may require appropriate ethics training and education for employees of the local ABC board."

And by renumbering the remaining sections of the bill accordingly.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
_____ Bill _____

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

_____ASA-50 [v.2]

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

Deletes Section 18

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
_____ Bill _____

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

_____ARV-28 [v.1]

Comm. Sub. [NO]
Amends Title [NO]

Date MAY 5 ,2010

Fields Scarborough

moves to amend the bill on page 10, lines 34-47 by deleting those lines in their entirety and by renumbering the remaining sections of the bill accordingly.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

Withdrawn

Amends Section 21

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
_____ Bill _____

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

_____ARV-29 [v.1]

Comm. Sub. [NO]
Amends Title [NO]

Date May 5 ,2010

Fields Scarborough

moves to amend the bill on page 11. line 20 by deleting "one hundred thousand dollars ($100,000)" and substituting "fifty thousand dollars ($50,000)".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

Withdrawn

Deletes Sect 22

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
_____ Bill _____

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

_____ARV-31 [v.1]

Comm. Sub. [NO]
Amends Title [NO]

Date May 5 ,2010

Fields Scarborough

1 moves to amend the bill on page 11, lines 31-38 by deleting those lines in their entirety.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

Withdrawn

Deletes Section 22, & 25

Passed ✓

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
_____ Bill _____

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

_____ASA-45 [v.4]

Comm. Sub. [NO]
Amends Title [NO]

Date _____,2010

Gibson

moves to amend the bill on page 11, lines 31-38
by deleting those lines

and on page 12, lines 9-11
by deleting those lines

and by renumbering the remaining sections accordingly.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

Deletes 23 & 24, 24

Passed ✓

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
_____ Bill _____

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

_____ASA-58 [v.1]

Comm. Sub. [NO]
Amends Title [NO]

Date 5/5/,2010

Paul Powell

moves to amend the bill on page 11, line 39 through page 12 line 8
by deleting those lines

and by renumbering the remaining sections accordingly.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

Deletes Sec. 23-24

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT

_____ Bill _____

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

_____ARV-30 [v.2]

Comm. Sub. [NO]
Amends Title [NO]

Date May 5 ,2010

Fields Scarborough

moves to amend the bill on page 11, line 39 through page 12, line 8 by deleting those lines in their entirety and by renumbering the remaining sections of the bill accordingly.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

Deletes 22, 23, 24 & 24(2)

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT

_____ Bill _____

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

_____ARV-22 [v.1]

Comm. Sub. [NO]
Amends Title [NO]

Date _____,2010

Walter Harris

moves to amend the bill on page 11, line 31 through page 12, line 8 by deleting those lines in their entirety, and by renumbering the remaining sections of the bill accordingly.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

Withdrawn

GIBSON

High Point ABC

Distribution Calculations for Y/E June 2009

	Y/E June **2009** Actual	% of Sales	Y/E June **2009** 2% ALE Distribution (estimate)	% of Sales		Variance
Sales	**$11,885,724.66**		**$11,885,724.66**			
Total COGS	$8,800,359.42	74.04%	$8,800,359.42	74.04%		
2% ALE Distribution	$0.00	0.00%	$237,714.49	2.00%		
Gross Profit	**$3,085,365.24**	25.96%	**$2,847,650.75**	23.96%		$237,714.49
Operating Expense	$2,009,687.43	16.91%	$2,009,687.43	16.91%		
Other Income/Expense	-$12,003.51		-$12,003.51			
Net Profit	**$1,063,674.30**	8.95%	**$825,959.81**	6.95%		$237,714.49
Law Enforcement	$71,994.25	0.61%	$35,670.25	0.30%	*	$36,324.00
Alcohol Education & Rehabilitation	$40,000.00	0.34%	$31,060.63	0.26%	**	$8,939.37
Net Profit before required distribution	**$951,680.05**	8.01%	**$759,228.93**	6.39%		$192,451.12
City of High Point	$643,539.00	5.41%	$479,171.00	4.03%		$164,368.00
Guilford County	$55,960.00	0.47%	$41,668.00	0.35%		$14,292.00
City of Jamestown	$50,000.00	0.42%	$50,000.00	0.42%		

* = Law Enforcement estimate based on required percentage mandated by NCGS 18B-805(c)(2)
**= Alcohol Education & Rehabilitation based on local act. Formula is a percentage of Net Profit.

VISITOR REGISTRATION SHEET

Joint Study Committee on Alcoholic Beverage Control 05/05/2010

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Lew Nuckles	Wake Co. ABC Law Enforcement
Brad Pearson	Wake Co. ABC Law Enforcement
James Stallings	Beaufort Co ABC Law Enforcement
David Wooten	Nash Co. ABC Law Enf.
H.A. Fernandez	TRIAD ABC Law Enforcement
Bill Balvin	ABC Law Enforcement - Cumberland
Thomas Moore	Franklin, Wake

VISITOR REGISTRATION SHEET

Joint Study Committee on Alcoholic Beverage Control 05/05/2010

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jon Carr	NC Assoc ABC Boards
Dirk Carlton	atty
Elizabeth Taylor	Cochaneck Law Group
Patsy Hall	Mt Airy ABC
Billy Hamm	Mt Airy ABC
Eddie Greene	NC A. B. Council
Swade Carroll	Johnston Co. ABC
Sarah Manning	High Country ABC
Sara Brewer	High Country Area
Mike Myrick	Wayne Co ABC
Michael V. Adams	Charlotte-Mecklenburg Police Dept.

VISITOR REGISTRATION SHEET

Joint Study Committee on Alcoholic Beverage Control 05/05/2010

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Fred Baggett	City of High Point
Michelle Frazier	MFS
John McMillan	MFS
[illegible]	Mtn Atlantic
Agnes Stevens	ABC Commission
[illegible]	ABCC
[illegible] Herring	NCABCC
Roy Nassa	SEC

VISITOR REGISTRATION SHEET

Joint Study Committee on Alcoholic Beverage Control 05/05/2010

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Amy Hobbs	MWC
Danica Patrum	Troutman Sanders
Chris Valauri	NC Beer & Wine Wholesalers
Kathryn Winstead	NC SOS
Kris Gardner	NCBWWA / Tharrington Smith
John Converse	Wake ABC Board
Craig Pleasants	Wake Co. ABC Board
Tom Harris	Wilmington & Winston-Salem
Ben Goins	ABC Board, Mooresville
Carl Robbins	Chief of Police Mooresville
[illegible]	Tom

VISITOR REGISTRATION SHEET

Joint Study Committee on Alcoholic Beverage Control 05/05/2010

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Rhea Frank	NCACC
Kara Leonard	NCACC
Sharon Scudder	NCACC
Lisa Nolen	NCACC
Barrett Joyner	The Healing Place of Wake County
Britany Farrell	NCFPC
Joe Wolf	NC Assoc. of ABC Bds
Rev. Mark Creech	CAR
Jim Blackburn	Association of County Commissioners
Dean Plunkett	NCBWWA
Meredith Robinson	NCRMA

HOUSE PAGES

NAME OF COMMITTEE ABC DATE 5.5.2010

1. Name: _____

County: _____

Sponsor: _____

2. Name: _____

County: _____

Sponsor: _____

3. Name: _____

County: _____

Sponsor: _____

4. Name: _____

County: _____

Sponsor: _____

5. Name: _____

County: _____

Sponsor: _____

SGT-AT-ARM

Senate

1. Name: Carlton Adams — Stan Johnson
2. Name: Bob Rossi — Curtis Dowd
3. Name: Martha Parish — Wade Anders
4. Name: Trey Raley

NORTH CAROLINA GENERAL ASSEMBLY

JOINT STUDY COMMITTEE ON ALCOHOLIC BEVERAGE CONTROL

REPORT TO THE 2010 SESSION of the 2009 GENERAL ASSEMBLY

MAY 2010

TRANSMITTAL LETTER

The Joint Study Committee on Alcoholic Beverage Control submits to you for your consideration the following report pursuant to G.S. 120-19.6(a1), Rule 31 of the Rules of the Senate of the 2009 General Assembly, and Rule 26(a) of the Rules of the House of Representatives of the 2009 General Assembly.

Respectfully submitted,

Representative Ray Warren
Co-Chair

Senator Don Vaughan
Co-Chair

COMMITTEE PROCEEDINGS

Below is a brief summary of the Joint Study Committee on Alcoholic Beverage Control's proceedings. A more detailed record of the Committee's work can be found in the Committee's notebook, located in the Legislative Library.

March 9, 2010

The Committee met on Tuesday, March 9, 2010 in Room 643 of the Legislative Office Building at 2:00 p.m. Carol Shaw, Principal Program Evaluator, Program Evaluation Division, presented her report entitled, "North Carolina's Alcoholic Beverage Control System Is Outdated and Needs Modernization" and answered questions from the Committee.

March 24, 2010

The Committee met on Wednesday, March 24, 2010 in Room 643 of the Legislative Office Building at 2:00 p.m. The Committee first heard from Jon Williams, Chairman, North Carolina Alcoholic Beverage Control Commission, who presented information on the history and purpose of the ABC system and addressed issues of accountability and efficiency within the system. Next, Jon Carr, Legislative Counsel for the North Carolina Association of ABC Boards, presented the Association's perspective on the ABC system. The meeting was then opened up for public comment.

April 8, 2010

The Committee met on Thursday, April 8, 2010 in Room 643 of the Legislative Office Building at 2:00 p.m. The Committee first heard from those who wished to make public comments. Next, Mikael Gross, Committee Co-Counsel, provided an overview of draft legislation for consideration by the Committee. The meeting was then opened up for committee discussion.

April 22, 2010

The Committee met on Thursday, April 22, 2010 in Room 643 of the Legislative Office Building at 2:00 p.m. The Chair recognized Mary Shuping, Education Officer, State Ethics Commission, to present information on the State Government Ethics Act. Next, Eileen R. Youens, Assistant Professor of Public Law and Government, School of Government, University of North Carolina at Chapel Hill, gave a presentation on ethics laws that apply to local ABC boards. The Committee then heard from Mikael Gross, Committee Co-Counsel, who explained the draft legislation, and the meeting was then opened up for committee discussion.

May 5, 2010

The Committee met on Wednesday, May 5, 2010 in Room 643 of the Legislative Office Building at 2:00 p.m. The Committee discussed changes to the draft legislation. The Committee also discussed proposed recommendations and approved a final report.

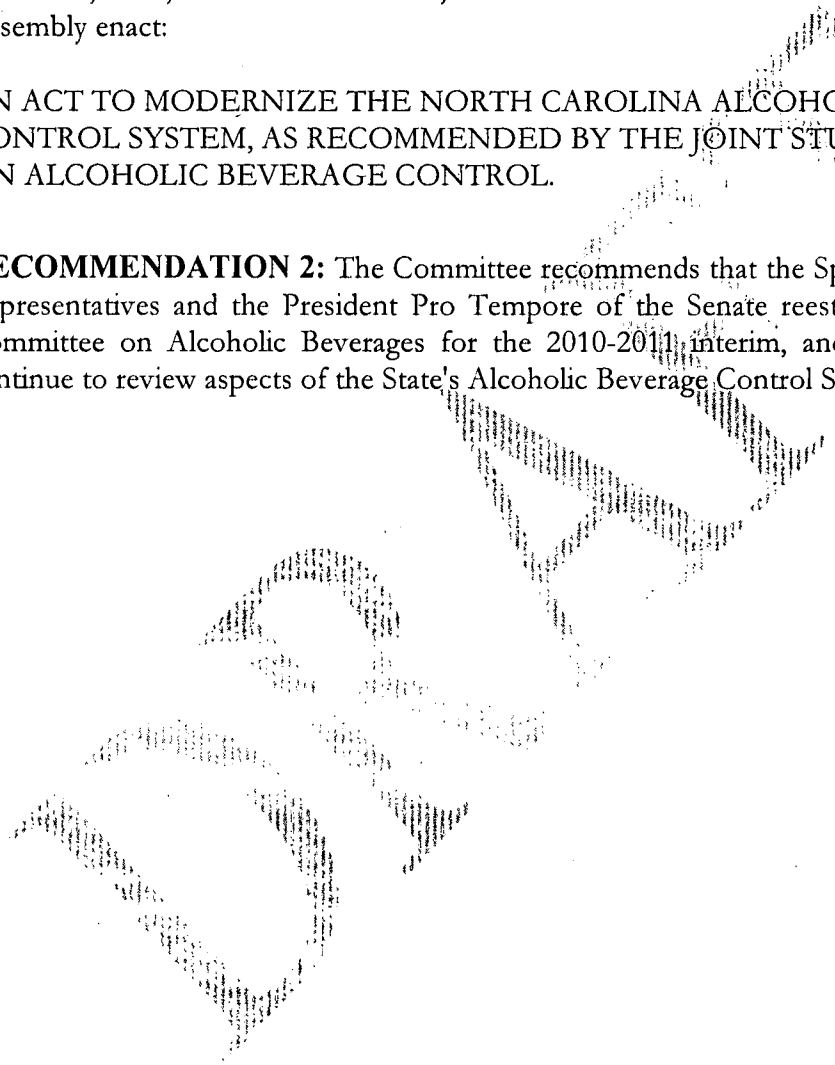
RECOMMENDATIONS

The Joint Study Committee on Alcoholic Beverage Control heard significant testimony and had extensive discussion all aspects of the current State and local structure of Alcoholic Beverage Control (ABC) in North Carolina, and makes the following recommendations.

Recommendation 1: To provide for statewide consistency and uniformity in ABC structures, rules, and ethics standards, the committee makes recommends that the General Assembly enact:

AN ACT TO MODERNIZE THE NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL SYSTEM, AS RECOMMENDED BY THE JOINT STUDY COMMITTEE ON ALCOHOLIC BEVERAGE CONTROL.

RECOMMENDATION 2: The Committee recommends that the Speaker of the House of Representatives and the President Pro Tempore of the Senate reestablish the Joint Study Committee on Alcoholic Beverages for the 2010-2011 interim, and that the Committee continue to review aspects of the State's Alcoholic Beverage Control System.



COMMITTEE AUTHORIZATION

Section 1. The **Joint Study Committee on Alcoholic Beverage Control** (hereinafter "Committee") is established by the President Pro Tempore of the Senate and the Speaker of the House of Representatives pursuant to G.S. 120-19.6(a1), Rule 31 of the Rules of the Senate of the 2009 General Assembly, and Rule 26(a) of the Rules of the House of Representatives of the 2009 General Assembly.

Section 2. The Committee consists of 28 members, 14 of whom are appointed by the President Pro Tempore of the Senate and 14 of whom are appointed by the Speaker of the House of Representatives. The President Pro Tempore of the Senate shall appoint eight members of the Senate, and six public members. The Speaker of the House of Representatives shall appoint eight members of the House of Representatives, and six public members.

President Pro Tempore Appointments	Speaker of the House Appointments
Senator Don Vaughn, Chair	Representative Ray Warren, Co-Chair
Senator Charlie Albertson	Representative Larry M. Bell
Senator Stan Bingham	Representative James W. Crawford, Jr.
Senator Dan Blue	Representative Pryor Gibson
Senator Dan Clodfelter	Representative Dewey L. Hill
Senator Fletcher Hartsell	Representative Marvin W. Lucas
Senator Linda Garrou	Representative Edgar V. Starnes
Senator Steve Goss	Representative Fred F. Steen, II
Chief Tim Adams, Gaston County	Ronald Bogle, Orange County
Edward Cook, Mecklenburg County	Karen Gottovi, Wake County
Howard Hunter, III, Hertford County	Walter Harris, Chatham County
Eddie Maynor, Cumberland County	Edward Holmes, Orange County
Paul Powell, Guilford County	Bill Hurley, Cumberland County
Fields Scarborough, Dare County	Peggy Richmond, Orange County

The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each appoint a co-chair, who shall be a member of the General Assembly, from among their respective appointees. A co-chair or other member of the Committee continues to serve until a successor is appointed. A vacancy shall be filled within 30 days by the officer who made the original appointment. Members serve at the pleasure of the appointing officer.

Section 3. The Committee shall study all aspects of the current State and local structure of alcoholic beverage control (ABC) in North Carolina, including:

(1) Analyzing the December 2008 report of the North Carolina General Assembly Program Evaluation Division on the effectiveness of the ABC system, and its recommended improvement options for the system.

(2) Evaluating the need for Statewide consistency and uniformity in ABC structures, rules, and ethics standards.

(3) Examining the current compensation structure for both State and local ABC board members and employees and making recommendations for any salary limitations or oversight that might be needed.

(4) Examining the governance structure of local ABC boards, the geographical proximity of local ABC boards, and making recommendations for any changes or reforms.

(5) Examining the amount and distribution of revenues from the current ABC system.

(6) Examining what ethics rules are currently applicable to ABC Board members and employees, and making recommendations for any ethics rules that should be applied.

(7) Examining the oversight and accountability of ABC boards, and making recommendations for any increase in oversight or procedures in order to increase accountability.

(8) Examining whether additional gubernatorial authority over ABC Boards and employees, including the power to remove employees, should be granted.

(9) Examining the issue of privatization of the ABC system, and making recommendations as to the advisability of privatization and any potential savings to the State.

(10) Any other issues related to alcoholic beverage control structure, governance, and revenue in the State.

Section 4. The Committee shall meet upon the call of its House and Senate co-chairs. A quorum of the Committee is a majority of its members. No action may be taken except by a majority vote at a meeting at which a quorum is present.

Section 5. The Committee, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and Article 5A of Chapter 120 of the General Statutes. The Committee may contract for professional, clerical, or consultant services, as provided by G.S. 120-32.02.

Section 6. Members of the Committee shall receive per diem, subsistence, and travel allowance as provided in G.S. 120-3.1, 138-5 and 138-6, as appropriate.

Section 7. The expenses of the Committee shall be considered expenses incurred for the joint operation of the General Assembly. Individual expenses of five thousand dollars ($5,000) or less, including per diem, travel, and subsistence expenses of members of the Committee, and clerical expenses shall be paid upon the authorization of a co-chair of the Committee. Individual expenses in excess of five thousand dollars ($5,000) shall be paid upon the written approval of the President Pro Tempore of the Senate and the Speaker of the House of Representatives. All expenses of the Committee shall be paid from the Legislative Services Commission's Reserve for Studies.

Section 8. The Legislative Services Officer shall assign professional and clerical staff to assist the Committee in its work. The Director of Legislative Assistants of the House of

Representatives and the Director of Legislative Assistants of the Senate shall assign clerical support staff to the Committee.

Section 9. The Committee shall not meet during a regular or extra session of the General Assembly. The Committee may meet at various locations around the State in order to promote greater public participation in its deliberations.

Section 10. The Committee shall submit a final report on the results of its study, including any proposed legislation, to the members of the Senate and the House of Representatives, on or before May 12, 2010, by filing a copy of the report with the Office of the President Pro Tempore of the Senate, the Office of the Speaker of the House of Representatives, and the Legislative Library. The Committee shall terminate on May 12, 2010, or upon the filing of its final report, whichever occurs first.

Effective this 16th day of February, 2010.

Marc Basnight
President Pro Tempore of the Senate

Joe Hackney
Speaker of the House of Representatives

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Chapel Hill, NC 27517

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2009

JOINT SELECT COMMITTEE ON CAPITAL TRIAL, SENTENCING, & POST CONVICTION PROCEDURES FOR PERSONS WHO SUFFER SEVERE MENTAL DISABILITIES

MINUTES

Joint Select Committee on Capital Trial, Sentencing, and Post Conviction Procedures for Persons Who Suffer Severe Mental Disabilities

2007-2008

2009

ATTENDANCE

Joint Select Committee on Capital Trail, Sentencing and Post Conviction Procedures For Persons Who Suffer Severe Mental Disabilities

(Name of Committee)

DATES	Jan. 13, 2009	Jan 15, 2009													
Rep. Verla Insko – Co-Chair	✓	✓													
Sen. Ellie Kinnaird – Co-Chair	✓	✓													
Sen. Stan Bingham	✓	✓													
Sen. Charlie Dannelly	✓														
Sen. Fletcher Hartsell, Jr.	✓	✓													
Sen. Ed Jones	✓	✓													
Rep. Pricey Harrison	✓	✓													
Rep. Tim Moore	✓	✓													
Rep. Bonner Stiller	✓	✓													
Rep. William Wainwright	✓														
Research Staff:															
Hal Pell	✓	✓													
Emily Johnson	✓	✓													
Denise Thomas	✓	✓													

Joint Select Committee on Capital Trial, Sentencing, and Post Conviction Procedures for Persons Who Suffer Severe Mental Disabilities
2007-2008 Session

Members	Assistant	Phone	Office
Rep. Verla Insko Co-Chair	Gina Insko Committee Clerk	733-7208	307B1
Sen. Ellie Kinnaird Co-Chair	Kathie Young	733-5804	2115
Sen. Stan Bingham	Judy Chriscoe	733-5665	2117
Sen. Charlie S. Dannelly	Dee Hodge	733-5955	2010
Sen. Fletcher Hartsell, Jr.	Gerry Johnson	733-7223	518
Sen. Ed Jones	Irma Avent-Hurst	715-3032	623
Rep. Pricey Harrison	Sue Osborne	733-5771	2119
Rep. Tim Moore	Nancy Garriss	733-4838	604
Rep. Bonner Stiller	Carla Farmer	301-1450	306A2
Rep. William Wainwright	Belinda Edwards	733-5995	301D

Research Staff:

Hal Pell	733-2578	200
Emily Johnson	733-6660	401
Denise Thomas	733-4910	619

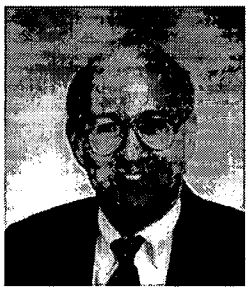
NORTH CAROLINA GENERAL ASSEMBLY

JOINT SELECT COMMITTEE ON CAPITAL TRIAL, SENTENCING AND POST CONVICTION PROCEDURES FOR PERSONS WHO SUFFER SEVERE MENTAL DISABILITIES

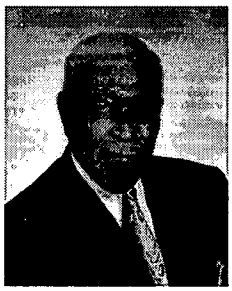
2007 – 2008 SESSION

Rep. Verla Insko
Co-Chair

Sen. Ellie Kinnaird
Co-Chair



Sen. Stan Bingham



Sen. Charlie Smith Dannelly

Sen. Fletcher L. Hartsell, Jr.

Sen. Ed Jones

Rep. Pricey Harrison

Rep. Tim Moore

Rep. Bonner Stiller

Rep. William L. Wainwright

Attachment B

VISITOR REGISTRATION SHEET

Joint Select Committee on Capital Trail, Sentencing and Post Conviction Procedures For Persons Who Suffer Mental Disabilities — **Name of Committee**

January 13, 2009 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Carol Sherrod	Stellar Peer Recovery Ctr. 401 E Main St. Clayton N.C.
Cheryl M Judd	Stellar Peer Recovery Center 401 E Main St. Clayton N.C.
Ekeline Bryant	Stella Peer Recovery Center 401 E Main St. Clayton, Inc.
Gay Robertson	AP
Derrick ONeal	NCMHCO
Susan Pollitt	Disability Rights NC
Jennifer Mahan	MHANC

VISITOR REGISTRATION SHEET

Joint Select Committee on Capital Trail, Sentencing and Post Conviction Procedures For Persons Who Suffer Mental Disabilities — January 13, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Elizabeth Edwards	Disability Rights NC
Annaliese Dolph	Disability Rights NC
Linda Weiss	CJPC Board Member
Marty Lamb	DMH/DD/SAS
Ken Rose	CDPL
Madeleine Crockett	Central Regional Hospital / North Carolina Psychological Association
Kathy Smith	Disability Rights NC
Deana Burch	Disability Rights NC
Carl R. Fox	Superior Court Judge, 15B District
Dave Rich	The Arc

VISITOR REGISTRATION SHEET

Joint Select Committee on Capital Trail, Sentencing and Post Conviction Procedures For Persons Who Suffer Mental Disabilities — January 13, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Robin Hoffman	NC Psychiatric Association
Dan Boswell	NC MHCO
Mary Taylor	NC MHCO
Lee-Ann Rogers	NCRA
Diane Jarrett	Justice Leagues & Union
Debby Duff	NAMI NC
David Lagos	NC Sentencing & Policy Advisory Commission
John Madler	" "
SARA THOMAS	SENTENCING COMMISSION
Gerda Stein	Raleigh
Sarah Preston	ACLU-NC

VISITOR REGISTRATION SHEET

Joint Select Committee on Capital Trail, Sentencing and Post Conviction Procedures For Persons Who Suffer Mental Disabilities — January 13, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Charmaine Fuller	CJPC
John P. Comer	MVFR
Rob Schofield	NC Policy Watch
Kristin Parks	Disability Rights NC
Lisa Hamill	NAMI Orange County
JIM ELLIS	(UNIVERSITY OF NEW MEXICO)
George P. Corvin, MD.	North Raleigh Psychiatry
Holly Rogers, MD	Duke Univ.
Erin McGovern	NCSU & Disability Rights NC
CAS SHEARIN	DISABILITY RIGHTS NC
John Tote	MHA-NC

VISITOR REGISTRATION SHEET

Joint Select Committee on Capital Trail, Sentencing and Post Conviction Procedures For Persons Who Suffer Mental Disabilities — January 13, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Julia Leggett	The Arc of NC
BRIAN STULL	704 E. FOREST HILLS, DURHAM NC
John McKay	GOVOPPS
JACK REGISTER	NATIONAL ASSOCIATION OF SOCIAL WORKERS-NC Chapter
Erin McLaughlin	MHANC
Todd Barlow	North Carolina Advocates fo. Justice
Charmaine Troy	Intern, Rep. Insko
Rick Kane	AOC
Thomas Maher	I. D. S.
Robert Lamb	Volunteer Clerk, Kris Parks
Jennifer Bills	Disability Rights N.C.

VISITOR REGISTRATION SHEET

Joint Select Committee on Capital Trail, Sentencing and Post Conviction Procedures For Persons Who Suffer Mental Disabilities — January 15, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Charmaine Troy	Intern, Rep. Insko
Jack Payden-Travers	201 D Main St Durham 27701
Roberta Mothershead	Nazareth House Raleigh, NC
Scott Bass	//
Thomas MAHER	IDS
Linda Weiss	Raleigh
[illegible]	Durham
Rick Rose	AOC
Linda Weiss	CJPC Bd
Susan Pollitt	Disability Rights NC
Joe Donovan	NC-CANSO

VISITOR REGISTRATION SHEET

Joint Select Committee on Capital Trail, Sentencing and Post Conviction Procedures For Persons Who Suffer Mental Disabilities — January 15, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Gay Robertson	AP
Sarah Preston	ACLU-NC
John Medlock	Gov's Office
Julia Leggett	The Arc of NC
Libby Dean	NAMI NC
James Williams	Public Defender
Martha Lamb	DMH/DD/SAS
John Madler	NC Sentencing Commission
Sara Thomas	" "
Sheria Reid	IOG

VISITOR REGISTRATION SHEET

Joint Select Committee on Capital Trail, Sentencing and Post Conviction Procedures For Persons Who Suffer Mental Disabilities — January 15, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Sally Cameron	NC Psychological Assoc
Elizabeth Cloud	NC Psychological Assoc
Cas Shearin	Disability Rights NC
John Tolk	mHA-NC
Erin McLaughlin	MHANC
Jennifer Mahan	MHANC
Kristin Parks	Disability Rights NC
Holly Rogers MD	Duke Univ.
Diane Savage	sdo practitioner, Durham, NC
Robin Huffman	NC Psychiatric Associat
Jennifer Farmer	"

VISITOR REGISTRATION SHEET

Joint Select Committee on Capital Trail, Sentencing and Post Conviction Procedures For Persons Who Suffer Mental Disabilities — January 15, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Martha Brock	Disability Rights NC
Annaliese Dolph	Disability Rights NC
Mellonee Kennedy	Disability Rights NC
C Trottier	" " "
Sally Scherer	Attorney - Raleigh
Diana Parks	Instructor (Programs) - DOC
John P Comer	MVFR - NC
Charmaine Sweet	Carolina Justice Policy Center
Peg Dorer	NC Conference of DAs
William P. Hart, Sr.	NC DOT
[illegible]	NC DOT

House Pages

Jt. Select on Capital Trust Sentencing w/ Mental Disabilities

Name Of Committee: _____ Date: 1-15-09

1. Name: _____

   County: _____

   Sponsor: _____

2. Name: _____

   County: _____

   Sponsor: _____

3. Name: _____

   County: _____

   Sponsor: _____

4. Name: _____

   County: _____

   Sponsor: _____

5. Name: _____

   County: _____

   Sponsor: _____

	House	Sgt-At-Arms	Senate
1. Name:	Tracy Railey		Robert Young
2. Name:	Dusty Rhodes		Leslie Wright
3. Name:			
4. Name:			

MINUTES

JOINT SELECT COMMITTEE ON CAPITAL TRAIL, SENTENSING, AND POST CONVICTION PROCEDURES FOR PERSONS WHO SUFFER SEVERE MENTAL DISABILITIES

TUESDAY JANUARY 13, 2009
ROOM 1027 LEGISLATIVE BUILDING
12:30 PM
AND
THURSDAY JANUARY 15, 2009
ROOM 1124 LEGISLATIVE BUILDING
2:00 PM

The Joint Select Committee on Capital Trail, Sentencing, and Post Conviction Procedures for Persons Who Suffer Severe Mental Disabilities met Tuesday January 13 at 12:30 in room 1027 of the Legislative Building and met Thursday January 15, 2009 at 2:00 in room 1124 of the Legislative Building.

Senator Ellie Kinnaird and Representative Verla Insko presided. Members present on January 13 were Senators Stan Bingham, Charlie Dannelly, Fletcher Hartsell Jr., Ed Jones and Representatives Pricey Harrison, Tim Moore, Bonner Stiller, and William Wainwright. Members present on January 15 were Senators Stan Bingham, Fletcher Hartsell Jr., Ed Jones and Representatives Pricey Harrison, Tim Moore, and Bonner Stiller. Staff members present for both meeting were Hal Pell, Emily Johnson and Denise Thomas. A copy of the roll denoting members present is attached to the minutes (Attachment A) along with a copy of the visitor registration and agenda sheet (Attachments B and C).

January 13, 2009

Senator Ellie Kinnaird called the meeting to order and introduced the Sergeant at Arms staff.

Sen. Kinnaird recognized Hal Pell to deliver the Charge to Committee, is a broad general charge, committee shall submit final report by Jan 27 and committee terminates on that date. (Attachment D).

Sen. Kinnaird recognized John Toth.

Sen. Kinnaird introduced first speaker, John Tote, Executive Director of MHA of NC, an advocacy and provider organization working on behalf of the mentally ill. (Attachment E)

Mr. Tote: North Carolina has one of the most stringent "not guilty by reason of insanity" laws in the nation. At the same time North Carolina is a leader in the nation in dealing with restrictions on capital punishment for people with mental retardation. This bill restricting capital crimes for people with severe mental illness is an extension of North Carolina's existing law for people with mental retardation.
Both issues deal with people with severe mental impairment. This bill would level the playing field for all people with severe mental impairment.

Defendants will have to meet a very stringent threshold that they had a severe impairment at the time of the crime. They will have to prove they had the impairment at the time of the crime; their impairment will have to be confirmed by mental health professionals that are highly skilled at diagnosing mental illness and level of impairment.

Less than 1% of all people convicted of a capital crime actually receive the death penalty. This past year only one person in NC was sentenced to death. We have a growing consensus that the death penalty shall be reserved for the worst of the worst and that people with severe mental disabilities are not the worst of the worst.

Sen. Kinnaird introduced Professor James Ellis, Professor of Law at the University of New Mexico. Professor Ellis argued the Atkins case, the mental retardation case, before the US Supreme. He won the case which is the law of the land. We are using the mental retardation case as a model for the bill on exempting the death penalty for people with severe mental illness.

NC had the most dramatic impact on the U.S. Supreme Court as it heard the Atkins case because North Carolina was original one of the litigants. The case was half way through the briefing with NC passed their mental retardation statute. When North Carolina pulled out as one of the litigants, the significance was not lost on the Court.

The issue of dealing with the death penalty for people with severe mental illness

The goal with regard to this legislation is to find a workable solution to the problem of people who have severe mental illness who find themselves charged with a capital offense. The first duty is to protect the public but also to attempt fairness in the cases with people who may have severe mental illness and to reserve the death penalty should be reserved for the people who are at the highest level of culpability. A major consideration is how to take the resources devoted to capital punishment and direct it toward the people who are most responsible for their actions.

The centerpiece of North Carolina's legislation which has served as a model to other states in how to make it work are: NC chose to make available a pre trial determination rather than delaying it to the trial or after the trial, involvement of good expert evaluation early in the process and having them inform directly the court of their clinical findings, and the focus on negotiation and consensus rather than on partisan litigation. These features help reduce the cost of contentious litigation and

These features work for mental retardation and can also be used as a model for the legislation regarding the mentally ill. The issue of mental illness in the proposal before you deals with people whose impairment is extraordinarily substantial and global. It requires the drafters and lawyers and courts to draw a line at which point a person would be exempted from the death penalty – a very small subset of the mentally ill.

The vast majority of people with mental illness or even severe mental illness never come into contact with the court system. But, severe mental illness can have a direct impact on the thinking and the actions of a person with severe mental illness and when that person comes into contact with the criminal courts in a case involving homicide, their severe mental illness will affect their culpability. The question is how to figure out when the impact on the culpability of the defendant is such that the death penalty should not be considered and the top penalty should be life without possibility of parole.

In the mental retardation case, the Supreme Court said that people with mental retardation -- because of characteristics of their disability – don't warrant the death penalty. That same inquiry with regard to people with severe mental illness produces the same results – the understanding of their actions may be sufficient to allow conviction, but the mental illness has such an impact on their thoughts and action, they are not among the worst of the worst – those people whose culpability is the highest.

Three doctrines exist that involve mental illness as it affects criminal cases:

- Competence to stand trial. Every state has the provision that mental illness can be so severe that they cannot understand their actions or assist counsel cannot be tried or convicted unless treatment will restore them to competence. This takes some people out of the criminal procedure.
- Insanity defense: A person who is competent to stand trial may be still be eligible to acquittal if their mental illness so impaired their understanding or understand of the nature of their action that they cannot be convicted.
- Competence to be executed: Some people on death row who acquired mental illness while in prison may be so impaired they cannot understand what the punishment is all about. These people cannot be executed.

Even with these three doctrines, the bill before you is still necessary because their still may be people with severe mental illness sentenced to death despite the impact of their illness on their actions.

Under this legislation, a person with severe mental illness can still be punished; they can be punished severely. They cannot be sentenced to death; but, here is no impairment in the State's ability to protect the public. The only issues are culpability and retributive purposes for this person's actions.

In this country, we reserve the death penalty for those who most deserve it. The position of this legislation is that the death penalty is inappropriate for people with severe mental illness due to the impact of their mental illness on their ability to understand and conform their actions to the requirement of law.

While this bill tracks the mental retardation bill, it differs in some important respects. A person with mental retardation has had it from birth and it is life-long; it is not a changing condition. Mental illness often is a changing condition. This legislation addresses that by focusing on the person's mental condition at time at which the crime occurred.

Anyone whose actions may have been affected by the use of alcohol or drugs is excluded from this law as are those whose actions may be due directly to their mental illness such as pyromania personality disorder, etc. This bill deals only with severe mental illness that is independent of the crimes and that is independent of any responsibility this person has for their illness. The illnesses covered by this law include schizophrenia and other mental conditions – listed in the text - that so severely impact the person's thinking and understanding at the time of their crime that it reduces the level of their culpability. Examples: a command from God, the person they were killing was not a human being, etc. These individuals did not cause their illness, they are less culpable and the public can be protected.

Another aspect is that if someone has acted because of their delusional believe, the prospect that they may face the death penalty can have no deterrent influence on them. Similarly, exempting

these people from the death penalty will not affect the deterrence of the death penalty on anyone else.

The bill is better than the one passed by Connecticut and if passed other states will look to North Carolina "because it much more carefully focuses the pretrial determination on the impact of this person mental illness on their actions and more carefully crafts the definition of mental illness on those who are the least culpable."

Sen. Kinnaird asked for questions.
Senator Jones:
Would this person be sent to a mental institution?
No, this person if convicted would be punished by other penalties including life without parole.

Would this person be integrated into the rest of the prison population?
No, they would be segregated to protect them and the other prison population. They should also receive treatment in prison.

Kinnaird: 40% of the people in our prison system have mental illness and many of these are first diagnosed with mental illness when they enter the prison population. The incidence of mental illness among our juvenile population is very high and they have not been picked up before they entered the correction system.

Senator Bingham:
What would be the possibility of a person recovering from mental illness or having mental illness for only 3 months?
A person can have a severe breakdown and will have only one occurrence in their life. Other people have manifestations of their mental illness all their lives.

How many other states have this legislation?
Just one: Connecticut; but that law does not have all the protections in it as the one before you. 18 other states use this same language to define severe mental statutes.

Sen. Kinnaird introduced Carl Fox, Senior Resident Superior Court Judge of District 15B. Judge Fox was District Attorney for 20 year; assistant prosecutor for 6 years ad judge almost four years.

Judge Fox starts with the premise that the State should not be executing people who are mentally ill.

Judge Fox gave an overview of how capital procedures proceed.

The first step is the Rule 24 hearing when the judge determines whether the case can proceed capitally - based on mental competence. Next is the guilt/innocence phase. Evident of diminished capacity can be presented in this phase or in the sentencing phase.
(Attachment F) (Sen. Kinnaird referred members to a handout in their packet)

This law would introduce a hearing before the trial, similar to the Rule 24 hearing, when evidence can be presented as to whether or not the person suffers from a severe mental illness and whether the case can proceed as a capital trial.

Judge Fox discussed several examples.

This bill would save a lot of time and money because of the appeals and length of appeals. This procedure would make sense and would provide protection for people who have severe mental disorders.

Judge Fox discussed the unlikelihood of anyone being able to fake a severe mental illness.

Rep. Stiller:
In rule 24, can the judge determine to go forward or not to go forward because of mental illness?
No, they cannot, the Rule 24 hearing is based only on aggravating factors. If one aggravating factor is present, the judge must rule the case must go forward as a capital crime.

Stiller:
After the defendant is found guilty, the jury can come back with a variety sentences
No, just two sentences, life imprisonment or death.

Stiller: At that point, does the jury decide whether or not the person has any mental illness that mitigates the crime?
Yes

Stiller:
If we change this, wouldn't the judge make the determination before the trial rather than having the jury make the determination after the trial?
Yes. But it make sense to do it pre trial because it would affect only very few cases and for those cases, the pre trial determination would save a lot of time and money. A judge would make this determination in only the clearest cases.

Stiller:
Would we retain the post trial determination, if the judge determined the case could go forward, would a jury still be able to make a post trial determination?
Yes

Staff: The jury can find a mitigating factor but still find an aggravating factor that outweighs any mitigating factors. Also, at the end the jury could also make the call that a defendant has a serious mental illness.

Stiller:
If the judge ruled this case could go forward, wouldn't it set up a conflict if the jury tried to introduce mental illness as a mitigating factor?
Not likely, the jury would likely not be aware of the judges ruling.

Moore:
This bill would introduce two opportunities for mental illness to be introduced?
Yes.

Bingham:
What do you mean by dramatic savings?
Judge Fox discussed the jury pool and the time it takes to seat a jury, attorney fees,

Sen. Jones:
Are we finding a person is so mentally ill they are not guilty?
Fox: No. We may convict a person of murder even if they are mentally ill. They end up in prison.

Sen. Kinnaird asked Hal Pell, Research Staff, to explain the bill and bill summary (Attachment G and M).

Sen. Kinnaird introduced Dr. George Corbin, a practicing forensic psychiatrist at North Raleigh Psychiatry. (Attachment H)

Sen. Kinnaird introduced Dr. Holly Rogers, a staff psychiatrist at Counseling and Psychological Services for Duke University. She is also a Clinical Associate in the Department of Psychiatry and Behavioral Sciences. (Attachment I)

Also included is the Fiscal Analysis Memorandum (Attachment N) and background information (Attachment O)

Sen. Kinnaird adorned the meeting at 3:50 pm.

_____
Senator Ellie Kinnaird
Co-Chair

_____
Representative Verla Insko
Co-Chair

_____
Gina Insko
Committee Assistant

MINUTES

JOINT SELECT COMMITTEE ON CAPITAL TRAIL, SENTENSING, AND POST CONVICTION PROCEDURES FOR PERSONS WHO SUFFER SEVERE MENTAL DISABILITIES

TUESDAY JANUARY 13, 2009
ROOM 1027 LEGISLATIVE BUILDING
12:30 PM
AND
THURSDAY JANUARY 15, 2009
ROOM 1124 LEGISLATIVE BUILDING
2:00 PM

The Joint Select Committee on Capital Trail, Sentencing, and Post Conviction Procedures for Persons Who Suffer Severe Mental Disabilities met Tuesday January 13 at 12:30 in room 1027 of the Legislative Building and met Thursday January 15, 2009 at 2:00 in room 1124 of the Legislative Building.

Senator Ellie Kinnaird and Representative Verla Insko presided. Members present on January 13 were Senators Stan Bingham, Charlie Dannelly, Fletcher Hartsell Jr., Ed Jones and Representatives Pricey Harrison, Tim Moore, Bonner Stiller, and William Wainwright. Members present on January 15 were Senators Stan Bingham, Fletcher Hartsell Jr., Ed Jones and Representatives Pricey Harrison, Tim Moore, and Bonner Stiller. Staff members present for both meeting were Hal Pell, Emily Johnson and Denise Thomas. A copy of the roll denoting members present is attached to the minutes (Attachment A) along with a copy of the visitor registration and agenda sheet (Attachments B and C).

January 15, 2009

Rep. Insko called the meeting to order. Sen. Kinnaird recognized Kris Parks for her work with the Mental Health community.

Rep. Insko announced the Committee has requested the Conference of District Attorneys make a statement and to participate. They are not meeting again until February so they are unavailable to make a statement before Session begins. They will testify during the committee process.

Rep. Insko proposed that the Committee will authorize Staff to write the report with no recommendations. The report would be a record of committee proceedings with no recommendations. When the bill is introduced all comments that had been heard in the meeting and from C of DA's and anyone else that wanted to testify would be on record before a formal vote was taken on the bill. Bill will be sent out in a draft. The Committee will vote on their proposal at the end of today's meeting.

Rep. Insko recognized Kimberly Stevens, Attorney from Winston Salem. (Attachment J) Ms. Stevens said approximately 1% of the 1600 some Capital cases in NC since 2001 received the death penalty. When we look at who are among the worst of the offenders that turns on the offenders culpability, the US Supreme Court has address the issue of culpability and applied it in

terms in both retribution and deterrence, those offenders who deserve or can be the subject of retribution are those offenders who are capable of weighing out and engaging in a calculus that weighs out in cold blooded fashion of the full consequence of their behavior that definition does not and can not be applied to the severe mentally ill.
The judge has the opportunity to declare the case a non capital case. There have been nine pre-trail hearings in the seven year since North Carolina General Statue 15A-2005 was past (Attachment L).

Ms. Stevens answered questions from the Committee on her presentation.

Sen. Jones:
If this law was taking place now why do we need this law?

Ms. Stevens replied that the law was for the ones with mentally retardation and not mental illness.

Sen. Jones:
What is the cost?

A pre-trail hearing would out weigh the cost associated with post conviction litigation. Cost study by Cook in 1993, each execution approximately cost 2.3 million more than those not sentence to death. (Attachment K)

Sen. Jones:
How would the family of the victim get closure?

The person would be in prison for the rest of their live and not eligible for parole and in most cases the family has closure.

Sen. Bingham:
Wanted to know if a copy of the study from Cook was available?

Sen. Kinnaird replied that the study would be brought to the Committee members.

Sen. Bingham:
Is mental illness was curable.

Mental illness maybe treated.

Sen. Kinnaird:
Who was in the courtroom during a trail?

There are 300 potential jurors, a judge, and clerk for the judge, courtroom clerk, law enforcement, prosecutor, prosecutor assistant, two defense attorneys, and witnesses.

Rep. Insko:
Questioned the pre-trail process.

Sen. Kinnaird responded there is no pre-trial process that exempts a person with severe mental illness unless that person has mental retardation.

Sen. Hartsell:
Does a judge have the qualifications to make a decision if the person has severe mental illness?

Yes, the judge does have the qualifications.

Rep. Stiller:
How would the state of mind of the offender at the time of the crime be determined and the timeline for having the offender evaluated?

The Capital Defender office is notified immediately. They send out lead council. The Capital Defender may appoint even a second council. The US Supreme Court has mandated what is required of Capital Defense attorneys. A trained mental health professional will be called to evaluate the client. They are brought in fairly close to when the crime was committed.

Rep. Stiller:
If this law was created, could a death row inmate file a petition to be eligible for an evaluation to determine severe mentally illness at the time of the crime. If they do send it in, are the petition investigated?

Most if not all death row inmates are represented by council. The law says they must be supported by appropriate affidavits. The client must have expert opinions and records on file.

Sen. Hartsell:
What extent does the definition of severe mental ill differs from that of the M'Naughton Rule?

Hal Pell gave the definition of the M'Naughton Rule rule.
Ms. Steven followed up to discuss the difference between M'Naughton Rule and the new legislation.

Rep. Insko recognized Dr. Rogers to follow up on additional answers from questions from the Committee.

Rep. Insko asked for a motion to authorized Staff to prepare a report based on the preceding with no recommendation as to the bill. The motion was past.

Rep. Insko adjourned the meeting at 3:45 pm.

_____
Senator Ellie Kinnaird
Co-Chair

_____
Representative Verla Insko
Co-Chair

_____
Gina Insko
Committee Assistant

JOINT SELECT COMMITTEE ON CAPITAL TRIAL, SENTENCING, AND POST CONVICTION PROCEDURES FOR PERSONS WHO SUFFER SEVERE MENTAL DISABILITIES.

AGENDA

January 13, 2009
Room 1027, Legislative Building
12:30 PM

Welcome and Introduction: Sen. Ellie Kinnaird, Co-Chair
Rep. Verla Insko, Co-Chair

I. Charge to the Committee (Staff)

II. Discussion of Mental Health Issues/Criminal Proceedings

John Tote, Executive Director (10 mins.)
Mental Health Association of NC

The Honorable Carl R. Fox (30 mins.)
Senior Resident Superior Court Judge
15B Superior Court District

Professor James W. Ellis (30 mins.)
University of New Mexico School of Law

George P. Corvin, M.D. (15 mins.)
Raleigh, NC

Holly Rogers, M.D. (15 mins.)
Duke University

III. Discussion and Instructions to Staff

IV. Adjourn

JOINT SELECT COMMITTEE ON CAPITAL TRIAL, SENTENCING, AND POST CONVICTION PROCEDURES FOR PERSONS WHO SUFFER SEVERE MENTAL DISABILITIES.

AGENDA

January 15, 2009
Room 1124, Legislative Building
2:00 PM

Rep. Verla Insko, Co-Chair
Sen. Ellie Kinnaird, Co-Chair

Discussion of Mental Health Issues/Criminal Proceedings
And Draft Legislation

- Kimberly C. Stevens
  Attorney at Law
  Winston-Salem, NC

- Committee Discussion of Proposed Legislation

- Instructions to Staff

- Adjourn

JOINT SELECT COMMITTEE ON CAPITAL TRIAL, SENTENCING, AND POST CONVICTION PROCEDURES FOR PERSONS WHO SUFFER SEVERE MENTAL DISABILITIES

January 13, 2009

Agenda Speakers

John Tote -- Mr. Tote is the Executive Director of the Mental Health Association in NC., a position he has held for nearly 16 years. Mr. Tote is also a Qualified Mental Health Professional with an extensive background in advocacy, training, and writing concerning mental health issues. He is a native of Asheboro and did his undergraduate work in History and Sociology at UNC-Chapel Hill and his graduate work in pastoral care and counseling at Southeastern Seminary in Wake Forest.

James W. Ellis -- Prof. Ellis is Weihofen Professor of Law at the University of New Mexico, where he has taught since 1976. His principal teaching and research interests focus on Constitutional Law, Mental Disability Law, Criminal Law, and the Rights of Children. A graduate of Occidental College and the University of California at Berkeley (Boalt Hall), Ellis had worked at the Yale Psychiatric Institute (performing alternate service as a conscientious objector) and at the Mental Health Law Project (now the Bazelon Center) before entering teaching. He has served as a Law Reporter for the American Bar Association's Criminal Justice Mental Health Standards Project and as President of the American Association on Mental Retardation (now the American Association on Intellectual and Developmental Disabilities). He is the principal author of briefs in seventeen cases in the Supreme Court of the United States (including City of Cleburne v. Cleburne Living Center, Penry v. Lynaugh, and University of Alabama v. Garrett), and argued in Atkins v. Virginia. Ellis is the inaugural recipient of the ABA's Paul G. Hearne Award for disability rights advocacy, and was named by the National Historic Trust on Mental Retardation as one of 36 significant figures in the field of mental retardation in the twentieth century. In 2002, The National Law Journal named Professor Ellis the "Lawyer of the Year."

George Corvin, M.D. -- Dr. Corvin is a physician and practicing psychiatrist at North Raleigh Psychiatry. He graduated from the University of Alabama School of Medicine in Birmingham and completed a 4-year residency in general psychiatry at the Medical College of Georgia in Augusta, where he served as the Chief Psychiatric Resident. He also completed a fellowship in Forensic Psychiatry with the United States Department of Justice.

He is Board Certified as a General Psychiatrist by the American Board of Psychiatry and Neurology and holds subspecialty certification in the field of Forensic Psychiatry. He was an attending psychiatrist at Holly Hill Hospital in Raleigh from 1997 to 2006, holding positions as Service Director of the Dual Diagnosis Treatment Program and Medical Staff President for 6 years. In addition to an active outpatient practice, he has extensive forensic consultation experience, such as completing civil and criminal court evaluations and independent psychiatric and competency evaluations. He is a member of the American Psychiatric Association, the American Academy of Psychiatry & Law, the North Carolina Psychiatric Association and the NCPA's Psychiatry and Law Committee.

Holly Rogers, M.D. , F.A.P.A. -- Dr. Rogers is a staff psychiatrist at Counseling and Psychological Services for Duke University, where she is also a Clinical Associate in the Department of Psychiatry and Behavioral Sciences. She received her medical degree from the University of Texas Southwestern Medical School in Dallas. Dr. Rogers completed her residency in psychiatry at Duke University Medical Center where she served as Executive Chief Resident. She has also completed a Fellowship in Forensic Psychiatry at the Federal Correctional Institute in Butner.

Dr. Rogers is Board Certified in both General and Forensic Psychiatry by the American Board of Psychiatry and Neurology. In addition to her position at Duke, Dr. Rogers has a private forensic psychiatry practice where she consults on civil and criminal cases. She is a member of the North Carolina Psychiatric Association, the American Psychiatric Association, the American Academy of Psychiatry and Law, and serves on the NCPA Psychiatry & Law Committee. Dr. Rogers is recognized as a Distinguished Fellow in the American Psychiatric Association.

The Honorable Carl R. Fox
Senior Resident Superior Court Judge
15B Superior Court District

Education:

B.A.,English, UNC-CH, 1975.
J.D., UNC-CH School of Law, 1978.
Special Courses:
Advanced Advocacy Course, National Institute for Trial Advocacy, Chapel Hill, North Carolina, 1979.
Executive Prosecutor Course, National College of District Attorneys, Houston, Texas, 1982.
National Homicide Symposium, California District Attorneys Association, San Diego, California, 1995.

Career:

Assistant District Attorney, District 15B Prosecutorial from 1978 to 1984.
Appointed District Attorney, District 15B Prosecutorial in December 28, 1984; elected in November 4, 1986; re-elected in November 6, 1990, November 8, 1994, November 3, 1998, and November 5, 2002.

Professional Activities

Boards:
Criminal Justice Partnership Program, 1995-2004.
North Carolina Courts Commission, 1993-2002.
North Carolina Task Force on Substance Abuse and the Courts, 1993-1995.
Chapel Hill-Carrboro Task Force on Violent Crime and Drugs, 1992.

Associations:

North Carolina State Bar
North Carolina District Attorneys Association
North Carolina Association of Black Lawyers
15B District Bar
Orange County Bar Association

DRAFT:
Capital Procedure/Severe Mental Disability

BILL ANALYSIS

Committee:	Joint Select Committee on Capital Trial, Sentencing, and Post Conviction Procedures for Persons Who Suffer Severe Mental Disabilities	**Date:**	January 12, 2009
Introduced by:		**Summary by:**	Hal Pell Committee Co-Counsel
Version:	2009-LH-2		

SUMMARY: ***This act would create new criminal trial and appellate procedures for capital defendants claiming a severe mental disability at the time of the offense. The trial procedures would be effective for trials docketed on or after October 1, 2009. The act would have retroactive application for defendants convicted, or whose trials had commenced, prior to the effective date.***

CURRENT LAW: Defendants may submit evidence related to "mental capacity" or "mental condition" in capital cases. If the defendant proves mental retardation, then the offense may not be prosecuted as a capital case. Evidence relating to mental capacity may be submitted as a complete defense (not guilty by reason of insanity); as proof of diminished capacity such that the defendant could not form the required state of mind to commit the offense; and as matters in mitigation on sentencing.

BILL ANALYSIS:

Section 1: This section provides that if a defendant who is charged with first degree murder establishes that he or she suffered from a severe mental disability at the time of the offense, then the defendant is ineligible to receive the death penalty and the sentence imposed upon conviction for the offense must be life imprisonment without parole. This section further sets out definitions, and establishes the procedures for a capital defendant alleging severe mental disability. A severe mental disability means:

Any mental disability or defect that significantly impairs a person's capacity to:

(1) Appreciate the nature, consequences, or wrongfulness of the conduct;

(2) Exercise rational judgment in relation to conduct; or

(3) Conform the person's conduct to the requirements of the law.

The law would provide that a mental disability that is manifested by (1) repeated criminal conduct, or (2) attributable solely to alcohol or drug use, does not (by itself) constitute a severe mental disability.

The motion would be heard upon a defendant's request at a pretrial hearing, with the defendant having the burden of proving, by clear and convincing evidence, a severe mental disability existed at the time of the offense. If the court finds that the defendant has met the burden, then the case would be non-capital. If the court rules against the defendant, then the defendant may present evidence during the sentencing hearing on the issue. The court must then instruct the jury that if it finds that the defendant has proven, by a preponderance of the evidence, that a severe mental disability existed, then the case will be noncapital, and the defendant would receive a life sentence. If the jury does not find a severe mental disability, it may consider any evidence presented when determining mitigating factors.

Section 2: Makes conforming changes to the capital sentencing statutes.

Section 3: Provides for the application of the act to cases decided or tried prior to the effective date, by filing of a Motion for Appropriate Relief. Current procedures for MAR's would apply, and the deadlines would be as follows:

- On or before January 31, 2010, if the conviction and death sentence were entered prior to the effective date of the Act.
- Within 150 days of the imposition of the sentence, if the defendant's trial was in progress on the effective date of the Act. A trial would be considered to be in progress if the jury selection process had begun.

EFFECTIVE DATE: Sections 1 and 2 of the act would be effective October 1, 2009. Section 3 would be effective October 1, 2009, and expire on October 1, 2010.

CAPITAL PROCEDURE: SEVERE MENTAL DISABILITIY

I. Introduction and Overview
   a. MHA/NC
   b. John Tote

II. History of Advocacy concern with NGRI and why this Capital Procedure/Mental Disability Bill is needed.

III. Issue of Advocacy and Fairness.

IV. National Leader Issue like the MR Bill.

V. Overview of Advocacy Community that supports Bill.

VI. Overview of those affected by the Bill.

VII. Need for additional community resources including mental health courts.

VIII. Overview of others that will be speaking concerning the Bill.

IX. Those that may oppose it seeing it as a death penalty issue and those that favor it see it as an advocacy and fairness issue.

X. Thanks and questions.

TRIAL AND APPELLATE PROCEDURE DEATH PENALTY CASES

Joint Select Committee on Capital Trial, Sentencing, and Post Conviction Procedures for Persons with Severe Mental Disabilities

January 13, 2009

Stages in a Death Penalty Case

- Trial/Sentencing
- Direct Appeal
- State Post-Conviction
- Federal Habeas
- Clemency Proceedings

Trial/Sentencing

(1) First Phase: Jury determines whether defendant is guilty or not guilty of first degree murder.

(2) Second Phase: For death sentence, jury must unanimously agree that mitigating factors are insufficient to outweigh aggravating factors

- Aggravating factors prescribed by statute
- State must prove aggravating factor(s) beyond a reasonable doubt
- Jury must unanimously agree on aggravating factors
- Mitigating factors considered (unanimity not req.'d)

Direct Appeal

- Automatic review by the North Carolina Supreme Court
- Bifurcation of trial allows for re-sentencing only
- Issues on appeal may include:
  - Jury selection
  - Sufficiency of evidence
  - Erroneous legal rulings
  - Ineffective assistance of counsel

Direct Appeal

- If conviction and sentence affirmed, defendant may petition the U.S. Supreme Court
- Certiorari review is discretionary
- If decision affirmed, or review denied, then the direct appellate stage is ended and the post-conviction stage begins.

State Post-Conviction Stage

- Statutory procedural provisions for capital cases
- 120 day time-limit for filing a Motion for Appropriate Relief (MAR)
  - Post-conviction counsel appointed
  - Limited grounds: Violation of constitutional rights, newly discovered evidence
  - MAR filed in the Superior Court where the defendant was tried
  - Judge appointed by the Senior Resident Superior Court Judge
  - District Attorney/N.C. Attorney General

Post Conviction Stage, cont'd.

- IAC claims: waiver of attorney-client privilege
- Trial counsel to provide MAR counsel with all files
- State to disclose all files (investigation and prosecution). "Interest of justice" exception—*In camera* review.
- Factual determinations—evidentiary hearing.

Post-Conviction Review, cont'd.

- MAR order –Petition for review by NC SCT. Review is discretionary.
- If NC SCT affirms, or denies review, the Def. may file a petition with the US Supreme Court for review, or proceed directly to federal court.
- Defendant must exhaust state court remedies before making federal constitutional claims in federal court.

Clemency Stage

- Article III, Section 5(6)
- Petition to the Governor
- Hearing by the Governor

Federal Habeas Relief Stage

- One year time limitation
- Petition for Writ of Habeas Corpus (prison warden named)
- Federal constitutional questions
- Defense attorneys appointed from a pool of qualified attorneys
- NC Attorney General's Office
- Petition filed in one of three federal district trial districts (Eastern, Middle, Western)—county where case originally tried

Habeas Relief, cont'd.

- Factual determinations—evidentiary hearing
- If Fed. District Court affirms, Defendant files for appeal to the Fourth Circuit Court of Appeals
- If Fourth Circuit Court of Appeals (panel) affirms—Petition for rehearing, or rehearing *en banc*
- Petition for review to the US Supreme Court. Review is discretionary.
- Denial of Petition or affirms—execution date set.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

U D

BILL DRAFT 2009-LH-2 [v.9] (8/25)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
1/12/2009 3:39:58 PM

Short Title: Capital Procedure/Severe Mental Disability. (Public)

Sponsors: .

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CAPITAL TRIAL, SENTENCING, AND POST-CONVICTION PROCEDURES FOR A PERSON WITH A SEVERE MENTAL DISABILITY.

Whereas, leading State and national mental health organizations have called for a prohibition on imposition of the death penalty for persons with a severe mental disability at the time of the commission of the crime; and

Whereas, specifically, the American Psychological Association, the American Psychiatric Association, and the National Alliance on Mental Illness have all called for the exclusion of persons with a severe mental disability from the imposition of the death penalty; and

Whereas, the American Bar Association recently endorsed the call for the end of the death penalty for persons with a severe mental disability; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Article 100 of Chapter 15A of the General Statutes is amended by adding a new section to read:

"**§ 15A-2007. Defendant with severe mental disability; death sentence prohibited.**

(a) Definition. – For purposes of this section, the term "severe mental disability" means any mental disability or defect that significantly impairs a person's capacity to do any of the following: (i) appreciate the nature, consequences, or wrongfulness of the person's conduct; (ii) exercise rational judgment in relation to conduct; or (iii) conform the person's conduct to the requirements of the law. A mental disability manifested primarily by repeated criminal conduct or attributable solely to the acute effects of alcohol or other drugs does not, standing alone, constitute a severe mental disability for purposes of this section.

(b) Death Penalty Prohibited for Defendant with Severe Mental Disability at Time of Commission of Criminal Offense. – Notwithstanding any provision of law to the contrary, no defendant who had a severe mental disability at the time of the commission of the criminal offense shall be sentenced to death.

(c) Pretrial Hearing to Determine Severe Mental Disability. – Upon motion of the defendant, supported by appropriate affidavits, the court shall order a pretrial hearing to determine if the defendant had a severe mental disability at the time of the commission of the offense. The defendant has the burden of production and persuasion to demonstrate by clear and convincing evidence that the defendant had a severe mental disability at the time of the

criminal offense. If the court determines that the defendant had a severe mental disability at the time of the criminal offense, the court shall declare the case noncapital, and the State shall not seek the death penalty against the defendant.

(d) Pretrial Determination Does Not Affect Legal Defenses. – The pretrial determination of the court shall not preclude the defendant from raising any legal defense during the trial.

(e) Procedure at Sentencing Hearing Regarding Determination of Severe Mental Disability. – If the court does not find in the pretrial proceeding that the defendant had a severe mental disability at the time of the commission of the criminal offense, the defendant may introduce evidence during the sentencing hearing regarding the disability. If, during the sentencing hearing, the defendant introduces evidence regarding the disability, the court shall submit a special issue to the jury as to whether the defendant had a severe mental disability at the time of the commission of the criminal offense. These special issues shall be considered and answered by the jury prior to the consideration of aggravating or mitigating factors and the determination of sentence. If the jury determines that the defendant had a severe mental disability at the time of the commission of the criminal offense, the court shall declare the case noncapital, and the defendant shall be sentenced to life imprisonment.

(f) Burden of Production and Persuasion. – The defendant has the burden of production and persuasion to demonstrate to the jury by a preponderance of the evidence that the defendant had a severe mental disability at the time of the commission of the criminal offense.

(g) Jury Consideration of Severe Mental Disability. – If the jury determines that the defendant did not have a severe mental disability as defined by this section at the time of the commission of the criminal offense, the jury may consider any evidence of the disability presented during the sentencing hearing when determining mitigating factors and the defendant's sentence.

(h) Penalties that May Be Imposed on Convicted Defendant with a Severe Mental Disability. – The provisions of this section do not preclude the sentencing of an offender who has a severe mental disability as defined by this section to any other sentence authorized by G.S. 14-17 for the crime of murder in the first degree."

SECTION 2. G.S. 15A-2000(b) reads as rewritten:

"(b) Sentence Recommendation by the Jury. – Instructions determined by the trial judge to be warranted by the evidence shall be given by the court in its charge to the jury prior to its deliberation in determining sentence. The court shall give appropriate instructions in those cases in which evidence of the defendant's mental retardation requires the consideration by the jury of the provisions of G.S. 15A-2005. The court shall also give appropriate instructions in those cases in which evidence of the defendant's severe mental disability requires the consideration by the jury of the provisions of G.S. 15A-2007. In all cases in which the death penalty may be authorized, the judge shall include in his instructions to the jury that it must consider any aggravating circumstance or circumstances or mitigating circumstance or circumstances from the lists provided in subsections (e) and (f) which may be supported by the evidence, and shall furnish to the jury a written list of issues relating to such aggravating or mitigating circumstance or circumstances.

After hearing the evidence, argument of counsel, and instructions of the court, the jury shall deliberate and render a sentence recommendation to the court, based upon the following matters:

(1) Whether any sufficient aggravating circumstance or circumstances as enumerated in subsection (e) exist;

(2) Whether any sufficient mitigating circumstance or circumstances as enumerated in subsection (f), which outweigh the aggravating circumstance or circumstances found, exist; and

(3) Based on these considerations, whether the defendant should be sentenced to death or to imprisonment in the State's prison for life.

The sentence recommendation must be agreed upon by a unanimous vote of the 12 jurors. Upon delivery of the sentence recommendation by the foreman of the jury, the jury shall be individually polled to establish whether each juror concurs and agrees to the sentence recommendation returned.

If the jury cannot, within a reasonable time, unanimously agree to its sentence recommendation, the judge shall impose a sentence of life imprisonment; provided, however, that the judge shall in no instance impose the death penalty when the jury cannot agree unanimously to its sentence recommendation."

SECTION 3. Article 100 of Chapter 15A of the General Statutes is amended by adding a new section to read:

"**§ 15A-2008. Request for postconviction determination of severe mental disability.**

In cases in which the defendant has been convicted of first degree murder, sentenced to death, and is in custody awaiting imposition of the death penalty, the following procedures apply:

(1) Notwithstanding any other provision or time limitation contained in Article 89 of Chapter 15A of the General Statutes, a defendant may seek appropriate relief from the defendant's death sentence upon the ground that the defendant had a severe mental disability, as defined in G.S. 15A-2007(a), at the time of the commission of the capital crime.

(2) A motion seeking appropriate relief from a death sentence on the ground that the defendant had a severe mental disability at the time of the commission of the capital crime, shall be filed:

a. On or before January 31, 2010, if the defendant's conviction and sentence of death were entered prior to October 1, 2009.

b. Within 150 days of the imposition of a sentence of death, if the defendant's trial was in progress on October 1, 2009. For purposes of this section, a trial is considered to be in progress if the process of jury selection has begun.

(3) The motion, seeking relief from a death sentence upon the ground that the defendant had a severe mental disability, shall comply with the provisions of G.S. 15A-1420. The procedures and hearing on the motion shall follow and comply with G.S. 15A-1420. Upon motion of the defendant, supported by appropriate affidavits, the court shall order a hearing to determine if the defendant had a severe mental disability at the time of the commission of the offense."

SECTION 4. Sections 1 and 2 of this act become effective October 1, 2009, and apply to trials docketed to begin on or after that date. Section 3 of this act becomes effective October 1, 2009, and expires October 1, 2010. Section 4 of this act is effective when it becomes law.

Capital Sentencing Hearing Presentation – January 13 & 15, 2009

Good afternoon, my name is George Corvin, M.D. and I am a General and Forensic Psychiatrist in Raleigh. I have been a partner at North Raleigh Psychiatry for 12 years and during that time have been involved in dozens of Capital Cases throughout North Carolina, surrounding Southern states, and the Federal Court system.

Prior to my entry into private practice I was employed as a Forensic Psychiatric Fellow with the United States Bureau of Prisons, and during my career I have been retained by (or completed consultations for) the US Attorneys Office, the North Carolina Attorney Generals Office, the Federal Public Defenders Office, various District Attorneys offices, and numerous defense attorneys throughout North Carolina and elsewhere.

As a member of the North Carolina Psychiatric Association committee on Psychiatry and the law, I have recently had the opportunity to review the proposed legislation regarding capital procedures for defendants with severe mental disability that is currently being considered for introduction during the 2009 legislative session.

In recent years a number of legal and mental health organizations have been working actively in arriving at a consensus on the major issues addressed by this bill. The American Psychiatric Association has drafted and continues to support sample legislation which this bill tracks closely. The American Bar Association has also been actively involved in this process. Numerous legal scholars and mental health professionals have worked to refine the language contained in this legislation – for example, the very specific and detailed language used to define the term "severe mental disability". Incidentally, this same language is already being used successfully in 18 states in their insanity statutes.

I appreciate the opportunity to come before you today and share my impressions of this proposed bill. I also hope to be able to answer any questions you may have regarding this draft legislation. I may forget that I'm not talking to a room full of doctors today, so please feel free to interrupt me as we move forward if you need clarification of any of the topics I will comment on.

If for the purpose of our discussion it can be assumed that the will of the people of North Carolina is to reserve capital punishment for those offenders considered the "worst of the worst", then as a practicing psychiatrist the legislation being considered at this time seems to effectively reflect that objective with regard to seriously – and I stress *seriously* - psychiatrically ill defendants.

Individuals with serious mental disorders, for example Schizophrenia or some other psychotic illness, suffer from impairments of cognition, perception, impulse control, and judgment that the general population of offenders does not possess. While these deficits rarely rise to the level that would excuse a defendant from responsibility for his or her criminal conduct (as would be the situation in cases involving legal insanity where an individual fails to comprehend the "nature, quality, or wrongfulness" of their actions),

defendants with severe mental disease are so dysfunctional and globally impaired even to the casual observer that it seems illogical and fundamentally unfair to address their charges in the same manner as we do those defendants who do not possess such impairments.

It is for these same reasons that children are not eligible for capital punishment in the United States, and as you are aware, in 2000 the North Carolina Legislature exempted people with Mental Retardation from capital prosecution.

Additionally, juries in North Carolina (and in many other states for that matter) seem increasingly reluctant to sentence defendants to death when there are real concerns that the defendant suffered from a cognitive or psychiatric impairment that substantially impaired his or her ability to refrain from unlawful conduct or to fully understand the implications of their unlawful acts at the time of their offense.

Yet in other cases, jurors seem to struggle with these decisions, perhaps due to a lack of understanding of what severe mental illness is or due to a fear of these patients that negatively influences the process by which they arrive at a verdict. Unfortunately, I have seen several instances where jurors have openly stated after trial that they sentenced a defendant more harshly because they knew they were "crazy" and didn't want them "on the street". In other words, the presence of mental illness as a mitigating factor in criminal cases sometimes actually becomes an aggravator because of the stigma and negative connotations associated with individuals who suffer from these illnesses.

From a clinical perspective, however, individuals who suffer from a severe mental disease (and let me again stress that this very specifically does not mean *any* mental disease) suffer from impairments of judgment, behavioral control, and cognition that are in reality just as severe (and in many cases far worse) than the functional impairments suffered by those determined to have mental retardation – a class of defendants that are already exempt from capital punishment.

As an example, individuals with Schizophrenia, even when not acutely psychotic (hallucinating, for example), possess severe functional impairments such as slowed cognition, poor motivation, impaired attention to hygiene, odd and inappropriate emotional expression, depression, and/or agitation. These individuals also present a substantially elevated lifetime risk of committing suicide. Even when in partial remission with effective treatment, such patient's perception of the world around them is flawed and they tend to interpret events around them inaccurately.

Given the similarities in functional impairments possessed by individuals with Mental Retardation and other *severe* mental disorders, the proposed legislation would enable Courts to handle defendants that are 1) suffering from similar impairments and 2) charged with similar offenses, in a more fundamentally equitable and logically consistent manner.

Although I am not an attorney, I have been concerned about the fact that while mentally retarded offenders are not eligible to receive a sentence of death, at least theoretically a chronic schizophrenic who is equally or far more impaired in every area relevant to an analysis of their *mens rea* (mental state at the time of their offense) **can** be sentenced to death.

It has been my impression that the citizens of North Carolina have grown increasingly uncomfortable with the prospect of executing offenders who genuinely suffer from severe mental illness. As such it seems appropriate that our laws should reflect the will of the citizens in this matter as much as possible. In addition to protecting the dignity of this patient population, doing so would predictably save substantial sums of money over the current manner in which these cases are handled – a system which is plagued by inefficiencies both in terms of money and time spent to arrive at an appropriate disposition for these defendants.

As currently situated, huge sums of money are often spent in preparing to try seriously mentally disordered defendants capitally, yet historically a great many of them will not ever be tried capitally, much less convicted and sentenced to death. As such, the proposed legislation would allow Courts in this state to focus their limited resources on those cases in which the citizens of NC **do** feel capital punishment to be appropriate – in other words, the "worst of the worst" cases.

By giving the judicial system a more efficient way to eliminate seriously psychiatrically ill defendants from capital prosecution early in the pre-trial process rather than many months into it, the backlog of cases of this sort pending trial for long periods of time would likely be reduced (for example, by facilitating earlier plea agreements or non-capital litigation resulting in lesser sentences such as life without the possibility of parole).

On the other hand, I am aware of concerns that legislation of this sort may allow defendants to fake mental illness or avoid capital punishment simply because they have a relatively minor or transient psychological disorder. In reality, the language of this proposed legislation is very precise in defining what a severe mental disease is, and based on my own understanding of this definition (a definition arrived at by numerous legal and medical professionals after extensive study of the subject), the majority of individuals with a diagnosable mental illness do NOT suffer from a "severe mental disability" as defined in the draft bill.

As such, many if not most defendants with a diagnosable psychiatric condition would not be excluded from possible capital prosecution under the language of this legislation. Additionally, it is (in my opinion) appropriate that certain defendants, such as those possessing Antisocial Personality Disorder alone, are specifically excluded from this definition.

The issue of defendants attempting to fake or exaggerate mental illness (in other words, malinger) in order to avoid capital prosecution should also be considered. In forensic

practice it is not uncommon to encounter defendants who are malingering mental illness. However, there are a number of strategies that can be used to effectively reveal malingering, and defendants attempting to malinger mental illness are more often than not rather unsophisticated in their efforts and are readily detected by the examiner. At any rate, it seems to me unwise to limit the Court's authority to efficiently and appropriately adjudicate criminal cases involving a defendant who is truly suffering from a severe mental illness because of the relatively remote possibility that another defendant may successfully avoid capital prosecution by malingering.

Along these lines, I would like to conclude by commenting on a concern that such legislation would allow expert mental health witnesses to usurp the Court's authority by haphazardly offering opinions in this area. On the contrary, it seems to me that this legislation would enhance the ability of the Court to adjudicate these cases effectively by statutorily creating a strict definition of "severe mental disability" as pertains to capital prosecution.

In the final analysis, mental health expert witnesses are opinion witnesses. We are not allowed to offer conclusions as to matters of law, and this legislation would of course not change that. In fact, by establishing a strict definition for pre-trial determination of a defendant's "severe mental disability" (or lack thereof) I would expect that mental health experts would be more – not less – constrained in the opinions they offer. Additionally, with such a framework in place I anticipate that mental health experts will prove to be of more assistance to Courts attempting to determine the most appropriate disposition of cases involving psychiatrically ill defendants.

Stated similarly, given current indications that the Citizens of North Carolina are not very comfortable with the prospect of sentencing severely psychiatrically ill offenders to death, I believe it is prudent that the legislature take steps to assist Courts in determining what constitutes a severe mental disability in a pre-trial evidentiary hearing. As I suggested earlier, doing so would almost certainly save money and enhance the efficiency and reliability of Court findings.

It is not likely, however, to reduce the number of defendants actually sentenced to death in North Carolina. In reality, the defendants that would be affected by this legislation are seldom sentenced capitally under the current system; however huge sums of time and money are spent (wasted) in arriving at these dispositions in a rather inconsistent, haphazard, and inefficient manner. I believe the bill being studied currently would greatly improve this situation while at the same time protecting the dignity of defendants who are genuinely and severely psychiatrically disturbed.

Thank you.

Good afternoon. I appreciate the opportunity to address your committee and participate in the discussion about this very important legislation. Like Dr. Corvin, I am a forensic psychiatrist and in that role, I've evaluated a number of mentally ill defendants charged with capital murder, as well as mentally ill individuals who have already been sentenced to death. I've had the opportunity to see how the process works, and I've observed that the issue of severe mental illness is not fairly or effectively addressed under our state's current capital procedures.

From my perspective as a psychiatrist, it seems to me that this proposed legislation would go a long ways towards ensuring that our death penalty law is applied fairly and justly to individuals with mental disability. As we've heard discussed today, the legislature has already determined that mentally retarded individuals should be excluded from capital punishment; it is now time to take the necessary next step to create the same protections for individuals with similar disabilities but from different causes.

National organizations that deal with the treatment of mental illness such as the American Psychiatric Association and the American Psychological Association, as well as the American Bar Association, have recognized that individuals with severe mental illness require some special consideration in capital procedures. These organizations have taken the position that individuals impaired by severe mental illness should be given the same consideration that individuals with mental retardation are afforded in our state and many others. This and other information has convinced me that the proposed bill is necessary and timely legislation. There are several points in particular that I think shed important light on this discussion and I'd like to review them with you today.

First, we have already established in NC that we will not execute individuals with MR who are so cognitively impaired they can not be considered fully culpable for their behavior. The MR capital procedures statute clearly lays out how mental retardation will be defined for judicial purposes and details a process for courts to follow in making this determination early in the course of a capital trial. This law which has been in place since 2000 essentially accomplished in an efficient manner the goal of excluding the mentally retarded from execution without diminishing the state's ability to try, convict, and punish them for first degree murder. So we have a good example of how to do this.

Secondly, I want to emphasize that mental disability from mental retardation is no more severe or virtuous, than mental disability from other severe brain diseases or disorders. If a person is so impaired that they can't think clearly, make reasonable choices or control their behavior, it is not particularly relevant if that impairment is due to a condition that was present at birth, such as mental retardation, or from a disease that became apparent in young adulthood, such as schizophrenia or bipolar disorder. Both mental retardation and mental illness are primarily biological conditions that inflict the sufferer through no fault of their own.

Both types of disorders produce severe defects in thinking and reasoning, interfering with the person's ability to make reasoned choices, understand the consequences of their behavior and control their behavior. It may help to consider a few examples to illustrate this point.

First consider a defendant who was born with severe learning difficulties, never able to advance in school, never able to learn to manage his basic needs, never able to manage his finances or live independently due to the effects of mental retardation. This person would meet the criteria for exclusion from capital punishment in the NC legislation that addresses mental retardation.

Now consider another defendant, who was born with normal intelligence and developed fairly normally until his early 20's. Like the young man with mental retardation, mental disability probably ran in his family and he was born with the susceptibility to the biologically determined illness of schizophrenia. As he entered young adulthood, his condition started to decline. He quit attending work regularly, ceased bathing, developed strange behavior and started talking to himself. He became paranoid and feared that his parents were representatives of Satan and were trying to kill him. He heard voices that told him that he was Jehovah and had special powers. He was so caught up in these psychotic beliefs that he lost touch with reality and didn't know right from wrong. Psychiatrists, and probably most lay people, would recognize that this young man is as severely impaired as the young man with mental retardation, but the law as it currently stands would not provide any protections for the young man with schizophrenia.

Another example to consider. Let's say we have two 24 year-old men. Both have psychological tests that show severely impaired thinking and an IQ of 65. Both have severe functional impairment. One of them was born this way and has been diagnosed with mental retardation since he was 14; the other was cognitively normal until he suffered a severe head trauma in a car accident on his 22nd birthday; perhaps a brain scan shows the damaged area of his brain. These men have essentially the same impairment, but legally they would be treated differently under current laws; the victim of head trauma would not be excluded from capital punishment.

It seems obvious that there is no rationale for these two individuals to be provided different protections; only prejudice against the mentally ill supports such a distinction. There is no practical, fundamental or moral difference between the results of severe impairment from either mental retardation or other types of mental illness. It makes sense to me that there should be no legal distinction either.

My third point. The proposed bill we are discussing today is actually a rather small, though logical addition to capital procedures law already in place here in NC to protect mentally disabled defendants. The proposed bill is similar to the mental retardation statute that already exists. Given that individuals with severe mental illness, such as schizophrenia or bipolar disorder, may have the same or worse levels of impairment as individuals with mental retardation it is entirely consistent to provide them with similar protections. As with the mental retardation legislation, there are relatively few defendants who would meet the strict criteria as defined by the proposed bill, but those that do should be identified and exempted from execution.

My fourth point. In this type of legislation, it is important to define mental disability so that the definition usefully identifies those individuals who have severe illness and were truly impaired during the commission of the crime.

It is not helpful or appropriate to exclude upfront everybody with any history of psychological disturbance. Mental illness, like mental retardation occurs on a continuum. We can probably all agree that having below average intelligence doesn't necessarily create impairment severe enough to reduce culpability. But at the same time, we can all probably agree that below a certain point, intellectual functioning is so low that significant impairment results and culpability is diminished. To keep that point from being arbitrary, it has to be well defined, like it is in the mental retardation statute.

Similarly, mental illness occurs on a very broad continuum. Some mental illnesses cause very little disability and should not be offered as excuses for criminal behavior. However, it is undisputed that some illnesses are so severe and so impairing that the sufferer does not have control over their faculties. We need a definition of mental illness that usefully and consistently helps us find the line between not-so-severe vs. severe-enough disability. I'm satisfied that the wording in this proposed bill accomplishes that goal.

The definition used here is carefully worded and consistent with legal definitions of mental illness used in other NC statutes and in other states. Additionally it includes important exclusions so that diagnoses based primarily on drug abuse or antisocial behavior are not sufficient to qualify for the exemption.

My fifth and final point has to do with the stigma associated with mental illness and the impediment this can be to fair treatment. This stigma adds the burden of negative bias to defendants with mental illness, so that their illness becomes aggravating rather than mitigating in the eyes of many jurors.

While there is no practical difference between the behaviors that result from brain impairment from mental retardation or mental illness, there IS a difference in the way the public perceives these different conditions. Individuals with mental retardation are more likely to be met with sympathy than individuals with severe mental illness. Through no fault of their own, the severely mentally ill can be quite off-putting. Their illogical, uncontrolled behavior unsettles or even frightens observers. The public has been slow to accept the overwhelming evidence that these conditions are biologically determined, just like diabetes and hypertension, and are not the result of some moral weakness or failing.

In the courtroom, either from the effects of the medication they take or the illness itself, defendants with mental illness can appear aloof and unconcerned, lacking remorse, which of course causes juries to react negatively to them. The effect of these unsympathetic, negative reactions can be that individuals with mental illness are sentenced to death at a higher rate than more sympathetic defendants, even though doctors, scientists, and even lots of lawyers know that their impairments should render them less culpable.

It is the responsibility of lawmakers to put in place procedures that protect these vulnerable, ill citizens from overly harsh treatment. The proposed bill, by allowing the issue of mental illness to be addressed up-front, would go a very long way in reducing the inherent bias against the severely mentally ill defendant in capital murder cases.

I hope that after considering the points that I've reviewed, you'll agree that the proposed legislation is an important step towards insuring that the death penalty is administered fairly in North Carolina, helping to diminish the effect of prejudice against the mentally ill when we are dealing with the most severe and permanent of punishments. I look forward to discussing with you further these important issues. Thank you.

Kimberly C. Stevens

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Education

Washington State University, B.A. Criminal Justice, *summa cum laude*, 1989. *Phi Beta Kappa*

Wake Forest University School of Law, Juris Doctorate, 1992. Wake Forest University Law Review, Moot Court Board and National Trial Team. National Quarterfinalist, National Trial Team Competition, 1991. Law Faculty Scholar, Full Tuition Scholarship

Employment

Kimberly C. Stevens, Attorney at Law, February 1, 2008 to present. Primarily representing capitally-accused indigent criminal defendants at the trial court level throughout the State of North Carolina and plaintiffs in various medical malpractice and wrongful death civil actions.

Assistant Capital Defender, Forsyth County Regional Office of the Capital Defender, State of North Carolina, 2006-2008. Appointed counsel for capitally-accused indigent criminal defendants at the trial court level throughout the State of North Carolina.

Partner, **Stevens & Withrow, PLLC**, 2001 - 2006. Civil and Criminal Litigation. Presently engaged primarily in the defense of the capitally accused at the trial and post-conviction level and in the litigation of civil wrongful death cases.

Associate, **McElwee Firm, PLLC**, North Wilkesboro, North Carolina, 1997-2001. Areas of Practice: Civil and Criminal Litigation. Achieved three separate settlements / verdicts on behalf of plaintiffs in civil litigation cases in excess of $1 million each.

Associate, **Womble Carlyle Sandridge & Rice, PLLC**, Winston-Salem, North Carolina, 1993-1997. Areas of Practice: Civil Litigation, including Government and Municipality Defense and Toxic Tort and Environmental Defense.

Law Clerk, **Hon. Patrick James Duggan, United States Federal District Court Judge, Eastern District of Michigan**, Detroit Division, 1992-1993.

Additional Activities

Adjunct Professor, Trial Practice Course, Wake Forest University School of Law, 2001 - present. Coach, Wake Forest University School of Law's AAJ Trial Team, 2005 - present; Clinic Advisor and Adjunct Professor, Actual Innocence Project, Wake Forest University School of Law, 2005-2006, 2007-2008.

Faculty Member, ***The Capital College***, Sponsored by the North Carolina Academy of Trial Lawyers and the Center for Death Penalty Litigation, 2004, 2005, 2006, 2008. Invited Speaker, ***Death Penalty Defense*** 2005, co-sponsored by the North Carolina Academy of Trial Lawyers and the Center for Death Penalty Litigation, on the topic of *Wiggins* and the Duty to Investigate in Capital Cases; Invited Speaker, ***Death Penalty Defense*** 2006, the Ethical Obligation of Counsel to Seek an Agreed-Upon Disposition; Invited Speaker, ***Death Penalty Defense*** 2008, New Ideas in Plea Bargaining and the Application of DNA Evidence in Capital Cases; Invited Speaker, ***Death Penalty Defense*** 2009, Investigating and Proving a Claim of Mental Retardation.

Member and **Treasurer** of the **Board of Directors, the Center for Death Penalty Litigation**, 2001 - 2006. **Vice-President of the Board of Directors, the Center for Death Penalty Litigation**, 2008 - present.

ATTACHMENT K

THE COSTS OF PROCESSING MURDER CASES IN NORTH CAROLINA

Philip J. Cook, Ph.D.
Donna B. Slawson, M.A., J.D.
with the assistance of Lori A. Gries, B.B.A

Terry Sanford Institute of Public Policy
Duke University

May 1993

Funded by a grant from the State Justice Institute
to the North Carolina Administrative Office of the Courts

§ 15A-2005. Mentally retarded defendants; death sentence prohibited.

(a) (1) The following definitions apply in this section:

a. Mentally retarded. – Significantly subaverage general intellectual functioning, existing concurrently with significant limitations in adaptive functioning, both of which were manifested before the age of 18.

b. Significant limitations in adaptive functioning. – Significant limitations in two or more of the following adaptive skill areas: communication, self-care, home living, social skills, community use, self-direction, health and safety, functional academics, leisure skills and work skills.

c. Significantly subaverage general intellectual functioning. – An intelligence quotient of 70 or below.

(2) The defendant has the burden of proving significantly subaverage general intellectual functioning, significant limitations in adaptive functioning, and that mental retardation was manifested before the age of 18. An intelligence quotient of 70 or below on an individually administered, scientifically recognized standardized intelligence quotient test administered by a licensed psychiatrist or psychologist is evidence of significantly subaverage general intellectual functioning; however, it is not sufficient, without evidence of significant limitations in adaptive functioning and without evidence of manifestation before the age of 18, to establish that the defendant is mentally retarded.

(b) Notwithstanding any provision of law to the contrary, no defendant who is mentally retarded shall be sentenced to death.

(c) Upon motion of the defendant, supported by appropriate affidavits, the court may order a pretrial hearing to determine if the defendant is mentally retarded. The court shall order such a hearing with the consent of the State. The defendant has the burden of production and persuasion to demonstrate mental retardation by clear and convincing evidence. If the court determines the defendant to be mentally retarded, the court shall declare the case noncapital, and the State may not seek the death penalty against the defendant.

(d) The pretrial determination of the court shall not preclude the defendant from raising any legal defense during the trial.

(e) If the court does not find the defendant to be mentally retarded in the pretrial proceeding, upon the introduction of evidence of the defendant's mental retardation during the sentencing hearing, the court shall submit a special issue to the jury as to whether the defendant is mentally retarded as defined in this section. This special issue shall be considered and answered by the jury prior to the consideration of aggravating or mitigating factors and the determination of sentence. If the jury determines the defendant to be mentally retarded, the court shall declare the case noncapital and the defendant shall be sentenced to life imprisonment.

(f) The defendant has the burden of production and persuasion to demonstrate mental retardation to the jury by a preponderance of the evidence.

(g) If the jury determines that the defendant is not mentally retarded as defined by this section, the jury may consider any evidence of mental retardation presented during the sentencing hearing when determining aggravating or mitigating factors and the defendant's sentence.

(h) The provisions of this section do not preclude the sentencing of a mentally retarded offender to any other sentence authorized by G.S. 14-17 for the crime of murder in the first degree. (2001-346, s. 1.)

BILL SUMMARY: Amends Article 100 of Chapter 15A to prohibit the death penalty for a defendant with severe mental disability at the time of the commission of the criminal defense. Upon motion of the defendant, requires the court to order a pretrial hearing to determine if the defendant has a severe mental disability when the crime was committed. If the court determines that the defendant had a severe mental disability, the court must declare the case noncapital and the State shall not seek the death penalty. Adds new GS 15A-2007(e) to provide that if the court does not find in the pre-trial proceeding that a defendant has a severe mental disability, the defendant may produce evidence during the sentencing hearing regarding the disability.

ASSUMPTIONS AND METHODOLOGY

General

The proposed bill prohibits the imposition of the death penalty for defendants with severe mental disabilities. As a result, the bill will reduce the pool of defendants who are potentially eligible for the death penalty. In Fiscal Year 2006-07, there were 19 capital trials initiated. The following fiscal year, only 9 capital trials were initiated. However, the Office of Indigent Services (OIDS) staff indicated that 40 percent of the 545 murder cases opened in 2007, 218, "proceeded capitally at some point."

Judicial Department

The Administrative Office of the Courts (AOC) staff indicated that there could be significant net costs to the court system for the motions authorized by the proposed bill, assuming that defense counsel would assert every issue reasonably possible for clients, and request a pre-trial hearing for all or most new capital cases. However, the proposed bill could also reduce the number of capital cases tried. This would substantially reduce costs and produce a net savings to the court system since capital trials are far more expensive than any other method of disposition.

The bill would be expected to save the State money by decreasing the number of capital court trials for those cases where defendants are found to have a severe mental disability. However, the Fiscal Research Division is unable to project the number of trials that would be avoided and the resulting savings in trial court and appellate costs. Staff from the Office of Indigent Defense Services indicates that the bill could substantially reduce costs; however they were unable to provide an estimate of the amount of General Fund savings.

Trials

The pre-trial motions granted under the bill could potentially reduce court costs by eliminating the need for more lengthy and expensive court trials in those cases where the defendants are found to have a severe mental disability. However, the bill could result in additional costs in those capital cases where defendants who do not have a severe mental disability would seek a pre-trial hearing as part of their defense. Assuming no change in the number of trials that proceed capitally at some point and that there would be a pre-trial motion filed in half of those cases,109, pre-trial motions could cost the Administrative Office of the Courts system $431,940 in the first year. This estimate assumes that each pre-trial motion would require one full day of in-court time and an average of 24 hours of preparation time for two prosecutors. The Office of Indigent Defense

SOURCES OF DATA: Administrative Office of the Courts; Office of Indigent Defense Services; NC Sentencing and Policy Advisory Commission

TECHNICAL CONSIDERATIONS: None

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2009

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: January 13, 2009

TO: Sen. Kinnaird, Rep. Insko

FROM: Denise Thomas, Fiscal Research Division

RE: 2009-LH-2[v.7] – Capital Procedure/Severe Mental Disability

FISCAL IMPACT

	Yes (X)	No ( )	No Estimate Available (X)		
	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14
REVENUES:	0	0	0	0	0
EXPENDITURES:					
Judicial	747,802	747,802	726,240	726,240	726,240
Correction	Indeterminate fiscal impact				
POSITIONS (cumulative):					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Judicial Department; Department of Correction; Department of Justice

EFFECTIVE DATE: Sections 1 and 2 become effective October 1, 2009, and apply to trials docketed to begin on or after that date. Section 3 of becomes effective October 1, 2009, and expires October 1, 2010. Section 4 of this act is effective when it becomes law.

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ASSUMPTIONS AND METHODOLOGY

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The pre-trial motions granted under the bill could potentially reduce court costs by eliminating the need for more lengthy and expensive court trials in those cases where the defendants are found to have a severe mental disability. However, the bill could result in additional costs in those capital cases where defendants who do not have a severe mental disability would seek a pre-trial hearing as part of their defense. Assuming no change in the number of trials that proceed capitally at some point and that there would be a pre-trial motion filed in half of those cases,109, pre-trial motions could cost the Administrative Office of the Courts system $431,940 in the first year. This estimate assumes that each pre-trial motion would require one full day of in-court time and an average of 24 hours of preparation time for two prosecutors. The Office of Indigent Defense Services (OIDS) estimates that the daily cost of a public defender, including expert witness and other expenses, is $675. Assuming that the public defender attorney would also need 24 hours of preparation time, OIDS' cost for 109 pre-trial motions would be $294,300 in the first year. Thus, for new capital trial proceedings in the first year after the bill becomes effective, the Judicial Department's total cost for pre-trial motions could be $726,240.

Post-conviction Proceedings

AOC staff indicated that they would expect a fiscal impact as a result of the post-conviction procedures set forth in the bill. Some of the current death row inmates would be expected to file a motion seeking relief on the grounds of having a severe mental disability. Under the bill, current death row inmates would have the right to file a motion, but must do so no later than January 31, 2010. Thus, most of the cost of post-conviction proceedings would be expected in the first two years depending on the amount of time that elapses between the filing of a motion and when the case is heard. OIDS estimates that approximately three percent (3%) of the 164 current death row inmates would meet the proposed bill's definition of severe mental disability. AOC assumes that each post-conviction proceeding would require two (2) days of in-court time and 24 hours of one prosecutor's time to assist the Attorney General's staff with each motion. If five (5) post-convictions motions were filed, the additional cost to the court system would be about $33,000. Assuming 24 hours of a public defender's time for each of the five cases, the Office of Indigent Defense Services would incur additional costs of $10,125 for post-conviction proceedings. For the purposes of this estimate, it is assumed that the one-time costs related to the post-conviction proceedings for inmates currently on death row would be divided evenly among the first two years.

Department of Justice

The Attorney General's Office did not submit a fiscal impact for the bill so it is assumed that the proposed post-conviction motions would have minimal fiscal impact on the Department of Justice.

Department of Correction

The North Carolina Sentencing and Policy Advisory Commission reviewed the proposed bill to assess the potential impact on the Department of Correction's Division of Prisons. Commission staff indicated that over the last five fiscal years, there have been less than 10 death sentences imposed per year and it is not known how many offenders could be found to have a severe mental disability under the proposed bill. Since under Structured Sentencing a "life sentence" means for the rest of the person's natural life, the long-term impact of the bill would be the result of the difference between the length of time the average death row inmate spends in prison *prior to execution* (which was 12.4 years for death row inmates executed from CY 1998 through CY 2008) versus the length of time the average inmate will remain in prison on a sentence of life without parole. *The build-up over the years of more and more persons serving life sentences would have substantial long-term impact.*

In addition, there would be an immediate prison impact for current death row inmates who are found to have a severe mental disability and who had exhausted the post-conviction appeal process and could be scheduled for execution.[1] They would receive a life sentence under the proposed bill. Of the 159 inmates currently in prison with a death sentence, 81 have been there longer than the average time to execution of 12.4 years.

SOURCES OF DATA: Administrative Office of the Courts; Office of Indigent Defense Services; NC Sentencing and Policy Advisory Commission

TECHNICAL CONSIDERATIONS: None

[1] The last execution in North Carolina was August 18, 2006.

CAPITAL PROCEDURE / SEVERE MENTAL DISABILITY

AN ACT TO AMEND THE CAPITAL TRIAL, SENTENCING AND POST-CONVICTION PROCEDURES FOR A PERSON WITH A SEVERE MENTAL DISABILITY

BACKGROUND

In recent years, concerns have grown nationally about the way the criminal justice system identifies and punishes persons with severe mental disability. Groups such as the National Alliance on Mental Illness, the American Psychiatric Association, the American Psychological Association, and the American Bar Association have all adopted proposals to prohibit the execution of persons who are significantly impaired by a severe mental disability. People with severe mental disability comprise a small portion of society, and the prevalence of violence among them is minimal. However, when they become involved in the criminal justice system, persons with severe mental disability face significant challenges and obstacles due solely to their disability.

For these reasons, local groups in North Carolina now recommend changes in how persons with severe mental disability proceed through the criminal justice system. The recommendation does not excuse them from punishment, but instead adds additional procedural safeguards to ensure the criminal process is just and fair for persons with limitations and vulnerabilities caused by severe mental disability.

In the spring of 2007, a local group of mental health advocates met to discuss a change in North Carolina's criminal procedure for first degree murder trials in which a defendant has a severe mental disability at the time of the crime. The change they proposed added a layer of protection for defendants with a severe mental disability and capped their punishment at life without the possibility of parole. Statewide advocates for people with serious mental disabilities have recently come together again to provide support for the resulting proposal, which will be introduced in the upcoming legislative session. The bill is entitled: "Criminal Procedure / Serious Mental Disability," and works almost identically to the statute passed in 2001 regarding defendants with mental retardation in capital murder cases. That statute, N.C.G.S. § 15A-2005, provides a more effective and cost efficient way for courts to identify criminal defendants in murder cases who have mental retardation by focusing on that critical issue before the trial begins. Since the enactment of N.C.G.S. § 15A-2005, the additional procedures mandated by the legislative statute have saved hundreds of thousands of dollars in trials across the state where mental retardation is an issue.

CURRENT TRIAL PROCEDURE

Currently, when a defendant is charged capitally, there is a two part trial. The first part of the trial is the guilt / innocence phase, in which evidence is presented to a jury on whether a defendant committed the crime, and if so, whether there are any defenses which preclude a conviction for first degree murder. If a defendant is found guilty of first degree murder, there is a second phase of the trial, which is called the sentencing phase. In this phase, the state presents aggravating factors in support of an argument for the death penalty, and the defendant presents mitigating factors s/he hopes will sway the jury in favor of a sentence of life without parole.

PROPOSED CHANGES TO PROCEDURE

Under the proposed legislation, before the jury trial begins the State and the defendant may present evidence to judge regarding his or her severe mental disability at the time of the crime. If the judge determines a defendant was severely mentally disabled at the time of the crime, the case is declared non-capital, and the defendant becomes ineligible for the death penalty. The proposed legislation does not prohibit a defendant from presenting evidence of serious mental disability at other stages of the trial if the judge does not make the pre-trial determination of severe mental disability at the time of the crime. Under the proposed legislation, the defendant is criminally responsible, but the punishment is capped at life without the possibility of parole. The proposed change will also apply to persons already on death row when the legislation goes into effect.

REASONS THE CHANGE IS NECESSARY

The proposed change in procedure is more effective and cost efficient for many reasons. First, it will save money. By determining a defendant suffers from a severe mental disability at an earlier stage of the trial, the excessive cost of the trial and appeal process may be significantly reduced, saving the State hundreds of thousands of dollars in each case. In addition, these changes will save time and resources in an already overburdened court system.

The proposed changes will also add an important layer of protection for people with serious mental disability who are often unable to assist their attorney or participate meaningfully in their defense. Defendants with serious mental illness can be unable or unwilling to cooperate with their attorneys in the preparation of their case. If a defendant is taking psychotropic drugs during trial, s/he may give the jury the impression he is not remorseful or does not care, when in reality, the effects of his medication are to blame for his or her demeanor. If serious mental illness is left untreated, a defendant may be belligerent, confusing or frightening to a jury. The proposed changes add protections for these defendants, who face many such challenges in the criminal justice system due to their disability.

The proposed legislation is an essential addition to our criminal justice statutes because it will save the State hundreds of thousands of dollars a year, will save time and resources in our court system, and will provide a small but important layer of protection for people who are unable to fairly and adequately participate in their trials.

BROAD SUPPORT BY NC ADVOCACY GROUPS FOR PERSONS WITH DISABILITIES

The legislation is supported by the NC Mental Health Consumers Association, the Mental Health Association – NC, National Alliance on Mental Illness North Carolina, the NC Psychological Association, the NC Psychiatric Association, the National Association of Social Workers – NC and Disability Rights North Carolina. If you have questions about this proposed legislation, please contact Kristin Parks at (919) 451-2324, or Kris.Parks@DisabilityRightsNC.org.

NORTH CAROLINA GENERAL ASSEMBLY

JOINT SELECT COMMITTEE ON CAPITAL TRIAL, SENTENCING, AND POST CONVICTION PROCEDURES FOR PERSONS WHO SUFFER SEVERE MENTAL DISABILITIES

REPORT TO THE
2009 SESSION
of the
2009 GENERAL ASSEMBLY

JANUARY 2009

TRANSMITTAL LETTER

The Joint Select Committee on Capital Trial, Sentencing, and Post Conviction Procedures for Persons Who Suffer Severe Mental Disabilities, respectfully submits the following report.

Verla Insko

Representative Verla Insko
Co-Chair

Senator Ellie Kinnaird
Co-Chair

Marc Basnight President Pro Tempore, North Carolina Senate		Joe Hackney Speaker, North Carolina House of Representatives

Joint Select Committee
on Capital Trial, Sentencing, and Post Conviction Procedures for Persons Who Suffer Severe Mental Disabilities

Section 1. Joint Select Committee on Capital Trial, Sentencing, and Post Conviction Procedures for Persons Who Suffer Severe Mental Disabilities (hereinafter "Committee") is established by the President Pro Tempore of the Senate and the Speaker of the House of Representatives pursuant to Rule 31 of the Rules of the Senate of the 2007 General Assembly and Rule 26(a) of the Rules of the House of Representatives of the 2007 General Assembly, as the combination of a Senate Select Committee and a House Select Committee that meet together and function as a joint committee. The Committee is authorized to meet during the session and, pursuant to G.S. 120-19.6, is authorized to meet between sessions and during recesses of the General Assembly.

Section 2. The Committee consists of the 10 members listed below, 5 of whom are appointed by the President Pro Tempore of the Senate and 5 of whom are appointed by the Speaker of the House of Representatives. A cochair or other member of the Committee continues to serve until a successor is appointed. A vacancy shall be filled within 30 days by the officer who made the original appointment. The Committee and the terms of the members expire when the Committee submits a final report to the General Assembly. Members serve at the pleasure of the appointing officer.

President Pro Tempore Appointments	Speaker of the House of Representatives Appointments
Senator Ellie Kinnaird, Co-Chair	Representative Verla Insko, Co-Chair
Senator Stan Bingham	Representative Pricey Harrison
Senator Charlie Dannelly	Representative Tim Moore
Senator Fletcher Hartsell	Representative Bonner L. Stiller
Senator Ed Jones	Representative William L. Wainwright

Section 3. The Committee shall study issues related to capital trial, sentencing, and post conviction procedures for persons who suffer severe mental disabilities.

Section 4. The Committee shall meet upon the call of its co-chairs. A quorum of the Committee is a majority of its members. No action may be taken except by a majority vote at a meeting at which a quorum is present.

Section 5. The Committee, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and Article 5A of Chapter 120 of the General Statutes. The Committee may contract for professional, clerical, or consultant services, as provided by G.S. 120-32.02.

Section 6. Members of the Committee shall receive per diem, subsistence, and travel allowance as provided in G.S. 120-3.1.

Section 7. The expenses of the Committee shall be considered expenses incurred for the joint operation of the General Assembly. Individual expenses of $5,000 or less, including per diem, travel, and subsistence expenses of members of the Committee, and clerical expenses shall be paid upon the authorization of a cochair of the Committee. Individual expenses in excess of $5,000 shall be paid upon the written approval of a cochair of the Legislative Services Commission. All expenses of the Committee shall be paid from the Reserve for Studies of the Legislative Services Commission.

Section 8. The Legislative Services Officer shall assign professional and clerical staff to assist the Committee in its work. The Director of Legislative Assistants of the House of Representatives and the Director of Legislative Assistants of the Senate shall assign clerical support staff to the Committee.

Section 9. The Committee may meet at various locations around the State in order to promote greater public participation in its deliberations.

Section 10. The Committee shall submit a final report on the results of its study, including any proposed legislation, to the members of the Senate and the House of Representatives, on or before January 27, 2009, by filing a copy of the report with the Office of the President Pro Tempore of the Senate, the Office of the Speaker of the House of Representatives, and the Legislative Library. The Committee shall terminate on January 27, 2009, or upon the filing of its final report, whichever occurs first.

Effective this 3rd day of December, 2008.

Marc Basnight	Joe Hackney
President Pro Tempore of the Senate	Speaker of the House of Representatives

12/03/2008

SUMMARY OF COMMITTEE PROCEEDINGS

The Joint Select Committee on Capital Trial, Sentencing, and Post Conviction Procedures for Persons Who Suffer Severe Mental Disabilities met January 13, 2009 and January 15, 2009.

January 13, 2009

The committee met January 13, 2009 at 12:30 PM in Room 1027 of the Legislative Building. Senator Kinnaird, Co-chair of the committee welcomed members and called the meeting to order by recognizing Hal Pell to deliver the Charge to Committee.

Senator Kinnaird introduced the first speaker, John Tote, Executive Director of the MHA of NC, followed by a presentation by James Ellis, Professor of Law at the University of New Mexico.

Senator Kinnaird introduced Carl Fox, Senior Resident Superior Court Judge of District 15B. Presentations were then given by Dr. George Corbin, a practicing forensic psychiatrist at North Raleigh Psychiatry and Dr. Holly Rogers, a staff psychiatrist at Counseling and Psychological Services for Duke University.

The Committee discussed the issue of dealing with the death penalty for people with severe mental illnesses according to remarks made by the speakers. Senator Kinnaird adjourned the meeting at 3:50 PM.

January 15, 2009

The committee met January 15, 2009 at 2:00 PM in Room 1124 of the Legislative Building. Representative Insko, Co-chair of the committee called the meeting to order and recognized Kris Parks for her work with the Mental Health community.

Representative Insko introduced Kimberly Stevens, Attorney from Winston Salem.

Following the presentation, Representative Insko appointed Dr. Rogers to follow up on additional answers for the committee. Representative Insko adjourned the meeting at 3:45 PM.

SUMMARY OF PROCEEDINGS

JOINT SELECT COMMITTEE ON CAPITAL TRAIL, SENTENCING, AND POST CONVICTION PROCEDURES FOR PERSONS WHO SUFFER SEVERE MENTAL DISABILITIES

TUESDAY JANUARY 13, 2009
ROOM 1027 LEGISLATIVE BUILDING
12:30 PM

The Joint Select Committee on Capital Trail, Sentencing, and Post Conviction Procedures for Persons Who Suffer Severe Mental Disabilities met Tuesday January 13 at 12:30 in room 1027 of the Legislative Building. Thursday January 15, 2009 at 2:00 in room 1124 of the Legislative Building.

Senator Ellie Kinnaird presided. Members present on January 13 were Senators Stan Bingham, Charlie Dannelly, Fletcher Hartsell Jr., Ed Jones and Representatives Pricey Harrison, Tim Moore, Bonner Stiller, and William Wainwright. Staff members present were Hal Pell, Emily Johnson and Denise Thomas. A copy of the roll denoting members present is attached to the minutes (Attachment A) along with a copy of the visitor registration and agenda sheet (Attachments B and C).

Senator Ellie Kinnaird called the meeting to order and introduced the Sergeant at Arms staff.

Sen. Kinnaird recognized Hal Pell to deliver the Charge to Committee. Mr. Pell said the charge is a broad general charge. The committee shall submit a final report by Jan twenty seven and committee terminates on that date. (Attachment D).

Sen. Kinnaird recognized John Tote.

Sen. Kinnaird introduced the first speaker, John Tote, Executive Director of MHA of NC, an advocacy and provider organization working on behalf of the mentally ill. (Attachment E)

Mr. Tote: North Carolina has one of the most stringent "not guilty by reason of insanity" laws in the nation. At the same time North Carolina is a leader in the nation in dealing with restrictions on capital punishment for people with mental retardation. This bill restricting capital crimes for people with severe mental illness is an extension of North Carolina's existing law for people with mental retardation.

Both issues deal with people with severe mental impairment. This bill would level the playing field for all people with severe mental impairment.
Defendants will have to meet a very stringent threshold that they had a severe impairment at the time of the crime. They will have to prove they had the impairment at the time of the crime; their impairment will have to be confirmed by mental health professionals that are highly skilled at diagnosing mental illness and level of impairment.

Less than 1% of all people convicted of a capital crime actually receive the death penalty. This past year only one person in NC was sentenced to death. We have a growing consensus that the death penalty shall be reserved for the worst of the worst and that people with severe mental disabilities are not the worst of the worst.

Sen. Kinnaird introduced Professor James Ellis, Professor of Law at the University of New Mexico. Professor Ellis argued the Atkins mental retardation case before the US Supreme. He won the case which is the law of the land. We are using the mental retardation case as a model for the bill on exempting the death penalty for people with severe mental illness.

NC had the most dramatic impact on the U.S. Supreme Court as it heard the Atkins case because North Carolina was one of the original litigants. The case was half way through the briefing when NC passed their mental retardation statute. When North Carolina pulled out as one of the litigants, the significance was not lost on the Court.

The goal with regard to this legislation is to find a workable solution to the problem of people who have severe mental illness who find themselves charged with a capital offense. The first duty is to protect the public but also to attempt fairness in the cases with people who may have severe mental illness and to reserve the death penalty should be reserved for the people who are at the highest level of culpability. A major consideration is how to take the resources devoted to capital punishment and direct it toward the people who are most responsible for their actions.

The centerpiece of North Carolina's legislation which has served as a model to other states in how to make it work is: NC chose to make available a pre trial determination rather than delaying it to the trial or after the trial, involvement of good expert evaluation early in the process and having them inform directly the court of their clinical findings, and the focus on negotiation and consensus rather than on partisan litigation. These features help reduce the cost of contentious litigation.

These features work for mental retardation and can also be used as a model for the legislation regarding the mentally ill. The issue of mental illness in the proposal before you deals with people whose impairment is extraordinarily substantial and global. It requires the drafters and lawyers and courts to draw a line at which point a person would be exempted from the death penalty – a very small subset of the mentally ill.

The vast majority of people with mental illness or even severe mental illness never come into contact with the court system. But, severe mental illness can have a direct impact on

the thinking and the actions of a mentally ill person and when that person comes into contact with the criminal courts in a case involving homicide, their severe mental illness will affect their culpability. The question is how to figure out when the impact on the culpability of the defendant is such that the death penalty should not be considered and the top penalty should be life without possibility of parole.

In the mental retardation case, the Supreme Court said that people with mental retardation -- because of characteristics of their disability – don't warrant the death penalty. That same inquiry with regard to people with severe mental illness produces the same results – the understanding of their actions may be sufficient to allow conviction, but the mental illness has such an impact on their thoughts and action, they are not among the worst of the worst – those people whose culpability is the highest.

Three doctrines exist that involve mental illness as it affects criminal cases:

- Competence to stand trial. Every state has the provision that mental illness can be so severe that they cannot understand their actions or assist counsel cannot be tried or convicted unless treatment will restore them to competence. This takes some people out of the criminal procedure.
- Insanity defense: A person who is competent to stand trial may be still be eligible for acquittal if their mental illness so impaired their understanding of the nature of their action that they cannot be convicted.
- Competence to be executed: Some people on death row who acquired mental illness while in prison may be so impaired they cannot understand what the punishment is all about. These people cannot be executed.

Even with these three doctrines, the bill before you is still necessary because there still may be people with severe mental illness sentenced to death despite the impact of their illness on their actions.

Under this legislation, a person with severe mental illness can still be punished; they can be punished severely. They cannot be sentenced to death; but, there is no impairment in the State's ability to protect the public. The only issues are culpability and retributive purposes for this person's actions.

In this country, we reserve the death penalty for those who most deserve it. The position of this legislation is that the death penalty is inappropriate for people with severe mental illness due to the impact of their mental illness on their ability to understand and conform their actions to the requirement of law.

While this bill tracks the mental retardation bill, it differs in some important respects. A person with mental retardation has had it from birth and it is life-long; it is not a changing condition. Mental illness often is a changing condition. This legislation addresses that by focusing on the person's mental condition at time at which the crime occurred.

Anyone whose actions may have been affected by the use of alcohol or drugs is excluded from this law as are those whose actions may be due directly to their mental illness such

as pyromania, personality disorder, etc. This bill deals only with severe mental illness that is independent of the crimes and that is independent of any responsibility this person has for their illness. The illnesses covered by this law include schizophrenia and other mental conditions – listed in the text - that so severely impact the person's thinking and understanding at the time of their crime that it reduces the level of their culpability. Examples: a command from God, the person they were killing was not a human being, etc. These individuals did not cause their illness, they are less culpable and the public can be protected.

Another aspect is that if someone has acted because of their delusional believe, the prospect that they may face the death penalty can have no deterrent influence on them. Similarly, exempting these people from the death penalty will not affect the deterrence of the death penalty on anyone else.

The bill is better than the one passed by Connecticut and if passed other states will look to North Carolina "because it much more carefully focuses the pretrial determination on the impact of this person mental illness on their actions and more carefully crafts the definition of mental illness on those who are the least culpable."

Sen. Kinnaird asked for questions.

Senator Jones:
Would this person be sent to a mental institution?
No, this person if convicted would be punished by other penalties including life without parole.

Would this person be integrated into the rest of the prison population?
No, they would be segregated to protect them and the other prison population. They should also receive treatment in prison.

Kinnaird: 40% of the people in our prison system have mental illness and many of these are first diagnosed with mental illness when they enter the prison population. The incidence of mental illness among our juvenile population is very high and they have not been picked up before they entered the correction system.

Senator Bingham:
What would be the possibility of a person recovering from mental illness or having mental illness for only 3 months?
A person can have a severe breakdown and will have only one occurrence in their life. Other people have manifestations of their mental illness all their lives.

How many other states have this legislation?
Just one: Connecticut; but that law does not have all the protections in it as the one before you.

Sen. Kinnaird introduced Carl Fox, Senior Resident Superior Court Judge of District 15B. Judge Fox was District Attorney for 20 year; assistant prosecutor for 6 years ad judge almost four years.

Judge Fox starts with the premise that the State should not be executing people who are mentally ill.

Judge Fox gave an overview of how capital procedures proceed.

The first step is the Rule 24 hearing when the judge determines whether the case can proceed capitally - based on mental competence. Next is the guilt/innocence phase. Evidence of diminished capacity can be presented in this phase or in the sentencing phase.
(Attachment F) (Sen. Kinnaird referred members to a handout in their packet)

This law would introduce a hearing before the trial, similar to the Rule 24 hearing, when evidence can be presented as to whether or not the person suffers from a severe mental illness and whether the case can proceed as a capital trial.

Judge Fox discussed several examples.

This bill would save a lot of time and money because of the appeals and length of appeals. This procedure would make sense and would provide protection for people who have severe mental disorders.

Judge Fox discussed the unlikelihood of anyone being able to fake a severe mental illness.

Rep. Stiller:
In rule 24, can the judge determine to go forward or not to go forward because of mental illness?
No, they cannot, the Rule 24 hearing is based only on aggravating factors. If one aggravating factor is present, the judge must rule the case must go forward as a capital crime.

Stiller:
After the defendant is found guilty, the jury can come back with a variety sentences
No, just two sentences, life imprisonment or death.

Stiller: At that point, does the jury decide whether or not the person has any mental illness that mitigates the crime?
Yes

Stiller:
If we change this, wouldn't the judge make the determination before the trial rather than having the jury make the determination after the trial?

Yes. But it make sense to do it pre trial because it would affect only very few cases and for those cases, the pre trial determination would save a lot of time and money. A judge would make this determination in only the clearest cases.

Stiller:
Would we retain the post trial determination, if the judge determined the case could go forward, would a jury still be able to make a post trial determination?
Yes
Staff: The jury can find a mitigating factor but still find an aggravating factor that outweighs any mitigating factors. Also, at the end the jury could also make the call that a defendant has a serious mental illness.

Stiller:
If the judge ruled this case could go forward, wouldn't it set up a conflict if the jury tried to introduce mental illness as a mitigating factor?
Not likely, the jury would likely not be aware of the judges ruling.

Moore:
This bill would introduce two opportunities for mental illness to be introduced?
Yes.

Bingham:
What do you mean by dramatic savings?
Judge Fox discussed the jury pool and the time it takes to seat a jury, attorney fees, etc.

Sen. Jones:
Are we finding a person is so mentally ill they are not guilty?
Fox: No. We may convict a person of murder even if they are mentally ill. They end up in prison.

Sen. Kinnaird asked Hal Pell, Research Staff, to explain the bill (Attachment G).

Sen. Kinnaird introduced Dr. George Corbin, a practicing forensic psychiatrist at North Raleigh Psychiatry. (Attachment H)

Sen. Kinnaird introduced Dr. Holly Rogers (Attachment I

Sen. Kinnaird adjourned the meeting at 3:50 pm.

Senator Ellie Kinnaird
Co-Chair

Representative Verla Insko
Co-Chair

Gina Insko
Committee Assistant

SUMMARY OF PROCEEDINGS

JOINT SELECT COMMITTEE ON CAPITAL TRAIL, SENTENCING, AND POST CONVICTION PROCEDURES FOR PERSONS WHO SUFFER SEVERE MENTAL DISABILITIES

THURSDAY JANUARY 15, 2009
ROOM 1124 LEGISLATIVE BUILDING
2:00 PM

The Joint Select Committee on Capital Trail, Sentencing, and Post Conviction Procedures for Persons Who Suffer Severe Mental Disabilities met Thursday January 15, 2009 at 2:00 in room 1124 of the Legislative Building.

Representative Verla Insko presided. Members present were Senators Stan Bingham, Fletcher Hartsell Jr., Ed Jones and Representatives Pricey Harrison, Tim Moore, and Bonner Stiller. Staff members present were Hal Pell, Emily Johnson and Denise Thomas. A copy of the roll denoting members present is attached to the minutes (Attachment A) along with a copy of the visitor registration and agenda sheet (Attachments B and C).

Rep. Insko called the meeting to order. Sen. Kinnaird recognized Kris Parks for her work with the Mental Health community.

Rep. Insko announced the Committee has requested that the Conference of District Attorneys make a statement and to participate. They are not meeting again until February so they are unavailable to make a statement before Session begins. They will testify during the committee process.

Rep. Insko proposed that the Committee authorize Staff to write the report with no recommendations. The report would be a record of committee proceedings with no recommendations. When the bill is introduced all comments that have been heard in the meeting and from Conference of District Attorneys and anyone else that want to testify would be on record before a formal vote was taken on the bill. The final Bill will be sent out in a draft. The Committee will vote on this proposal at the end of today's meeting.

Rep. Insko recognized Kimberly Stevens, attorney from Winston Salem. (Attachment J) Ms. Stevens said approximately 1% of the 1600 some capital cases in NC since 2001 received the death penalty. When we look at who are among the worst of the offenders that issue turns on the offenders culpability. The US Supreme Court has addressed the issue of culpability and applied it in terms in both retribution and deterrence. Those offenders who deserve or can be the subject of retribution are those offenders who are capable of engaging in a calculus that weighs out in cold blooded fashion the full

consequence of their behavior. That definition does not and can not be applied to the severe mentally ill.

The judge has the opportunity to declare the case a non capital case. There have been nine pre-trail hearings in the seven years since North Carolina General Statue 15A-2005, deals with the mentally retarded, was enacted.

Ms. Stevens answered questions from the Committee on her presentation.

Sen. Jones:
If this law is taking place now why do we need this law?

Ms. Stevens replied that the law we passed was for the people with mentally retardation and not mental illness.

Sen. Jones:
What is the cost?

A pre-trail hearing would out weigh the cost associated with post conviction litigation. In the1993 cost study by Philip Cook, each execution cost approximately 2.3 million more than those not sentence to death. (See: Philip J. Cook, Ph.D. and Donna B. Slawson, M.A., J.D., "The Costs of Processing Murder Cases in North Carolina ", Terry Sanford Institute of Public Policy, Duke University, May 1993.

Sen. Jones:
How would the family of the victim get closure?

The convicted person would be in prison for the rest of their life and not eligible for parole. In most cases the family has closure.

Sen. Bingham:
Is a copy of the Cook study available?

Sen. Kinnaird replied that the study would be brought to the Committee meetings.

Sen. Bingham:
Is mental illness curable?

Mental illness maybe treated, severe mental illness is not curable.

Sen. Kinnaird:
Who is in the courtroom during a capital trail?

There are 300 potential jurors, a judge, and clerk for the judge, courtroom clerk, law enforcement, prosecutor, prosecutor assistant, two defense attorneys, and witnesses.

Senator Ellie Kinnaird
Co-Chair

Representative Verla Insko
Co-Chair

Gina Insko
Committee Assistant

2009-2010

JOINT LEGISLATIVE CORRECTIONS, CRIME CONTROL, AND JUVENILE JUSTICE OVERSIGHT COMMITTEE

MINUTES

JOINT LEGISLATIVE CORRECTIONS, CRIME CONTROL, AND JUVENILE JUSTICE OVERSIGHT COMMITTEE

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JOINT LEGISLATIVE CORRECTIONS, CRIME CONTROL, AND JUVENILE JUSTICE OVERSIGHT COMMITTEE

SENATE MEMBERSHIP LIST

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NORTH CAROLINA GENERAL ASSEMBLY

JOINT LEGISLATIVE CORRECTIONS, CRIME CONTROL, AND JUVENILE JUSTICE OVERSIGHT COMMITTEE
2009-2010 SESSION

Rep. Alice L. Bordsen
Co-Chair

Rep. Jimmy L. Love, Sr.
Co-Chair

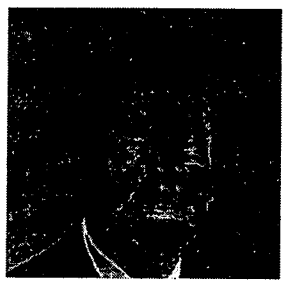
Rep. James L. Boles, Jr.

Rep. Melanie Wade Goodwin

Rep. W. David Guice

Rep. Annie W. Mobley

Rep. Shirley B. Randleman



Rep. Timothy L. Spear

2009-2010 ATTENDANCE

Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee

(Name of Committee)

DATES	12/02/2009		03/25/10												
Sen. Edward Jones	X		X												
Sen. Eleanor Kinnaird	X														
Sen. Thomas Apodaca	X		X												
Sen. Doug Berger	X														
Sen. Stan W. Bingham	X		X												
Sen. Daniel Clodfelter															
Sen. Malcolm Graham															
Sen. John Snow, Jr.	X														
Rep. Alice Bordsen	X														
Rep. Jimmy L. Love, Sr.	X		X												
Rep. Jamie Boles	X		X												
Rep. Melanie Wade Goodwin	X														
Rep. David Guice			X												
Rep. Annie Mobley	X		X												
Rep. Shirley Randleman			X												
Rep. Tim Spear	X		X												
Denise Thomas, Fiscal Research	X		X												
Doug Holbrook, Fiscal Research	X		X												
John Poteat, Fiscal Research	X		X												
Jean Sandaire, Fiscal Research	X		X												
Brenda Carter, Research	X		X												
Susan Sitze, Research	X		X												

MINUTES
JOINT LEGISLATIVE CORRECTION, CRIME CONTROL, AND
JUVENILE JUSTICE OVERSIGHT COMMITTEE

December 2, 2009
Room 643, Legislative Office Building
9:30 A.M.

The Joint Legislative Correction, Crime Control, and Juvenile Justice Oversight Committee met on Wednesday, December 2, 2009, in Room 643, Legislative Office Building. Representative Love, presiding chair, called the meeting to order at 9:45 a.m. The following House members were present: Representatives Bordsen and Love, Chairs; Representatives Boles, Goodwin, Mobley, and Spear. The following Senate members were present: Senators Jones and Kinnaird, Chairs; Senators Apodaca, Berger, Bingham and Snow.

Fiscal Research Division Analysts staffing the meeting were Denise Thomas, John Poteat, Jean Sandaire, and Doug Holbrook. Research Division Analysts present included Brenda Carter and Susan L. Sitze.

Representative Love recognized and thanked the Sergeants-at-Arms for their help. Those for the House included Mike Martin, Frank Prevo, Bob Rossi, and James Worth. Representing the Senate were Leslie Wright and Robert Young.

Senator Kinnaird thanked everyone for coming.

Representative Love then introduced **Anne Bander of the Office of State Budget and Management (OSBM)** who reviewed for the committee the study on the feasibility on consolidation of Law Enforcement Agencies of State Government, S.L. 2009-451, Section 17.4 of House Bill 836, Technical Corrections Bill. She noted that the final report was due on February 1, 2010. Seventeen State agencies have now been identified that have one or more law enforcement functions assigned to them. Six of the departments have multiple units of law enforcement within them. Two definitional issues OSBM ran into immediately were how to identify who is considered "law enforcement," and by what authority do different agencies have for having law enforcement functions within them. Agencies are being approached directly and asked for their information. OSBM also recognized that one can't just look at the strict law enforcement positions but must look at all of those support functions that make it possible for them to do their jobs. OSBM will being doing a functional analysis to determine what each department is doing, identifying the training requirements at a minimum level, and those they have done in addition because of other special requirements or functions that they are trying to carry out or because of accreditation requirements. OSBM will be determining the administrative structures that support the units, the paperwork, the information technology, and any kind of special procurement requirement, etc. OSBM will look at the extent of coordination and collaboration among them; they will be looking at jurisdictional issues and support that agencies provide to each other and receive from one another. OSBM will also be looking for any overlaps and areas of commonality and also areas of uniqueness among them. In addition to meeting with the management of all of the law enforcement entities and gathering extensive amounts of data from them, OSBM will conduct site visits to a sample of law enforcement units that are from each of these agencies and will also look at the oversight and support agencies like Criminal Justice Training Standards and the Justice Academy. At least 50 site visits and

interviews will be conducted before the project is completed. OSBM will go across the state and talk to the line people, those actually carrying out these law enforcement functions. Extensive data gathering has begun; everyone is being very responsive to requests for information. Interviews will be held throughout the month of December. At the end of the study, a report will summarize all law enforcement agencies by functions, total cost statewide, common cost areas, a definitive staff number based on several definitions of law enforcement, and common and unique functions. An abbreviated summary will be in the appendix that will identify for each law enforcement function a good overview of how they are staffed, what they do, unique features, etc. Other states will be contacted to see how they are organized and what the various structures are that they have in place. This information will be provided as a benchmark or frame of reference. (See **Exhibit A** following the minutes.)

Questions followed Ms. Bander's presentation.

Senator Kinnaird noted that this study was a huge undertaking and asked if there were any models from other states that might help and ease OSMB's burden.

Ms. Bander said that she was not aware of any but that they were looking at other states similar to North Carolina and would also look at national data.

Doug Holbrook of the Fiscal Research Division reviewed for the committee S.L. 2009-451, Section 19.15, Study Incarcerated Mothers Program (**Exhibit B**) after which Representative Love introduced **Melissa Radcliff, Executive Director, Our Children's Place,** who provided an update on the program. **Our Children's Place** creates a residential facility that will allow young children, birth through preschoolers, to live with their mothers who are serving out a sentence for a nonviolent crime. Ms. Radcliff provided a handout for the committee and audience (**Exhibit C**) and noted the highlights from it. She stated that there was much concern for the children of incarcerated mothers, a number which continues to increase both in North Carolina and nationally; and logically, the number of children who have incarcerated mothers also continues to increase. North Carolina and nationally, the questions of what happens to those children (where do they go, who is caring for them, what relationship is able to be maintained) is being addressed together with what happens to those relationships when children are reunited with their parents and more particularly, their mother. It's a relatively small segment of the prison population, but one that has a lot of needs both in terms of being women but also as mothers. She noted that evaluation is a very important part of program planning and development. There are not a lot of other similar programs across the United States in terms of a stand-alone residential program for incarcerated women and their children. Ms. Radcliff along with other staff members visited and met with Family Foundations in California about two years ago and spent three days with them. Family Foundations was asked what was working, what they would do differently, and what their wish list was for both the facility and the program. While helpful, Ms. Radcliff was disappointed in the lack of evaluation and plans to go deeper than just the recidivism rate that California reports. **Our Children's Place** plans to look at a number of criteria to determine "success" rate through evaluation. Hopefully, women will be tracked for a certain length of time after they complete the program, ideally for three years. The big question is who pays for the evaluation.

Our Children's Place plans to have programs for the children and the women separately and also together as a family. The program is looking for women who are committed to the program. The idea is to mimic the life they will encounter once they leave the program. For children, the program will look at both the child's interaction with the mother and providing a structured child

care center which will be at **Our Children's Place.** Although not necessary, Ms. Radcliff emphasized that **Our Children's Place** will use North Carolina's child-care licensing standards, both when renovating the space to be used by the child-care center and in the staffing of the center.
Ms. Radcliff noted that there is a comprehensive criteria for admission which can be found on page 7 of the report. Some of the information that Ms. Radcliff highlighted from the report was the use of holistic treatment that is gender responsive (page 20); vocational as well as academic training based on an individual's needs (page 26); planning re-entry into society (which needs to start as soon as a woman enters the program) (page 27); because there is no hired staff to clean, the residents will be expected to share the load (page 31), work in the child-care center, or do other chores; visitation space (page 34); possible inmate issues (page 38); and record keeping (page 48) which needs to be very detailed.

The questions below followed Ms. Radcliff's presentation.

Senator Jones remarked that he liked what **Our Children's Place** was trying to do but noted that participants were often in the prison system more than once and this program might not seem to be punishment but more of a reward.

Ms. Radcliff responded with why the inmates deserved a second, third or fourth chance. If someone has been in prison multiple times, then something's not working. **Our Children's Place** is nicer than prison, but she noted that someone won't go back to prison just to be referred to **Our Children's Place**. Nor can someone just leave the facility – it is still considered incarceration. Ms. Radcliff added that, hopefully, being in a facility like this and learning life skills will get women to think about the choices they have made and to see the effects on their children. The women are still accountable.

Representative Mobley asked if there was a percentage of those children where both parents are incarcerated?

Ms. Radcliff said that there were figures; however, she did not immediately know them but would provide them.

Representative Mobley (follow-up) wondered if any consideration was given to a father having the children if there is no mother in the picture.

Ms. Radcliff answered that as primary caregivers, men were not part of the plan at this time. She added that 7-9 states were looking at this issue and asking what could they do to have prison nurseries in place.

Senator Bingham noted that jobs were often difficult or impossible to get if someone has a drug-related problem and asked Ms. Radcliff to comment on the issue and how it is resolved.

Ms. Radcliff agreed and added that the women would be convicted felons and could be excluded immediately. It was hoped that prospective employers would take a little more time to go deeper into a woman's history. Sometimes there are loopholes and that an inmate might need an advocate to plead her case. **Our Children's Place** staff was currently looking for a list of restricted jobs but have been unable to locate one. However, the women might be able to start their own businesses which would require some creativity, especially in today's economy.

Representative Bordsen noted that the focus was on mothers, especially mothers of small children. She added that the comment of Senator Jones was a common concern: prison is punishment and it doesn't do a good job with re-entry. More often than not, mothers are the primary caregivers. Representative Bordsen said that her concern is the growing number of at-risk children. This program gives them a chance rather than setting the children adrift. Mothers need the skills offered, and there are fewer and fewer choices if things are to get better. Representative Bordsen stated that she believed this type of program should be at the top of programs to be considered.

Senator Berger wondered about the cost of the proposed project if the maximum number of prisoners was 20 with up to 40 children.

Ms. Radcliff that beginning with 10 women and 20 children but with space for 20 women and 40 children, so the total would be 60 at maximum.

Senator Berger asked if the staffing proposed would be for the initial 10 or would that be full staffing?

Ms. Radcliff said once the facility was fully completed, the cost is based on full capacity.

Senator Berger noted that the need appears to be a minimum of 35 full-time employees and 6 part-time employees.

Ms. Radcliff said that was accurate.

Senator Berger stated that if on the low end, the average salary would be $30,000.00, but actually it was higher because of the number of skilled positions and there would be benefits. He wondered if it were correct that the operating expenses would be at least $10 million, conservatively.

Doug Holbrook replied that the total personnel cost is projected to be $1.8 million (on the last page of the large handout is the projection).

Senator Kinnaird said that the child care costs would come from private and federal spending, not from the State. It needed to be separated out. She added that children of incarcerated parents are six times more likely to enter the criminal justice system; thus, families for generations are caught in a vicious cycle. Nationwide, this program works. The number one desire of incarcerated women is being with their children. The Attorney General's Reentry, the Safe Streets Program – North Carolina is going to be involved in that. Almost every church has a prison ministry and is ready to go with volunteers and there are many funders ready with money once the facility is ready. Universities and community colleges send students (Social Work, Criminal Justice, Child Care) to these facilities for training. This type of facility has a widespread reach in surrounding communities. This type of program helps families become healthy and gives them a break.

Senator Berger asked how much it cost to incarcerate a woman/person.

Doug Holbrook said that it was $27,000/year.

Senator Berger reiterated that that cost was if a woman was in prison. This cost is $1.8 million.

Doug Holbrook replied that the $1.8 is the personnel cost. The projected overall operating cost is $2.5 million.

Senator Berger said that it comes out, if there are 20 women, about $25,000 on an annual basis.

Doug Holbrook stated that at $2.5 million for 20 women, you would be talking about $128,000/year. The $27,000 is the average cost of basic incarceration and since it's an average, it averages in offenders (male and female) who are in a variety of custody settings, closed custody, medium, and minimum. This is a much more comprehensive, intensive program than general, minimum custody prisons. These women would have to be minimum custody to participate and this program would not be able to take advantage of economies of scale that prisons do.

Senator Berger referred to the California study and wondered how solid the data was. If spending $2.5 million on a program, one wants to know that it works. How solid is the data that this type of program will lead to lower recidivism rates among the participants and their children?

Ms. Radcliff stated that there were 2 pieces of data, one from October and one from the spring, from Nebraska. The program is slightly different, a prison nursery, so it's not a separate, stand-alone facility but a part of the women's prison. This study said that 17% of the prison mothers retuned to prison while 50% of the control group did. Nebraska's program has been in existence for quite some time. In March 2009, ABC News reported that in Ohio, 30% of the women in prison commit another offense but there was only an 11% recidivism rate of their prison nursery program (again, not a separate, stand-alone program but a part of the women's prison).

Senator Berger (follow-up) said that it was tough to try to balance the use of the criminal justice system with general parents' behavior and then individually dealing with individuals and what is specifically done to turn their lives around. He was concerned that prison was being "de-stigmatized" through the very conscious effort of not letting the child see the mother in prison attire and yet, the long term effects on the children in these environments and whether they go to prison or not is unknown. Disagreeing with Representative Bordsen, Senator Berger felt that for many people, this program was an opportunity to create more freedom for some. One could argue that this is rewarding them for misconduct – they'll get first-rate child care paid for with tax money and health care. That's the issue Senator Jones is raising – there are working people who are not getting first-rate child care and no health insurance. Senator Berger's concern is about the "de-stigmatization" and would have to have convincing evidence that this program will reduce recidivism, because if it doesn't, then this program should not be funded.

Doug Holbrook of the Fiscal Research Division reviewed for the committee S.L. 2009-451, Section 19.22, Justice Reinvestment Project (Exhibit D). The Department of Correction was authorized to spend up to $100,000.00 to secure matching funds for the Council of State Government to engage in some planning and research on the State of North Carolina's process in criminal justice and reducing correctional spending. He added that the Council of State Government had completed its work and would find out soon funding would be coming through. Notification was expected shortly. The Pugh Charitable Trust and the Department of Justice would be the two principal funders of the program. Assuming North Carolina is chosen to be

one of their model states, there should be something to work with in January 2010 followed by suggestions for the budget process in May.

Representative Love then introduced **Scott Hunter, Chief, State Capitol Police**, who reported on the transfer of the State Capitol Police from the Department of Administration to the Department of Crime Control and Public Safety (S.L. 2009-451, Section 17.3). Mr. Hunter provided a hard copy of his PowerPoint presentation (Exhibit E) and the Crime, Enforcement, and Services Summary Report with 2008 data that provides the type of activities and services that the State Capitol Police provide (Exhibit F).
Mr. Hunter stated that the transfer is complete and had been seamless and is now the 10th Division within the Department of Crime Control and Public Safety. He said that this was the law enforcement agency for State government in the Raleigh/Wake County area. The structure is similar to traditional law enforcement agencies with a training section, special programs, fire arms supply grant, a personnel section (administrative), and an operations section which includes the officers who actually perform the day-to-day operations throughout the State government complex. It is an 85-member law enforcement agency with 58 law enforcement officers, 19 security guards, and non-sworn support personnel. Among other services, the agency provides security during state executions and disciplinary hearings. The State Capitol Police provide a wide range of services throughout State government: there is a general patrol division, a communications unit, and assigned officers to high-profile, critical facilities throughout the complex that were predetermined to need on-site law enforcement or security. The State Capitol Police also have one of the few state-owned explosive-detection canines in the State of North Carolina.

Questions followed Chief Hunter's presentation.

Senator Jones asked how the movement of the department to Crime Control and Public Safety saved money.

Chief Hunter replied that there were several agencies that performed similar duties and made similar purchases of equipment as the State Capitol Police; therefore, equipment began to be shared immediately.

Senator Berger remarked that the officers were highly professional and customer friendly. However, he wondered if it was still necessary to have officers screen visitors in state buildings (this has been in practice since 9/11) and continue that expense.

Chief Hunter replied that pre-9/11, State Capitol Police was structured like traditional law enforcement agencies – most officers were in cars, driving patrol; post-9/11, officers were assigned designated areas to patrol. There was an immediate 44% reduction in crime in State facilities as a result of that move. Chief Hunter feels that there is a need for consistency from facility to facility and how they are secured and what measures are observed to do that. Based on calls received, the people served also feel there is a need to regulate how people use the buildings and enter and exit those buildings.

Senator Snow noted that the fiscal staff had talked about security and reevaluating the need, and wondered what happened with the study.

Jean Sandaire replied that a study was completed by Legislative Services in 2007 or 2008, and he would get a copy of it for Senator Snow.

Senator Snow wondered if any of the recommendations made had been followed through with.

Jean Sandaire said he would contact General Government staff as that doesn't fall under the purview of the Justice and Public Safety Subcommittee and would get back to Senator Snow.

There being no further business, the meeting adjourned at 11:15 a.m.

Respectfully submitted:

Representative Jimmy L. Love, Sr., Presiding Chair

Sylvia Nygard, Committee Assistant

Attachments:

Committee Meeting Notice
Agenda
Sergeant-at-Arms Sheet
Visitor Attendance Sheets (4)
Handouts:

Exhibit A: Office of State Budget & Management: Project Plan: Feasibility of Consolidating State Law Enforcement Agencies
Exhibit B: Session Law 2009-451, Section 19.15
Exhibit C: **Our Children's Place**: Report to Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee & Deerfield Cottage Renovation Plans
Exhibit D: Session Law 2009-451, Section 19.22
Exhibit E: North Carolina State Capitol Police Division: PowerPoint Presentation
Exhibit F: North Carolina State Capitol Police Division: Crime, Enforcement, and Services – 2008

JOINT LEGISLATIVE
CORRECTION, CRIME CONTROL, AND JUVENILE JUSTICE
OVERSIGHT COMMITTEE
2009-2010 SESSION

You are hereby notified that the Oversight Committee on **Correction, Crime Control, and Juvenile Justice** will meet as follows:

DAY & DATE: Wednesday, December 2, 2009

TIME: 9:30 am

LOCATION: 643 LOB

COMMENTS: Parking for non-legislative members of the committee is available in the visitor parking deck #75 located on Salisbury Street across from the Legislative Office Building. Parking is also available in the parking lot across Jones Street from the State Library/Archives.

Respectfully,

Representative Bordsen, Chair
Representative Love, Chair
Senator Jones, Chair
Senator Kinnaird, Chair

Please advise Sylvia Nygard, Committee Clerk, at (919) 715-3026 or email lovela@ncleg.net if you are unable to attend.

JOINT LEGISLATIVE CORRECTION, CRIME CONTROL, AND JUVENILE JUSTICE OVERSIGHT COMMITTEE

Room 643, Legislative Office Building
December 2, 2009, 9:30 a.m.

I. CALL TO ORDER

Committee Chairs: Representative Jimmy Love, Presiding
Representative Alice Bordsen
Senator Ed Jones
Senator Ellie Kinnaird

II. PRESENTATIONS

Opening Remarks by Chairs

Department of Correction

- Study Incarcerated Mothers Program S.L. 2009-451 Sect. 19.15
  Melissa Radcliff
  Executive Director
  Our Children's Place

- Status Report on Justice Reinvestment Initiative
  Douglas Holbrook
  Fiscal Research Division

Department of Crime Control and Public Safety

- Transfer State Capitol Police to Crime Control and Public Safety S.L. 2009-451 Sect. 17.3
  Scott Hunter, Chief
  State Capitol Police

Office of State Budget and Management

- Study Consolidation of Law Enforcement Agencies S.L. 2009-451 Sect. 17.4
  Anne Bander
  Office of State Budget and Management

III. OTHER BUSINESS:

IV ADJOURNMENT

HOUSE PAGES

JT. Corrections, Crime Control & Juvenile Justice

NAME OF COMMITTEE Oversight DATE 12.2009

1. Name: _____

County: _____

Sponsor: _____

2. Name: _____

County: _____

Sponsor: _____

3. Name: _____

County: _____

Sponsor: _____

4. Name: _____

County: _____

Sponsor: _____

5. Name: _____

County: _____

Sponsor: _____

SGT-AT-ARM

	HOUSE	SENATE
1. Name:	Mike Martin	Leslie Wright
2. Name:	James Wopth	Robert Young
3. Name:	Bob Rossi	
4. Name:	Frank Prevo	

VISITOR REGISTRATION SHEET

_Joint Legislative Corrections, Crime Control and Juvenile Justice Oversight Committee

December 2, 2009

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Melissa Radcliff	Our Children's Place - P.O. Box 1467, Chapel Hill NC 27514
Thomas Smith	NC Div of Social Services
Kathleen Shapley-Quinn	our children's place
Mary Stowe	Our Children's Place
Carolyn Kenney	" " "
Deborah Mitchum	Durham CDSA - Memorandum of Our Children's Place
W. Gardner Pedigo	Personal Interest
S Wilson	DHHS
Janice Fair	DHHS/DCD
Ivy Ezell	DHHS/DPH
Dante Hayward	NCCIW/DOC

VISITOR REGISTRATION SHEET

_Joint Legislative Corrections, Crime Control and Juvenile Justice Oversight Committee

December 2, 2009

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Roger Hutchings	CC&PS ALE
John LEDFORD	CC&PS ALE
Marvin Waters	CCPS
W. Scott Hunter	CCPS SCP
M.W. Hobgood	CCPS Bedner Public Staff.
N. Jim Jenkins	DJJDP
Thomas C. Caves, Jr.	CCPS - OFFSEC
Doug Hefele	CCPS - EM
Leandra Waters	NC CCPS
Tom Bowlin	NC NATIONAL GUARD
Iwan Clontz	NC [illegible]

VISITOR REGISTRATION SHEET

_Joint Legislative Corrections, Crime Control and Juvenile Justice Oversight Committee

December 2, 2009

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Rudy Rudisill	CCPS
Erin McLaughlin	NHAAC
Mitch Kokin	John Locke Foundation
Keith Sutton	DJJDP
Annette Nantkick	Governor's Office

VISITOR REGISTRATION SHEET

_Joint Legislative Corrections, Crime Control and Juvenile Justice Oversight Committee

December 2, 2009

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Mildred Spearman	NCDOC
ANTHONY AMON	NCACC
	NCPBA - MHM

Office of State Budget & Management
PROJECT PLAN
Feasibility of Consolidating State Law Enforcement Agencies

STUDY GOALS AND OBJECTIVES

Session Law 2009-451 (Section 17.4 of HB 836) directs the Office of State Budget and Management (OSBM) to study the feasibility of consolidating the law enforcement agencies of State government for the purpose of coordinating the activities of these agencies, and reducing duplication and overlapping of law enforcement responsibilities, training, and technical assistance among State law enforcement agencies. OSBM may consider law enforcement functions within any State government agency where consolidation with other functions in other agencies, departments, or institutions can generate efficiencies and economies and improve the coverage of the required enforcement function.

OSBM is to report its findings and recommendations by February 1, 2010 to the Joint Legislative Corrections, Crime control, and Juvenile Justice Oversight Committee.

BACKGROUND

There are 17 departments and agencies that have one or more law enforcement positions, counting the UNC System as a single entity (even though each campus's law enforcement unit is a stand-alone unit). This does not include the North Carolina Community Colleges Systems. Six of the departments have multiple units with law enforcement personnel. Initial information regarding the number of positions in the HR/Payroll system that are considered law enforcement indicated a very high number. Further scrutiny of the data will be required to obtain a correct number of positions and their associated budgeted salaries.

TASKS

To carry out the study OSBM will do the following:

- Clarify definitions of law enforcement agencies and staff who are part of the State's criminal justice system
- Determine the mission, goals, specific functions, and objectives of each department/unit
- Identify training requirements, how training is accomplished, and where for each department/unit
- Document the administrative structure for each department/unit
- Determine the extent of coordination and collaboration between and among each department/unit in its law enforcement function and in the functions which support the mission (training, procurement, IT, etc.)
- Identify areas of overlap and duplication of missions, goals, duties, and responsibilities of each department/unit
- In addition to meeting with the management of all these law enforcement entities, conduct site visits to a sample of law enforcement units of each agency to talk with staff regarding their functions, and meet with oversight and support agencies such as Criminal Justice Training & Standards and the Justice Academies

DATA NEEDS

The following data/information are being gathered to assist in the study:

- Statutory authority for each department that has law enforcement officers
- Mission statements for each law enforcement function
- Copies of any studies, reports, and analyses performed on the consolidation of any State law enforcement agencies
- Current organizational chart for each State law enforcement agency,
- Current staffing levels, including the number of budgeted positions, the allocation of those staff resources by primary functions, and the administrative and other support staff assigned to these agencies
- Appropriations for fiscal years 2005-09 for each agency

- How expenditures are used
- Physical and geographical locations of each department
- Purpose for each location, such as enforcement, training, administrative, etc,
- Type of vehicles, equipment, supplies, etc used and how procurement is handled for each agency. Identify commonalities among them
- Policy and procedures in use by each agency
- Automation and networks in use
- Other states' structures of their law enforcement functions

REPORTING

OSBM will prepare a report summarizing all law enforcement by functions, the total costs statewide, and common cost areas. The study will address the feasibility of consolidating the law enforcement agencies and/or specific functions for the purpose of: (1) coordinating the activities of the agencies and (2) reducing duplication and overlapping law enforcement responsibilities, training, procurement, and technical assistance that may generate efficiencies and economies to improve the coverage of the required enforcement functions. In addition, OSBM will provide a summary of each law enforcement agency, its activities, staffing, and special features.

TIMEFRAME

OSBM's report is due to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee by February 1, 2010.

State Agencies and Institutions with Law Enforcement Who Are Part of Study
(shading indicates multiple entities within department)

1	Administrative Office of the Courts	12	Dept of Secretary of State
2	Dept of Agriculture & Consumer Services		Notary, Trademark, Securities, & Lobbyist
3	Dept of Commerce--Industrial Commission	13	Dept of Corrections
4	Dept of Crime Control & Public Safety		Division of Prisons
	Alcohol Law Enforcement		Division of Community Corrections
	Butner Public Safety	14	North Carolina General Assembly
	State Capital Police	15	North Carolina Lottery
	State Highway Patrol	16	NC Wildlife Resource Commission
5	Dept of Environment & Natural Resources	17	University of North Carolina
	Division Forest Resources		ECSU
	Division of Marine Fisheries		ECU
	Division of Parks and Recreation		FSU
6	Dept of Transportation--DMV		NC A&T
7	Dept of Health & Human Services		NC S of Arts
	Broughton Hospital		NC SS&M
	Cherry Hospital		NC State University
	J. F. Keith ADATC		NCCU
	Longleaf Neuro-Medical Center		UNC Asheville
8	Dept of Insurance		UNC Chapel Hill
9	Dept of Justice		UNC Charlotte
	State Bureau of Investigation		UNC Greensboro--Police
	Medicaid Fraud		UNC Greensboro--Parking
	Training & Standards		UNC Pembroke
10	Dept of Juvenile Justice		UNC Wilmington
11	Dept of Revenue		WCU
	Criminal Investigation Division		WSSU
	Motor Fuel Division		
	Unauthorized Substances Tax Division		

(2) The caseloads of probation officers assigned to GPS-monitored sex offenders.
(3) The number of violations.
(4) The number of absconders.
(5) The projected number of offenders to be enrolled by the end of the 2009-2010 fiscal year and the end of the 2010-2011 fiscal year.
(6) The total cost of the program, including a per-offender cost.

REPORT ON INMATE WELFARE AND CORRECTION ENTERPRISES

SECTION 19.13. The Department of Correction, in consultation with the Office of State Budget and Management, shall study the feasibility of budgeting positions currently funded from the Inmate Welfare Fund and the Correction Enterprise Fund from the General Fund instead. The Department shall report its findings by April 1, 2010, to the chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee.

PRE-SENTENCE INVESTIGATIONS FEASIBILITY STUDY

SECTION 19.14. The Department of Correction and the Administrative Office of the Courts shall conduct a feasibility study of conducting pre-sentence investigations on all offenders convicted of felonies for which the sentencing judge has the option of intermediate or active punishments. This feasibility study shall be conducted as a pilot implementation, incorporating a variety of districts across the State reflecting both rural and urban settings, as well as diversity of programming available within the district.

The Department of Correction and the Administrative Office of the Courts shall report the results of the study by May 1, 2010, to the Chairs of the House of Representatives and Senate Appropriations Committees, the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety, and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee.

STUDY INCARCERATED MOTHERS PROGRAM

SECTION 19.15.(a) Our Children's Place, Inc., a nonprofit corporation, shall submit to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee by October 1, 2009, a comprehensive plan for the implementation of a contractual program to house incarcerated women with their children. This plan shall include criteria for placement, minimum standards for custody and security, and projections of costs for implementation, including presumptive funding sources and memoranda of intent from affected agencies.

SECTION 19.15.(b) The Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee shall make recommendations to the 2010 Session of the 2009 General Assembly concerning the establishment of a program to house incarcerated women with their children. These recommendations shall address legal issues related to the custody of the children while in the program.

AUTHORIZE STATE RETIREES AND LOCAL GOVERNMENTAL EMPLOYEES TO PURCHASE FROM CORRECTION ENTERPRISES

SECTION 19.16. G.S. 148-132 reads as rewritten:

"**§ 148-132. Distribution of products and services.**

The Division of Correction Enterprises is empowered and authorized to market and sell products and services produced by Correction Enterprises to any of the following entities:

(1) Any public agency or institution owned, managed, or controlled by the State.
(2) Any county, city, or town in this State.
(3) Any federal, state, or local public agency or institution in any other state of the union.
(4) An entity or organization that has tax-exempt status pursuant to section 501(c)(3) of the Internal Revenue Code and also receives local, state, or federal grant funding.
(5) Any current employee or retiree of the State of North ~~Carolina,~~ Carolina or of a unit of local government of this State, verified through State-issued

SECTION 19.20.(e) Subsection (a) of this section becomes effective October 1, 2009, and applies to provider contracts executed or renewed with the claims processing contractor for the State Health Plan on and after that date. Subsection (a) of this section expires upon the effective date of the execution of a contract authorized under subsection (b) of this section.

JUSTICE REINVESTMENT PROJECT

SECTION 19.22. Of the funds appropriated to the Department of Correction for the 2009-2010 fiscal year, the Department may use up to the sum of one hundred thousand dollars ($100,000) in nonrecurring funds if necessary to secure technical assistance from the Council of State Governments to participate in the national Justice Reinvestment Project. This technical assistance will support the work of the Justice Reinvestment Project to develop policies and recommendations to reduce prison overcrowding and to manage the offender population. The North Carolina Sentencing and Policy Advisory Commission shall provide any data or other support requested by the Justice Reinvestment Project in the process of developing these policies and recommendations.

REPEAL JAILED MISDEMEANANT PAYMENTS

SECTION 19.22A. G.S. 148-32.1(a) is repealed.

GATES COUNTY CORRECTIONAL INSTITUTE WASTEWATER FACILITY TRANSFER

SECTION 19.22B.(a) Section 120 of Chapter 1066 of the 1989 Session Laws, as amended by Section 109(c) of Chapter 900 of the 1991 Session Laws, reads as rewritten:

"Sec. 120. The Department of Correction shall permit the Gates County Board of Education to tie the wastewater treatment systems of the Gates County Junior High School and the Gates County High School into the wastewater treatment system of the Gates County Correctional Center. The Department of Correction shall continue to operate the wastewater treatment system for at least six months after closing of the Gates County Correctional Center, and then shall transfer the facility to Gates County for operation by that county or another unit of local government designated by Gates County. The transfer may be in accordance with G.S. 160A-274 or other applicable law."

SECTION 19.22B.(b) The Department of Correction shall continue to fund the operation of the wastewater treatment system for the six-month period from funds available to the Department.

COMMUNITY WORK CREW FEE

SECTION 19.24. Article 3 of Chapter 148 of the General Statutes is amended by adding a new section to read:

"**§ 148-32.2. Community work crew fee.**

The Department of Correction may charge a fee to any unit of local government to which it provides, upon request, a community work crew. The amount of the fee shall be no more than the cost to the Department to provide the crew to the unit of local government, not to exceed a daily rate of one hundred fifty dollars ($150.00) per work crew."

INCREASE FEE FOR COMMUNITY SERVICE WORK PROGRAM

SECTION 19.26.(a) G.S. 15A-1371(i) reads as rewritten:

"(i) A fee of two hundred twenty-five dollars ~~($200.00)~~ ($225.00) shall be paid by all persons who participate in the Community Service Parole Program. That fee must be paid to the clerk of court in the county in which the parolee is released. The fee must be paid in full within two weeks unless the Post-Release Supervision and Parole Commission, upon a showing of hardship by the person, allows the person additional time to pay the fee. The parolee may not be required to pay the fee before the person begins the community service unless the Post-Release Supervision and Parole Commission specifically orders that the person do so. Fees collected under this subsection shall be deposited in the General Fund. The fee imposed under this subsection may be paid as prescribed by the supervising parole officer."

SECTION 19.26.(b) G.S. 20-179.4(c) reads as rewritten:

"(c) A fee of two hundred twenty-five dollars ~~($200.00)~~ ($225.00) shall be paid by all persons serving a community service sentence. That fee shall be paid to the clerk of court in the

Exhibit C

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OUR CHILDREN'S PLACE

Report to Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee

October 1, 2009

2009 Session
Senate Bill 202 - Appropriations Act of 2009
Section 19.15.(a) - Study Incarcerated Mothers Program

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Program

OCP will provide care that will be a model for best practices in child development. The agency seeks to foster healthy development of children, starting with a secure, warm attachment to their mothers, with the added ability to respond to any special needs that the individual child might have. OCP intends to encourage and support routines, practices, and structure that will benefit the children while at OCP and that can be replicated in the home community.

OCP will offer a gender-responsive, trauma-informed, culturally competent program. This will be done by incorporating the standards identified by Bloom, Owen, and Covington in *Gender-Responsive Strategies: Research, Practice, and Guiding Principles for Women Offenders*, published by the National Institute of Corrections in June 2003. Gender responsiveness means creating an environment through site selection, staff selection, program development, content, and material that reflects an understanding of the realities of women's lives and addresses the issues of the participants.

Trauma-informed interventions acknowledge that trauma plays a role in the development of addictive and mental health disorders for many women. This includes sexual and physical abuse, domestic violence, witnessing abuse/violence, and self-inflicted violence. Twenty-one percent of women in the criminal justice system had experienced five or more childhood traumatic events before the age of 16, compared with 13% in a non-offender group of women. Training for staff at all levels will include understanding the effects of trauma, substance abuse, and poverty on both mothers and children.

The children's goals focus on school readiness, age-appropriate psycho-social development, good physical health, and other individually identified developmental milestones.

With a belief that successful re-entry begins the day a person starts a program and an eye toward reducing criminal justice system involvement, OCP's program centers on the women addressing their trauma history and addiction issues, learning to be good parents, and acquiring the skills they need to support themselves and their children.

Board and staff recognize the importance of evaluation in a program as comprehensive as OCP and believe it is important to show various stakeholders, including the residents as well as legislators and taxpayers, to what degree the program is successful and what needs to be changed. The detailed evaluation plan being created by OCP's Program Committee includes indicators, specific assessments, type of score, and frequency of data.

Facility
Deerfield Cottage, a vacant facility located in Granville County, is OCP's identified future home. Please see Appendix A for a status report on the building renovation.

Financial Implications
Building prisons is expensive. Housing prisoners is expensive. The best solution is to reduce the prison population by reducing crime.

The reality is that children often follow in the footsteps of their parents: Children of professionals often become professionals themselves. Children of parents in the service industry often become service providers themselves. Children of business workers often enter business themselves. Children of prisoners are six times more likely to become involved with the criminal justice system themselves.

Mothers are entering the prison system in unprecedented numbers; in fact, national data show an increase of almost 100% in the number of women who are entering the prison system. Mothers have special influence on their children whether the mothers are in prison and apart from their children for years or with their children daily. At the extremes, children can feel abandoned and internalize the grief and frustration that brings; or they can feel supported and flourish in an environment where they are nurtured and educated.

North Carolina needs an alternative to reverse the trend in women entering prison and fostering prisoners themselves. The state needs an alternative to reduce the erosion of tax dollars spent on prisons while producing more criminals and to interrupt the loss of human potential. OCP offers a cost-effective alternative over time to interrupt the cycle of crime breeding crime.

As economic struggles continue throughout the country, communities have the opportunity to consider new approaches to existing problems. Please see Appendix B for funding implications of OCP.

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September 28, 2009

Sen. Edward Walter Jones, Co-Chair
Sen. Ellie Kinnaird, Co-Chair
Sen. Thomas M. Apodaca
Sen. Doug Berger
Sen. Stan W. Bingham
Sen. Daniel G. Clodfelter
Sen. Malcolm Graham
Sen. John J. Snow, Jr.

Rep. Alice Bordsen, Co-Chair
Rep. Jimmy L. Love, Sr., Co-Chair
Rep. James Boles, Jr.
Rep. Melanie Wade Goodwin
Rep. W. David Guice
Rep. Annie W. Mobley
Rep. Shirley B. Randleman
Rep. Timothy Lee Spear

Dear Members of the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee:

On behalf of the Board of Directors and staff of Our Children's Place, we are pleased to submit to you this comprehensive plan for the implementation of a residential program for incarcerated women and their children.

This report demonstrates the benefit of time invested researching best practices, consulting with professionals in the community (both in North Carolina and across the country), and visiting a number of program sites in an effort to design a high-quality program and facility for the women and children.

Thank you for the opportunity to present this report. We appreciate your ongoing support, welcome your questions and feedback, and look forward to working with you to create a better life for young children and their incarcerated mothers.

Sincerely,

Mary Stowe
Mary Stowe
Chair, Board of Directors

Melissa W. Radcliff
Melissa W. Radcliff
Executive Director

enclosures

cc: Doug Holbrook/Fiscal Research Division; Jennie Lancaster, North Carolina Department of Correction; Roberta Morgart/North Carolina Department of Correction

OUR CHILDREN'S PLACE

Executive Summary
Report to Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee

Our Children's Place (OCP) designed the program for a residential facility which will allow North Carolina infants and preschoolers to live with their mothers while the women serve out their sentences for non-violent offenses. OCP will empower each child with the help of his/her mother to enhance his/her cognitive, social, physical, and emotional development. The children will receive the highest quality child care and developmental services as well as needed mental health services (parent-child therapy and/or individual therapy). The women will receive a wide array of treatment and services to support their successful parenting and re-entry into the community.

OCP will phase in services by beginning with up to 10 women and 20 children and build up to the full capacity of 20 women and 40 children.

Need

From 1990 to 2000, the number of male prisoners in the United States grew by 75%. The number of female prisoners grew by 106% and, as a result, the number of children with a mother in prison nearly doubled, growing by 98% since 1991. Seventy-five percent of women in prison have children.

As of 9/28/09, there were 3,066 women in North Carolina prisons, with a total prison population of 40,956.

With increasing numbers of women who are mothers serving jail and prison time, states across the country are looking at the effects of maternal incarceration on children. Issues being considered include:

- sibling separation
- numerous temporary placements with family, friends, child welfare systems or a combination of these options
- extended stays in the foster care system
- disruptions in the attachment between an infant and his/her mother, leading to developmental or behavioral effects
- lasting effects, including trauma, anxiety, guilt, shame
- decline in school performance, truancy, and drug and alcohol use
- poverty experienced by children of incarcerated parents
- risk of involvement in the criminal justice system as juveniles or later in life, leading to intergenerational cycle of crime.

BACKGROUND

Our Children's Place (OCP) is working to create a residential facility which will allow North Carolina infants and preschoolers to live with their mothers while the women serve out their sentences for non-violent offenses. OCP will empower each child with the help of his/her mother to enhance his/her cognitive, social, physical, and emotional development. The children will receive the highest quality child care and developmental services as well as any needed mental health services (parent-child therapy and/or individual therapy). The women will receive a wide array of treatment and services to support their successful parenting and re-entry into the community.

OCP will phase in services by beginning with up to 10 women and 20 children and build up to the full capacity of 20 women and 40 children.

Children's goals:

1. The children will demonstrate age-appropriate cognitive and linguistic skills to support school readiness.
2. The children will exhibit age-appropriate psycho-social development and good physical health.
3. The children will meet other specified developmental milestones.

In addition, the goals for the women are designed to break the intergenerational cycle of crime, poverty, substance abuse, and family violence.

Women's goals:

1. The residents will be on a trajectory towards a drug and crime free life.
2. The residents will develop knowledge and skills to successfully reintegrate into society.
3. The residents will learn and demonstrate appropriate parenting skills.
4. The residents will learn and demonstrate physical health and emotional and psychological well-being.

Over the past two years, OCP Board and staff members have worked closely with an architect and a number of community stakeholders to design a warm, safe, and secure environment for young children and their mothers. To ensure that the plans include what is known to work best with this population, OCP staff and Board members have made more than 20 site visits to child care and child services, substance abuse treatment, and corrections facilities in several states. At these various facilities, the OCP team met with agency staff about programs and space needs, talked with clients, toured facilities, and learned what has worked to improve life for the women and/or children in their program. These sites included Family Foundations in California, currently the

only free-standing facility in the country serving women prisoners and children together in a residential setting.

Other sites include:

- California Institution for Women, Corona, CA
- Fairview Head Start and Early Head Start Programs, Hillsborough, NC
- Fountain Correctional Center for Women, Rocky Mount, NC
- Frank Porter Graham Child Development Institute, Chapel Hill, NC
- Freedom House, Chapel Hill, NC
- The Healing Place, Raleigh, NC
- Hope Meadows Family Wellness and Recover Services, Chapel Hill, NC
- Huron Valley Complex, Ypsilanti, MI
- IFC Community Kitchen, Chapel Hill, NC
- Jordan Child & Family Enrichment Center, Raleigh, NC
- Marian House, Baltimore, MD
- Mary Frances Center, Tarboro, NC
- Motheread, Raleigh, NC
- North Carolina Correctional Institute for Women (including DART, LATCH, and MATCH programs), Raleigh, NC
- Orange County Child Development Center, Hillsborough, NC
- Project Enlightenment, Raleigh, NC
- SAS Childcare Center, Cary, NC
- Spectrum Women and Children's Program, Westborough, MA
- Summit House, Raleigh, NC
- TROSA, Durham, NC
- UNC Horizons Program, Chapel Hill, NC
- Whitaker School, Butner, NC.

In addition, OCP staff members have had conversations with representatives from agencies and programs in Illinois, Nebraska, New York, and Vermont.

These programs create an environment of respect, dignity, and stability. What OCP has taken away from each visit is that the most successful programs are those that understand the unique needs of children and women and have developed programming around that understanding. Women in the substance abuse programs must not only learn to respect program staff and co-residents, but also to respect themselves. They learn how drugs and alcohol damage their lives and the lives of those around them. They learn what it takes to get a job in the community and keep it. Some realize their dream of earning a GED or entering community college. They also begin to

learn how to love a child who may never have known a parent who is present, caring, and invested in their well-being. The mothers attend classes, participate in groups, and progress through the often difficult phases in which they begin to experience what it feels like to be healthy, confident, competent, and drug free.

The children's programs likewise use the most current understanding of child development to create an atmosphere in which each child is respected and valued for their unique abilities. Parents are brought into their child's learning environment in ways that encourage them to be partners in helping their child reach his/her highest potential, whatever that may be.

In March 2009, OCP's Program Committee invited over 40 people from diverse fields to come together in focus groups for the day and help develop a list of indicators that will define successful participation in the women's and children's program at OCP. The participants came from a wide range of professions including corrections, child development, special education, substance abuse and mental health treatment, literacy, and women's health. A key outcome of the day was thoughtful guidance in the creation of an evaluation plan.

Since February 2009, OCP has been working with Twyla Wilson, a training associate of Stephanie Covington, a nationally recognized clinician, author, organizational consultant, and lecturer. Dr. Covington is a pioneer in the field of women's issues, addiction, and recovery. She has developed an innovative, gender-responsive, and trauma-informed approach to the treatment needs of women and girls that results in effective services in public, private, and institutional settings.

NEED FOR PROGRAM

There is much evidence showing the positive impact of maintaining family ties during a period of parental incarceration. Furthermore, the increase in the number of women in prison means there are more women leaving their children behind during incarceration.

Number of Women in Prison

From 1990 to 2000, the number of male prisoners in the United States grew by 75%. The number of female prisoners grew by 106% and, as a result, the number of children with a mother in prison nearly doubled, growing by 98% since 1991. At midyear 2007, there were 1,518,535 prisoners in the United States. Fifty-two percent of state inmates and 63% of federal inmates are parents, leaving an estimated 1,706,600 minor children of incarcerated parents - 2.3% of the US resident population under the age of 18 (US Department of Justice Bureau of Justice Statistics).

Women make up about 7% of the North Carolina prison population at any given time. As of 9/28/09, there were 3,066 women in North Carolina prisons, with a total prison population of 40,956 (http://www.doc.state.nc.us/). Seventy-five percent of women in prison have children (http://www.justiceworks.org).

Impact of Parental Incarceration on Children

According to one researcher, "Paternal incarceration usually results in mild to moderate family tensions while on average maternal incarceration may have a greater impact, specifically regarding child placement options and their ability to adjust to new family structures. Unlike men entering prison, women entering the correctional system were generally raising their children without a significant other. Their children have a high probability of sibling separation and numerous temporary placements with family, friends, child welfare systems or a combination of these placement options" (Miller, 472-506).

The children of incarcerated mothers are likely to end up in the foster care system. They are four times more likely to stay in the foster care system for an extended period of time, are more likely to age out of foster care, and are less likely to reunify with parents, be adopted, enter into subsidized guardianship, go into independent living or leave through some other means (Children of Incarcerated Parents Fact Sheet).

Furthermore, the children of incarcerated mothers are likely to experience lasting developmental or behavioral effects of separation from their mothers, especially if they are separated from their mothers at a young age. In North Carolina, babies born to incarcerated mothers in prison are taken away from their mother and placed with a relative or in foster care within 72 hours of birth.

Separating an infant from his/her mother can lead to significant disruptions in the attachment between the infant and the mother, consequentially disrupting his/her ability to adjust socially and emotionally. Some of the lasting effects of parental incarceration children may experience include suffering from:

- trauma
- anxiety
- guilt
- shame
- fear
- sadness
- withdrawal,
- low self-esteem
- decline in school performance

- truancy
- drug and alcohol use
- aggression
- depression
- difficulty sleeping and concentrating
- flashbacks of their parent's arrest.

Additionally, the level of poverty experienced by children of incarcerated parents is among the worst in the United States, further affecting their growth and development (Gable and Johnston 114).

Intergenerational Cycle of Crime

The children of incarcerated parents are not only at risk for myriad developmental, behavioral, and emotional challenges, they are also at risk of being involved in the criminal justice system later in life. The children of incarcerated parents are five to six times more likely to become involved in the criminal justice system themselves (Springer, Lynch & Rubin 431-442). OCP hopes to rectify this situation in North Carolina by providing children the stability they need at a young age to develop cognitively, emotionally, and socially and avoid becoming involved in the criminal justice system later.

Substance Abuse and Family Violence

Among the many services OCP will provide women is substance abuse treatment and assistance in recovering from trauma and family violence.

According to a Bureau of Justice Statistics survey, 57.2% of female state inmates and 39.9% of female federal inmates reported ever being the victim of abuse, physical or sexual (Harlow). Counseling and treatment for past trauma will be a part of OCP services to the women in the hopes of ending the intergenerational cycle of family violence.

As part of a holistic approach to rehabilitation, women at OCP will address the root causes of their criminal activity, especially substance abuse and mental health issues. About 70% of women in prison are incarcerated for non-violent drug, property or public order offenses and nearly a third committed their crime to support a drug offense (www.womenandprison.org/facts-stats.html). At OCP, the women will address the reasons for their substance abuse and work to overcome addiction.

CRITERIA FOR ADMISSION TO OCP (to be confirmed)

- All women who enter the program must be pregnant or have one or two preschool-aged children who enter the program with them.
- The women must be eligible for minimum custody in accordance with North Carolina Department of Correction (DOC) policy.
- The women must have between one to two years remaining on their sentences when admitted to OCP.
- The women must not have a pattern of violent behavior nor have been convicted of child abuse or a sex crime against a child.
- The women must not have been declared an unfit parent by the courts or by a division of any appropriate state or local government agency.
- The women must have custody of their child/ren at the time of entry into OCP.
- The women must not have any pending state or federal detainers or unaudited sentences.
- Women who are admitted to OCP while pregnant must be scheduled to deliver prior to their projected release date from prison.
- A woman may have two preschool-aged children at OCP. Exceptions may be made for multiple births.
- A woman must admit her need for help and make a commitment to complete the program and make positive changes in her life.
- Women must identify two emergency caregivers who can come to OCP to take their child/ren in case of mother's hospitalization or any other emergency that requires temporary leave or termination from OCP. These caregivers must meet the standards set out in the policy manual.
- All required admission paperwork for child/ren must be received before a decision will be made about a child's admission to OCP.
- If parents share joint custody, the father must give consent for his child/ren to be placed with their mother at OCP and agree to follow the requirements of the program. In such cases, OCP will work to maintain the relationship between father and child/ren in a manner that fits within the OCP program.
- In making admission decisions, careful consideration will be given to the best interests of the child/ren, so as to assure that any placement move will be a positive one for each child.
- A woman must agree to follow-up interviews and assessments for three years following discharge.

INTAKE AND ASSESSMENTS

Adults

All women convicted of a felony and sentenced to the North Carolina prison system go to the North Carolina Correctional Institute for Women (NCCIW) for assessment. Initial screening by DOC includes medical, social, employment, and criminal histories. DOC administers a mental health screening inventory and refers inmates to the Mental Health Unit for further testing if the screening results in a positive finding. DOC administers the Substance Abuse Subtle Screening Inventory (SASSI) and refers inmates to the Substance Abuse Services director if necessary. Finally, DOC administers an IQ test and full medical examination.

After NCCIW completes its assessments of every woman who enters, staff makes decisions regarding where each woman will go: to another prison, to a specialized program, remain at NCCIW. At this point, NCCIW will make referrals to OCP for those women who meet the criteria. When a woman is referred by NCCIW to OCP, a comprehensive profile will have been compiled, including a list of all children under 18 years old and where they reside.

Each woman who meets the criteria for admission and is pregnant will make a plan for the delivery of her baby that meets DOC regulations. She will also make a plan for the care of her other child at OCP, if applicable. Women must identify two emergency caregivers who can come to OCP to take the child/ren in case of mother's hospitalization or any other emergency that requires temporary leave or termination from OCP. These caregivers must meet the standards set out in the policy manual.

OCP will screen all referrals to ensure they meet the criteria for admission. If there are no rule outs from the information received from DOC, the Clinical Manager or designee will meet with the woman for one or more interviews. During these meeting/s, OCP staff will explain the program in detail, including treatment, parenting, and vocational components. The woman will receive information on the evaluation process, including an agreement to remain in contact with OCP for three years post release to give information to be used for evaluation purposes on family status and well-being. The goal of this interview process is to give the woman a realistic picture of the expectations of the program and ascertain her commitment to participate in all phases.

During the interview process with the woman, OCP will also be reviewing the child/ren's intake materials to ensure that their needs can be met at OCP.

After the last interview, OCP staff will meet with the OCP Executive Director or designee to make an admission decision. If the woman is admitted, OCP will confer

with DOC to work out the date and plan for transfer to OCP. OCP staff will meet with the woman one or more times to go over the residents' handbook and facility rules, obtain consent for placement, treatment, and evaluation as well as other activities and make a plan for the woman and the child/rens' admission. All of these meetings will take place in as short a period as possible to minimize the time between the admission to prison and reunion between mother and child/ren.

Women who are admitted to OCP will receive further assessment in substance abuse, mental health, and parenting by professionals in those areas as needed.

All admissions will occur on a schedule that allows for full staffing of the facility at admission and adequate time for the resident to be oriented before arrival of her child/ren.

The physical intake into OCP will occur when the woman is transferred from NCCIW to OCP by DOC staff. The security officer at OCP will be present when the woman is brought by secure transport to the Intake Office at OCP. After entering the building, the woman and her possessions will be searched for contraband items. All searches of residents will be conducted by female officers. She will be allowed to change into civilian clothing per DOC consent and the DOC issued clothing will be returned with DOC staff. All her possessions will be inventoried and she will sign off on the inventory sheet. She will meet with an OCP staff person who will show her to her quarters and allow her time to put her belongings in place. After this, she will meet with OCP staff to go over the plan for the day, meet members of her treatment team (substance abuse counselor, therapist, vocational trainer, child care staff members, others as specific needs dictate), have a tour of the facility, and discuss rules that govern the relationships within OCP. She will meet other residents and children, fill out child care paperwork, go over the daily schedule, attend a house meeting, and in general be introduced to the schedule of life at OCP.

Children

All children admitted to OCP will have undergone the standard child physical/ developmental assessment for their age by their family doctor/pediatrician or other health care provider before entry. All vaccinations must be up-to-date. All child medical records plus any developmental assessments will be sent with the mother's application. If there are issues which OCP is not equipped to handle (i.e., some medical issues requiring 24-hour-a-day professional care), the child will not be admitted. If there are serious medical, developmental or social-emotional issues that need to be addressed, OCP may ask that more extensive assessments be done before admission. For less serious issues, OCP will arrange for follow-up assessments as needed. One assessment that will be performed at OCP for children ages 3 years old and older

(unless previously administered) is a trauma assessment by the child therapist at OCP, including mother's completion of Trauma Symptom Checklist for Young Children (ages 3 years to 11 years). Upon admission, each child will be assigned to a team of staff members who will work with him/her during his/her stay, make a plan for meeting the needs of the child, and have access to all the records of the child.

A careful plan will be made for admission of the children to OCP. Admissions will occur on an individual schedule that takes into account the status of the mother and the child/ren with the goal of reunification as soon as the mother is stabilized at OCP, hopefully within two weeks or less. The current caregiver will transport the child/ren to OCP; OCP will work with the caregiver to resolve any transportation issues in getting the child to the facility. All required paperwork, including copies of relevant assessments, must be received by OCP before the child is admitted and will not be accepted at time of admission.

PROGRAM FOR CHILDREN

OCP aims to provide care throughout the entire program that will be a model for best practices in child development. The agency seeks to foster comprehensive healthy development of children, starting with a secure, warm attachment to their mothers, with the added ability to respond to any special needs that the individual child might have. OCP intends to encourage and support routines, practices, and structure that will benefit the children while at OCP and that can be replicated in the home community.

Programming for the children at OCP will have equal importance to the programming for mothers. Because of the statistically high rate of childhood trauma in families where the mothers abuse substances, the children's programming at OCP will be trauma-informed in the same way that women's programming at OCP will be trauma-informed. Training for staff at all levels will include understanding the effects of trauma, substance abuse, and poverty on both mothers and children. Consultation with child trauma specialists will be available to all staff as needed. The child programming at OCP consists of two complementary and overlapping intervention systems:

1) child-parent interventions
2) developmentally appropriate child care.

Child-Parent Interventions
A basic premise of early childhood mental health is that the child's social emotional well-being depends largely on his/her relationship with the primary caregiver. Therefore, a primary focus of intervention will be the relationship between the mother and her child/ren. OCP is working from the premise that most of the women

themselves did not experience positive, supportive parenting and, as a result, are likely to have relatively poor relationship skills and significant trust issues. Thus, the dual task of staff will be to:

1) provide a safe, nurturing, supportive environment for each mother
2) assist her in providing these same gifts to her child.

Toward this end, each family (mother and child/ren) will be assigned a primary child-parent therapist (i.e., mental health counselor) who will consistently support the mother in her parenting role as well as provide support for the child. In addition, this therapist will provide individual therapy for the child as needed and consultation to the child care staff regarding the child's needs. This person will work with the mother and child in child-parent therapy with a focus on promoting a secure, healthy attachment between mother and child. Mothers will learn how to be emotionally accessible to their child/ren, respond to their needs, and provide consistent limits in a positive way. Mothers will be observed by the therapist formally and informally as they interact with their children. Some mother-child interactions will be videotaped so mothers can view and reflect on their interactions, with the support of the therapist. The frequency and structure of therapeutic interventions will be tailored to the unique needs of each child and mother.

Some children will have siblings in another setting to whom they have a close attachment or issues that need to be addressed. Mothers also will likely experience some deep emotions over having one or two of her children with her but leaving others behind. For these situations, a family assessment will lead to a recommendation of therapeutic work with the child/ren outside OCP. The extent and nature of the therapeutic work will depend on family history, circumstances, and DOC regulations, but the goal will be to nurture those healthy connections with other family members and address issues that might make reunion more difficult upon transition. Visitation between mothers/children and family members who live outside OCP will take place on a schedule recommended by each woman's treatment team. Factors such as the woman's current phase of treatment, past history with the family, and the woman and child's emotional state will determine frequency and length of visits. Clinical staff will work with the mothers and children to prepare for a positive experience and, in sessions immediately following the meetings, to deal with issues that arise during the visit.

Mothers will be presented many opportunities to learn both the "nuts and bolts" of parenting and the emotional interactions that provide the basis of a secure relationship. Classes in all phases of child development will be taught throughout a woman's stay at OCP. Mothers will also have the opportunity to work in the child care center where

they will observe child care workers model discipline and teaching that is positive and effective.

Reading to children by both teachers and mothers at OCP is a particularly important component of the program that has significance for both children and their mothers. It is well known in the early childhood education field that reading to children for as little as 15 minutes each day increases their literacy skills and supports school readiness. In addition to this important benefit, consistent reading by mothers to their children increases attachment, allows the mothers to role model enjoyment in reading, and establishes a worthy pattern they can maintain throughout the early years of school. To develop and implement a reading and literacy program, OCP will work with Motheread, the highly acclaimed program that combines the teaching of literacy with an understanding of child development and family empowerment skills. The goal is to teach mothers to read to their children in ways that support enhanced reading skills for mothers, increased ability to discuss story meanings with their children, and development of a lifelong love of reading. Mothers will observe teachers reading to the children in the child care center, will have the opportunity to practice good reading skills in Motheread classes, and will have regular times during the day and every evening to read to their child/ren.

Developmentally Appropriate Child Care

OCP will build a comprehensive program for children using current best practices for academic, social, physical, and emotional development of young children. OCP will use the developmentally appropriate practices model (National Association for the Education of Young Children, 1996). Using this model, staff will assess individual children's unique needs in multiple domains (e.g., academic, socio-emotional, fine/gross motor), develop a plan to address the needs using a team approach, implement the plan, and monitor outcomes at set intervals.

Among other goals, the child will be well-prepared for school entry. Having been in a quality preschool setting, the child will have a better understanding of the conventions of print, early command of phonemic awareness, and an internalized sense of story so necessary for school success. He/she will know how to negotiate the culture of the classroom and learn to interact with his/her peers in a responsible and confident way, thus exposing the child to varied positive experiences and equipping him/her with necessary skills for ongoing school success.

Just as it is important for the mother and child to have the consistency of a single child-parent therapist for support, continuity of care within the child care center is important for the children at OCP. The younger children (birth to 3 years old) developmentally need the consistency of a primary child care provider during this period when they are

learning basic trust and attachment that will stay with them for a lifetime. But the older children (3 years old to 5 years old) need this as well since they likely would have experienced disruption of major relationships and significant losses during their early lives. Toward this end, a child will be assigned a primary caregiver within the child care center who will stay with the child throughout his/her time at OCP. More is written about this in the description of the child care center. The child-parent therapist will also consult with child care staff on the specific needs of the individual child.

Since OCP classrooms will serve children who come from a range of cultural backgrounds and may have multiple needs, ranging from mild to severe, the agency intends that:

- Teachers, teacher's aides, and other professionals minimally have the licensure, accreditation, and experience to meet the North Carolina standards of a five-star center and the national standards of the National Association for the Education of Young Children (NAEYC) accreditation.
- Staff reflect the cultural and racial groups of the families in the facility.
- Training will be provided regularly to educate staff on such topics as childhood trauma, mental health, cross cultural training, etc. Trainings will be conducted by professionals experienced in the designated areas, e.g., social workers, psychologists, child development specialists.
- Child-to-staff ratio will meet the standards of NAEYC accreditation and the recommendations of the American Academy of Pediatrics and the American Public Health Association.
- Child care center staff will provide both models and support for mothers in a "state of the art" relationship-focused environment. This environment will include policies and procedures that allow mother and child to develop a trusting relationship and remain with the same teacher throughout their stay at OCP.
- Child care staff will be chosen both for their educational and professional experience and for personal qualities such as warmth, optimism, and ability to be a team player. Staff will be given ongoing support in the form of access to specialists as needed as well as in-service training and supervision.
- All educational materials and toys will be developmentally and culturally appropriate.

In addition, careful thought must be given to providing and maintaining high morale among staff and building a culture where the staff and mothers work together to provide the best possible nurturing environment for the child. Staff will be given support in multiple ways to maintain a positive approach toward mothers, incorporating them into the program where appropriate, coaching and encouraging them in positive interaction, demonstrating supportive discipline, and encouraging

them as full partners in their child's development. Observation areas will be provided where mothers can check in on their children between their own program activities. This will not only provide reassurance that their children are happy and cared for, but also gives mothers an opportunity to reflect on their child's interactions with teachers and other children. Staff and space for processing and coaching will be provided as needed for these observation periods.

OCP will monitor children's development through periodic developmental, social, and emotional screening, followed up by professional evaluation and treatment as needed. Any needed developmental therapy (such as speech or physical therapy) will be incorporated into the individual child's schedule to provide the most natural setting. For children ages birth to 3 years old, OCP will work closely with the Children's Developmental Services Agency (CDSA), the lead agency for this age group, to provide for evaluations and services as needed.

Other components of the program include recreational opportunities, both through work with volunteers and staff, field trips for 4- to 5-year-olds, interactions with positive male and female role models using trained volunteers, participation in special events such as birthday and holiday celebrations, and events for extended family.

CHILD CARE CENTER

Each child is unique and endowed with different temperaments, skills, and interests. Therefore OCP will provide positive, meaningful experiences that nurture the individual interests and skills of the developing child. By creating a loving, supportive environment, OCP will facilitate growth from young children into healthy, well-adjusted, productive adults.

Research supports brain development at 25% at birth and 90% by age three (North Carolina Division of Child Development). Therefore, OCP knows there is a window of time in which to plant the seeds of character and integrity within young children. OCP staff will use language which reinforces positive social behavior and early traits of integrity as one tool to encourage healthy value systems. Recognizing the importance of close, trusting relationships for infants to 3-year-olds, OCP will ensure continuity of care of child care providers for these age children.

Preschoolers can learn self-control when adults use positive guidance. Therefore, OCP will offer children appropriate choices and encourage the use of words to resolve conflict so that they will learn to make good decisions early in life.

Developmental theory and research supports the importance of interactions between students and adults as the primary mechanism of student development and learning. OCP staff, therefore, will facilitate meaningful child-to-child and adult-to-child communications throughout the day.

OCP knows that the outdoors has tremendous benefits that promote social, emotional, spiritual, cognitive, and physical well-being; therefore outdoor activities will be an essential part of scheduling for every day that weather permits.

OCP has set up a rich curriculum to foster individualized growth and development of the whole child and equip them to make good future choices. Knowing that high expectations are an important factor in a child reaching his/her potential, OCP will give each child respect, guidance, consistency, support, and a variety of enriched learning experiences.

License
The child care center is using the state's voluntary highest license standard of five-star as a benchmark for facility renovation, staffing patterns, and curricula decisions. Although when licensed OCP may serve up to 40 children in three classrooms, the facility has the space for 60 children. The added space will be in place if the resident population increases in the future.

Classrooms
The three classrooms support the developmental stages of the children:

- infants
- toddlers
- preschoolers.

Ages Served
One unique characteristic of OCP's child care center will be the flexibility of ages served. Once the program has been operating for a year, there will be women and children entering and leaving every month or two. Therefore, the ages of the children in the child care center will be shifting frequently. The initial plan is to serve eight infants from birth through 11 months, six toddlers from 12 months (walking) through 35 months, and 14 preschoolers from 36 months to kindergarten-ready for a total enrollment of 28 children. However, the classrooms are designed to handle more children, so each classroom will be prepared to serve more or less than these proposed numbers. Teachers will move between the classrooms as needed to maintain the required ratios.

Ratios
OCP will open with the following ratios and keep them the same as the program grows.

- Infants - paid staff to child ratio = 1:4
- Toddlers - paid staff to child ratio = 1:3
- Preschoolers - paid staff to child ratio = 1:7.

Staffing Patterns
Each classroom's paid staff includes one Lead Teacher who is responsible for planning and one Teacher who assists and co-teaches.

Staff Qualifications
The Child Care Center Manager, Lead Teachers, and Teachers must minimally meet educational state guidelines for five-star licensure. The Center Manager (also called On-Site Administrator) shall have a Level III North Carolina Early Childhood Administration Credential or its equivalent; and four years of full-time verifiable work experience in an early childhood center teaching young children or four years of administrative experience or four years of a combination of both.

All Lead Teachers shall have the North Carolina Early Childhood Credential or its equivalent and 75% of the Lead Teachers shall have at least an Associate of Applied Sciences (AAS) Degree in Early Childhood Education or an AAS degree in any major with 12 semester hours in early childhood education or child development; and two years of full-time verifiable early childhood work experience.

At least 50% of Teachers counted in staff/child ratios shall have the North Carolina Early Childhood Credential or its equivalent; and four semester hours in early childhood education or child development (not including North Carolina Early Childhood Credential coursework), and two years of full-time verifiable early childhood experience.

Continuity of Care
Continuity of care is when the same teacher stays with an infant from enrollment and continues the relationship until the child is 3 years old or leaves the program for the purpose of developing trust and consistency in the child's life. Managing this in a center of 28+ children is admittedly a logistical challenge, but the benefits are far greater than the hardships. The Program for Infant and Toddler Care (PITC) has published an article by Lally and Signer which details the challenges and strategies in designing classrooms that provide continuity of care. At OCP, such a plan would benefit both children and parents for whom trust is an issue.

Volunteers
OCP will open with the mothers serving as volunteers in the child care center after they have completed volunteer training and phase one of the substance abuse treatment program. The agency will begin a training program for community members in about six months after beginning the program.

Enrollment
Mothers will complete the child care enrollment packets that include a parent agreement and state required forms on the first day of attendance. OCP will use the standard state forms, such as:

- Child's Application for Child Care
- Children's Medical Report and Physical Exam
- Immunization History
- Infant Feeding Schedule
- Child's Care and Emergency Information
- Travel and Activity Authorization
- Parental Permission to Administer Medication.

Each child must have a health assessment (medical exam) and a record of immunizations before being admitted or within 30 days of admission.

Parent Involvement
The program is designed so the mothers can be actively involved in the curriculum. An agreement that outlines the responsibilities of the mother and the responsibility of the program will be reviewed with each mother prior to participation. Teachers will work with mothers to ease the transition into child care much as would happen in the community setting. Teachers will make a "home visit" to the living quarters of the family to introduce themselves and start a partnership relationship with the mother and child. They will bring books and toys to put the child at ease, take a picture of the family to display in the center, and answer any questions either mother or child might have.

Mothers will work volunteer hours in the child care center after going through the volunteer training at OCP. While in the center, mothers will have the opportunity to observe sound child care practices by the teachers and be coached by the teachers in how to interact with their child and other children in ways that build the child's confidence and promote good behavior. They will practice reading skills by reading individually with their child and in groups of several children.

Parents and teachers will be considered partners working towards the same goals for children. Therefore teachers will regularly meet with the mother for parent-teacher conferences to set goals for the child. The teacher and parent will keep open communication about child's progress and activities to strengthen the emerging skills of the child. Communication will take the form of daily written notes to the mother on the child's activities, achievements, and behavior during the day including any noteworthy events as well as face-to-face conversations when the mother brings and picks up the child each day. Progress reports will be written and discussed with the mother at the routine parent-teacher conferences.

Art work, craft projects, and other products of the child will be sent home at periodic times for display in the living areas of the family. Teachers will explain to the mothers the importance of these works both in terms of child development and building of confidence in the child's ability to produce art for pleasure.

Sick Child Policy
In the event a child becomes ill in the center, staff will call the mother immediately to pick up the child. The child care center follows the procedures established by OCP to assure sick children receive appropriate care and mothers receive support to nurse their child back to health.

Emergency Medical Care
Upon enrollment mothers will be required to sign emergency medical forms which identify two persons to call in case of an emergency: the father with legal rights to the child, guardians or other relatives. If a father has joint custody, he will also sign permission for emergency medical care at the time of the child's entrance into OCP. The emergency medical form gives OCP permission to authorize the physician of OCP's choice to provide emergency care in the event that the mother, the father with legal rights, guardian or family physician cannot be contacted immediately.

Infant, Toddler, and Preschooler Schedule
Infants will have their own individual schedule based on their personal sleeping, eating, and diapering patterns. The toddler schedule is a developmentally modified version of the preschooler schedule. The schedules are designed to promote communication, creativity, cognitive thinking, and physical, spiritual, and social development through many one-to-one nurturing interactions and some small and large group social experiences.

A sample daily preschooler schedule is attached (Appendix C).

Curriculum
The Creative Curriculum for Infants, Toddlers and Twos, and the Creative Curriculum for Preschoolers are the two commercially developed, research-based curricula chosen for the children. Supplemental curriculums will be utilized for planning fun, developmentally appropriate games and activities for health, nutrition, mental health, physical (large and fine motor), creativity, (art, music and movement, dramatic play), language and literacy, safety, math, science, etc. For example, a supplemental curriculum the program will use to reinforce self-control and guidance is Second Steps. The program will plan activities around weekly themes to expose children to an exciting world of discovery.

Special Needs
Each infant, toddler, and preschooler will be screened within 45 calendar days of entry into the program with the Ages and Stages (ASQ) and ASQ: Socio-Emotional (ASQ-SE) in collaboration with the mother to involve her in the process of identifying her child's development. The purpose of the screen is to identify children who need to be referred for further evaluation in order to receive early interventions. Lesson plans will include activities that support the goals of children recognized with a special need and have an Individualized Family Services Plan (IFSP) or Individualized Education Plan (IEP).

Individualization
Teachers will plan for every child individually based on the results of their initial screen and a standardized ongoing assessment, the Creative Curriculum Developmental Continuum for Ages 3-5 and the Creative Curriculum Developmental Continuum for Infants, Toddlers & Twos. Anecdotal records of behaviors observed and a portfolio sampling of each child's work will be used to determine new goals for children. The teachers will include within their lesson plans activities to advance the individual goals of each child.

Transitions
The transition plan for children leaving OCP includes preparing the child for leaving by reading stories, talking about their new home, taking periodic pictures of the child from the time the child enters the program to departure, journaling (in the child's words) about important people and events in their lives, likes and dislikes, family and friends, and making a memory book entitled *Who I Am*. Making this memory book begins on the first day of the child's attendance and is placed on the book shelf (for the preschool children) to read their developing story of the good times they had playing, eating together, and doing activities. The transition plan will also include the North Carolina Early Intervention Transition Guidelines for children with disabilities.

Child Care Center Program Evaluation
Evaluative reports will be generated from the ongoing child assessment data (Creative Curriculum Developmental Continuum) collected by teachers three times a year utilizing the Creative Curriculum. net (cc.net). The report documents individual, classroom, and center wide growth in the developmental areas of language, cognitive, gross motor, fine motor, pre-writing, self-help, and social/emotional that show child progress by indicators of growth. The cc.net generates reports on Child Progress, Child Outcomes, Executive Summary, Snapshot Response, and a Gains Comparison Report that compares the gains between classes, sites, and programs. The evaluative outcomes reports will be used to self assess and to identify areas of training needed for the teaching staff based on children's cumulative areas of concern. This evaluation will be one part of a larger evaluation of all aspects of programming at OCP.

SUBSTANCE ABUSE AND MENTAL HEALTH PROGRAM FOR WOMEN

The primary treatment focus for women at OCP will be a holistic, gender-responsive, trauma-informed, culturally competent addiction recovery program. Most women in the criminal justice system are poor, undereducated, unskilled, single mothers, with women of color being disproportionately represented. Most have been exposed to a life involving addiction to alcohol and/or drugs. (Bloom, Owen and Covington 2) The goal of OCP is to break the intergenerational cycles of crime, poverty, substance abuse, family violence, and recidivism.

OCP adheres to the disease model of addiction, in which addiction is seen as a primary chronic disease that a woman will have to manage over the course of her lifespan. The outcomes for treating this chronic illness are best evaluated by practice standards as defined by the Behavioral Recovery Health Management model, which applies the principles of disease management to the treatment of chemical dependency. This model looks at quality of life issues as reported by the woman, her family, and her support system over the lifespan. (White, Boyle & Loveland 107-130) OCP will help women build a strong foundation for managing their addictive disease for life, rather than treating it in an isolated cross section of time.

This will be done by incorporating the standards identified by Bloom, Owen, and Covington in "Gender-Responsive Strategies: Research, Practice, and Guiding Principles for Women Offenders," published by the National Institute of Corrections in June 2003. Gender responsiveness means *creating an environment through site selection, staff selection, program development, content, and material that reflects an understanding of the realities of women's lives, and addresses the issues of the participants.* (Bloom, et al. 75) The

standards outlined in this document will be the basis for the holistic treatment approach utilized at OCP.

Research shows the high correlation between addiction and crime, particularly among women. Yet the treatment options available to women in the justice system are often fragmented and based on a male model. OCP endeavors to correct this by offering best practice, comprehensive treatment for incarcerated women and their children.

The Bloom et al document, based on extensive research of women in the criminal justice system, identifies characteristics common to many incarcerated women, both their pathways into substance use and crime, and the areas of clinical programming necessary for successful treatment. These principles are as follows:

1. Acknowledge that gender makes a difference.

2. Create an environment based on safety, respect, and dignity.

3. Develop policies, practices, and programs that are relational and promote healthy connections to children, family, significant others, and the community.

4. Address substance abuse, trauma, and mental health issues through comprehensive, integrated, and culturally relevant services and appropriate supervision.

5. Provide women with opportunities to improve their socioeconomic conditions.

6. Establish a system of community supervision and re-entry with comprehensive, collaborative services (Bloom, et al. 76).

OCP will base its programmatic tenets on these principles, with the focus of long-term management of addiction and mental health in order to enable women to better achieve lives free from the ravages of crime and addiction. Three critical and inter-related areas of attention that are necessary for the successful treatment of women in the criminal justice system are mental health, substance abuse, and trauma.

- One fourth of women in state prisons have been identified as having a mental illness. The major diagnoses are depression, post-traumatic stress disorder, and substance abuse (Bloom, et al. 7). Post Traumatic Stress Disorder (PTSD) is a psychiatric condition often seen in women who have experienced sexual abuse and other trauma.

- Approximately 75% of women who have serious mental illness also have co-occurring substance abuse disorders (Bloom, et al. 7).

- 21% of women in the criminal justice system had experienced five or more childhood traumatic events before the age of 16, compared with 13% in a non-offender group of women (Messina & Grella , 107-130).

Theoretical Perspectives
The foundation of the women's treatment program will be based on four theoretical perspectives:

- **Pathways to Crime Theory:** defines the ways women come into criminal behavior, with trauma and addiction being significant factors.

- **Addiction Theory:** addresses the physiological, emotional, social, spiritual, environmental, and political aspects of the chronic disease of addiction.

- **Relational-Cultural Theory of Women's Psychological Development:** describes the psychological development of females through connections to others, with addictive drugs sometimes being used to fill a series of disconnected, abusive relationships.

- **Trauma Theory:** acknowledges that trauma plays a role in the development of addictive and mental health disorders for many women. This includes sexual and physical abuse, domestic violence, witnessing abuse/violence, and self-inflicted violence (Bloom, et al. 49-62).

Cognitive, behavioral, and affective methods of intervention will be utilized to address these key areas of treatment. Healing from and effectively managing the effects of trauma, addiction, abusive relationships, and co-occurring disorders will be goals of each woman's treatment plan. Trauma-informed services will be implemented throughout all levels of staffing at OCP. A therapeutic culture of safety, healthy attachment, effective communication, engagement, and empowerment will be developed at OCP to aid each woman in gaining the ability to manage her life and addiction more successfully.

The treatment program will begin after intake at OCP, which will include a medical exam and medication evaluation. Drug testing will occur throughout the woman's stay at OCP per DOC guidelines. Work with extended family and significant others will be an important component of recovery, will be coordinated with other family work, and

will occur on an individual schedule, per recommendations of the treatment team. The treatment program will be divided into four phases.

In all four phases, women will be involved in the daily care and nurturing of their children. Additional parent work will also begin in phase one, continue through phase four, and will include:

- basic parent training
- child-parent therapy
- parent coaching.

Parent work will primarily be done by the child therapist, with some additional teaching by child care staff. More explanation of the child-parent work is contained in the earlier Program for Children section.

Phase One - will focus intensively on the understanding and management of addictive disease, within the context of active parenting. Therapeutic work in this phase will include:

- daily addiction education classes including Cognitive Behavior Therapy (CBT)
- therapeutic process groups
- curricula group work
- house meetings to begin and end each day
- individual therapy for all women
- 12 Step meetings.

Addiction education classes will teach women the chemistry of addiction and its effects on their physical, emotional, and cognitive systems. Therapeutic process groups provide a place for the in-depth exploration and healing of each woman's individual life experiences, especially as pertains to herself and her children. The groups will also begin to build safety and cohesion in the therapeutic milieu. The first phase curricula group will be *A Woman's Way Through The Twelve Steps* by Stephanie Covington, an in-depth exploration and understanding of the 12 Steps in a format that incorporates the theoretical bases mentioned above.

Time will be allotted for homework, study, reflection, journaling, and spiritual development regarding addictive disease throughout the day. These activities encourage the development of a strong internal spiritual life, which gives sustenance throughout treatment and will aid in making connections with women's spiritual groups post-release. House meetings at the beginning and end of each day assist women in developing effective communication skills, conflict negotiation and

resolution, management of time and responsibilities, and connectivity and support for successes and challenges. Physical and emotional safety will be of primary importance. Individual therapy will focus on issues in the woman's life that are better dealt with outside the context of a group. Twelve step meetings will be brought in several times a week from the community to begin to foster ongoing connections for recovery support in the community.

Women will have access to a rich outdoor experience in the courtyard of the OCP facility. The Natural Learning Initiative at North Carolina State University is designing an outdoor space that will house a playground for the children as well as beautiful areas for relaxation, play for the family, spiritual exercise, and gardening. Women will have the opportunity to use this area as a space for practice of healthy recreational, spiritual, and enrichment activities that give balance to a schedule of rigorous recovery work. Additional information can be found in the Facility section.

Phase Two - will continue the format of Phase One and focus on a deeper understanding and practice of the recovery principles pertinent to women.

- Daily education groups will focus on health, self care, understanding healthy relationships, and emotional regulation using Dialectical Behavior Therapy (DBT).
- Process groups will address the development of a healthy, honest understanding and relationship with oneself in multiple roles, as a woman in recovery, a parent, a partner, and provider.
- The addiction curricula group will focus on areas of self, relationships, sexuality and spirituality using Stephanie Covington's workbook *Helping Women Recover.*
- The schedule of daily house meetings, 12 Step meetings, and reflection/homework time will continue.

Phase Three - will focus on healthy independent management of activities of daily living, educational achievement, vocational rehabilitation, trauma education, and life plan development.

- Women will define their re-entry plans in more detail, with an emphasis on increasing those skills which they need for successful transition to the community.
- Women will receive more intensive education regarding parent training/coaching and child-parent therapy.
- Women will continue in individual therapy, education and process groups, and a curricula group on trauma will begin, using *Beyond Trauma* by Stephanie Covington. This curriculum will help women understand and manage the symptoms of trauma that they may have had in the past or are currently experiencing. It will not focus on uncovering trauma.

- 12 Step meetings with community members and morning and evening house meetings will also continue. Women will take a more active role in the running of these meetings, thereby preparing them for greater levels of responsibility and helping them develop leadership skills.

Phase Four - will prepare each woman for her return to community living by addressing family and support system identification, management, and development, and work release programming where allowed by DOC regulations.

- The independent management of her children will be emphasized.
- Intensive work on a re-entry plan will result in a clear plan for housing, employment, entitlement benefits, and recovery including identifying a sponsor in the home community.
- Curricula group will be dropped in phase four, but the house meetings, education groups, individual therapy, process groups, and 12 Step attendance will continue to the end of a woman's stay at OCP.
- Ideally in this phase, women would be allowed to go on work release, returning to OCP in the evening where they would care for their children, but still have the support of child care, meals, and housing provided through the program. In these situations each woman's schedule at OCP will be individually adjusted to meet her needs. This titrated method of treatment allows for and encourages greater levels of independent functioning for each woman, thereby increasing her successful adaptation to independent living outside the institution.

Mental Health Treatment

Since there are a number of mental health disorders having a high rate of co-morbidity with addictions, mental health services will be closely tied to substance abuse treatment at OCP. Screening for mental health disorders will be performed as part of the intake process at DOC. Women with mental health disorders that are too severe for OCP to manage will not be accepted. Any woman accepted into the program at OCP and identified in the screening as having a possible mental health disorder will receive a thorough diagnostic examination by a licensed staff clinician. A psychiatrist skilled in addiction work will be available for diagnostic consultation and examination, medication needs, and treatment of psychiatric disorders. An essential element in effective treatment is continuity and coordination of care, which at OCP will be ensured though weekly team meetings around each client. Daily face-to-face communication between counselors and other staff will occur at every shift change for continuity of care and milieu management. Supervision of both mental health and substance abuse providers will be done on a regular basis. OCP will strive to treat mental health disorders by experienced clinicians inside the facility but for those women needing

specialized care that cannot be provided at OCP, staff will seek consultation from area facilities that are equipped to treat the disorder.

A daily schedule for the women is attached (Appendix D).

VOCATIONAL AND ACADEMIC WORK

One of the goals of OCP is to equip women who complete the program with skills to support themselves when they return to the community. Given the multiple challenges these women will face as they leave OCP, it is likely that many will need further treatment, training, education, and financial assistance before they can fully support themselves and their children. OCP expects that women will enter the program with a wide range of educational backgrounds and vocational skills as well as personal attributes that help one become successful in the workplace. One of the first tasks in the area of academic and vocational training is to gather an extensive educational and work history and perform a comprehensive assessment of interest and ability for each woman before she starts an education or training program.

The Work Force Investment Act (WIA) of 1998 set up a framework for coordinating the various state and federal programs to help the under- and unemployed receive training and assistance for jobs that will support them. In North Carolina, nearly every county has a JobLink Center that links various partner agencies in support of employment and training for those who need jobs. Some of the partner agencies that are mandated to work with JobLink Centers are Employment Security Commission, Workforce Investment Act Contractors, Community Colleges, Vocational Rehabilitation, Department of Social Services, and local housing agencies as well as others.

OCP will partner with the JobLink Center in Granville County to connect with all available services in the local area. Vance-Granville Community College (VGCC) Prison Education Program has assured OCP that it will work closely to provide services such as GED and high school diploma classes as well as other academic offerings that residents might need. VGCC will provide classes at OCP if there is enough demand. Otherwise some classes are available online and others on campus (for those residents with permission from DOC and VGCC).

JobLink Centers also provide training and testing for a National Career Readiness Certification. This certificate verifies to employers anywhere in the United States that an individual has essential core employability skills in reading, math, and locating information, and several other areas. The Certificate is an easily understood and nationally valued credential that certifies the attainment of these workplace skills. Such a certificate would assure prospective employers that a job candidate possesses basic

skills for job performance. OCP will encourage each resident to obtain this certification before leaving the facility and will assist in connecting each departing resident with the JobLink Center in the community to which she returns.

OCP will also collaborate with DOC to use any resources that are available through its programs for the residents of OCP.

OCP's Vocational Specialist will have the responsibility to pull together all the multiple resources available in the public domain to offer residents the opportunity to receive needed academic background and vocational training.

When a resident nears the time of re-entry, she will make a careful plan for the next steps with the help of her treatment team. This plan will outline the goals of the resident, her skills and abilities, and any further help needed to reach her goals. OCP will assist her in accessing the resources needed for a successful re-entry into the community.

RE-ENTRY PLANNING

OCP recognizes that making a careful and pragmatic plan for a woman's re-entry into the community is equal in importance to the difficult work she will do during her stay. There are multiple challenges to a successful re-entry, including housing, employment that pays a living wage, family reintegration, and quality child care. Some entitlements are denied to persons coming out of prison for a certain number of years. Re-entry is difficult under any circumstances, and having a child/ren to support and nurture during the process makes the task even more daunting. Navigating through these potential roadblocks will require careful planning and coordination as well as a supportive team of persons and agencies to guide and support the woman leaving the justice system. OCP is committed to making a sound plan for each woman so that barriers to reaching the goals of self-sufficiency, good parenting, and continued recovery are lowered.

Since women at OCP will be moving to communities over the entire State of North Carolina, re-entry planning requires an awareness of transition resources in many places. OCP Board and staff members are building a network of partners throughout the state, through active outreach and awareness efforts, conferences, and workshops. Staff will be using this network extensively during discharge planning, both for information and for services.

The framework for transition planning at OCP is similar to the planning approaches used in disability fields today: System of Care and Person-Centered Planning. OCP will use the following principles in transition planning:

- The woman at the focus of planning has the final authority over her life direction, including her recovery and choices regarding vocation, living situation, and parenting style.
- OCP will assist her in developing a helping team that will support her in making a plan and then implementing it when she leaves the facility.
- Those who are assisting her in making a plan will offer the best support available to help her make a meaningful, rational, and well-informed choice.
- The transition plan for each woman will be unique and built on the foundation of her strengths and vision for her life and the lives of her children, her particular circumstances, and the resources of her community.
- Clear and honest communication and open dialogue will be hallmarks of interactions with the woman who is the focus of planning.

Planning for transition will address each of these categories:

- Coordination with Transition Services and Offender Workforce Development within DOC to utilize resources within DOC and meet all requirements of that division. Will the woman be on probation or post release supervision? If so, what will be the conditions and how will that affect other planning?
- Family support: assessment of immediate and extended family, strengths, and liabilities of this connection
- Community support: what is available in the community of choice for the woman and her children, both formal and informal, such as Work First, Food Bank, Vocational Rehabilitation, community colleges and faith based support teams
- Residence plan: transitional housing such as Harriet's House, supported housing such as interfaith housing, public housing, substance abuse half way houses such as Freedom House, shared housing with other mothers
- Vocational plans: further training, job readiness, assessment of skills, connections with Vocational Rehabilitation, JobLink and/or Veteran Services if applicable
- Spiritual resources: formal religious groups (such as churches, synagogues, mosques), informal resources (such as meditation practices, yoga), faith-based support teams (such as Re-Entry Partners)
- Recovery resources: 12 Step groups, half way house, sponsor
- Child care: obtaining the best possible care available in the community
- Relationships: building personal and professional relationships that support the woman in reaching her goals and remaining in recovery

- Parenting: how to address the needs of the child/ren and support the woman in good parenting practices, including relationships with older children and their caregivers and co-parenting
- Mental health needs: assessment and plan to address identified needs; referrals to local agencies/mental health practices as needed; support groups or club houses identified and connections made
- Recreation and fitness: how to build healthy exercise practices into her lifestyle
- Physical health: making sure that all women and children leaving OCP have a medical home in their community that can address both routine care and any special medical needs of the family
- Financial needs: assessment of benefit eligibility, budgeting skills, credit, available resources in the community
- Transportation needs: how to arrange for transportation to job, child care, other life needs.

At OCP, each woman will have a team of staff members working to support her in successfully completing the program. This team will be composed of her therapist, substance abuse counselor, vocational/academic counselor, and appropriate others who are working with her. The substance abuse counselor will be the facilitator of the team meetings and the primary support for plan development and implementation. Each woman's plan will begin as a treatment plan that guides her work at OCP with an explicit acknowledgement of transition needs. In this way, discharge planning begins when the woman enters the facility. The treatment/transition plan is dynamic, changing as goals are met, needs arise, strengths are recognized, and situations change.

During the length of stay at OCP, the focus of the plan will shift, starting with a primary focus on recovery and parenting at the beginning of her stay and moving toward a strong focus on job skills and return to the community near the time of discharge. Three months out from discharge, specific plans for next steps will be made, including housing, employment possibilities, child care, and recovery supports.

During her entire stay at OCP, with increased emphasis in the last three months, each woman will keep a resource notebook in which she details her post-discharge plans, takes an inventory of all her needs for successful re-entry, and begins research on how these needs can be met in her community of choice. As she nears discharge, the notebook becomes more detailed, including identifying 12 Step programs, recreational facilities, child care, women's resource centers, transportation options, JobLink, etc. in her home community. Each entry will include telephone numbers, location, names of contact persons, and other relevant information including summaries of previous conversations and plans for accessing services. This resource notebook essentially becomes the woman's comprehensive guide to her family's individual re-entry plan.

During the last three months of a woman's stay at OCP, community members will be invited to OCP to assist with developing supports in the community to which the woman will be moving. In particular, the team will explore entitlement programs such as Work First and supported housing. Some of these benefits are available immediately (i.e., Work First) while others are denied for a certain period after incarceration (i.e., Section 8 housing). A decision will be made regarding whether transitional/half way housing is recommended and in what location. Vocational Rehabilitation services will be explored and if eligible, the woman will make an appointment with the Vocational Rehabilitation office in her destination community to apply for services. JobLink in her home county will also be explored for further training in job readiness skills if needed.

By the last month of her stay at OCP, plans for housing, child care, employment, and any other identified needs will be in place with a timeline for all applications to be submitted by the woman in transition.

OCP will make a plan to maintain close contact with each program graduate for a year after leaving the program, taking into account potential communication difficulties (i.e., possible change of living space, cost of long distance calls, possible lack of phone service, etc.). Team facilitators will identify persons in the home community who can be emergency contact for the family. OCP will follow closely and support women leaving the program for six months post-release, assisting them should any of their plans fail, unanticipated needs arise or new options become available. There will be less frequent contact during the last six months post-release as the woman becomes integrated back into the community and other supports are firmly in place. During the next two years, OCP will contact former residents to obtain information needed for program evaluation only.

A sample re-entry plan:

A mother, her 3-year-old daughter, and 18-month-old son enter OCP. The first three months have a major focus on recovery and parenting with an introduction to academic and vocational work. During this period she will have some vocational testing and start exploring options for vocational training. She will begin pulling together information for her notebook.

During the second phase, the next six months, there is increased emphasis on vocational training and the woman will make a tentative decision about where she will locate with her children upon discharge. Options will include moving to transitional substance abuse housing such as Harriett's House which works with mothers who are finishing an intensive substance abuse treatment program and provides supported living while the woman finishes her training and finds a job. Other options may be returning to her

community of origin or moving to a new community. The woman, with the active assistance of her primary person, will begin to compile a list of resources available upon discharge. Near the end of this six-month period, the woman will being making inquiries about what is available in her community and start to narrow both options and tentative choices.

During the last three-month phase, the woman will be involved more intensively in vocational training and will have made a decision about what vocation she will follow, whether more training is required, and how to get the training. She will contact necessary resources in the community, such as Work First in her home county, to learn the specific requirements for receiving this benefit. She will make plans for and apply for housing. She will explore child care options and make application for her children in a child care program that provides quality care. She will make connections with a recovery community (12 Step Program), obtain a sponsor in her receiving community, and if desired, have a faith community identified or contacted.

Housing might include public housing, church supported subsidized housing or other federally financed supported housing. Options for such supports will be explored in the community in which the woman plans to live.

By the time she is ready for discharge, the woman will have a thorough plan for work, housing, child care, recovery supports, medical care (mental and physical health), and transportation. While challenges to successful reintegration into the community remain, the woman and her family will have strong support for the task.

WORK BY RESIDENTS

All residents at OCP will be expected to perform work to help the facility run smoothly. Each resident is expected to keep her own living quarters clean and neat, wash her family's personal belongings on schedule, and keep up with her own and all personal belongings of her child/ren. In addition, there will be rotating work requirements to keep the facility as a whole clean, including cleaning of common rooms. There will also be required work in the kitchen and in the child care center. The kitchen work will be a paid position at the rate currently used for women at minimum security facilities in North Carolina and all monies earned there will be deposited into the resident's account at OCP. Child care regulations do not allow residents to be paid for work in the child care center. The amount of work expected of a resident will depend on her progress through the program at OCP, with less work during the early intensive treatment phase and more during the middle and end of her stay at OCP.

An alternative work plan will be made for any resident with a disabling condition that prevents work in the kitchen.

Some residents may have the ability to work outside the facility by reaching the highest levels of personal responsibility at both DOC and OCP; these residents may be excused from some or all work in the facility. Their earnings will be deposited into their account at OCP with some being deducted for the cost of their room and board at OCP.

ENRICHMENT PROGRAMS AND ACTIVITIES

The core program at OCP will be emotionally and physically intensive and demanding. The three major aspects of the core program, substance abuse recovery and mental health work, parent training and parent-child therapy, and vocational/academic work, will consume most of the weekday hours. This demanding regimen will be the ongoing reality of the life of a mother in recovery who is working to support her family.

OCP will also strive to help residents learn ways to find pleasure and relaxation in the midst of a demanding lifestyle. From the beginning of her stay at OCP, a variety of resources will be in place to support a woman in developing patterns of wholesome and enjoyable activities that she can take with her when she returns to the community. In each of these areas, cultural values will be incorporated into the practices. Some of these are described below.

Spiritual Resources
Developing a spiritual life to support a woman's recovery will be strongly encouraged in OCP's substance abuse treatment program. A number of spiritual development exercises and supports are built into the daily program with time given each day to practice. These include morning and evening meditation/reflection time and materials, a sacred space, and spiritual guidance. Twelve step meetings will also teach spiritual practices and thinking as related to the 12 Steps. OCP will support this by inviting faith leaders from the recovery community and the community at large to offer services and support to residents. A worship area in the facility for the various faith practices identified by residents will be provided.

Recreation
Healthy recreational activities will be available to residents in organized ways and during their free time. Outdoor activities will include volleyball, basketball, badminton, and other such sports. Residents and children will also have access to board and card games. On weekends, movie nights and selected television programs will be offered. Specific recreational activities will be planned for each week, with several offerings of family activities.

Gardening
Gardening has long been recognized as an activity that promotes healing and builds community. Beautiful gardens are soothing places and OCP plans to use the outdoor courtyard as a place where residents and children can find peace and pleasure. OCP will use multiple gardening activities for residents and children as a way to build connections, relieve stress, and develop pride in growing beautiful and healthful plants that enrich the community. The common outdoor area is large enough to support gardens for flowers, herbs, and vegetables. OCP will invite community gardening groups (such as Master Gardeners and local garden clubs) to take responsibility for working with residents to develop certain areas. OCP staff has met with staff at the North Carolina Botanical Gardens Horticulture Therapy Program to discuss possible collaboration and will pursue that option in the future.

Opportunities abound in the child care center setting to use gardening for rich learning experiences. Children can observe the cycles of nature, participate in the growing and cooking of food, explore cultural practices around food, and share these experiences with their mothers. The outdoor world will be used as a real life laboratory in a variety of ways: for games and play, to learn how plants grow and mature, and as to become aware of the interconnectedness of life.

Relaxation Techniques/Practices
OCP will teach specific relaxation techniques to residents, both as a part of the recovery program and in other ways. Yoga, mindfulness meditation, and other established practices will be taught as part of the curriculum. In addition to these relaxation techniques, OCP will work to cultivate more casual relaxation practices among the women, emphasizing enjoyment of time spent with children and one another in ways that foster connection and relaxation. It will also be important to the women's recovery to be able to learn how to have wholesome, rewarding fun. This is necessary for women who may have little, if any, experience of such fun in their lives. It helps healing in the hedonic centers of the brain that have been damaged by drug and alcohol addiction and will be an important part of maintaining sober life upon return to the community. It will also develop their ability to be good mothers.

Fitness
Taking care of one's body is important to good health and will be an integral part of the recovery curriculum. Eating well and developing physical health and healing are very important to bodies severely neglected, depleted, and abused during active addiction. In addition to didactic classes on the subject, there will be opportunities for fitness exercises several times during the week. Women will be taught the importance of sleep

and rest, healthy eating, understanding their body and its needs, stress reduction, and regular exercise. The weekly schedule will support each of these principles.

Music
Music will be offered in various forms at OCP, including as part of spiritual practice, for personal enjoyment, and for relaxation. Scheduled weekend time for social dancing will provide relaxation, exercise, cultural relevance, and socialization. The child care center staff will use singing, both in the center and at other times with mothers and staff, to teach children (i.e., ABC song), create enjoyable community times, and transmit cultural knowledge and understanding.

Art
Art is widely recognized as a medium for expression of deeply held feelings that are difficult to discuss in words. A setting such as OCP can utilize art in ways that will be healing for all residents. Creating art will be encouraged in many ways for adults and children at OCP, both in classes and in the child care center as well as informally during free time. OCP plans to have regular displays of residents' and children's art in public areas such as the dining hall and hallways. OCP will also solicit the work of area artists for display in the public areas.

The activities described above are a starting point for developing a rich and multilayered program for women and children that give opportunities for learning about potentially unexplored skills and talents. These activities also offer opportunities for volunteer involvement in a way that could bring more creative energy into the program. OCP anticipates that other activities and opportunities will also become an important part of the program at OCP as the organization grows and develops.

VISITATION

Support of family and friends is a significant factor in a woman's successful completion of the program at OCP, in maintaining a strong path to recovery, and in a healthy transition to the community. Equally important, children need unbroken contact with persons who are a part of their lives and with whom they have positive emotional bonds.

Visitation of a resident with family members, significant others, friends, and spiritual leaders is permitted at designated times after approval of the appropriate authorities. In addition, a resident may have meetings with her attorney, DOC personnel, and other legal or governmental units as needed.

Visitation is a privilege that can be curtailed, increased, decreased or suspended due to treatment or security issues. All visitation is under the direction of the individual treatment team of the resident. Decisions regarding who can visit and length and timing of visits will be made in the context of the resident's recovery plan. All visits will be supervised by a member of the treatment team, with the support of the resident's therapist to plan and later process each visit.

An individual must be approved before a visit is planned. Each resident will submit an application listing the name, address, relationship, and age of each person the inmate wishes to have as a visitor. OCP will confer with DOC to ascertain whether there is any known reason that any of the persons on the list should not be allowed to visit. If the prospective visitors are approved, the team will discuss any issues involved with visits and make a plan for a visitation schedule.

The treatment team will make decisions regarding when the resident is ready to start visits with family and/or friends.

Children of residents who are not living at OCP pose a special situation, as there will likely be issues around separation of siblings. The team will take into consideration such issues in approving visitation.

All visitors must bring positive identification in the form of a state issued driver's license or some other official identification. Visitation hours will generally be on the weekends.

Visitors may bring certain gifts to the residents per DOC policy and treatment team approval. All items will be examined at the time of entry into OCP. Forbidden items include: weapons of any kind, cigarettes, alcohol or drugs, money in any form or any item deemed inappropriate by the security officer. All visitors will be searched before and after each visit by the security officer. Any contraband item will be confiscated by the officer and depending on the item, the visit may be denied and the police may be called.

The visits will take place in a specially designed visitation area, with play space for children and comfortable furniture. Visitation is not allowed in other areas of the building (i.e., residential, classrooms, etc.). Special occasions (holidays, birthday celebrations, etc.) may take place in common areas such as the dining room.

Physical contact between mothers and children is allowed in every appropriate way. Physical contact between all others is limited to holding hands. Conjugal visits are not allowed.

All minors must be accompanied by a responsible adult who will stay with the child during the visit. Unaccompanied minors will not be allowed at OCP.

If, during the visit, any disruptive behavior occurs or if any party becomes inappropriately emotional, the visit will be immediately terminated.

HEALTH CARE

OCP will coordinate a full range of health care services for all program participants. DOC is responsible for the cost of health care. OCP must obtain pre-approval for all medical appointments through the DOC's Utilization Review. OCP will coordinate all medical care provided to residents, including arranging appointments and assisting residents in completing any necessary forms. OCP will follow DOC regulations in securing and administering all medications to residents. OCP will bill DOC for all medical and prescription drug bills per DOC protocol.

Residents and children will be provided routine annual health care examinations and one sick call per month at no charge unless follow-up visits are requested by the attending medical personnel or in cases of chronic illness. Residents will pay a co-pay on a sliding scale for all non-scheduled visits above one per month.

When transportation of the resident inmate is required for medical or dental appointments outside the facility, OCP will provide transportation at its expense for all non-emergency appointments. In cases of emergency transport by ambulance or EMS, DOC is responsible for payment. OCP will arrange such transportation and notify DOC immediately. DOC will send a correctional officer to remain with the resident for the duration of the treatment. OCP will bill DOC for the cost of the emergency transport. An OCP staff member will accompany residents on all appointments outside of the facility.

OCP will provide the following health services to residents:

- Family Nurse Practitioner (FNP) on-site up to 4 hours/day, 5 days/week. Consultation will be available via telephone 24 hours/day, 7 days/week, 365 days/year for medical issues.
- Physical examinations on schedule as outlined in DOC Health Services policy
- Care of acute and chronic illnesses as well as minor injuries
- Emergency medical services
- Referrals to appropriate providers when OCP cannot provide a needed service

- Pre-natal care
- Collection and storage of all necessary laboratory specimens, including drug tests. All laboratory specimens will be managed according to Clinical Laboratory Improvement Amendments (CLIA) regulations.
- Inmate transportation for all off-site medical appointments and transfers; arranging transport by ambulance or EMS if emergency transport is required and billing DOC for the transport.

All medications will be kept in locked cabinets in the medical office and distributed at the times posted on the facility schedule by the FNP when s/he is in the facility. At other times, designated staff members will distribute prescribed medication at the indicated times. Standing orders will define the parameters of use of over-the-counter medication which OCP will provide to meet the needs of the residents. First aid materials will be available at all times as found in adequately supplied Red Cross First Aid kits which will be kept in the medication cabinet, child care center, kitchen, security office, and office of the Administrative Assistant.

OCP will provide customary hygiene products, such as deodorant, soap, and sanitary items, to residents. All cosmetic items such as shampoo, conditioner, makeup, etc. may be purchased at the canteen at the expense of the resident.

OCP health care personnel will follow DOC formulary in prescribing for residents.

DOC will provide dental services to resident inmates. OCP is responsible for arranging dental care for children and billing the appropriate medical insurance as needed.

All medical records will be kept as stated in the section on Recordkeeping.

Health care at OCP will include a strong emphasis on healthy life style and wellness education. Residents will be given instruction on nutrition and healthy eating, disease prevention, benefits of exercise, relaxation and adequate sleep, and the effects on the body of smoking and alcohol/drug use. They will also be encouraged to practice a healthy lifestyle through opportunities to engage in recreational exercise, relaxation training, cooking healthy foods with their children, and other activities. An emphasis on healthy lifestyle will be coordinated with other parts of the program throughout OCP such as substance abuse treatment and child care.

INMATE ISSUES

Inmate/Staff Relationships and Consequences for Rules Infractions
An important aspect of mental health and substance abuse treatment is the establishment of healthy boundaries between the staff and residents. In addition, the residents of OCP are under the authority of DOC and OCP will uphold the boundaries established between inmate and staff set by that agency. Staff members are prohibited from sharing personal information with one resident that is not shared with other residents or spending time with a resident together outside the parameters of the program (i.e., break time).

OCP will adhere in every way to the standards of the Prisoner Rape Elimination Act (PREA) and no physical contact between staff and resident will occur outside the parameters of contact that are allowed in treatment.

Respectful language and behavior between staff and residents will be the standard at all times.

Residents may not sell or barter items at any time while at OCP. They may not borrow or use each other's possessions without permission of their treatment team.

Residents will not have intimate relationships with other residents, including any sexual contact. Any infractions of the above standards should be reported to the Executive Director or another staff member who will report directly to the Executive Director at the first opportunity by anyone who observes or has knowledge of the behavior. Staff issues will be dealt with in a range of ways depending on the severity of the incident, from further training on the issues to reprimand in the employee's file to termination of employment. Resident issues will be dealt with according to the severity of the incident, with consequences ranging from loss of privilege to termination from the program. All resident issues will be dealt with within the context of the treatment process with consequences meted out according to the Policies and Procedures Manual.

Exercise of Religion
Residents have the right to participate in the religion of their choice as long as there is no violation of DOC rules. Residents can request religious services of their choice at entry or any time during the program. OCP will make every effort to obtain services in any requested religion for worship at OCP.

Clothing
Residents will wear civilian clothing while in residence at OCP. Each resident can have five sets of clothes sent to OCP by family members and will change into civilian clothes

during the intake process. Those residents who do not have the income or support to obtain their clothing from outside OCP will be given clothing from donated sources. Clothing must be clean and appropriate as defined in the Inmate Handbook (i.e., no gang symbols and no exposed cleavage).

Canteen

A canteen will be open for designated periods during each day. OCP will choose the items offered for sale from DOC's standardized canteen list. Only commercially prepared items will be offered for sale. No contraband, homemade or donated items will be offered. Canteen items will be offered at prices comparable to those charged in DOC facilities. OCP will use a cashless system and withdrawals posted to the resident's account electronically. Spending limits will be the same as those currently in place at minimum security prisons in North Carolina.

Contact with Family Outside OCP, including Telephone and Visits

Visitation is described elsewhere. OCP will develop specific telephone procedures that comply with DOC policies and procedures such as the ones listed below.

- OCP will provide telephones in sufficient numbers so that residents will have appropriate access to telephones for outgoing calls.
- Collect calls to persons on the approved list of 10 minutes per call are allowed at scheduled times. Phone calls may be longer under certain circumstances related to treatment or as an incentive or reward for performance.
- All phone calls may be monitored or recorded if deemed necessary for the security of the facility, staff, and residents or the treatment needs of the individual.
- Residents will not have access to cell phones or calling cards.
- Resident access to telephones may be suspended through the disciplinary process per the Policies and Procedures Manual. In addition, OCP may terminate telephone privileges for the security of the facility.
- Calls to attorneys using office phones may be approved by the Executive Director or designee who will authenticate the person receiving the call. These calls will not be monitored or recorded. The director will document all calls to attorneys, including length of call and date, and all cases in which telephone privileges were suspended, giving full account of the reason for suspension.
- In cases of emergency (such as death in the family), to be determined by the Executive Director or designee, residents can use an office phone to make calls.

Permission for Residents to Leave Facility

Some residents are eligible to leave the facility on work release, home visits or other reasons depending on their level, past history, scheduled date of release or treatment

status. All decisions regarding permission to leave will be approved by the Executive Director or designee on recommendation of the treatment team and agreement of DOC.

Handling/management of money
OCP will operate on a cashless system with all deposits, expenditures, and balances in electronic form. OCP will coordinate with DOC the management of the residents' funds including the following issues:

- Possible establishment of accounts at OCP
- How to handle remaining funds when a resident leaves OCP
- How to transfer funds from her account to her child/ren living in the community
- How to deposit money into an account, verifying who can make a deposit and the process for doing it

A resident may spend up to the amount currently allowable in minimum security facilities in North Carolina for all expenses on site.

TERMINATION

In extreme circumstances, participants will be removed from the program. Recommendations for termination will be based on the health and safety of the child/ren, other participants, and/or staff, a threat to the security of the program or noncompliance to the degree that the effectiveness of the program is compromised. A resident may also terminate voluntarily if she chooses to leave the program. All termination decisions will be made by the Executive Director in consultation with the treatment team and DOC officials. In all termination cases, the woman will return to prison and her child/ren will be placed in the community per prior agreement or under the auspices of Department of Social Services (DSS).

Termination may occur in different ways. In cases of substantiated abuse of a child or serious threat to staff or other residents, immediate termination will occur. In cases such as nonparticipation in treatment or work programs, use of profanity or disrespectful treatment or language toward residents and staff for example, a series of progressive consequences (i.e., warning, loss of certain privileges, etc.) will precede termination. Offending behaviors and consequences are spelled out in the Policies and Procedures Manual.

OCP's Grievance and Appeals Policy will apply to all termination cases, which can be appealed to the OCP Appeals Committee if the resident desires to remain at OCP. This policy is described in the Policies and Procedures Manual. If the termination is upheld by OCP, it will then go through the appeals process at NCCIW.

Safety to Child/ren
In cases where the safety of a child is in question or the child is in imminent danger due to the mother's actions, the child will be temporarily removed from the mother pending an investigation. A referral to the local DSS will be made. The child will be placed temporarily with an emergency contact on record if possible. If the allegation of abuse or neglect is not substantiated, the child may be returned to OCP.

STAFFING

OCP recognizes that staff of all levels will be the backbone of the program. The agency will seek to attract and keep staff with the highest qualifications and experience in their field and, just as importantly, who are persons of warmth, optimism, and integrity. Recruiting efforts will target professionals who have experience treating individuals with co-occurring disorders (substance abuse and mental health), are willing to work within a flexible time frame, and able to perform multiple tasks including individual and group work, family therapy, and case management.

Non-professional staff are equally as important as professional staff. Aides and kitchen staff (for example) will be working with residents at highly vulnerable times and often away from the direct supervision of professional staff (such as during the night shifts).

OCP puts a high priority on initial and ongoing training for all staff in effective work practices with the residents and children at the facility. By the time the first residents arrive the staff will have established standard procedures and policies for clearly communicating important information among all levels of staff. Communication guidelines will include both what information needs to be conveyed and to whom and how the information will be conveyed and documented.

OCP welcomes applications from ex-offenders and those recovering from substance abuse because these individuals will have a personal understanding of the issues the residents bring to the program. Guidelines for hiring staff from the ex-offender and recovery communities will be in place at opening and will include documentation that the applicant has demonstrated a stable and crime free, drug free life for at least three years. Applicants from these communities will undergo the same background checks and approval of DOC that are required of other staff.

Staffing patterns are important to make sure:

- residents' needs are met at all times
- security is provided
- staff is utilized in the most efficient manner.

The following staffing pattern is proposed, though it will be adjusted as needed to meet the above goals after opening.

Weekly Schedule By Staff Category

Clinical Staff

- 7 direct staff (substance abuse counselors and clinical social workers) plus clinical manager
- 4 to 6 staff present in 8-hour staggered shifts from 8:00 a.m. to 9:00 p.m. each week day
- 2 staff present on weekends in 2 shifts from 9:00 a.m. to 8:00 p.m. on Saturday and 11:00 a.m. to 6:00 p.m. on Sunday (to supervise and process family visits, run groups, and be available for emergency counseling)

Security Staff

- 3 full-time and 2 part-time
- 1 staff present for each 8-hour shift during the week (work 40 hours during the week)
- 1 part-time staff present for each 12-hour shift during the weekend (work 24 hours during the weekend)

Mental Health Aides

- 8 full-time and 4 part-time aides
- 3 aides during each of the two shifts from 7:00 a.m. to 11:00 p.m. during the week
- 2 aides during the night shift from 11:00 p.m. to 7:00 a.m. during the week
- 3 aides from 7:00 a.m. to 7:30 p.m. during the weekend
- 2 aides from 7:00 p.m. to 7:30 a.m. during the weekend

Child Care Staff

- 3 teachers and 4 teacher aides stagger schedules to provide coverage from 7:30 a.m. to 5:30 p.m., Monday through Friday
- There are no child care center services on the weekends or holidays.
- The Child Care Center Manager will be present each week day and will vary his/her schedule to meet program demands.

Management Team

- Executive Director, Administration Manager, Assistant Manager, Clinical Manager, Child Care Center Manager
- 3-4 Management Team members present from 7:00 a.m. or 8:00 a.m. to 6:00 p.m. or 7:00 p.m. during the week
- 1 Management Team member present from 9:00 a.m. to 5:00 p.m. on Saturday and Sunday

Note: Staffing patterns will be arranged to provide maximum coverage during times of greatest need such as morning wake up and evening bedtime. Hours may be adjusted once the facility is fully operational.

Holiday coverage will be arranged so that all categories of staff are present throughout the schedule in the same patterns as non-holiday times, though the numbers of staff may be fewer.

It will be the responsibility of the Clinical Manager to oversee the staffing patterns of clinical staff and the responsibility of the Administration Manager to oversee the staffing patterns of non-clinical staff. At times of reduced staffing, Management Team members will rotate on-call to provide assistance when needed.

See Appendix E for staffing spreadsheets.

VOLUNTEERS

It is expected that volunteers will play an important role at OCP, from providing recovery and spiritual support to serving as liaison to community groups who give resources to OCP (i.e., acquiring, sorting, and managing a clothing closet for children and adults at OCP). An important aspect of the use of volunteers in a mother/child prisoner project is providing thorough and ongoing training as well as oversight for the volunteers. The Community Liaison at OCP will be in charge of the volunteer program which will begin six months after OCP opens its doors. The Community Liaison will work with DOC to obtain a criminal background check on all persons who apply to volunteer at OCP and compile a list of potential volunteers who meet all DOC and OCP criteria. Applicants with a history of violent behavior or any kind of abuse against children will not be accepted as volunteers at OCP. Volunteers who have a criminal background or are in recovery are welcome to apply and must give evidence that they have a substantial history of recovery and/or crime free life and are engaged in productive community life and must be approved by DOC.

All volunteers will be interviewed for insight into their interest and motivation for work at OCP. Once approved, volunteers will attend training sessions that provide a background in OCP mission, policies, and programs as well as training in positive ways to interact with residents and their children. They will also receive PREA training by DOC. Beyond the general training for all volunteers, there will be more detailed training for those working directly with women or children. Boundary rules will be clearly explained to all volunteers, including prohibitions on carrying messages or items to or from the resident and any person outside OCP and on developing relationships with residents outside the limited volunteer role. They will also agree to report

immediately to staff any knowledge they have of violation of OCP policy by residents. A Volunteer Manual will outline the duties and responsibilities of both OCP and the volunteers in detail.

All volunteers will sign an OCP form agreeing to all conditions of volunteer work at OCP.

FACILITY

Deerfield Cottage is a vacant, two-story building located at 71 North Broad Street on the campus of the John Umstead Hospital in Butner (Granville County). The 52,000-square foot structure consists of two wings built in the late 1930s connected by a third wing that was built in the 1970s, resulting in a U-shaped building with a sizable courtyard. After a hole in the roof caused first- and second- floor water damage, the building's roof was replaced in the fall of 2007. The second floor is not being renovated and used in this first phase because the first floor meets current needs and there are no funds for renovation of the second floor and elevator at this time.

OCP will lease the building for $1 from the State of North Carolina. The facility will meet the standards of a minimum security corrections facility and provide the screenings and security procedures required by DOC.

In the summer of 2007, the State Construction Office selected Angerio Design, an architectural design firm, to oversee the renovation of Deerfield Cottage. Since that time, OCP Board and staff members have worked closely with the firm and a number of community stakeholders to design a warm, safe, and secure environment for young children and their mothers.

The physical environment will be configured with the comfort and security of children and mothers at the forefront.

The renovation plan includes space for the following:

- living quarters for the women and children
- child care center
- counseling offices
- administrative offices
- dining room, kitchen, canteen
- multi-purpose rooms (potential uses include classrooms, library, exercise)
- laundry facilities

- medical exam and waiting room
- visitation
- security
- intake.

Deerfield Cottage will be a locked facility with security staff checking in visitors at the front entrance. The left wing of the facility contains the living quarters. The arrangement is suite-style living with each family (mother and her child/ren) sharing a bedroom, with two or three families sharing a living room and bathroom. The intake office is located at one end of the wing, with the overnight staff office at the other end.

The intake office will be the entry point for the women being transported to the facility by DOC. It is anticipated that the women will arrive in prison uniforms and restraints. The intake office is designed to provide the women with space to change into civilian clothing so that the children do not see any of the women restrained and/or in a prison uniform.

Multi-purpose rooms, laundry facilities, medical exam and waiting rooms, security office, visitation room, and the child care center comprise the center wing. One of the multi-purpose rooms will be designated as a worship or spiritual retreat room, housing the materials used in the rituals of the various faith practices.

The child care center consists of three rooms (infants, toddlers, preschoolers) designed to meet the five-star day care center licensing standards. All three rooms open out to the outdoor/playground space.

Counseling and administrative offices, another multi-purpose room, canteen, dining room, and kitchen are located in the right wing.

The interior of OCP will feature comfortable furniture that is child appropriate, bright and inviting colors, and toys and activities suited to the child's cultural identity and developmental level, as well as open space to engage in physical activity. Individual living spaces are designed for safety and comfort. Artwork and other decorations in the facility will reflect the range of cultures of families in the facility. In addition, the physical facility will provide opportunities for mother and child to engage in activities that are enriching and normalizing such as climbing, water and sand play, and picnicking.

The Natural Learning Initiative at North Carolina State University is working with OCP to design an outdoor courtyard space which encourages enjoyment of the natural world. In this large area, spaces for exploration, creativity, gardening, play, relaxation,

spiritual retreat, outdoor eating, and physical exercise (including a basketball court already in place) will invite participation in ways that offer refreshment in the midst of a busy schedule.

A parking area is located across the street from the facility.

Appendix A contains a status report on the building renovation. Appendix F shows the latest version of the renovation plans.

SECURITY

Security is a major issue at OCP and one which will be managed with utmost care. OCP will follow DOC regulations regarding security in a minimum security contract facility. At this time it is not known whether a DOC staff member will serve as a security officer at OCP. If not, OCP will request a liaison at DOC so that security issues can be dealt with as they arise. Security staff will be present in the facility at all times and will screen all incoming residents, visitors, and mail and monitor phone calls and movement within the facility.

Search and Seizure Policies

OCP will follow all DOC requirements and regulations regarding search and seizure including frequency, personnel required, how to handle contraband found in a search, documentation, and follow up. Resident women and children and visitors coming into and leaving the facility will be searched according to DOC protocol. All searches of residents will be conduced by female officers. All items, including all letters and packages, coming into the facility for an inmate will be handled per DOC protocol. Any contraband items found in a search will be confiscated and the offender will be dealt with according to OCP Policies and Procedures Manual. All resident-originated mail leaving the facility is subject to search as well, with any mail containing offending messages being confiscated. DOC will be notified of all cases where mail is withheld or items are confiscated.

Telephone calls by residents may be monitored or recorded.

Visitors

All visitors to residents at OCP must be on the approved list of visitors. Each person will fill out an application including relationship to resident and reason for visit. This list will be forwarded to DOC for approval and DOC will inform OCP of which persons are approved for visits. Approved visitors will come at designated times only and will be subject to search by the security officer in charge. In addition OCP may limit or deny visits based on programmatic issues. See section on Visitation for more details.

Supervision Within the Facility
Security officers will be on duty and monitoring the facility at all times. Security cameras will be located at sites per DOC requirements. Security officers will maintain current records of all security checks and procedures. All breaks in security will be reported to DOC immediately.

Entering and Leaving OCP
All adult residents who leave OCP for any reason will be accompanied by a staff member unless there is permission from DOC to go into the community with a volunteer or a family member. All residents, adult and child, will be searched on their persons and belongings on leaving and return. Residents being admitted to OCP will come through the intake office; those already in residence may leave through the front doors and will be searched in the security officer's office located nearby.

Communication with DOC
OCP will communicate on all security issues per DOC contract, including regular and random searches and any seizures of property. Any break in security will be reported immediately to the designated DOC official. OCP will request a designated DOC liaison with whom any unforeseen security issues can be resolved.

ACCREDITATION AND LICENSURE

OCP as a facility is not required to obtain a license to operate. There is no applicable North Carolina mental health or substance abuse license for OCP for two reasons:

1) a diagnosis is not required for admission and
2) the purpose of the facility is much broader than the delivery of mental health and substance abuse services.

All professionals providing services at OCP will be required to hold the licenses of their disciplines.

OCP will seek accreditation from a national accrediting organization in the field of human services such as Council on Accreditation (COA) or Commission on Accreditation of Rehabilitation Facilities (CARF) as soon as eligible. Such accreditation provides the independent oversight and periodic review that shows the program and facility are meeting the highest standards in the field.

Although a child care center license is not required because the mothers are residing in the facility, OCP is using the licensing standards as the basis for both program development and building renovation. Longer-term plans call for OCP to seek a

license, with the goal of obtaining a five-star license within two years. The five-star rating shows that a center meets North Carolina's highest standard of licensure.

RECORDKEEPING

The following records will be kept at OCP. All records will be kept in locked files in accordance with the policy of the agency with jurisdiction over the information.

Inmate Records
Inmate records will be kept in the office of the Administrative Assistant under the supervision of the Executive Director and will include at least the following:

- Personal records of the inmate
  - Social security number
  - Birth certificate
  - Child custody records
  - Inventory of personal belongings brought in, taken out, and acquired while at OCP
- Work history at OCP: job placement/employer, title, duties/job description, start and end dates, number of hours worked, performance evaluations
- Financial records: money brought in, acquired, and spent while at OCP
- Visitation records
  - Record of who is allowed and who is denied visitation privileges with documentation from appropriate agency
  - Record of all visits from outside parties, duration, those present, supervision by staff, and any unusual events during or after visits
- Any other paperwork as required by DOC such as judgments, commitment orders, infractions or correspondence with DOC and court system

Medical Records
OCP will adhere to its Health Insurance Portability and Accountability Act (HIPAA) policy in maintaining all of the following records. All medical records will be kept in the medical office under the supervision of the Family Nurse Practitioner and will include at least the following:

- Intake examination at NCCIW
- Intake assessment at OCP
- Record of immunizations, any medical conditions with history, and care plan for any chronic conditions

- Medication history, including supervision of administration and any changes in prescription drugs
- Record of all visits to medical personnel, inside and out of OCP

Treatment Records

Treatment records relate to the substance abuse and mental health treatment of the residents and their children. They are divided into two categories: the general aspects of the treatment and the individual resident or child's participation and progress in the treatment. OCP will adhere to the OCP HIPAA policy and the federal and state laws governing substance abuse and mental health records. All records listed below will be kept in the office of the Administrative Assistant under the supervision of the Executive Director with access limited to individual residents' charts to those with privilege to see the records.

General program records will include at least the following:

- Copies of curricula
- Training plans and records, including names and contact information of trainers
- Evaluations of program with notes about suggested changes
- Schedules
- All forms used in program administration such as tests, self monitoring forms, and attendance forms

Each resident (mothers and children) will have an individual secure record which contains at least the following information:

- All mental health and substance abuse treatment records which document treatment plans, psychiatric and biopsychosocial assessments, progress notes, medications, labs, and release of information plus any other relevant treatment records
- Parent coaching and training records of adult residents which document level of participation and development of skills

Child Care Records

Child care records will be maintained in files in the Child Care Center Manager's office. Child specific records will be in locked files and general center records will be in unlocked files.

Child specific records kept in locked files will include at least the following:

- All medical and health records including immunization and health history, developmental screens and assessments, and emergency care information
- Parent information, including contact records and signed consents
- Incident reports
- Individualized Education Plan (IEP) for 3- to 5-year-olds

- Individualized Family Plan (IFP) for birth to 3-year-olds
- Child Transition Plan

General child care records kept in unlocked files (not an exhaustive list):
- Policies and procedures of the center
- Copies of all required agreements, consents, and information forms
- Lesson plans
- Copies of curricula
- Attendance records, meal counts, feeding plans

Child care staff records will be kept with other staff records.

Program Records
Program records detail the non-treatment components of the program for residents and their children at OCP, such as gardening, recreation, stress reduction classes, etc. They are divided into two categories: the general aspects of the program and the individual resident's participation and progress in the program. These records will be kept in the office of the Administrative Assistant under the supervision of the Executive Director.

General program records will include:
- Copies of curricula
- Training plans and records, including names and contact information of trainers
- Evaluations of program with notes about suggested changes
- Schedules
- All forms used in program administration such as tests, self monitoring forms, and attendance forms

Individual program records will include at least the following:
- Academic and vocational training records which document attendance, performance, and achievement
- Work program (kitchen/child care/other) records which document attendance and performance
- Attendance at other program offerings: recreational, music, art, gardening, spiritual activities
- Any applicable licenses or certifications obtained through program participation
- Recommendations and references

Staff Records
Staff records will be kept in the office of the Executive Director under his/her supervision and will include at least the following:
- Hiring and termination

- Salary and benefits
- Awards and promotions
- Disciplinary actions

Facility Records
Facility records will be maintained in the office of the Administrative Assistant under the supervision of the Executive Director and will include at least the following:
- Licenses which include child care center
- Inspections (kitchen, fire, etc.)
- Fire drills
- Accreditation

Security Records
Security records will be maintained in the office of the Security Supervisor under his/her supervision and will include at least the following:
- Routine security checks
- Search and seizures, planned and unplanned
- Reports to DOC
- Visitor searches, any seizures or infractions of policy
- Intakes and discharges

Kitchen Records
Kitchen records will be maintained in the kitchen under the supervision of the Food Services Supervisor and will include at least the following:
- Child and Adult Care Food Program (CACFP) records
- Health Department food safety inspections
- Records of special diets and compliance
- Work records of inmates: weekly record of hours worked which will be transferred on a regular schedule to the residents' files
- Menus
- Food purchases and use
- Budget.

KITCHEN MANAGEMENT AND NUTRITIONAL REQUIREMENTS

The kitchen at OCP will serve three meals a day for up to 20 adult residents and up to 40 preschool children six days a week with two meals served on Sunday. Holidays may have a different schedule. In addition staff may purchase meals by prior arrangement each time meals are served. The children will receive their noon meal in the child care

center Monday through Friday. Meals will be provided without cost to mothers and children. Staff will sign up on Friday for the meals they will eat the following week.

Nutritional requirements of women and children will follow DOC Policies and Procedures for food services. Caloric intake and special nutritional requirements as determined by a medical professional will be specifically addressed in meal planning. Children living at OCP are eligible for meals under CACFP due to their being enrolled in an approved child care center and having low income status. OCP will meet the standards of this program and adhere to all guidelines to access any available funding for food. OCP will contract with a licensed dietician to develop menus that meet all requirements of the USDA's Dietary Reference Intakes and CACFP. These menus will be submitted to DOC on a schedule determined by the contract.

Staff will include one full-time Food Services Supervisor and one full-time staff person, with one part-time relief staff. Residents will work in the kitchen in two shifts of three persons per shift under the supervision of the paid staff. The two paid staff will divide the shifts from Monday through Saturday when three meals are served and rotate Sunday when brunch and supper are served, with relief staff filling in as needed.

The kitchen does not require a license since it will not be sending meals outside the facility. It will meet the standards of the North Carolina Department of Environmental and Natural Resources, Division of Environmental Health Services, for a commercial kitchen. OCP will ask for quarterly inspections to assure the highest quality of food service delivery and will work closely with DOC Food Service Management to access help with food management, food supply, and dietary compliance.

PROGRAM EVALUATION

The following document is the working paper for the program evaluation for OCP. The Program Committee, with committee member Wayne Foster as project chair, will develop the framework for OCP's program evaluation over the next several months. The committee anticipates that the framework will be complete by the end of 2009 or early 2010. This document is intended to show how OCP will proceed and is not a finished document. Any of the assessment tools could be changed in favor of tools that more accurately fit our goals.

Introduction

The program evaluation process was created as one means for adhering to the mission and vision of OCP. The overall goal for program evaluation is to set forth a systematic plan for collecting and analyzing essential data. The program detailed in this report:

a. Explains in detail many of the major desired outcomes of OCP
b. Identifies specific indicators of those outcomes
c. Lists the tools that will be used to measure those indicators
d. Details when and how the data will be managed
e. Provides a mechanism for analysis.

It is expected that program evaluation will need to be both consistent yet flexible in its application as new or different questions are asked regarding outcomes or efficacy. Some measures may be added, deleted or modified.

This report is divided into two sections. Section 1 pertains to the outcomes associated with the children and Section 2 for the mothers. This is a distinction of convenience, in that one of the major objectives is for the mother-child pair to be fully functional, developmentally appropriate, and socially/emotionally/intellectually rewarding.

Program Evaluation Committee
A Program Evaluation Committee will be created to:

A. Ensure that data is being collected in a timely fashion, as identified in this document, and entered into the OCP Program Evaluation Database consistently
B. Make decisions as to how the program evaluation may need to be altered as OCP matures and changes
C. Determine how various forms of data should be managed (e.g., qualitative data) in database
D. Coordinate and oversee the process for writing the annual Program Evaluation Report
E. Assure fidelity of the overall program evaluation process.

The Program Evaluation Committee should consist of at least one administrator, one line-staff member, a member of the OCP Board or designee, an individual responsible for program development, and the individual who is charged with data management and/or program evaluation. This Committee should meet monthly during the first year and quarterly thereafter. Each member of the Committee should sign-off on the Program Evaluation Report.

Program Evaluation Report
On an annual basis or at other times dictated by the administration of OCP a Program Evaluation Report will be generated. The goals of this report will be to:

A. Generate a mother-level, child-level, and program-level report on the progress made in the domains (psychosocial development, health, language development, and school readiness) specified in this document
B. Analyze the quantitative and qualitative data obtained over time using appropriate statistical tools and report the results objectively
C. Identify OCP strengths and needs based on the analyses
D. Compare, when applicable, OCP outcomes with other outcomes from other similar or dissimilar programs for incarcerated women (and their children), and
E. Make recommendations on program enhancement.

Program Evaluation Database
A database will be created and maintained with the following components and specifications:

A. The database will be created such that:
   - Individual child and mother data can be entered and maintained for each domain of interest
   - The database will be created such that variables can be entered in numerically coded format if possible, e.g., female = 1, male = 2. This will facilitate statistical analysis.
   - Assessment scores will be entered to include the raw data scores as well as the generated standard or scaled scores.
   - Scores will be maintained with the date of testing and other pertinent data related to the testing, e.g., administrator.
   - Other critical information can be entered (e.g., testing irregularities)
B. An interface 'page' is created to identify pertinent background information on the residents and their children,
C. Data can be exported in formats amenable to statistical analysis, graphing, charting, and tabling,
D. Information can be filtered or sorted as needed, and
E. Data can be maintained longitudinally.

Section 1 - Child Measures
For the children who will be attending OCP with their mothers, four major domains to be measured have been identified. Listed below are these four domains, the essential question to be assessed for that domain, and the specific areas within those domains for which data will be collected.

1. Psychosocial development – Is the child exhibiting age appropriate psychosocial development?
   a. Self-regulation

b. Compliance
c. Adaptive Behavior
d. Other areas as identified by the Program

2. Health - Is the child healthy?
   a. General Health
   b. Vision and Hearing
   c. Gross Motor Development
   d. Fine Motor Development
   e. Other medical information
3. Language development - Does the child exhibit normal communication skills?
   a. Communication Skills (How language is used or pragmatics.)
   b. Language Development
   c. Speech/Articulation Development
   d. Other pertinent information regarding communication
4. School readiness - Does the child possess the skills and behaviors associated with positive school readiness?
   a. Literacy Development
   b. Writing Development
   c. Behavioral Characteristics
   d. Other

Assessments

The assessments were selected on the basis of several important criteria. First, the assessment must be comprehensive and in-depth enough to provide valid information on the child but not so complex that professional evaluators (e.g., psychologists, speech/language pathologists) are required to give and interpret the results. The measures must be reliable as they may be given (or their alternate versions) on more than one occasion. Finally, the data they provide must be amenable to quantitative analysis, i.e., provides a score that identifies how the child is progressing along a developmental continuum. Most of the assessments were identified in the focus group session held by OCP.

The assessments selected are shown in Table 1.

Table 1. Child Assessments

Psychosocial Development	General Health	Language Development	School Readiness
Ages and Stages Questionnaire (ASQ3)	Medical Evaluation	Language Samples	Phonological Awareness Literacy Screening (PALS)
Child Behavior Checklist (CBCL)	Ages and Stages Questionnaire	Ages and Stages Questionnaire	Ages and Stages Questionnaire
		Ages and Stages Questionnaire: Socio-Emotional (ASQ-SE)	Child Behavior Checklist
		Articulation Screening Checklist	

The child program evaluation was designed so that a limited number of assessments could be utilized for multiple areas. The Ages and Stages Questionnaire, the Ages and Stages Questionnaire: Socio-emotional, and the Child Behavior Checklist report scores in multiple areas and these subtest scores are used as part of the data collection in different domains. Appendix G provides additional information on the assessments selected.

It is important to note that these are individually, but particularly when taken together, a comprehensive screening program. There is purposeful overlap is to increase the validity and reliability of the overall assessment program. Table 2 shows additional details on the subtests to be utilized for each domain.

Table 2. Assessment subtests utilized for each domain.

Domain	What is assessed?	Assessment Name	Subtests
Psychosocial Development	Self-Regulation	ASQ-SE	Self-Regulation
	Compliance	ASQ-SE	Compliance
	Adaptive Behavior	ASQ-SE	Adaptive Behavior
General Health	General Health	Medical Visit	
	Hearing and Vision	Medical Visit	
	Gross Motor Development	ASQ3	Fine/Gross Motor Assessment
	Fine Motor Development	ASQ3	Fine/Gross Motor Assessment
Communication	Language Production	Language Sample	Mean Length of Utterance
	Language Comprehension	ASQ: SE	Language Score
	Articulation	Articulation Screening	Articulation Score
School Readiness	Literacy Development	PALS	Literacy Score
	Writing Development	PALS	Writing Score
	Compliance	ASQ3	Compliance
	Attention	CBCL	Attention Problems

Each of these assessments yields a score that will be entered into the program evaluation database and maintained longitudinally. The schedule for these assessments is shown in Table 3. Decisions as to when or how a child will be assessed are the domain of the child's team. In most cases the Assessment Protocol/Timetable should be followed but exceptions could occur. The following factors should be considered:

A. OCP Assessment Protocol: The data from the assessments will not only drive the decision-making process with regard for programming and services for the children but will also be utilized to determine the overall effectiveness of OCP as a program. Therefore, the assessments should be obtained as per the schedule for each child. The child's team or the administration of OCP must approve any changes in the schedule for testing.
B. Age of the child: Not all measures are appropriate for all ages. For example, the PALS, an assessment of school readiness, will not generally be appropriate for children under the age of 4 years. The communication measures, on the other hand, are applicable and appropriate at all ages. The Assessment Protocol reflects age

appropriateness. The child's team should consider age appropriateness in any recommendations for testing.

C. Areas of concern: A child's history, testing data, and/or child observations may identify area(s) of concern that might indicate the need for testing. Testing outside the formal protocol is acceptable based on a team decision.

D. Other: The child's team may request assessments for a variety of other reasons. For example a child may be found to have otitis media that could have impacted the validity of previous assessments. Post-medical treatment testing may be needed to establish more accurate/reliable information. The child's team has the authority to make any changes necessary to the basis testing protocol.

Table 3. The Assessment Protocol/Timetable

ASSESSMENT	TIMETABLE
Medical Evaluation	Admission Yearly Discharge As necessary
Vision/Hearing Screening [vision: Snellen chart or Symbol Vision Chart; hearing: audiometer or OAE (otoacoustic emission)]	Admission Yearly Discharge
ASQ3 - Gross/Fine Motor	Admission (or beginning at 1 month of age) Yearly As necessary Discharge
Language Sample	Admission (or starting at 1 year of age) Every 6 months until age 3 years and then yearly until age 6 years) Discharge
ASQ3 - Communication	Admission Yearly Discharge As necessary
ASQ: SE - Language Score	Admission (or at 6 months of age) Yearly Discharge As necessary
Articulation Screening	Admission if 4 years of age or older or beginning at 4 years Yearly Discharge
PALS (Literacy and Writing)	Admission (or starting at 4 years of age) Yearly Discharge As necessary
CBCL	Admission (or starting at 4 years of age) Yearly (until 6 years of age)

Additional Screenings and Diagnostic Testing
The results of the assessments may suggest the necessity for more thorough diagnostic testing. The child's team will be responsible for making the determinations as to what additional measures are needed, who will perform these tests, and how the tests will be administered (e.g., on-site versus off-site testing, when testing can be performed). The formal results will be maintained in the child's file and also summarized in the program evaluation database.

Training
The ASQ3, ASQ:SE and the CBCL are questionnaires that will require minimal training to administer. Each staff member identified to administer these tests as well as the PALS, language sampling, and articulation screening must have attended a four-hour training session (divided into one or two hour blocks as the schedule demands.

1. Administration and the Program Evaluation Committee must clear individuals assigned to perform any assessments.
2. Assessors must attend the complete compliment of training before administering any assessments.
3. Individuals selected by the Program Evaluation Committee and who have experience in the assessments will provide the training.
4. All training must include practice assessments.
5. Designated assessors must sign a confidentiality statement yearly.
6. Additional training will be provided whenever an assessment is added or changed.
7. Updates to training will be provided at least yearly or more often as needed.

Costs

The following costs are estimates obtained from the publishers of the various assessments.

ASQ3	The starter kit is $249.95 and the Scoring Guide is an additional $49.95. Website: www.brookespublishing.com
ASQ:SE	The starter kit is $249.95 and the Scoring Guide is an additional $49.95. Website: www.brookespublishing.com
CBCL	Two versions of the assessment should be purchased for ages 1.5 to 5 years and 5 years+. The costs are $295 and $195 respectively. The website is: www.ASEB.org
PALS	The PALS can be administered at a cost of $2.00 per child and a yearly cost of $6.10 per assessor to use the online, automatic scoring program. Contact: Ginna Glover Virginia Department of Education Office of Elementary Instructional Services 24th Floor Monroe Building P.O. Box 2120 Richmond, VA 23218-2120 Phone: (804) 786-1997 FAX: (804) 786-1703
Language Sample	Estimated $60 to prepare materials. No additional costs.
Articulation Screening	Estimated $60 to prepare materials. No additional costs.

These costs do not include training costs. Producing and conducting the training should not incur a cost of more than $500.

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APPENDIX A

Status Update on Deerfield Cottage

Deerfield Cottage is a vacant, state-owned, two-story building located at 71 North Broad Street on the campus of the John Umstead Hospital in Butner (Granville County). Former home of the Murdoch Center, the facility has been sitting unoccupied for more than a decade. With significant input from the Departments of Correction and Administration and others, OCP decided on this building as a potential site for the program. Over the past two years, OCP Board and staff members have worked closely with the design firm selected by the State Construction Office and a number of community stakeholders to design a warm, safe, and secure environment that will benefit incarcerated women, their children, and the State of North Carolina.

May 2005
OCP was awarded $96,224 in US Housing and Urban Development (HUD) funding for building renovation.

August 2005
A second HUD grant for $248,000, also for building renovation, was awarded.

Summer 2007
The North Carolina General Assembly appropriated $3.5 million for the renovation of Deerfield Cottage.

Summer 2007
The State Construction Office hired Angerio Design to oversee the renovation project.

Fall 2007
OCP Board and staff members began working intensively with Angerio Design on the renovation plan, beginning with design development.

OCP transferred $90,000 of planning money (FY05 appropriation) to the North Carolina Department of Administration to pay for the early design research and work done by Angerio Design.

Fall 2007
The state independently determined the need to replace the roof on Deerfield Cottage due to increasing building damage caused by water. State funding (independent of the $3.5 million appropriation) covered the approximate $244,500 fee for this work.

2008
The Design Development phase was completed. The State Construction Office reviewed the initial plans. Construction Documents were begun with continued site visits, facility committee meetings, and research into most cost effective building components used to minimize long-term costs and maximize efficiency for OCP.

Funds from the $3.5 million appropriation were committed to pay for the architect's fees beyond the additional $90,000 investment.

Winter 2009
Work continued on Construction Documents which are near completion as well as review/approval from DOC. (Because of state changes in the Butner campus facilities, utilities that once were obtained from a central plant will now be connected to public utility providers, requiring additional design work). Jennie Lancaster, DOC Chief Deputy Secretary, reviewed initial plans.

May 2009
OCP and Angerio Design learned that the $3.5 million (less the architect's fees) had been reverted back to the state's general fund.

IMPACT
From the beginning, OCP has drawn on federal and private funds to supplement the anticipated state contribution to the project. Federal funding (HUD) of $344,000 has been allocated for the construction costs. The State of North Carolina has already spent more than $335,000 towards renovation of Deerfield Cottage, and the renovation effort is virtually shovel-ready. Unless at least modest funds are allocated to allow for continuing the project, both of these contributions will have been wasted. If, however, at least $200,000 can be allocated for continuing construction in the next fiscal year, the project will continue to move forward and can be completed as soon as the economy recovers and full funding is restored. (A $200,000 allocation along with the $344,000 HUD money is sufficient to begin the brick and mortar renovation process, as well as bring the additional jobs and revenue to the state.) OCP is continuing to explore whether the project can be initiated and implemented in phases and how much can be done with $200,000 in state funding and $344,000 in HUD funding.

APPENDIX B

Financial Implications

Cost Savings

- Reduced incarceration costs (women)
- Reduced foster care costs (children)
  [Average annual cost to have a child (birth to 5-years-old) in family foster care = $5,700; Annual cost to have 40 children in family foster care = $228,000]
- Reduced future incarceration costs (children)

OCP has every expectation that short-term costs to the state will be minimal and long-term benefits substantial. The portion of the operating costs devoted to housing the women will be largely paid for by the regular DOC appropriation per prisoner. Right now, it costs over $27,000 per year for each female prisoner housed by DOC, which means that North Carolinians would be spending almost $550,000 to house the 20 women regardless of the site of incarceration. Further, OCP hopes to fund a significant portion of the costs related to the child care aspect of the program from existing state and federal child-service programs. Additionally private individuals, faith communities, and foundations have stated their commitment to financially support this innovative approach to the burgeoning issue of incarcerated women and their children.

The long-term cost savings to the state offered by OCP should not be ignored. A study in Ohio has shown that a program like OCP can lower recidivism from 30% to 11% - a 20% drop in incarceration rate which can save the state hundreds of thousands of dollars a year in the future. Further, since children who live with their mothers are less likely to be incarcerated or enter the juvenile justice system later in life, OCP anticipates significant savings on an intergenerational basis.

It will be an essential and ongoing task of both OCP staff and researchers to analyze all the costs/benefits of OCP including, importantly, financial implications of this program. The impetus is clearly to maximize benefits and minimize costs. While OCP has some information on finances at this time, many specifics of the funding streams will only be available as the agency approaches the final months before opening (e.g. funding qualifications are modified from year to year for programs such as Smart Start, More at Four, and Early Head Start, making it impossible to accurately predict specific dollar amount contributions from these programs.)

APPENDIX C
Child's Schedule

TIME	ACTIVITIES
7:30 a.m.	Arrivals and Greetings - Teachers greet children and mothers. Preschoolers sign in with mother's assistance as needed.
7:35 a.m.	Hand Washing - Mothers help their child to wash their hands.
7:40 a.m.	Daily Parent Involvement - Mother and child: 1) find the child's name on the Jobs Chart (children are given daily job responsibilities defined as helpers and leaders, i.e., line leader, door holder, table setter, plant waterer, fish feeder); 2) walk and do an Activity Center Review to identify new theme-related items added that child may have interest in doing during center time/free choice; 3) read/review illustrated Classroom and Outdoor Rules posted on wall, i.e., walking feet indoors, helping hands, etc.
7:50 a.m.	Child Planning/Fine Motor - Preschooler to draw pictures of where he/she plans to play during center time/free play and mother writes child's words on paper. The plan is placed in child's cubby before mother leaves. Puzzles, stringing beads, legos, theme related books, and other selected toys to strengthen fine motor and eye-hand coordination are on table for children's play.
8:00 a.m.	Clean-Up - Transition with clean up song, finger plays, nursery rhymes. Children who finish cleaning join teacher on carpet for story before going to toilet and wash hands.
8:10 a.m.	Toileting/Hand Washing - Transition with songs, finger plays, music, and nursery rhymes
8:15 a.m.	Breakfast Preparation - [indoors or outdoors] Child helpers wash hands and set table. As children finish washing their hands and are seated at tables, teacher uses Chef Combo nutrition puppet to involve the children in discussion about the good healthy foods they will taste and eat, colors of the food, food groups, etc. [Mothers whose schedules permit are encouraged to eat with children]
8:30 a.m.	Breakfast - Silent thanks/serving and eating family style, child-focused informal conversations during meal. Volunteering mothers and teachers sit and eat with the children.
9:00 a.m.	Tooth Brushing/Story time - As children finish brushing, they select a book and sit in their special place to read until all children ready, then books are put away for teacher or mother to read story to large group.
9:15 a.m.	Circle time [large group, indoors or outdoors] - Child helpers assist teachers in leading discussion of theme. Other circle time activities include: music and movement, language [i.e. word wall], mental health-Second Steps curriculum activity, safety, weather, calendar, child planning follow-up (children get their plans, made that morning when their mother was present, from cubby and decide if he/she would like to change any of their plan as they consider their center free play selections). Guest speakers are invited for show and tell (i.e., fire department, library or a mother or family member sharing their talents).
9:30 a.m.	Center Time/Free Choice [individual or small group] - Children choose [theme enriched] activity centers to play in as teachers take anecdotal notes and facilitate learning of concepts by asking children open-ended questions as they build and create with blocks and carpentry; do housekeeping/dramatic play-children role play (i.e. singing into a microphone and dressing-up); do art/creative work (i.e., children paint at easels, play with play dough, paste, cut and glue materials to make their own creations); follow computer directions to learn alphabet, colors and number games; play with musical instruments; match and count in the math center; assemble puzzles; have puppets shows; prepare snacks at the nutrition center by reading picture recipe cards; write letters (adult writes child's words) at the writing center to family and friends in the community and place letter in envelope and mailbox; listen to teachers read stories one-on-one or in a small group; select and read books in library area; play at sand and water tables, and at science center feeding fish and predicting and charting outcomes of experiments.
10:30 a.m.	Clean-Up - Transition with songs, finger plays, and music
10:35 a.m.	Recall/Story time [large group/indoors or outdoors] - Children gather and discuss where they played and if they did what they planned. Children select story they want to hear (if familiar story, a child can read to group).
10:50 a.m.	Toileting/Hand Washing - Transition with songs as children dress for outdoor play, i.e. putting on coats as needed
11:00 a.m.	Outdoors [small and large muscle play] - Climbing, running, circle games, parachute, sand and water tables, hoola hoops, music, balls, jump rope, slide, tricycles, gardening (planting and caring for vegetable and flower garden), climbing on rocks, and taking walks in our natural learning environment and in our neighborhood
12:00 noon	Toileting/Hand washing - Transition with Songs

APPENDIX C
Child's Schedule

TIME	ACTIVITIES
12:05 p.m.	Lunch Preparation - [indoors or outdoors, weather permitting] Child helpers set table for lunch. Teachers show children food pyramid or use Food Groupies and talk with children about the categories of the foods they are having for lunch, i.e. fruits, vegetables.
12:10 p.m.	Lunch - Silent thanks/serving and eating family style. Adults facilitate conversations of interest to child during meal. Cots put down in room with cover and pillow or child's favorite stuffed animal
1:00 p.m.	Rest Time - Soft lullaby or classical music plays.
3:00 p.m.	Toileting/Hand washing - Teachers gently awaken children from rest. Cots and personal items are stored.
3:15 p.m.	Snack - Child helpers set table and put out snack.
3:45 p.m.	Story time/Outdoor Time/or Indoors Free Choice - Teacher or mother reads a story to children. Children go outdoors and climb, slide, assemble puzzles and read books at picnic table, participate in relay races, paint with water on outside wall, draw with chalk, etc.
5:00 p.m.	Departure/ Lending Library - Mother and child select a book from lending library to check out and read together that evening. Mother takes child's work from cubby and written center communications, i.e. newsletter, notes. Teacher and mother talk briefly and informally about child's and mother's day.

APPENDIX D

Women's Schedule - Phase One - Substance Abuse and Mental Health Program

TIME	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
6:00 to 6:30 a.m.	Wake up; dress; personal reflection and centering	Wake up; dress; personal reflection and centering	Wake up; dress; personal reflection and centering	Wake up; dress; personal reflection and centering	Wake up; dress; personal reflection and centering		
6:30 to 7:00	Wake up child/ren & prepare for day; straighten personal space	Wake up child/ren & prepare for day; straighten personal space	Wake up child/ren & prepare for day; straighten personal space	Wake up child/ren & prepare for day; straighten personal space	Wake up child/ren & prepare for day; straighten personal space	Wake up; dress; personal reflection and centering	Wake up; dress; personal reflection and centering
7:00 to 7:30	Breakfast	Breakfast	Breakfast	Breakfast	Breakfast	Wake up and prepare child/ren for day; straighten personal space	Wake up and prepare child/ren for day; straighten personal space
7:30 to 7:45	Child Care Check in	Child Care Check in	Child Care Check in	Child Care Check In	Child Care Check In	Breakfast	Snack
7:45 to 8:30	Morning House Meeting	Morning House Meeting	Morning House Meeting	Morning House Meeting	Morning House Meeting	Morning House Meeting	Morning House Meeting
8:30 to 9:00	Daily Chores *	Daily Chores *	Daily Chores *	Daily Chores *	Daily Chores *	Daily Chores *	Daily Chores *
9:00 to 9:45	Education Group	Education Group	Education Group	Education Group	Education Group	Daily Chores *	Daily Chores *
9:45 to 11:15	Treatment group	Kitchen	Treatment group	Literacy: Motheread	Treatment group	Gardening/recreation/visiting	Gardening/recreation/visiting
11:15 to 11:45	Journal writing/Reflection	Journal writing/Reflection	Journal writing/Reflection	Journal writing/Reflection	Journal writing/Reflection	Gardening/recreation/visiting	Brunch
11:45 to 12:30 p.m.	Lunch/Play time with children	Lunch/Play time with children	Lunch/Play time with children	Lunch/Play time with children	Lunch/Play time with children	Lunch/Play time with children	Worship/visiting/recreation
12:30 to 2:00	Kitchen	Individual Therapy	Child Care	Kitchen	Psychotherapy	Naptime/visiting/crafts	Naptime/visiting/recreation
2:00 to 3:30	Curriculum group	Fitness/Parenting	Curriculum group	Fitness/Parenting	Curriculum group	Visiting/Kitchen	Visiting/Kitchen
3:30 to 5:00	Child Care	Child Care	Kitchen	Child Care	Kitchen	Recreation	Recreation
5:00 to 5:45	Dinner	Dinner	Dinner	Dinner	Dinner	Dinner	Dinner
5:45 to 6:15	Evening House Meeting	Evening House Meeting	Evening House Meeting	Evening House Meeting	Evening House Meeting	Evening House Meeting	Evening House Meeting
6:15 to 7:00	Time with child/ren	Time with child/ren	Time with child/ren	Time with child/ren	Time with child/ren	Time with child/ren	Time with child/ren
7:00 to 7:45	Story time/prepare child/ren for bed/bedtime	Story time/prepare child/ren for bed/bedtime	Story time/prepare child/ren for bed/bedtime	Story time/prepare child/ren for bed/bedtime	Story time/prepare child/ren for bed/bedtime	Story time/prepare child/ren for bed/bedtime	Story time/prepare child/ren for bed/bedtime
7:45 to 9:00	Journal writing/homework/ 12 Step	Journal writing/homework/ 12 Step	Journal writing/homework/ 12 Step	Journal writing/homework/ 12 Step	Journal writing/homework/ 12 Step	Journal/Meditation/12 Step	Journal Meditation/12 Step
9:00 to 9:30	Reflection/centering	Reflection/centering	Reflection/centering	Reflection/centering	Reflection/centering	Reflection/centering	Reflection/centering
9:30 to 10:00	Prepare for bedtime/ lights out	Prepare for bedtime/ lights out	Prepare for bedtime/ lights out	Prepare for bedtime/ lights out	Prepare for bedtime/ lights out	Prepare for bedtime/ lights out	Prepare for bedtime/ lights out

Chores: cleaning personal spaces and common areas, washing clothes

APPENDIX D

Women's Schedule - Phase Two - Substance Abuse and Mental Health Program

TIME	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
6:00 to 6:30 a.m.	Wake up; dress; personal reflection and centering	Wake up; dress; personal reflection and centering	Wake up; dress; personal reflection and centering	Wake up; dress; personal reflection and centering	Wake up; dress; personal reflection and centering		
6:30 to 7:00	Wake up child/ren & prepare for day; straighten personal space	Wake up child/ren & prepare for day; straighten personal space	Wake up child/ren & prepare for day; straighten personal space	Wake up child/ren & prepare for day; straighten personal space	Wake up child/ren & prepare for day; straighten personal space	Wake up; dress; personal reflection and centering	Wake up; dress; personal reflection and centering
7:00 to 7:30	Breakfast	Breakfast	Breakfast	Breakfast	Breakfast	Wake up and prepare child/ren for day; straighten personal space	Wake up and prepare child/ren for day; straighten personal space
7:30 to 7:45	Child Care Check in	Child Care Check in	Child Care Check in	Child Care Check In	Child Care Check In	Breakfast	Snack
7:45 to 8:30	Morning House Meeting	Morning House Meeting	Morning House Meeting	Morning House Meeting	Morning House Meeting	Morning House Meeting	Morning House Meeting
8:30 to 9:00	Daily Chores *	Daily Chores *	Daily Chores *	Daily Chores *	Daily Chores *	Daily Chores *	Daily Chores *
9:00 to 9:45	Education group	Education group	Education group	Education group	Education group	Daily Chores *	Daily Chores *
9:45 to 11:15	Treatment group	Curriculum if appropriate	Treatment group	Literacy: Motheread	Treatment group	Gardening/recreation/ visiting	Gardening/recreation/ visiting
11:15 to 11:45	Fitness	Fitness	Fitness	Fitness	Fitness	Gardening/recreation/ visiting	Brunch
11:45 to 12:30 p.m.	Lunch/Play time with children	Lunch/Play time with children	Lunch/Play time with children	Lunch/Play time with children	Lunch/Play time with children	Lunch/Play time with children	Worship/visiting/recreation
12:30 to 2:00	Child Care	Individual Therapy	Kitchen	Child Care	Kitchen	Naptime/visiting/crafts	Naptime/visiting/recreation
2:00 to 3:30	Academic/Vocational	Parenting	Academic/Vocational	Psychotherapy	Parenting	Visiting/Kitchen	Visiting/Kitchen
3:30 to 5:00	Academic/Vocational	Academic/Vocational	Academic/Vocational	Academic/Vocational	Academic/Vocational	Recreation	Recreation
5:00 to 5:45	Dinner	Dinner	Dinner	Dinner	Dinner	Dinner	Dinner
5:45 to 6:15	Evening House Meeting	Evening House Meeting	Evening House Meeting	Evening House Meeting	Evening House Meeting	Evening House Meeting	Evening House Meeting
6:15 to 7:00	Time with children	Time with children	Time with children	Time with children	Time with children	Time with children	Time with children
7:00 to 7:45	Story time/prepare child/ren for bed/bedtime	Story time/prepare child/ren for bed/bedtime	Story time/prepare child/ren for bed/bedtime	Story time/prepare child/ren for bed/bedtime	Story time/prepare child/ren for bed/bedtime	Story time/prepare child/ren for bed/bedtime	Story time/prepare child/ren for bed/bedtime
7:45 to 9:00	Journal writing/homework/ 12 Step	Journal writing/homework/ 12 Step	Journal writing/homework/ 12 Step	Journal writing/homework/ 12 Step	Journal writing/homework/ 12 Step	Journal/Meditation/12 Step	Journal Meditation/12 Step
9:00 to 9:30	Reflection/centering	Reflection/centering	Reflection/centering	Reflection/centering	Reflection/centering	Reflection/centering	Reflection/centering
9:30 to 10:00	Prepare for bedtime/ lights out	Prepare for bedtime/ lights out	Prepare for bedtime/ lights out	Prepare for bedtime/ lights out	Prepare for bedtime/ lights out	Prepare for bedtime/ lights out	Prepare for bedtime/ lights out

Chores: cleaning personal spaces and common areas, washing clothes

APPENDIX D

Women's Schedule - Phase Three - Substance Abuse and Mental Health Program

TIME	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
6:00 to 6:30 a.m.	Wake up; dress; personal reflection and centering	Wake up; dress; personal reflection and centering	Wake up; dress; personal reflection and centering	Wake up; dress; personal reflection and centering	Wake up; dress; personal reflection and centering		
6:30 to 7:00	Wake up child/ren & prepare for day; straighten personal space	Wake up child/ren & prepare for day; straighten personal space	Wake up child/ren & prepare for day; straighten personal space	Wake up child/ren & prepare for day; straighten personal space	Wake up child/ren & prepare for day; straighten personal space	Wake up; dress; personal reflection and centering	Wake up; dress; personal reflection and centering
7:00 to 7:30	Breakfast	Breakfast	Breakfast	Breakfast	Breakfast	Wake up and prepare child/ren for day; straighten personal space	Wake up and prepare child/ren for day; straighten personal space
7:30 to 7:45	Child Care Check in	Child Care Check in	Child Care Check in	Child Care Check In	Child Care Check In	Breakfast	Snack
7:45 to 8:30	Morning House Meeting	Morning House Meeting	Morning House Meeting	Morning House Meeting	Morning House Meeting	Morning House Meeting	Morning House Meeting
8:30 to 9:00	Daily Chores *	Daily Chores *	Daily Chores *	Daily Chores *	Daily Chores *	Daily Chores *	Daily Chores *
9:00 to 9:45	Education group	Education group	Education group	Education group	Education group	Daily Chores *	Daily Chores *
9:45 to 11:15	Treatment group	Child-Parent Psychotherapy	Treatment group	Kitchen	Treatment group	Gardening/recreation/ visiting	Gardening/recreation/ visiting
11:15 to 11:45	Fitness	Fitness	Fitness	Fitness	Fitness	Gardening/recreation/ visiting	Brunch
11:45 to 12:30 p.m.	Lunch/Play time with children	Lunch/Play time with children	Lunch/Play time with children	Lunch/Play time with children	Lunch/Play time with children	Lunch/Play time with children	Worship/visiting/recreation
12:30 to 2:00	Vocational/Academic	Vocational/Academic	Vocational/Academic	Vocational/Academic	Vocational/Academic	Naptime/visiting/crafts	Naptime/visiting/recreation
2:00 to 3:30	Vocational/Academic	Vocational/Academic	Vocational/Academic	Vocational/Academic	Vocational/Academic	Visiting/Kitchen	Visiting/Kitchen
3:30 to 5:00	Vocational/Academic	Child Care	Vocational/Academic	Child Care	Vocational/Academic	Recreation	Recreation
5:00 to 5:45	Dinner	Dinner	Dinner	Dinner	Dinner	Dinner	Dinner
5:45 to 6:15	Evening House Meeting	Evening House Meeting	Evening House Meeting	Evening House Meeting	Evening House Meeting	Evening House Meeting	Evening House Meeting
6:15 to 7:00	Time with child/ren	Time with child/ren	Time with child/ren	Time with child/ren	Time with child/ren	Time with child/ren	Time with child/ren
7:00 to 7:45	Story time/prepare child/ren for bed/bedtime	Story time/prepare child/ren for bed/bedtime	Story time/prepare child/ren for bed/bedtime	Story time/prepare child/ren for bed/bedtime	Story time/prepare child/ren for bed/bedtime	Story time/prepare child/ren for bed/bedtime	Story time/prepare child/ren for bed/bedtime
7:45 to 9:00	Journal writing/12 Step	Journal writing/12 Step	Journal writing/12 Step	Journal writing/12 Step	Journal writing/12 Step	Journal writing/12 Step	Journal writing/12 Step
9:00 to 9:30	Reflection/centering	Reflection/centering	Reflection/centering	Reflection/centering	Reflection/centering	Reflection/centering	Reflection/centering
9:30 to 10:00	Prepare for bedtime/ lights out	Prepare for bedtime/ lights out	Prepare for bedtime/ lights out	Prepare for bedtime/ lights out	Prepare for bedtime/ lights out	Prepare for bedtime/ lights out	Prepare for bedtime/ lights out

Chores: cleaning personal spaces and common areas, washing clothes

APPENDIX D

Women's Schedule - Phase Four - Substance Abuse and Mental Health Program

TIME	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
6:00 to 6:30 a.m.	Wake up; dress; personal reflection and centering	Wake up; dress; personal reflection and centering	Wake up; dress; personal reflection and centering	Wake up; dress; personal reflection and centering	Wake up; dress; personal reflection and centering		
6:30 to 7:00	Wake up child/ren & prepare for day; straighten personal space	Wake up child/ren & prepare for day; straighten personal space	Wake up child/ren & prepare for day; straighten personal space	Wake up child/ren & prepare for day; straighten personal space	Wake up child/ren & prepare for day; straighten personal space	Wake up; dress; personal reflection and centering	Wake up; dress; personal reflection and centering
7:00 to 7:30	Breakfast	Breakfast	Breakfast	Breakfast	Breakfast	Wake up and prepare child/ren for day; straighten personal space	Wake up and prepare child/ren for day; straighten personal space
7:30 to 7:45	Child Care Check in	Child Care Check in	Child Care Check in	Child Care Check In	Child Care Check In	Breakfast	Snack
7:45 to 8:30	Morning House Meeting	Morning House Meeting	Morning House Meeting	Morning House Meeting	Morning House Meeting	Morning House Meeting	Morning House Meeting
8:30 to 9:00	Daily Chores *	Daily Chores *	Daily Chores *	Daily Chores *	Daily Chores *	Daily Chores *	Daily Chores *
9:00 to 9:45	Education group	Education group	Education group	Education group	Education group	Daily Chores *	Daily Chores *
9:45 to 11:15	Treatment group	Child-Parent Psychotherapy	Treatment group	Kitchen	Treatment group	Gardening/recreation/visiting	Gardening/recreation/visiting
11:15 to 11:45	Fitness	Fitness	Fitness	Fitness	Fitness	Gardening/recreation/visiting	Brunch
11:45 to 12:30 p.m.	Lunch/Play time with children	Lunch/Play time with children	Lunch/Play time with children	Lunch/Play time with children	Lunch/Play time with children	Lunch/Play time with children	Worship/visiting/recreation
12:30 to 2:00	Vocational/Academic	Vocational/Academic	Vocational/Academic	Vocational/Academic	Vocational/Academic	Naptime/visiting/crafts	Naptime/visiting/recreation
2:00 to 3:30	Vocational/Academic	Vocational/Academic	Vocational/Academic	Vocational/Academic	Vocational/Academic	Visiting/Kitchen	Visiting/Kitchen
3:30 to 5:00	Vocational/Academic	Child Care	Vocational/Academic	Child Care	Vocational/Academic	Recreation	Recreation
5:00 to 5:45	Dinner	Dinner	Dinner	Dinner	Dinner	Dinner	Dinner
5:45 to 6:15	Evening House Meeting	Evening House Meeting	Evening House Meeting	Evening House Meeting	Evening House Meeting	Evening House Meeting	Evening House Meeting
6:15 to 7:00	Time with child/ren	Time w/ children	Time w/ children	Time w/ children	Time w/ children	Time w/ children	Time w/ children
7:00 to 7:45	Story time/prepare child/ren for bed/bedtime	Story time/prepare child/ren for bed/bedtime	Story time/prepare child/ren for bed/bedtime	Story time/prepare child/ren for bed/bedtime	Story time/prepare child/ren for bed/bedtime	Story time/prepare child/ren for bed/bedtime	Story time/prepare child/ren for bed/bedtime
7:45 to 9:00	Journal writing/12 Step	Journal writing/12 Step	Journal writing/12 Step	Journal writing/12 Step	Journal writing/12 Step	Journal writing/12 Step	Journal writing/12 Step
9:00 to 9:30	Reflection/centering	Reflection/centering	Reflection/centering	Reflection/centering	Reflection/centering	Reflection/centering	Reflection/centering
9:30 to 10:00	Prepare for bedtime/ lights out	Prepare for bedtime/ lights out	Prepare for bedtime/ lights out	Prepare for bedtime/ lights out	Prepare for bedtime/ lights out	Prepare for bedtime/ lights out	Prepare for bedtime/ lights out

Chores: cleaning personal spaces and common areas, washing clothes

APPENDIX E

Staffing Spreadsheets - Clinical Staff Schedule Rotation

	MONDAY THROUGH FRIDAY				SATURDAY		SUNDAY	
:00 a.m.								
8:00 a.m.								
9:00 a.m.	Clinical Staff 1			Clinical Staff 4	Clinical Staff 5			
10:00 a.m.		Clinical Staff 2						
11:00 a.m.			Clinical Staff 3			Clinical Staff 6	Clinical Staff 5	
12 noon								
1:00 p.m.								Clinical Staff 6
2:00 p.m.								
3:00 p.m.								
4:00 p.m.								
5:00 p.m.								
6:00 p.m.								
7:00 p.m.								
8:00 p.m.								

APPENDIX E

Staffing Spreadsheets - Mental Health Aide Schedule Rotation

	MONDAY THROUGH FRIDAY			SATURDAY		SUNDAY	
7:00 a.m.	3 Mental Health Aides - 7:00 a.m. to 4:00 p.m.			3 Mental Health Aides - 7:00 a.m. to 7:30 p.m.		3 Mental Health Aides - 7:00 a.m. to 7:30 p.m.	
7:30 a.m.							
8:00 a.m.							
8:30 a.m.							
9:00 a.m.							
9:30 a.m.							
10:00 a.m.							
10:30 a.m.							
11:00 a.m.							
11:30 a.m.							
12 noon							
12:30 p.m.							
1:00 p.m.							
1:30 p.m.							
2:00 p.m.							
2:30 p.m.							
3:00 p.m.		3 Mental Health Aides - 3:00 p.m. to 12 midnight					
3:30 p.m.							
4:00 p.m.							
4:30 p.m.							
5:00 p.m.							
5:30 p.m.							
6:00 p.m.							
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7:00 p.m.							
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8:00 p.m.							
8:30 p.m.							
9:00 p.m.							
9:30 p.m.							
10:00 p.m.							
10:30 p.m.							
11:00 p.m.							
11:30 p.m.							
12 mid			2 Mental Health Aides - 11:00 p.m. to 8:00 a.m.		2 Mental Health Aides - 7:00 p.m. to 7:30 a.m.		2 Mental Health Aides - 7:00 p.m. to 7:30 a.m.
12:30 a.m.							
1:00 a.m.							
1:30 a.m.							
2:00 a.m.							
2:30 a.m.							
3:00 a.m.							
3:30 a.m.							
4:00 a.m.							
4:30 a.m.							
5:00 a.m.							
5:30 a.m.							
6:00 a.m.							
6:30 a.m.							

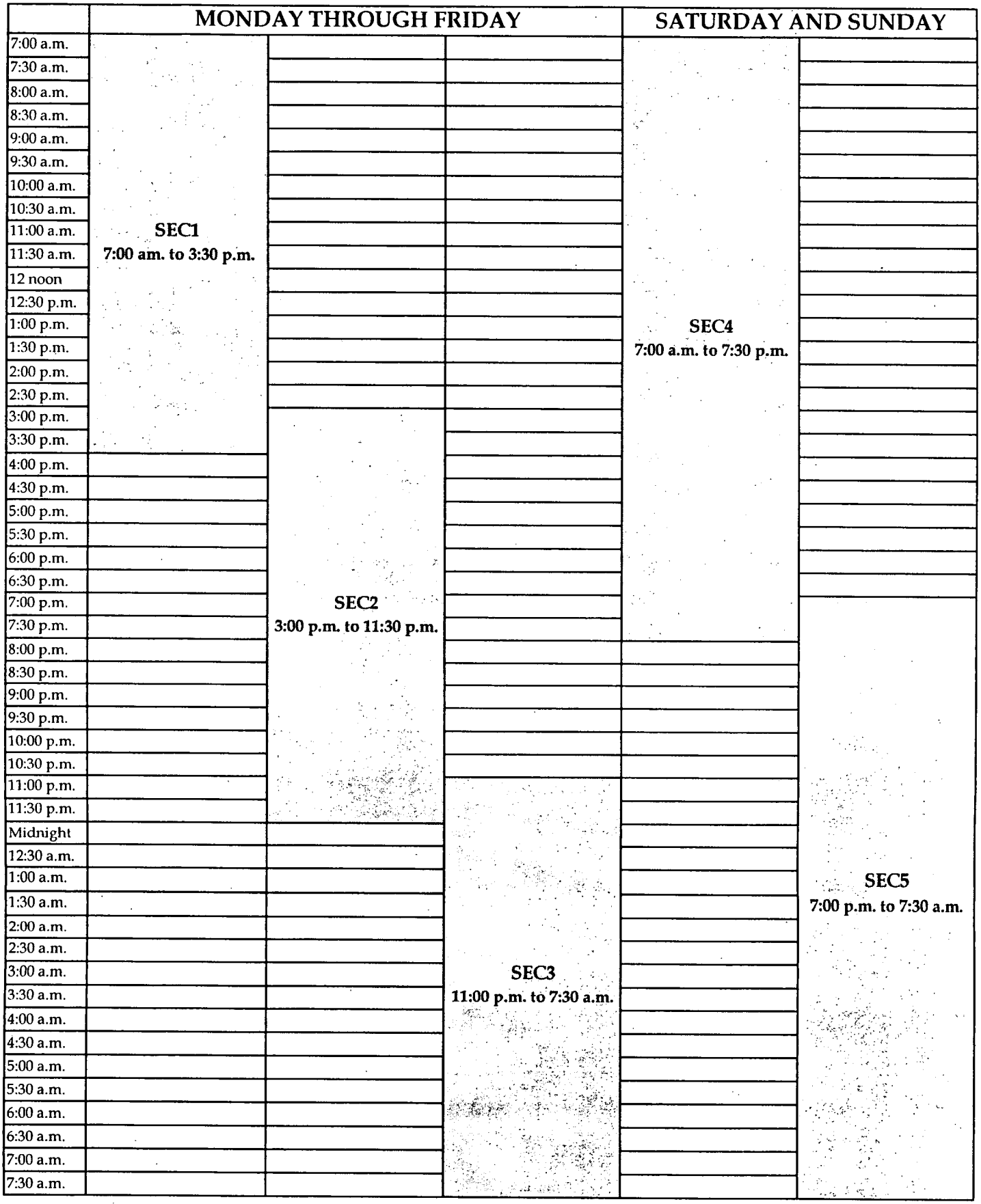
APPENDIX E

Staffing Spreadsheets – Management Team Schedule Rotation

	MONDAY THROUGH FRIDAY				SATURDAY	SUNDAY
:00 a.m.						
8:00 a.m.						
9:00 a.m.	Executive Director			Child Care Center Manager	Assistant Manager	
10:00 a.m.		Clinical Manager				
11:00 a.m.			Administrative Manager			Clinical Manager
12 noon						
1:00 p.m.						
2:00 p.m.						
3:00 p.m.						
4:00 p.m.						
5:00 p.m.						
6:00 p.m.						
7:00 p.m.						
8:00 p.m.						

APPENDIX E

Staffing Spreadsheets – Security Staff Schedule Rotation



APPENDIX G

Assessment Information

Ages and Stages Questionnaire (ASQ-3)

Note: The information provided for the ASQ-3 and the ASQ:SE is taken from the ASQ website (https://agesandstages.com) and the users manuals.

Age range covered	1–66 months
Intervals	21 questionnaires and scoring sheets at 2, 4, 6, 8, 9, 10, 12, 14, 16, 18, 20, 22, 24, 27, 30, 33, 36, 42, 48, 54, and 60 months of age
Areas screened	Communication, gross motor, fine motor, problem solving, and personal-social
Sample Item	Does your child stack a small block or toy on top of another one? (18-month questionnaire, Fine Motor area)
Components	The ASQ-3 Starter Kit contains everything you need to start screening children with ASQ-3: 21 paper masters of the questionnaires and scoring sheets, a CD-ROM with printable PDF questionnaires, the ASQ-3 User's Guide, and a FREE ASQ-3 Quick Start Guide.
Who completes it	Parents/caregivers complete questionnaires; professionals, paraprofessionals, or clerical staff score them
Time	Each questionnaire takes 10–15 minutes to complete and just 1-3 minutes to score
Validity and reliability	Excellent – validity is .82 to .88, test-retest reliability is .91, and inter-rater reliability is .92
Languages	Questionnaires in English and Spanish (second edition available in French; questionnaires available on their own or in a set with the second edition of the ASQ User's Guide in English)
Other features	Cost-effective, reproducible, can be used alone or in conjunction with ASQ:SE
Online options	Online management with ASQ Pro for single-site programs, ASQ Enterprise for multi-site programs, ASQ Hub to link the two, and ASQ Family Access for online questionnaire completion

ASQ-3 Technical Qualities

- The **validity** of ASQ-3 has been evaluated extensively. The NEW, unparalleled research sample includes 12,695 children that mirror the U.S. population in terms of race, ethnicity, and socio-economic groups.
- The **concurrent validity** (measured by comparing the percentage of agreement between the results of the parent-completed ASQ-3 questionnaires with the results of professionally administered standardized assessments) ranged from 74% for the 42-month ASQ-3 questionnaire to 100% for the 2-month and 54-month questionnaires, with 86% overall agreement.

- The **sensitivity*** of ASQ-3, or the ability of ASQ-3 to correctly identify those children with delays, ranged from 75% for the 6-month questionnaire to 100% for the 4-month, 14-month, 54-month, and 60-month questionnaires, with 86% overall agreement.
- The **specificity*** of ASQ-3, or the ability of ASQ-3 to correctly identify typically developing children, ranged from 70% for the 14-month questionnaire to 100% for the 2-month, 16-month, and 54-month questionnaires, with 85% overall agreement.

* Given the complexity of measuring child development, the American Academy of Pediatrics considers high quality developmental screening tests to have sensitivities and specificities of 70% to 80%.

Ages and Stages Questionnaire: Socio-Emotional

Note: The information provided below is taken from the ASQ:SE website.

Age range covered	6-60 months
Intervals	8 questionnaires and scoring sheets at 6, 12, 18, 24, 30, 36, 48, and 60 months of age
Areas screened	Self-regulation, compliance, communication, adaptive behaviors, autonomy, affect, and interaction with people
Sample Item	From the 30-month questionnaire: Does your child have eating problems such as stuffing foods, vomiting, eating nonfood items, or _____? (You may write in another problem.)
Components	A master set of the 8 questionnaires, *The ASQ:SE User's Guide*, the *Ages and Stages Learning Activities*, the ASQ Materials Kit, and the training DVD/video, *ASQ:SE In Practice*
Who completes it	Parents/caregivers complete questionnaires; professionals, paraprofessionals, or clerical staff score them
Time	Each questionnaire takes 10-15 minutes to complete and just 1-3 minutes to score
Validity and reliability	Investigated with more than 3,000 questionnaires across the age intervals. Reliability is 94%; validity is between 75% and 89%
Languages	Questionnaires in English and Spanish
Other features	Cost-effective, reproducible, can be used alone or in conjunction with ASQ-3
Online options	Online management with ASQ Pro for single-site programs, ASQ Enterprise for multi-site programs, ASQ Hub to link the two, and ASQ Family Access for online questionnaire completion

ASQ:SE Technical Qualities

- **Internal consistency**, measured by Cronbach's coefficient alpha, ranged from **67%-91%**, indicating strong relationships between questionnaire total scores and individual items.
- **Test-retest reliability**, measured as the agreement between two ASQ:SE questionnaires completed by parents at 1- to 3-week intervals, was **94%**. These results suggest that ASQ:SE scores were stable across time intervals.
- **Concurrent validity**, as reported in percentage agreement between ASQ:SE and concurrent measures, ranged from 81% to 95%, with an overall agreement of **93%**.
- **Sensitivity**, or the ability of the screening tool to identify those children with social-emotional disabilities, ranged from 71% to 85%, with **78%** overall sensitivity.
- **Specificity**, or the ability of the screening tool to correctly identify those children without social-emotional delays, ranged from 90% to 98%, with **95%** overall specificity.

Child Behavior Checklist (CBCL 2-3)

The following description was taken from the product website: www.aseba.org/products.

> Using a new national normative sample and larger clinical samples, we derived the following cross-informant syndromes from both forms: *Emotionally Reactive, Anxious/Depressed, Somatic Complaints,* Withdrawn, Attention Problems, & Aggressive Behavior. We also derived a Sleep Problems syndrome from the Child Behavior Checklist/1½-5 (CBCL/1½-5/LDS).
>
> In addition, Internalizing, Externalizing, and Total Problems scales are scored from both forms. Our new Assessment Data Manager (ADM) Ages 1½-5 Module systematically compares up to eight preschool forms. The similar layouts of the CBCL/1½-5/LDS and C-TRF profiles help you compare multiple hand-scored profiles.
>
> Another new feature is a profile of DSM (Diagnostic and Statistical Manual)-oriented scales, which comprise CBCL/1½-5/LDS and C-TRF items that experienced psychiatrists and psychologists from ten cultures rated as being very consistent with DSM diagnostic categories. The DSM-oriented scales are: Affective Problems, Anxiety Problems, Pervasive Developmental Problems, Attention Deficit/Hyperactivity Problems, & Oppositional Defiant Problems. The CBCL/1½-5/LDS now includes the Language Development Survey (LDS) for identifying language delays. The CBCL/1½-5/LDS obtains parents' ratings of 99 problem items plus descriptions of problems, disabilities, what concerns parents most about their child, and the best things about the child. Scales are based on ratings of 1,728 children and are normed on a new national sample of 700

children. The LDS obtains parents' reports of children's expressive vocabularies and word combinations, plus risk factors for language delays. For ages 18-35 months, the LDS is scored to indicate whether vocabulary and word combinations are delayed. For language-delayed older children, the LDS provides comparisons with norms up to 35 months. Hand-scored and computer-scored profiles are available. The ADM Ages 1½-5 Module compares up to eight CBCL/1½-5/LDS and C-TRF forms per child. Spanish-language CBCL/1½-5/LDS forms are also available.

Phonological Awareness Literacy Screening (PALS PreK)
The information provided below are excerpts from the website, www.pals.virginia.edu. More technical information can be obtained from the technical manual at www.pals.virginia.edu/pdfs/rd/tech/PreK_technical_chapter.pdf.

PALS-PreK is a scientifically-based phonological awareness and literacy screening that measures preschoolers' developing knowledge of important literacy fundamentals and offers guidance to teachers for tailoring instruction to children's specific needs. The assessment reflects skills that are predictive of future reading success and measures name writing ability, upper-case and lower-case alphabet recognition, letter sound and beginning sound production, print and word awareness, rhyme awareness and nursery rhyme awareness. The assessment scores indicate children's strengths and those areas that may require more direct attention. The assessment is designed to be administered to four-year-olds in the fall of PreK in order to guide instruction during the year. A second administration in the spring of PreK serves to evaluate progress.

The areas below are screened with the PALS-PreK:

NAME WRITING
The teacher asks the child to draw a self-portrait and to write his/her name. Name writing is scored on a developmental continuum, ranging from scribbles to the use of mixed symbols to writing the entire name correctly.

ALPHABET KNOWLEDGE
The teacher asks the child to name the 26 upper-case letters of the alphabet presented in random order. Children who know 16 or more upper-case letters also take the lower-case alphabet recognition task. Children who know 9 or more lower-case letters are also asked to produce the sounds associated with the 23 letters and 3 consonant digraphs (ch, sh, etc.)

BEGINNING SOUND AWARENESS

The teacher says the name of a picture and asks the child to produce the beginning sounds for words that start with /s/, /m/, and /b/.

PRINT AND WORD AWARENESS

The teacher reads a familiar nursery rhyme printed in a book format and asks the child to point to various text components. In this natural book-reading context children demonstrate their awareness of print concepts such as directionality and the difference between pictures, letters, and words.

RHYME AWARENESS

The teacher shows the child pictures and names the object depicted in each one. The teacher asks the child to point to the picture that rhymes with the first one presented.

NURSERY RHYME AWARENESS

The teacher recites familiar nursery rhymes, stopping before the end so the child can supply the final rhyming word.

SCORES AND EXPECTATIONS

PALS-PreK provides developmental ranges and expectations for four-year-olds in the spring of PreK. PALS-PreK is designed to guide instruction and highlight individual emergent literacy needs.

Language Sample

Language sampling is considered a highly reliable and valid indicator of expressive language development particularly in the area of syntax development. Obtaining and storing children's language samples will not only provide immediate information on linguistic development, it will yield a database for further, more detailed analysis at a later date. Language samples can be analyzed in several ways. For the purpose of program evaluation, the Mean Length of Utterance will be the primary indicator. The following method will be utilized:

A. The child will be observed during play with the mother. The recorder must be an individual familiar with the child so as not to inhibit the child's willingness to communicate.
B. Fifty consecutive utterances from the child will be recorded using the format of the form shown below.
C. The utterances must be transcribed EXACTLY as they are produced.
D. The recorder will count the number of words in each utterance and record that number on the appropriate column.
   - Contractions such as "can't" are counted as two words.
   - Interjections such as "ah" or "oh" are not counted as words.

- Articulation errors should not impact the word count. For example, if the child says, "lunk" for 'milk', the word 'lunk' is counted as a word.
- Unintelligible words should be counted. For example: "I want to pway wif the jutik," should be counted as seven (7) words.

E. The total number of words in the sample is divided by the total number of utterances to yield the Mean Length of Utterance (MLU).
F. The MLU is entered into the Program Evaluation Database along with the age of the child.
G. The language sample is dated and stored for possible further analysis.

Language Sample Collection Format

Utterance	Number of Words
1. He play with the toy.	5
2. My toy is red and I gonna give it to you.	11
TOTAL NUMBER OF WORD	16
MLU (Total words divided by total utterances.)	8

Articulation Screening

The articulation screening tool will consist of key words or phrases that will target all the phonemes (sounds) of English in all positions in words (initial, medial and final). The score obtained will identify whether the child is producing all the phonemes appropriate for his/her age. It should be noted that there are more than 40 English speech sounds and these develop in hierarchically. The goal is to determine if the child is developing the sounds in a developmentally appropriate way.

There are many articulation screening tools available and many of these are under review at this time.

APPENDIX H

Memoranda of Intent

Durham's Partnership for Children

Franklin Granville Vance Partnership for Children

Granville County Department of Social Services

North Carolina Department of Correction

North Carolina Department of Health and Human Services (MOI forthcoming)
Division of Child Development
Regulatory Services Section

North Carolina Department of Health and Human Services
Division of Public Health
Women's & Children's Health Section

North Carolina Department of Health and Human Services
Division of Public Health
Women's & Children's Health Section
Early Intervention Branch
Children's Developmental Services Agency

North Carolina Department of Health and Human Services
Division of Social Services

Durham's Partnership for Children
a Smart Start Initiative

1201 S. Briggs Avenue
Suite 210
Durham, NC 27703

919-403-6960
Fax 919-403-6963

www.dpfc.net

Our Children's Place
Melissa Radcliff, Executive Director
P.O. Box 1086
Chapel Hill, NC 27514

September 17, 2009

To Whom It May Concern:

In response to the request for Our Children's Place to submit letters of intent from supporting agencies, Durham's Partnership for Children is writing this letter to express its interest and commitment to working with Our Children's Place in the future, as needed and as determined by our Board of Directors.

The mission of Our Children's Place to stop the cycle of recidivism for incarcerated mothers with young children birth to age 5 in NC aligns with our priority to ensure that children enter school healthy and ready to succeed.

We are excited to learn that Our Children's Place has planned to develop its child care program to operate as a five star licensed center. Over the past 15 years, with state funding from Smart Start and More at Four as well as private sources, Durham's Partnership for Children has invested in programs that support families, improve the quality of licensed child care, and support parents with young children who experience behavioral challenges and social-emotional issues. Our organization is the systems builder for early childhood across Durham County and our board has been committed to making sure this system serves all children and their families.

We can and will assist Our Children's Place in their search for quality child care staff and continue to look and listen for other creative ways to work together to strengthen our collaboration in order to better meet the needs of the children and their families.

Sincerely,

Marsha Basloe

Marsha Basloe
Executive Director
Durham's Partnership for Children

Smart START

Franklin Granville Vance Partnership For Children, Inc. * P.O. Box 142 * Henderson, NC 27536
Telephone (252) 433-9110 * Fax 252-433-9230

"Building Brighter Futures For Children"

Carolyn M. Paylor
Executive Director

Cedric K. Jones
Executive Board Chair

Mrs. Melissa Ratcliff
Our Children's Place
P.O. Box 1086
Chapel Hill, NC 27514

Dear Mrs. Ratcliff:

On behalf of the Franklin Granville Vance (FGV) Smart Start Inc., I would like to offer our agency's support and the intent to work with your organization in its effort to provide high quality childcare to children and their families.

The FGV Smart Start is currently providing technical assistance and oversight to twenty-three programs throughout the three county areas. Many of these programs provide resources, trainings, and stipends to the childcare centers and their teachers that are in involved with the agency. The FGV Smart Start works very closely with the child care centers, in an effort to promote professional development for the staff. Incentives are given in the form of the WAGES program (which the agency funds) and additional professional development program stipends are paid to teachers who continue to pursue a degree in the field of Early Education.

FGV Smart Start will agree to work with the Director and staff of **Our Children's Place** to secure its five start license, as they have previously stated is their intent. We would also encourage the mothers of the children attending **Our Children's Place** to pursue child care subsidies through the Department of Social Services, who administer the subsidies dollars funded by our agency.

Our Children's Place would be eligible for many of the programs available through the FGV Smart Start providing that they seek to meet the requirements of the individual programs.

Thank you for your concern and commitment to the community.

Sincerely
Carolyn Malone Paylor
Carolyn Malone Paylor, MA, LPC
Executive Director

Rcd. 8/21/09

GRANVILLE COUNTY
Department of Social Services
P.O. BOX 966, Oxford, NC 27565
(919) 693-1511 Fax (919) 603-5090
Lou.Bechtel@ncmail.net

August 24, 2009

Ms. Melissa Radcliff
Our Children's Place
P.O. Box 1086
Chapel Hill, NC 27514

Dear Ms. Radcliff:

The Granville County Department of Social Services (GCDSS) offers its support to *Our Children's Place,* and believes that our two agencies will be working closely together to provide a wide range of assistance to your clients and their children.

GCDSS offers a wide range of Pubic Assistance programs (Food & Nutrition Services, Medicaid, Work First Employment Services, and Emergency Assistance), Child Support Enforcement, Child Welfare and Adult Services to persons residing in Granville County. GCDSS. Although there may be some program requirements that your clients cannot meet due to their situation, GCDSS is willing to assist those clients identify other resources that can alleviate the problem. In short, we are quite willing to help your clients build a new and positive life style for themselves and their children. Of course, once a client has successfully completed your program and if they elect to remain in Granville County, there will be no impediments to their accessing any program administered through this agency.

Sincerely,

Louis W. Bechtel
Director

C file

North Carolina Department of Correction

214 West Jones Street • 4201 MSC • Raleigh, North Carolina 27699-4201
Phone: (919) 716-3700 • Fax: (919) 716-3794

Beverly Eaves Perdue
Governor

Alvin W. Keller, Jr.
Secretary

September 23, 2009

Ms. Melissa Radcliff
Our Children's Place
P. O. Box 1086
Chapel Hill, NC 27514

Dear Melissa:

I am writing this letter to reaffirm the commitment of the Department of Correction to continue working with you and other interested parties as you develop planning for Our Children's Place. As you know, I was initially involved with Senator Kinniard and staff from NCCIW as this idea took form.

As you and I discussed, the legislative session was tough due to budget constraints and that impacted the capital money for this project. I know you are continuing to work on the actual program plan, eligibility criteria, policies and other related information and have been directed to submit a report to the legislature. We certainly will continue our discussion and supply any needed data we have that can assist.

I look forward to continuing to work with you.

Sincerely,

Jennie Lancaster

Jennie Lancaster,
Chief Deputy Secretary
NC Department of Correction

JLL/ew

cc: Alvin Keller
File

North Carolina Department of Health and Human Services
Division of Public Health – Women's & Children's Health Section
1914 Mail Service Center • Raleigh, North Carolina 27699-1914
Tel 919-707-5800 • Fax 919-870-4818

Beverly Eaves Perdue, Governor

Lanier M. Cansler, Secretary

August 27, 2009

Melissa Ratcliff, Executive Director
Our Children's Place
PO Box 1086
Chapel Hill, NC 27514

Re: Child and Adult Care Food Program

Dear Ms. Ratcliff:

This letter is in reference to Our Children's Place's intent to apply for the Child and Adult Care Food Program (CACFP). The CACFP is a federally funded nutrition assistance program that is administered by the Division of Public Health, Nutrition Services Branch. The Program is designed to provide reimbursement to child care and adult day care facilities that participate on the Program and serve eligible meals to enrolled participants.

To participate on the CACFP, child care Institutions are required to attend a training that explains the program's rules and regulations and reviews the application process. Once an Institution's agreement and application has been approved by the State Agency, the Institution is approved to claim reimbursement for meals served, if records are available to support the claim for reimbursement. Institutions can claim no more than two meals and one snack or two snacks and one meal per participant.

Trainings are available throughout the year for Institution's staff on program operations and nutrition.

If you need further assistance, I can be reached at (919) 707-5775.

Sincerely,

Arnette Cowan, Head
Special Nutrition Programs

Rcd. 8/31/09

North Carolina Department of Health and Human Services
Division of Public Health – Women's & Children's Health Section – Early Intervention Branch
Children's Developmental Services Agency
115 Market Street, Suite 201, Durham, NC 27701
Voice: (919) 560-5600 Fax: (919) 560-3018

Beverly Eaves Perdue, Governor
Lanier M. Cansler, Secretary

Dr. Jeffery P. Engel
State Health Director

Memorandum of Intent Between the

Our Children's Place and the Children's Developmental Services Agency (CDSA)

Purpose:
The purpose of this agreement between Our Children's Place and the Children's Developmental Services Agency (CDSA) is to outline responsibilities, ensure coordination and avoid duplication of services to infants and toddlers 0-3 years in Granville County and/or any counties of the CDSA catchment area who are at risk for developmental delays due to established conditions or have been diagnosed with special needs.

Our Children's Place Responsibilities:

1. Our Children's Place agrees to provide the following:

- Referral of all infants and toddlers 0-3 years who may be eligible to the CDSA within two (2) days of identifying the need for referral.
- Secure parental consent for referral when a child is identified as having developmental concerns and is in need of evaluation.
- Obtain consent for release of information from parents for the CDSA to request information from the child's primary care physician and other sources upon referral in order for the CDSA to request health history, results of previous evaluations, and other pertinent information.
- Participate in the development, implementation, and review of the Individualized Family Service Plan, as appropriate, for any child from Our Children's Place who is enrolled in the N.C. Infant Toddler Program through the Durham CDSA.
- Collaborate with CDSA staff to identify and provide needed resources, services, and supports for children enrolled in the N.C. Infant Toddler Program through the Durham CDSA.

II. <u>CDSA agrees to provide the following</u>:

- Provide or make available appropriate evaluations and/or services to eligible infants and toddlers 0-3 years.
- Documentation of the child's need for early intervention and related services for infants and toddlers referred from Our Children's Place within forty five (45) days of referral for a multidisciplinary evaluation.
- Notification of the IFSP meeting to staff one (1) week prior to scheduling. The IFSP meeting will be conducted within forty-five (45) days of receiving a referral from Our Children's Place.
- Access to early intervention and related services provided by the CDSA within thirty (30) days of parents' signing the child's IFSP. Services will be delivered to the child in the natural environment.
- Transition planning for parents prior to any changes in the child's placement.
- Monitoring services implementation of the children's IFSP's in accordance with Infant Toddler Program guidelines.

III. <u>Both Parties Agree to</u>:

- Maintain confidentiality of all personally identifiable health information discussed verbally and/or in children's records.
- Coordinate transitions of children leaving Our Children's Place and/or the CDSA during enrollment and at least ninety (90) days prior to a child's third birthday.

IV. This agreement may be amended or modified only in writing and executed by both parties. The agreement may be terminated by either party upon written notice of thirty (30) days. Both parties recognize their liability for negligence.

Rec'd 9/3/09 - mailed 9/4/09

V. Contacts for Memorandum:

Melissa Radcliff,
Executive Director, Our Children's Place
P.O. Box 1086
Chapel Hill, N.C. 27514
Phone: 919-967-6796
email:ourchildrensplace4@gmail.com

For the Durham Children's Developmental Services Agency:
Deborah Mitchum, Director
Durham Children's Developmental Services Agency
115 Market Street, Suite 201
Durham, North Carolina 27701
Phone: 919-560-5600
Fax: 919-560-5958
Email: deborah.mitchum@dhhs.nc.gov

Authorized Signatures:

Melissa N. Radcliff 9/3/09
Our Children's Place Authorized Signature Date

Deborah Mitchum 8/31/09
CDSA Authorized Signature Date

North Carolina Department of Health and Human Services
Division of Social Services

2401 Mail Service Center • Raleigh, North Carolina 27699-2401
Courier # 56-20-25 Fax 919-334-1018

Beverly Eaves Perdue, Governor
Lanier M. Cansler, Secretary

Sherry S. Bradsher, Director
(919) 733-3055

September 16, 2009

Ms. Melissa W. Radcliff
Executive Director
Our Children's Place
Post Office Box 1086
Chapel Hill, NC 27514

Dear Melissa:

We, at the Division of Social Services, realize the importance of an infant bonding with its mother and fully support the study of a comprehensive plan for the implementation of a contractual program to house incarcerated women with their children. The Division is happy to assist Our Children's Place in any way possible to facilitate this study.

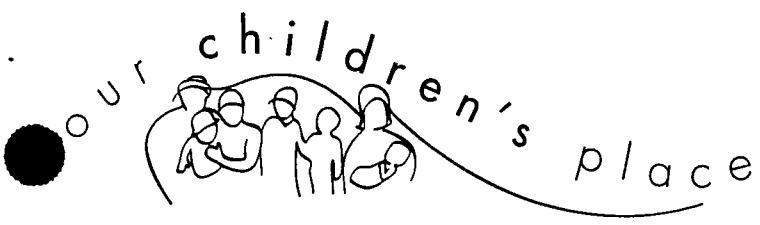
Looking forward to working with you on this study.

Sincerely,

Sherry S. Bradsher

Sherry S. Bradsher

SSB/arg



Our Children's Place
P.O. Box 1086
Chapel Hill, NC 27514

Phone: (919) 843-2670
Fax: (919) 962-3725

www.ourchildrensplace.com
ourchildrensplace@gmail.com

November 24, 2009

Sen. Edward Walter Jones, Co-Chair
Sen. Ellie Kinnaird, Co-Chair
Sen. Thomas M. Apodaca
Sen. Doug Berger
Sen. Stan W. Bingham
Sen. Daniel G. Clodfelter
Sen. Malcolm Graham
Sen. John J. Snow, Jr.

Rep. Alice Bordsen, Co-Chair
Rep. Jimmy L. Love, Sr., Co-Chair
Rep. James Boles, Jr.
Rep. Melanie Wade Goodwin
Rep. W. David Guice
Rep. Annie W. Mobley
Rep. Shirley B. Randleman
Rep. Timothy Lee Spear

Dear Members of the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee:

Enclosed please find two additions to our legislative report sent to you in late September:

Appendix H - Memorandum Of Intent from the North Carolina Department of Health and Human Services, Division of Child Development

Appendix I - Program Costs Spreadsheet.

Thank you again for the opportunity to present this report. We look forward to working with you to create a better life for young children and their incarcerated mothers.

Sincerely,

Melissa W. Radcliff
Executive Director

enclosures

cc: Doug Holbrook/Fiscal Research Division; Jennie Lancaster, North Carolina Department of Correction; Roberta Morgart/North Carolina Department of Correction; Courtney Crowder/Governor's Office

North Carolina Department of Health and Human Services
DIVISION OF CHILD DEVELOPMENT
Phone: 919.662.4499 Fax: 919.661.4845 Courier Number: 56-20-17

Physical Address:
319 Chapanoke Road
Center
Raleigh, NC 27603
27699-2201

Mailing Address:
2201 Mail Service

Raleigh, NC

Beverly Eaves Perdue, Governor Lanier M. Cansler, Secretary Deborah J. Cassidy, Director

September 30, 2009

Melissa Radcliff
Executive Director
Our Children's Place
PO Box 1086
Chapel Hill, NC 27514

Dear Ms. Radcliff,

Division staff have been involved in meetings since 2006 to discuss the establishment of a child care facility in Butner, North Carolina. It is my understanding that the child care facility will serve the preschool age children of the incarcerated female prisoners. We are committed to continue to work with you on plans to open a child care facility. Sherri Hall, Licensing Supervisor, for your area will continue to be your contact person if any questions arise. Ms. Hall can be contacted by phone at 919-528-1429 or by email at Sherri.Hall@dhhs.nc.gov.

Sincerely,

June Locklear, Chief
Regulatory Services Section

Cc: Tammy Tanner, Central Regional Program Manager
Sherri Hall, Licensing Supervisor

DRAFT

OUR CHILDREN'S PLACE - DRAFT START-UP AND OPERATING BUDGET

Revenue	Start-up	Operating	Notes
State Appropriation (recurring)		147,000	Executive Director, Assistant to Director, Bookkeeper, operating; FY10 amount
Visitation Room	8,910		Have received
DOC Per Diem		598,600	$82/day/inmate x 20 inmates x 365 days
Child and Adult Care Food Program		52,560	
Child Care Subsidy/ Smart Start Subsidy			TBD
Smart Start Improvement Grant			TBD
TEACH Scholarships for Teachers			TBD
WAGE$ Salary Supplement			TBD
WorkFirst		56,640	$236/month for 2 children x 12 months x 20 families
More At Four			TBD
Head Start/Early Head Start			TBD
Women Infants and Children (WIC)			TBD
NC Health Choice for Children and Health Check			TBD
Senior Aide			TBD
Corporate		300	OCP's FY10 budget
Foundations		51,500	OCP's FY10 budget
Community Organizations		700	OCP's FY10 budget
Faith Community		15,500	OCP's FY10 budget
Individuals		7,500	OCP's FY10 budget
Workplace Campaigns		100	OCP's FY10 budget
Fall Fundraiser		7,000	OCP's FY10 budget
H.A.T.S.		2,300	OCP's FY10 budget
Board		3,500	Currently part of OCP's annual budget
Baby Showers	5,000		Targeted fundraiser: 10 community groups @ $500 each
Total Revenue	**13,910**	**943,200**	

DRAFT

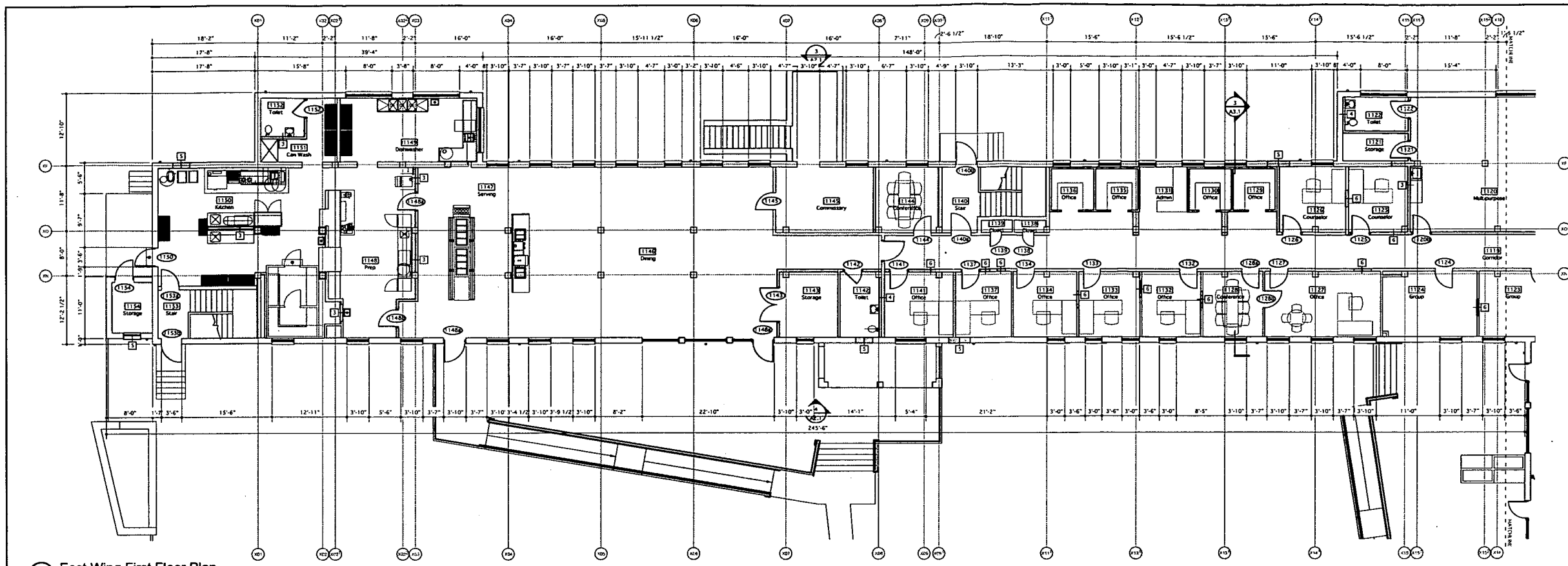
OUR CHILDREN'S PLACE - DRAFT START-UP AND OPERATING BUDGET

Expenses	Start-up	Operating	Notes
Bedrooms	88,610		
Kitchen	5,329	157,680	Kitchen start-up budget does not include appliances; question - were these items included in Deerfield Cottage renovation funds?
Child Care Center	52,817	15,921	
Living Room	15,230		
Dining Room	9,854		
Medical Office	6,815		
Medical Liability Insurance (for provider and facil	25,000	25,000	
Classrooms	9,400		
Visitation			
Transportation	37,000	9,950	
Personnel		1,830,605	
Benefits (25%)		457,651	
Playground Equipment	35,000		Estimate from architect; statewide civic group has indicated an interest in funding part/all
Administrative Offices	22,442		Furnishings; does not include medical office
Staff Training/Professional Development			
Substance Abuse Treatment Curricula	1,650		
Office Supplies		22,824	Extrapolated from OCP's FY09 expenses (FY09 = $1,268; 2.5 staff)
Computer/IT support		5,780	17 computers @ $340 (what we currently pay for Dell extended warranty)
Maintenance			Recycling and trash containers; cleaning supplies; other expenses?
Laundry Room	12,000		
Administration	14,535	8,580	Travel, copying/printing, phone/fax/internet, insurance, hiring, etc.; additional research needed
Insurance			TBD
Utilities		45,423	10/07 estimate from architect; may vary depending on systems selected
Total Expenses	**335,682**	**2,579,414**	

as of 11/23/2009

APPENDIX F

Deerfield Cottage Renovation Plans



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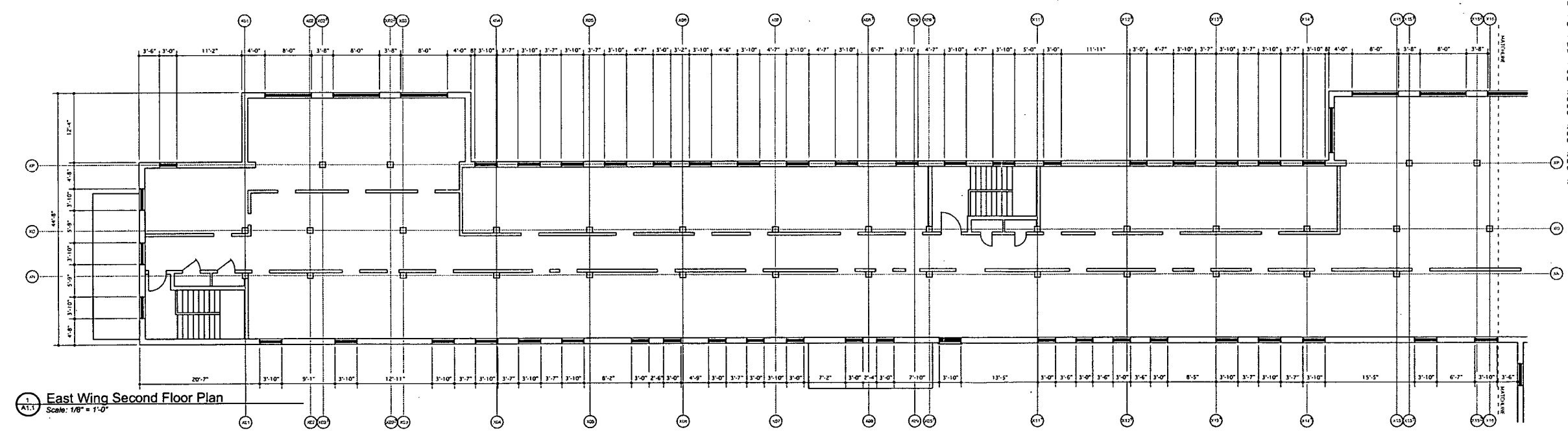
A1.1 Scale: 1/8" = 1'-0"



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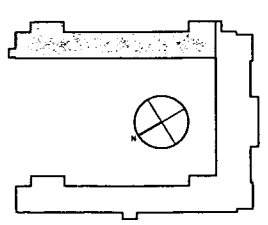

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PRELIMINARY DESIGN PROGRESS PRINTS NOT FOR CONSTRUCTION

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Building # 71
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Code: 40701
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AD# 2705

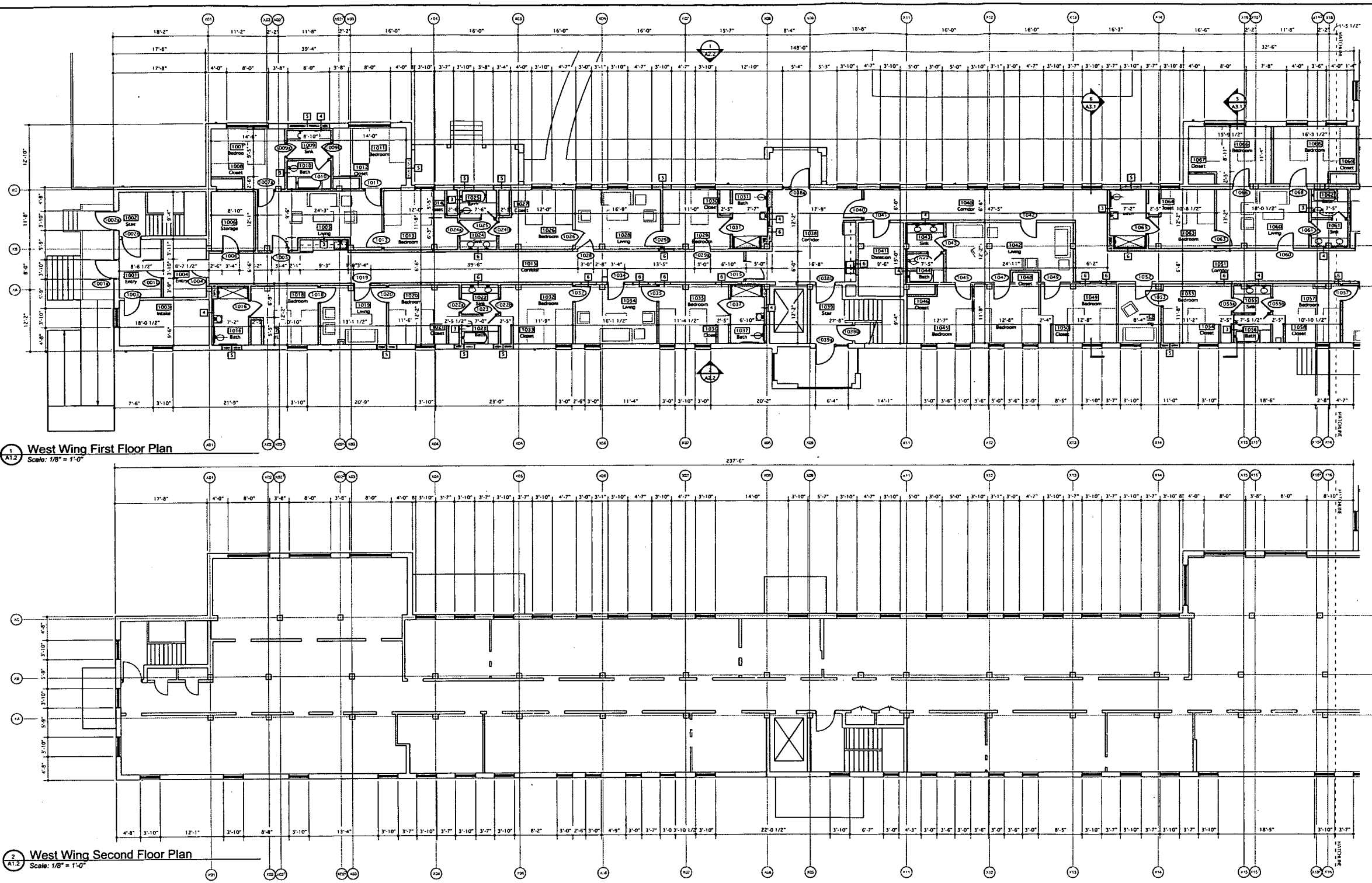
JANUARY 30, 2009

REVISIONS

1
2
3

East Wing
Floor Plan

A1.1



1 A1.2 West Wing First Floor Plan
Scale: 1/8" = 1'-0"

2 A1.2 West Wing Second Floor Plan
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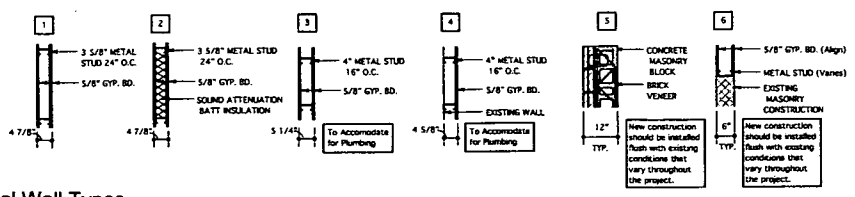
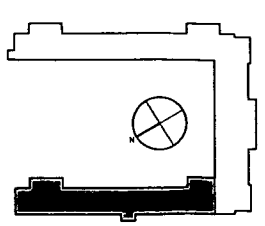


2 A1.2 Typical Wall Types
Scale: 1/2" = 1'-0"



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SPECIFIC PLAN NOTES

◇ REFER TO DRAWING

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PROGRESS PRINTS NOT FOR CONSTRUCTION

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Deerfield Cottage Renovation
John Umpstead Hospital Campus
Building # 71
Butner, NC

Code: 40701
Item: 4J01
SCO File: 060698202

AD# 2705

JANUARY 30, 2009

REVISIONS

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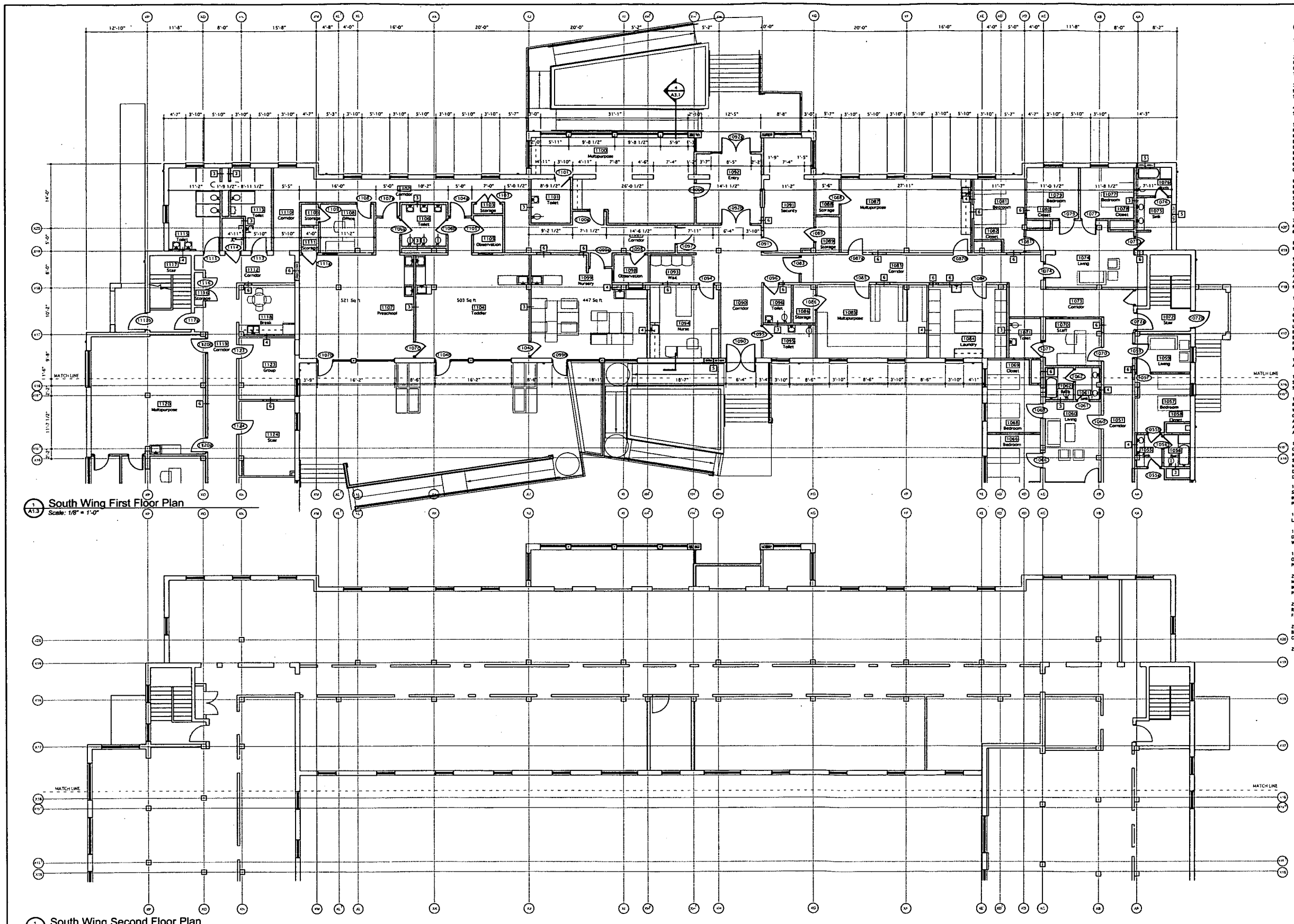
2
3

West Wing Floor Plan

A1.2



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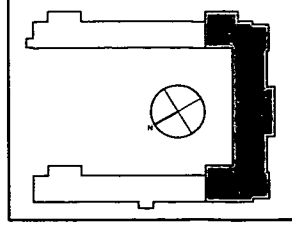

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AD# 2705

JANUARY 30, 2009

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3

South Wing
Floor Plan

A1.3

SECTION 19.20.(e) Subsection (a) of this section becomes effective October 1, 2009, and applies to provider contracts executed or renewed with the claims processing contractor for the State Health Plan on and after that date. Subsection (a) of this section expires upon the effective date of the execution of a contract authorized under subsection (b) of this section.

JUSTICE REINVESTMENT PROJECT

SECTION 19.22. Of the funds appropriated to the Department of Correction for the 2009-2010 fiscal year, the Department may use up to the sum of one hundred thousand dollars ($100,000) in nonrecurring funds if necessary to secure technical assistance from the Council of State Governments to participate in the national Justice Reinvestment Project. This technical assistance will support the work of the Justice Reinvestment Project to develop policies and recommendations to reduce prison overcrowding and to manage the offender population. The North Carolina Sentencing and Policy Advisory Commission shall provide any data or other support requested by the Justice Reinvestment Project in the process of developing these policies and recommendations.

REPEAL JAILED MISDEMEANANT PAYMENTS

SECTION 19.22A. G.S. 148-32.1(a) is repealed.

GATES COUNTY CORRECTIONAL INSTITUTE WASTEWATER FACILITY TRANSFER

SECTION 19.22B.(a) Section 120 of Chapter 1066 of the 1989 Session Laws, as amended by Section 109(c) of Chapter 900 of the 1991 Session Laws, reads as rewritten:

"Sec. 120. The Department of Correction shall permit the Gates County Board of Education to tie the wastewater treatment systems of the Gates County Junior High School and the Gates County High School into the wastewater treatment system of the Gates County Correctional Center. The Department of Correction shall continue to operate the wastewater treatment system for at least six months after closing of the Gates County Correctional Center, and then shall transfer the facility to Gates County for operation by that county or another unit of local government designated by Gates County. The transfer may be in accordance with G.S. 160A-274 or other applicable law."

SECTION 19.22B.(b) The Department of Correction shall continue to fund the operation of the wastewater treatment system for the six-month period from funds available to the Department.

COMMUNITY WORK CREW FEE

SECTION 19.24. Article 3 of Chapter 148 of the General Statutes is amended by adding a new section to read:

"**§ 148-32.2. Community work crew fee.**

The Department of Correction may charge a fee to any unit of local government to which it provides, upon request, a community work crew. The amount of the fee shall be no more than the cost to the Department to provide the crew to the unit of local government, not to exceed a daily rate of one hundred fifty dollars ($150.00) per work crew."

INCREASE FEE FOR COMMUNITY SERVICE WORK PROGRAM

SECTION 19.26.(a) G.S. 15A-1371(i) reads as rewritten:

"(i) A fee of two hundred twenty-five dollars ~~($200.00)~~ ($225.00) shall be paid by all persons who participate in the Community Service Parole Program. That fee must be paid to the clerk of court in the county in which the parolee is released. The fee must be paid in full within two weeks unless the Post-Release Supervision and Parole Commission, upon a showing of hardship by the person, allows the person additional time to pay the fee. The parolee may not be required to pay the fee before the person begins the community service unless the Post-Release Supervision and Parole Commission specifically orders that the person do so. Fees collected under this subsection shall be deposited in the General Fund. The fee imposed under this subsection may be paid as prescribed by the supervising parole officer."

SECTION 19.26.(b) G.S. 20-179.4(c) reads as rewritten:

"(c) A fee of two hundred twenty-five dollars ~~($200.00)~~ ($225.00) shall be paid by all persons serving a community service sentence. That fee shall be paid to the clerk of court in the

North Carolina State Capitol Police Division

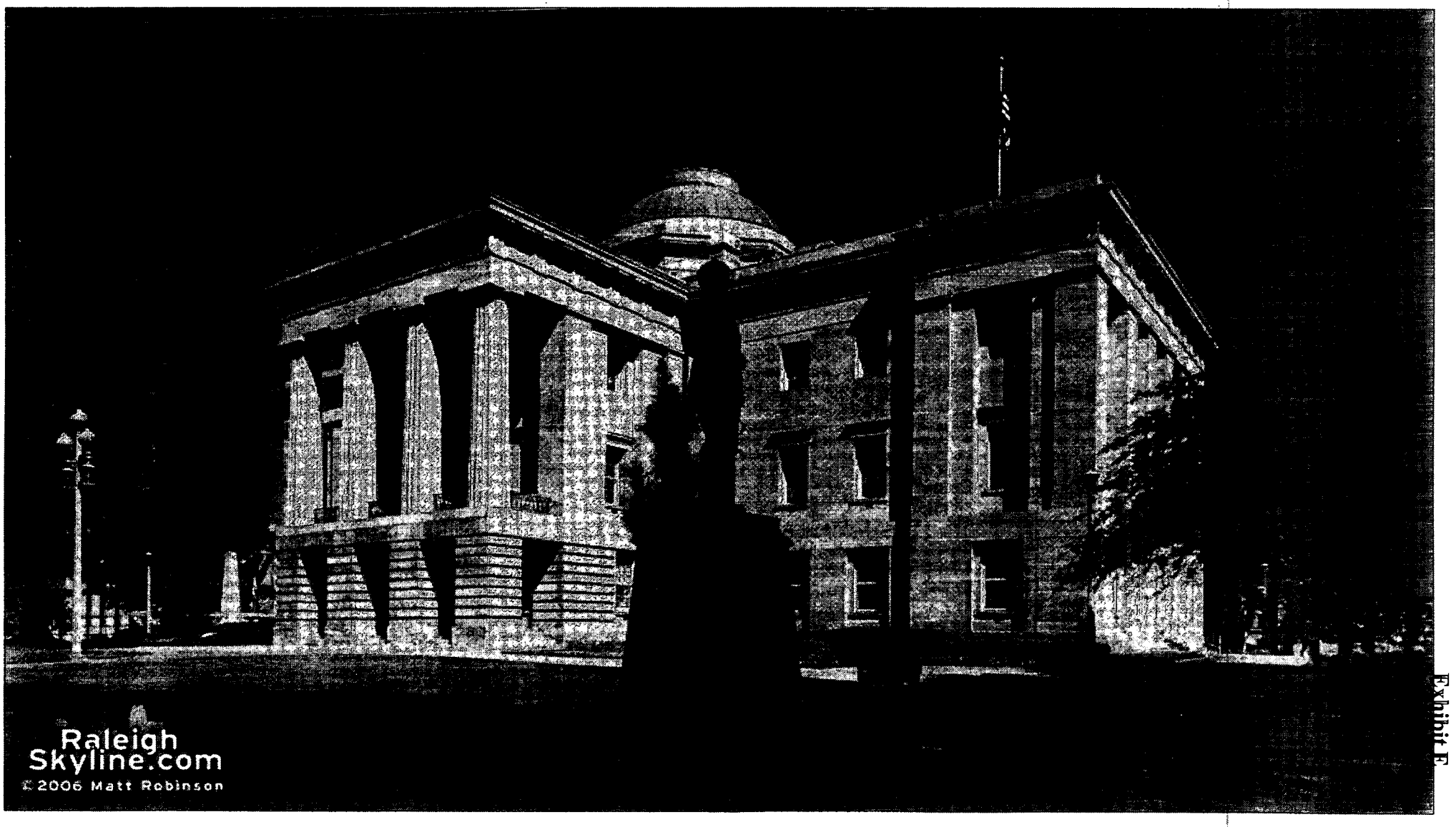


Exhibit E

Mission

To provide a safe and secure environment for public officials, state employees, and visitors within the State Government Complex and at state-owned properties throughout the Raleigh/Wake County area, through the consistent enforcement of established regulations and laws.

Vision

We will strive to continue to meet the ever-shifting global trends that threaten the safety and well being of the officials, employees and citizens we serve. Our services will be delivered with precision through innovative training and enhancement in the areas of internal and external communication, job-specific training and personnel development for all employees, and appropriate staffing and personnel compensation.

Administration Section

- Training
- Special Programs
- Firearms
- Supply
- Grants
- Personnel

Operations Section

- Communications Unit
- Patrol Unit
- Executive Protection Unit
- Criminal Investigations Unit
- ITS Unit

Measures

- To prevent or mitigate criminal activity within State Government Complex.
- To meet the law enforcement and security needs of public officials, state employees and visitors, within the State Capitol Police (SCP) jurisdiction, who contact SCP for service.
- Respond to calls for service in a timely manner.
- Conduct Security Assessments at state-owned facilities within the State Government Complex and implement recommended security enhancements at identified state-owned facilities under SCP control.

Accomplishments

Personnel

- Increased law enforcement presence from 43 sworn law enforcement officers to 58 sworn law enforcement officers.
- Increased security guard presence from 6 to 21 non-sworn security guards
- Established an in-house police training section with a certified training officer and firearms instructor.
- Provided Basic Anti-Terrorism Training for SCPD personnel assigned to state government facilities.
- Implementation of a computer aided dispatch (CAD) system to improve the division's overall efficiency and response to requests for service.

Accomplishments

Infrastructure Security Enhancements

- Creation of the command integration center to support the downtown protection plan. The center is capable of housing and facilitating multiple emergency response entities.
- Implementation of a comprehensive video surveillance network for the downtown complex.
- Implementation of a State Government Infrastructure emergency radio communication network.
- Increased safety for state employees by installing five (5) Emergency Call Boxes throughout the State Government Complex.
- Enhance the visitor screening process by implementing a networked computerized visitor identification database. (LobbyGuard)
-
- Increased education and awareness of pedestrian safety within the downtown complex with the implementation of a crosswalk safety program.

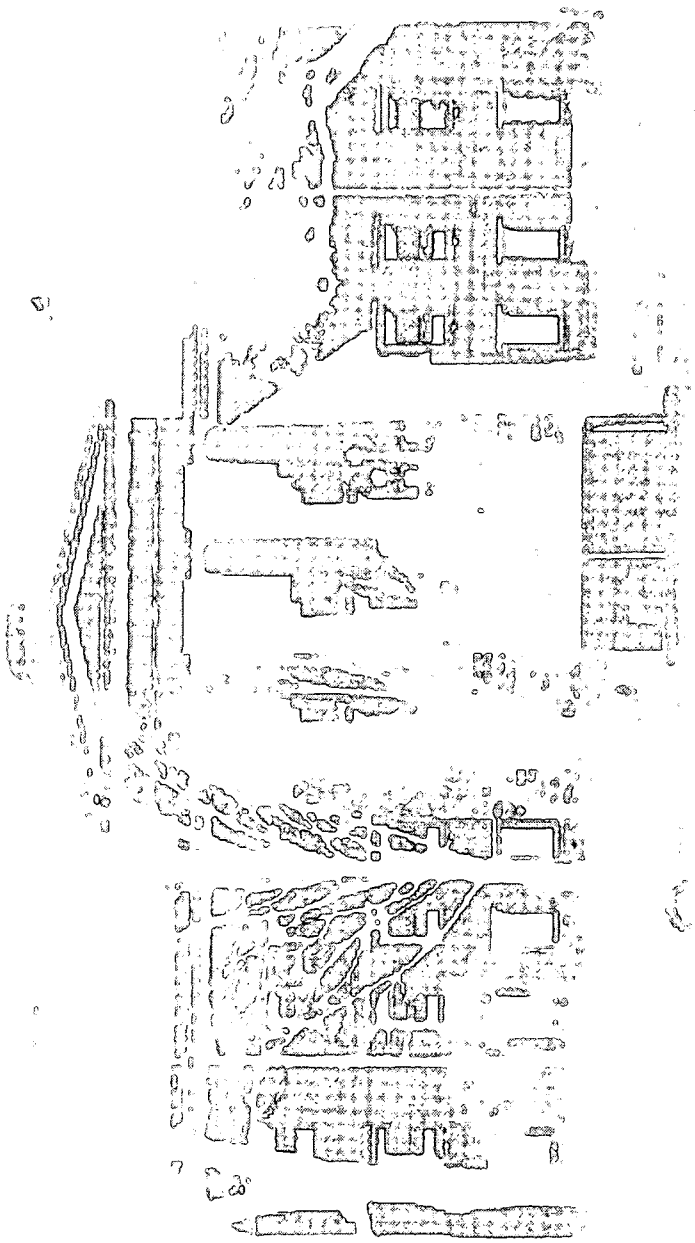
Accomplishments

Internal Programs

- Creation of a canine explosive detection team with National certifications – North American Police Work Dog Association (NAPWDA) and ATF National Odor Recognition (NOR) test.

Statewide Programs

- Creation of the statewide North Carolina Explosive Detection Canine Task Force.




YOU'RE
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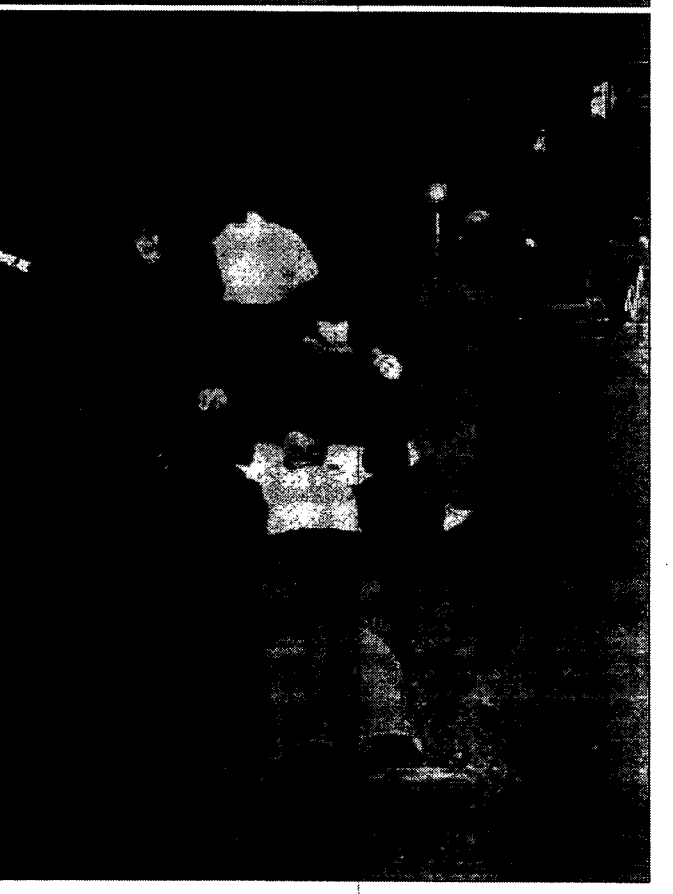
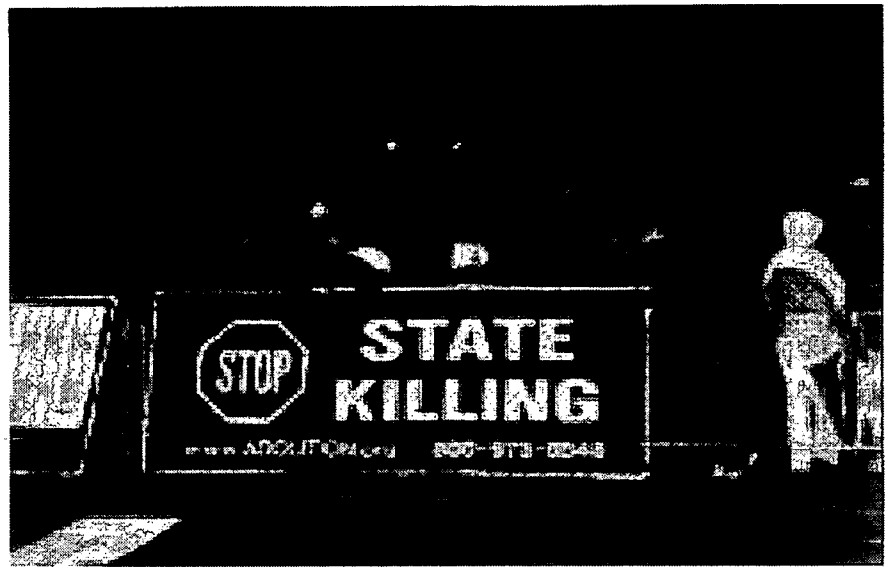
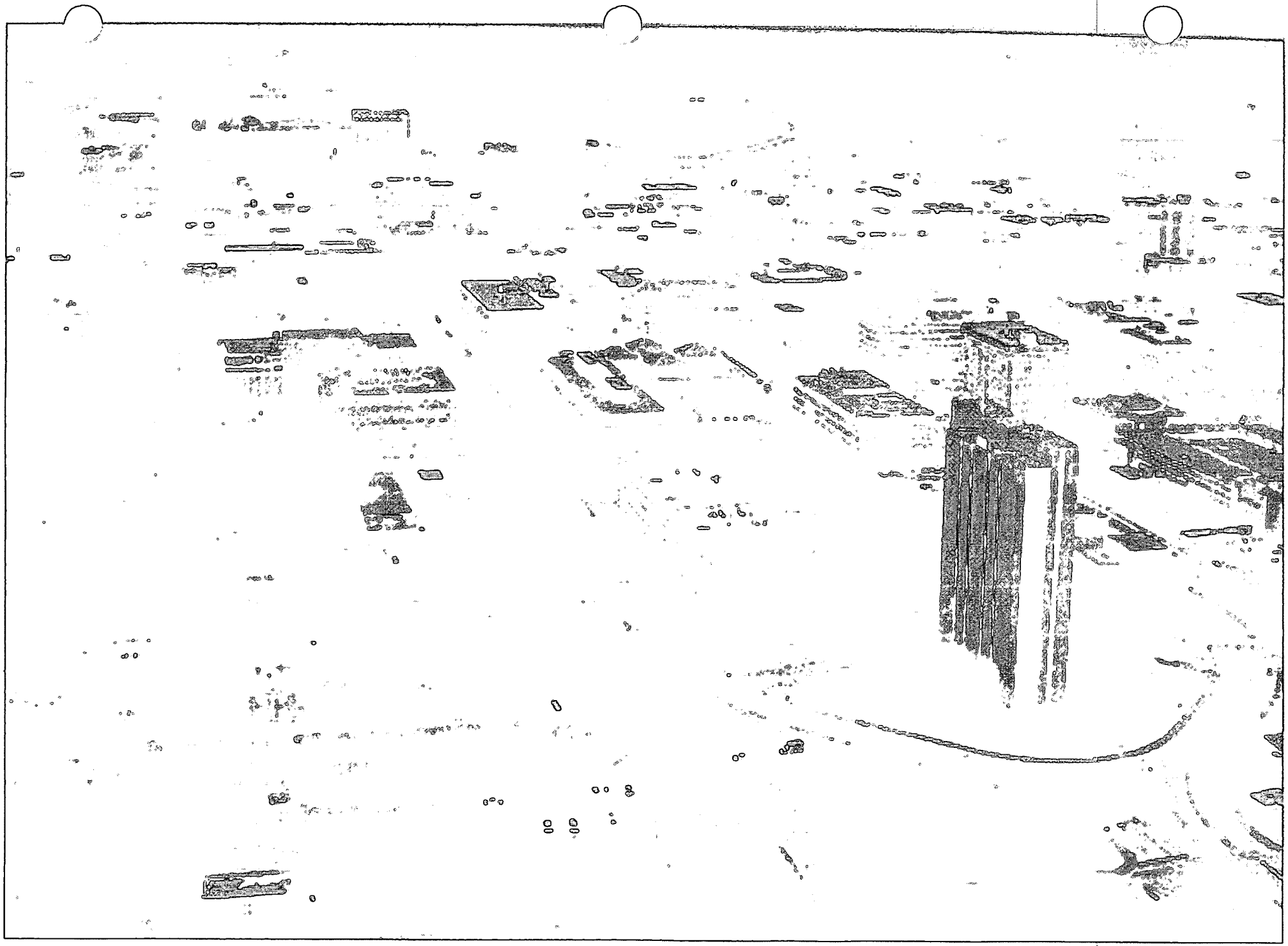
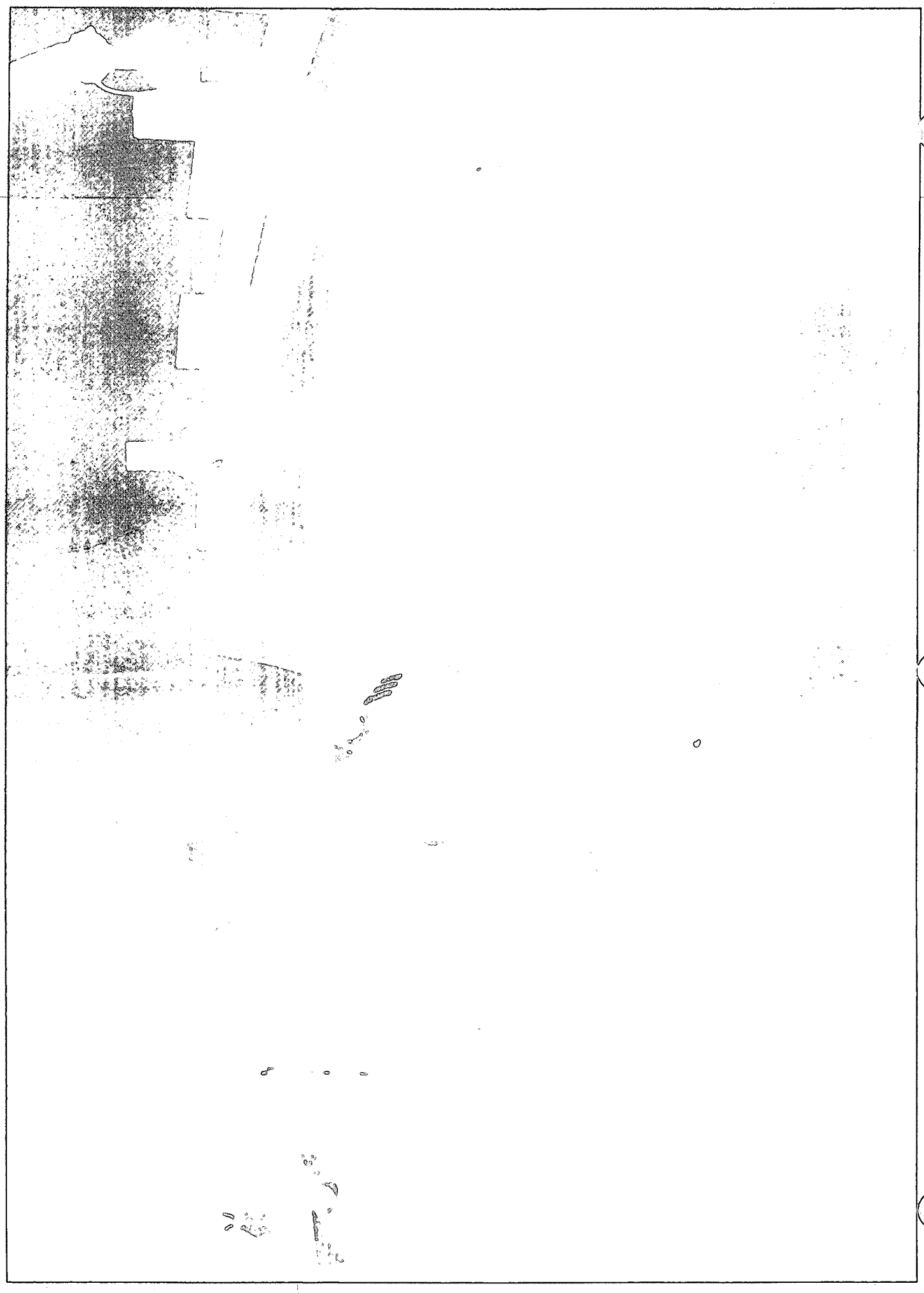
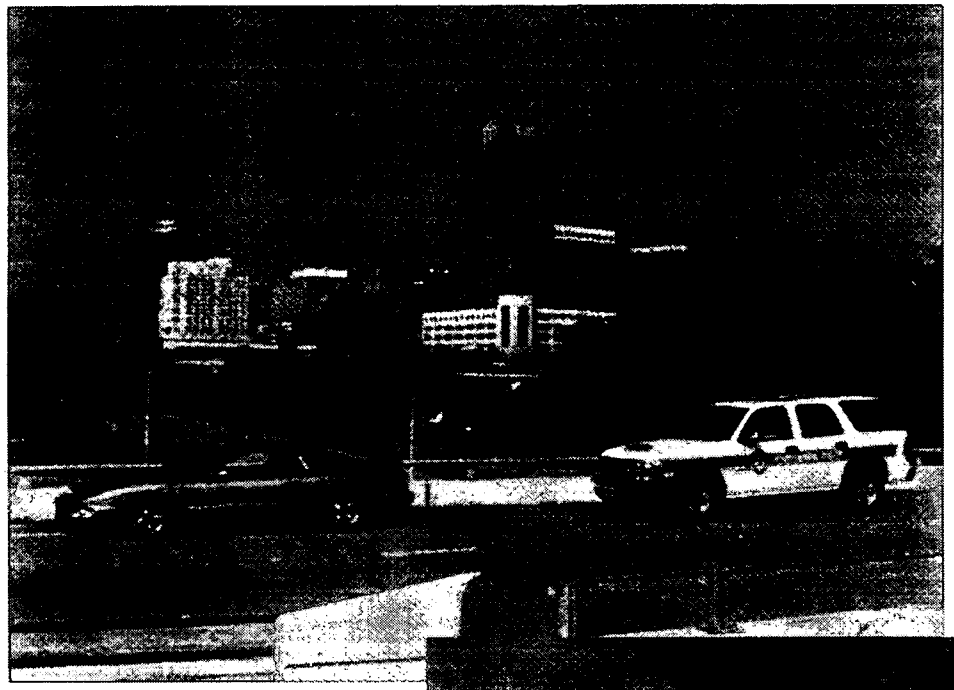


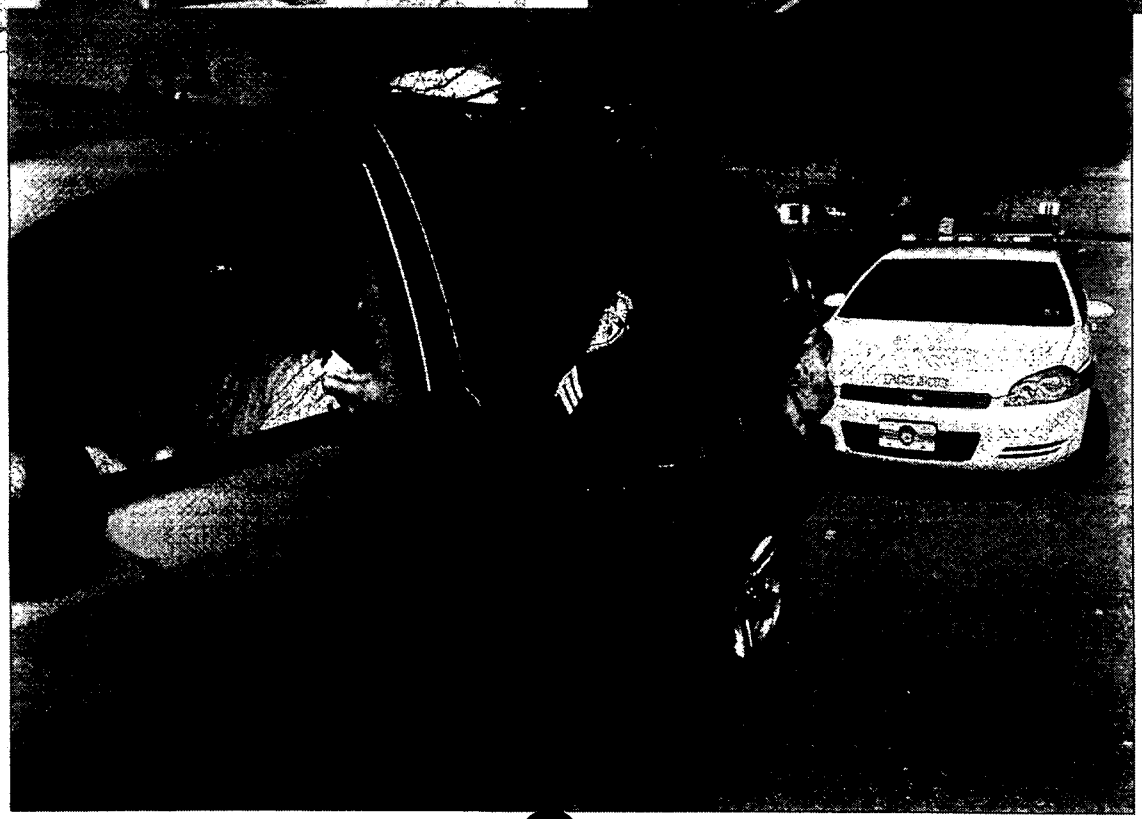

STOP
STATE
KILLING

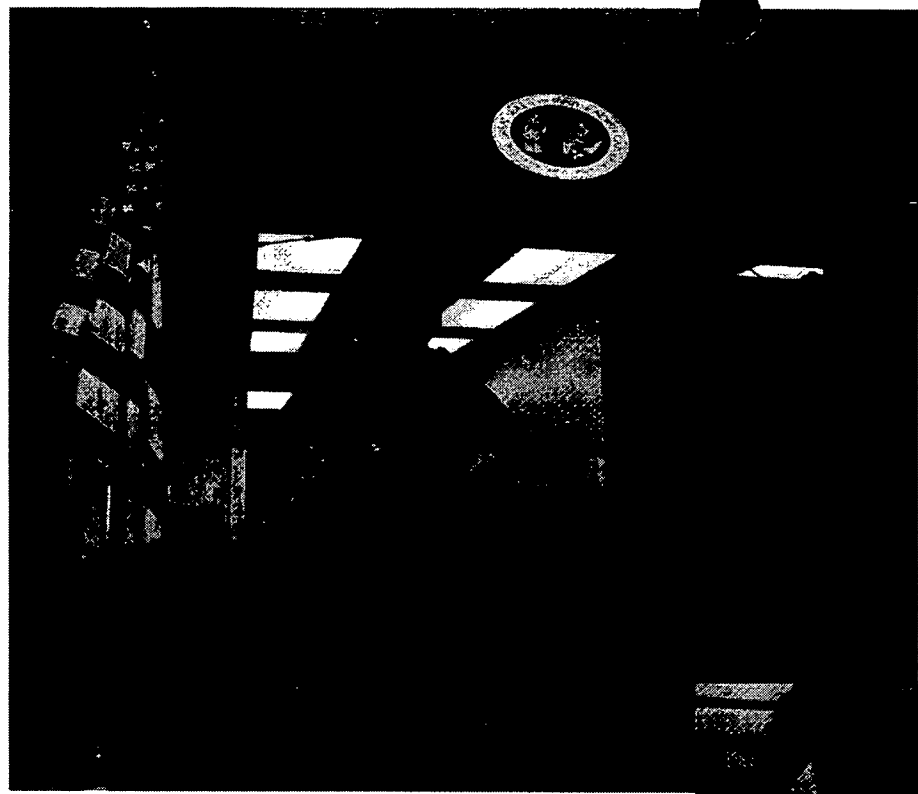

1000 EXECUTIONS











North Carolina State Capitol Police Division

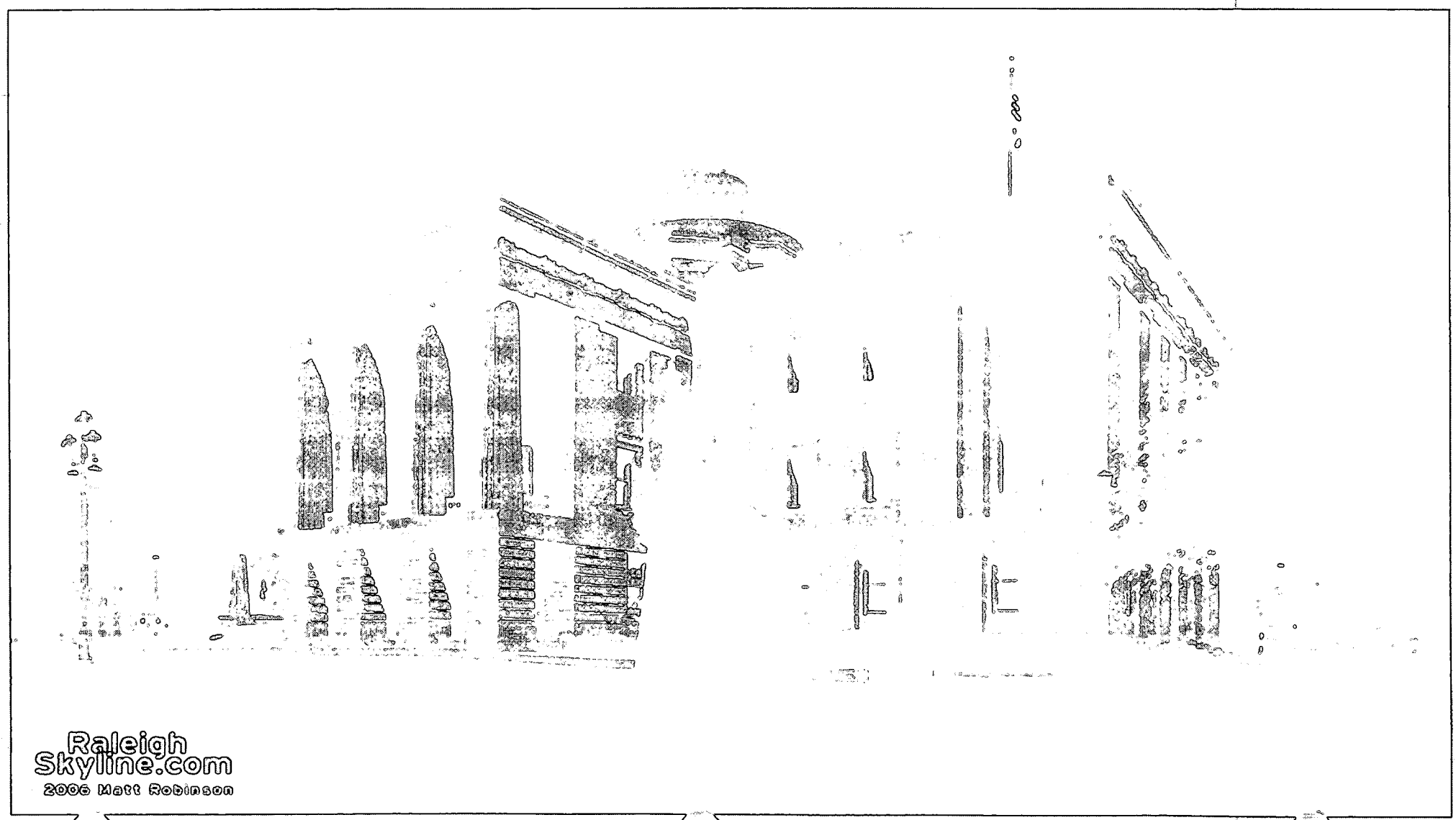


Exhibit F

North Carolina State Capitol Police Division

Crime, Enforcement, and Services

2008

Executive Summary

The NC State Capitol Police Division is a law enforcement agency created to protect and serve state employees, dignitaries and visitors throughout the State Government Complex.

The State Government Complex consists of over 150 structures that cover over five million square feet of building space in the Raleigh/Wake county area. The NC State Capitol Police Division employs 58 sworn law enforcement officers, 19 non-sworn security guards, 5 telecommunicators, and 3 support personnel.

In capturing the many facets of our agency, the NC State Capitol Police Division developed this Crime, Enforcement, and Services publication which demonstrates a portion of the work our dedicated personnel perform on a daily basis.

The NC State Capitol Police Division strives to achieve excellence, efficiency, and effectiveness in each aspect of our services. Through these efforts, we continue to have the reputation of being the "Can Do" agency.

Table of Contents

Mission

To provide a safe and secure environment for public officials, state employees, and visitors within the State Government Complex and at state-owned properties throughout the Raleigh/Wake County area, through the consistent enforcement of established regulations and laws.

Vision

We will strive to continue to meet the ever-shifting global trends that threaten the safety and well being of the officials, employees and citizens we serve. Our services will be delivered with precision through innovative training and enhancement in the areas of internal and external communication, job-specific training and personnel development for all employees, and appropriate staffing and personnel compensation.

Core Values

Integrity: We are committed to the highest professional and ethical standards. We are accountable for our actions to the public and to each other. We foster public trust by being honest, fair, and consistent.

Professionalism: We are dedicated to providing quality services by being progressive, well trained, disciplined and highly motivated employees. We serve as role models for the community by projecting a positive image with a spirit of cooperation and teamwork.

Respect: We are duty bound to uphold the rights and liberties of all people. We are sensitive to the needs of everyone. We treat everyone with dignity, understanding, and compassion in a way we want to be treated.

Fairness: We deliver consistent service to a culturally diverse community through understanding, open-mindedness, and non-judgment. We are equally responsive to the needs of all people.

Security Screening

In pursuit of our mission to secure State Government operations, the NC State Capitol Police assigns specially trained law enforcement officers to specific state-owned properties and facilities throughout the State Government Complex. In addition, the NC State Capitol Police utilizes networked security screening devices located throughout several facilities in the State Government Complex. Screening visitors is an effort to ensure that state government operations continue without interruption from willful acts of terrorism or other criminal activity.

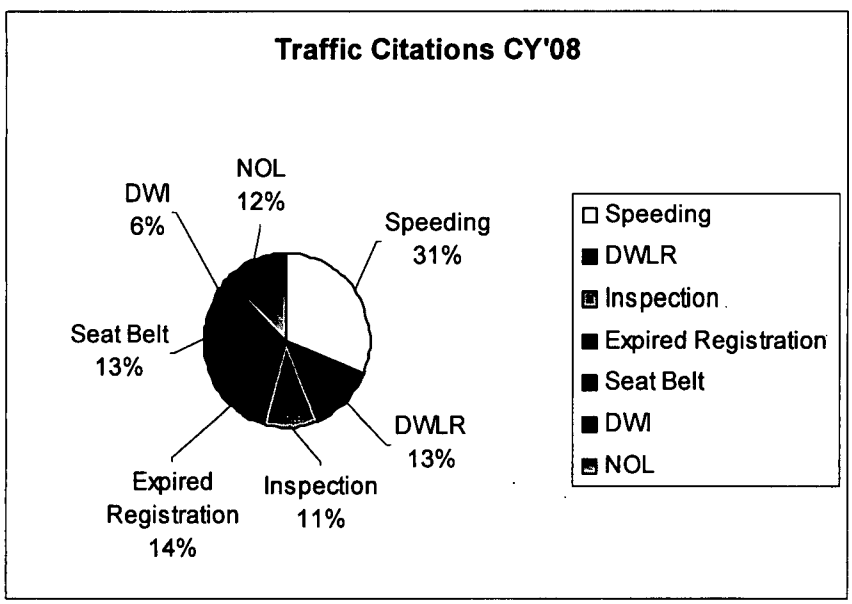
In CY'08, NC State Capitol Police Division screened more than 125,000 visitors at state owned facilities.

Protective Alarms

The NC State Capitol Police Division monitors 18,104 active fire, rescue, panic, burglar and intrusion alarms and dispatches fire, EMS and police services to state facilities throughout the state of North Carolina. The alarms are monitored 24 hours per day.

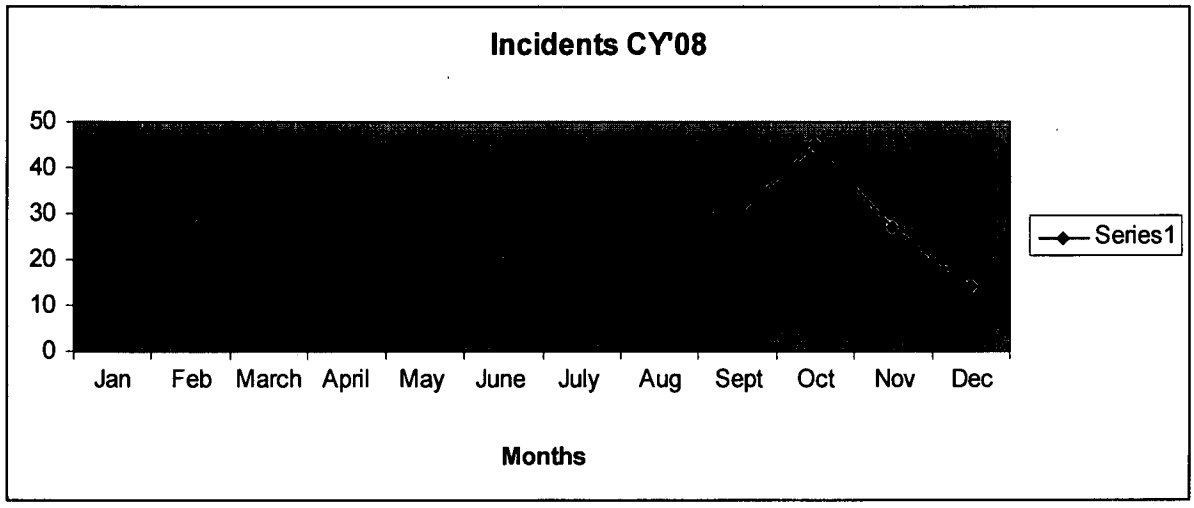
Traffic Enforcement

To ensure a safe motoring and pedestrian environment for state employees and visitors to the complex, the NC State Capitol Police Division implemented a dedicated Patrol Unit designed to address and target critical traffic safety issues such as speeding, seatbelt use violations, impaired driving, pedestrian/crosswalk violations, red light violations, and other motor vehicle violations. In CY'08, NC State Capitol Police Division conducted 13 DWI sobriety checkpoints throughout the Raleigh/Wake County area. Officers issued 667 citations for traffic violations during the same period.



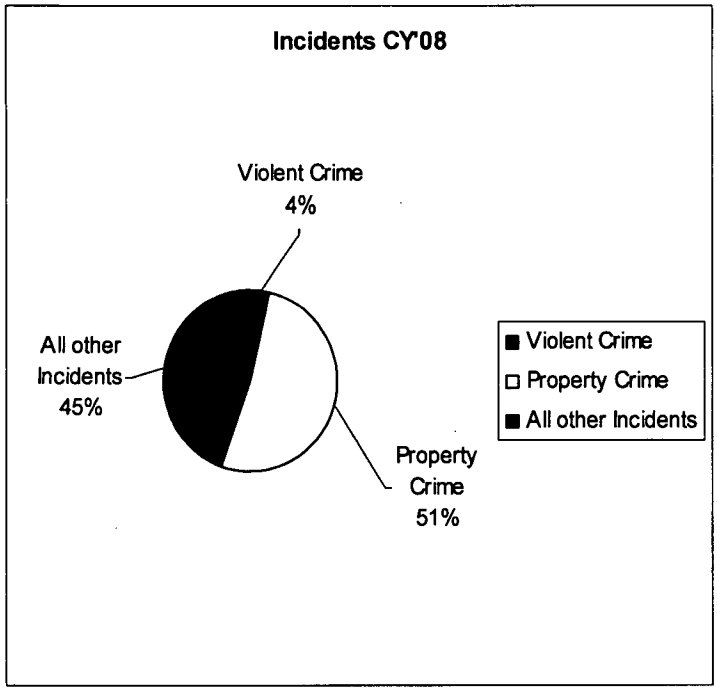
Incidents

The NC State Capitol Police Division responded to 8,521 calls for service during the CY'08. Of these calls for services, 393 were incidents. Incidents are defined as occurrences committed by a person or group of persons acting together at the same time and place. Incidents are classified within three categories: property crime, violent crime, and all other incidents.



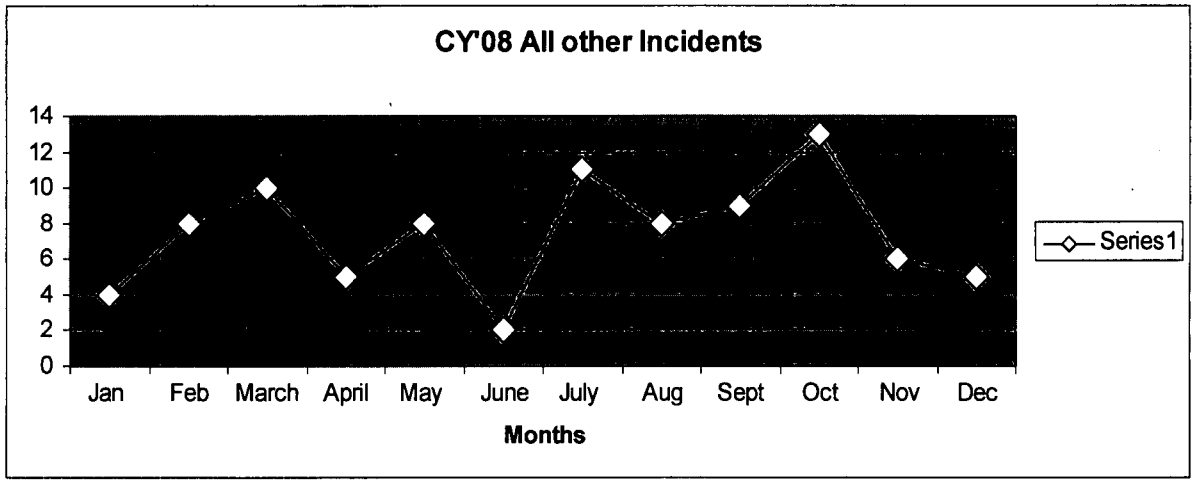
2008 Incidents Feature

Most Frequent Month ..... *October*
Least Frequent Month ..... *June*
Most Frequent Type ..... *Property Crime*



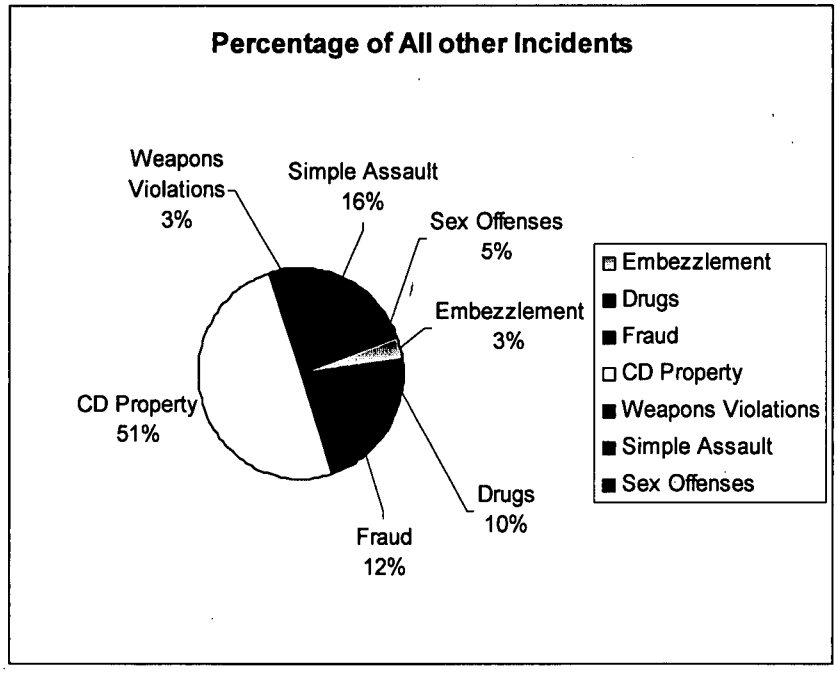
All Other Incidents

In CY'08, occurrences classified as "**All Other Incidents**" were the second leading incidents reported to the NC State Capitol Police Division. **"All Other Incidents"** are defined as other occurrences that are not grouped within the property crime and violent crime incident categories and include simple assault, fraud, criminal damage to property, sex offenses, weapons violations, embezzlement, and drugs violations.



2008 All Other Incidents Feature

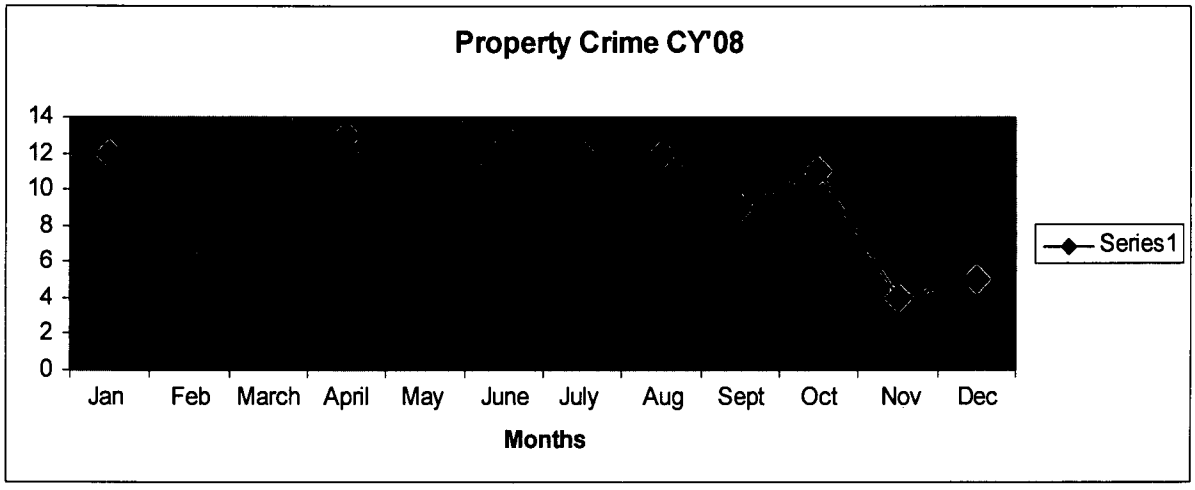
Most Frequent Month ..... *October*
Least Frequent Month ..... *June*
Most Frequent Type ..... *Criminal Damage to Property*



**CD Property-Criminal Damage to Property

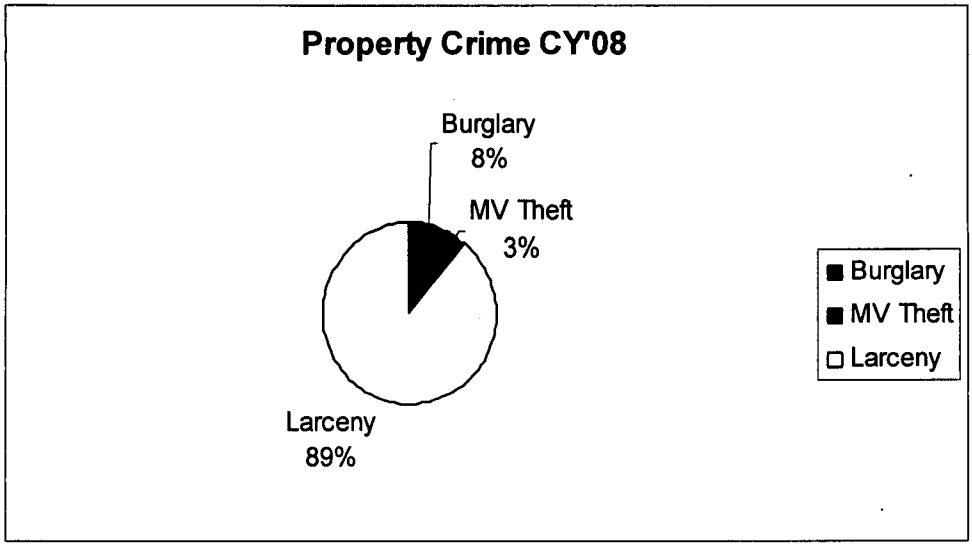
Property Crime

Property Crime was the leading incident reported to the NC State Capitol Police Division in CY'08. Property Crime is defined as the taking of money or property without force or threat of force against the victims. Property crime includes burglary, larceny, motor vehicle theft, and arson.



2008 Property Crime Features

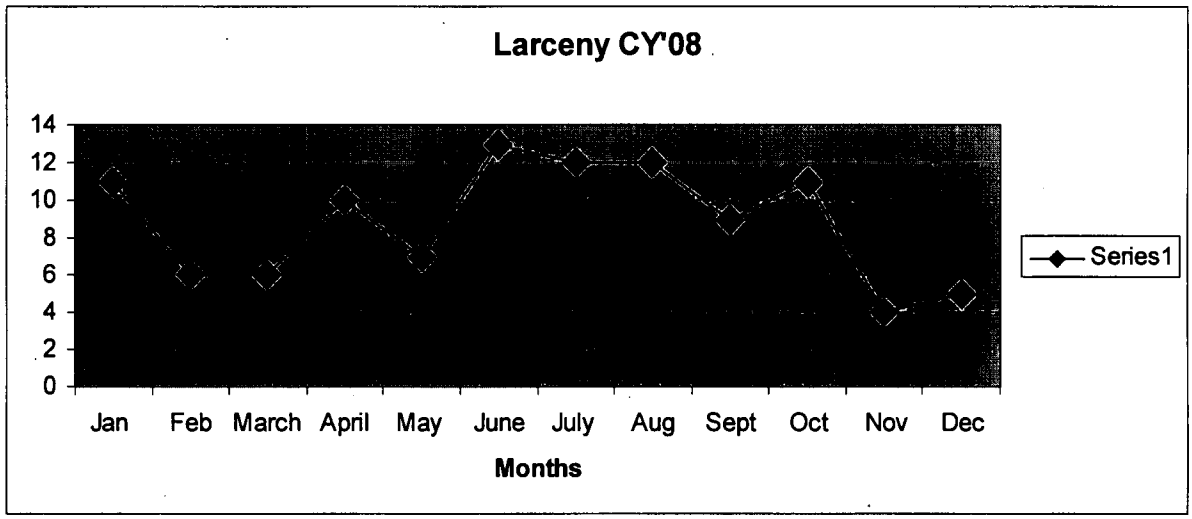
Most Frequent Month ..... *April/June*
Least Frequent Month ..... *November*
Most Frequent Type ..... *Larceny*



**MV Theft-Motor Vehicle Theft

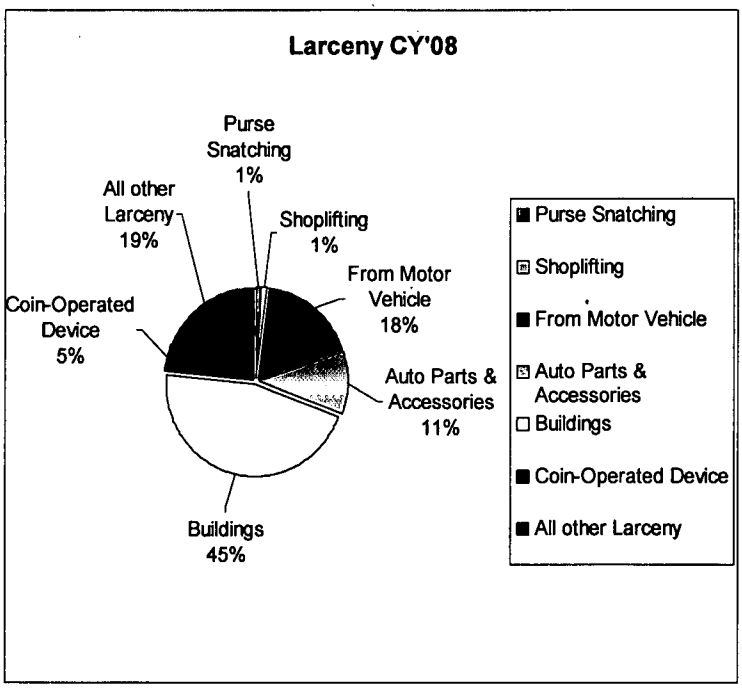
Larceny

In CY'2008, larceny was the most frequent type of property crime reported to the NC State Capitol Police Division. Larceny is defined as the unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession of another person.



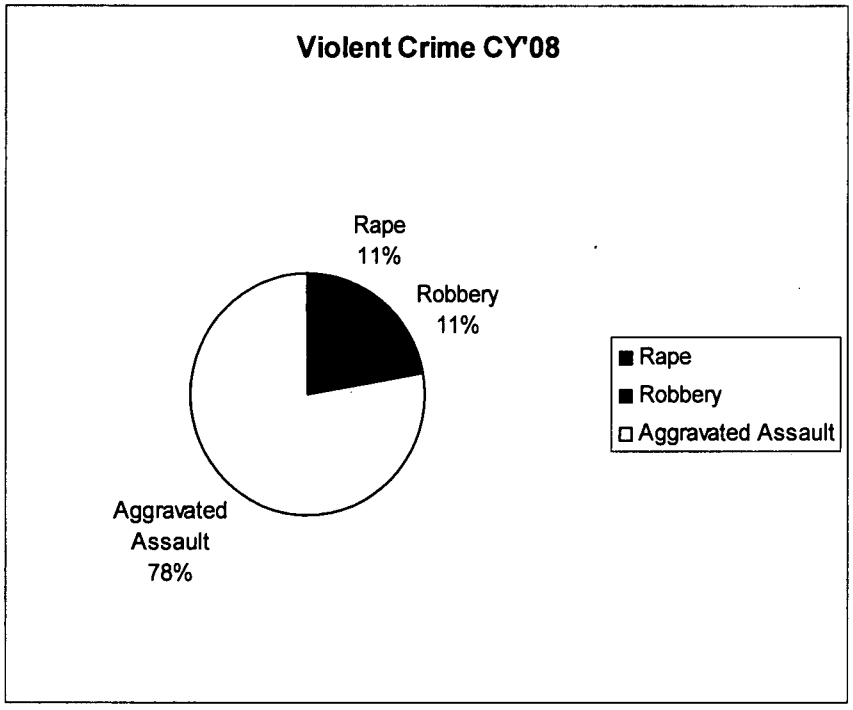
2008 Larceny Features

Most Frequent Month ..... *July/August*
Least Frequent Month ..... *November*
Most Frequent Type ..... *Larceny from Building*



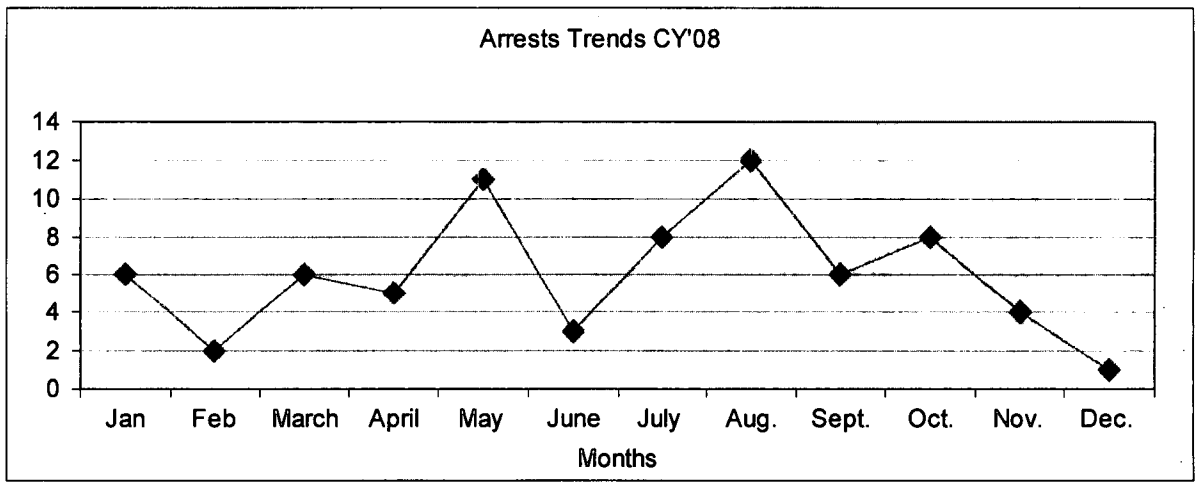
Violent Crime

In CY'08, the NC State Capitol Police Division investigated nine violent crimes. Violent crime is defined as an offense that involves the use of force or threat of force. Violent crime includes murder, non-negligent manslaughter, forcible rape, robbery, and aggravated assault.



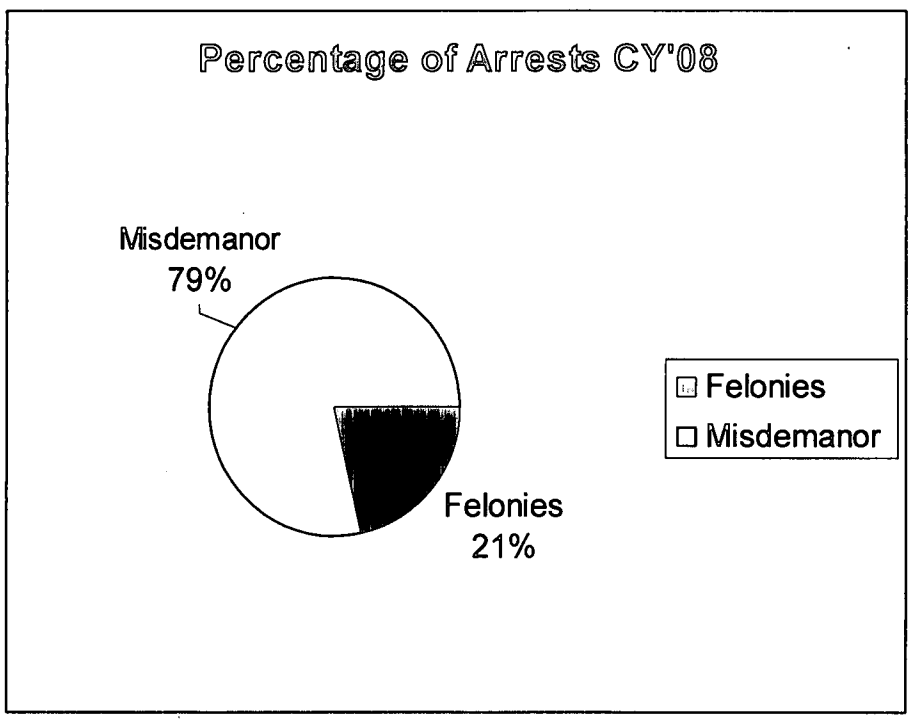
Arrests

Through effective law enforcement and criminal investigation, State Capitol Police officers arrested seventy persons in CY'08. Of these arrests, 15 were felony charges and 55 were misdemeanor charges.



2008 Arrests Feature

Most Frequent Month ..... *August*
Least Frequent Month ..... *December*
Frequent Type of Charge ..... *Misdemeanor*



Restitution/Recovered Property

Resulting from the consistent use of professional law enforcement practices, effective criminal investigations, efficient case preparation and management, and credible court testimony throughout CY'08, the State Capitol Police Division solved numerous crimes and closed cases. These efforts yielded $1,454.39 in financial restitution and the successful return of $36,057.11 worth of state-owned property equipment to the State of North Carolina preventing the replacement of such property.

MINUTES

JOINT LEGISLATIVE CORRECTION, CRIME CONTROL AND JUVENILE JUSTICE OVERSIGHT COMMITTEE

March 25, 2010
Room 544, LOB
10:00 a.m.

The Joint Legislative Correction, Crime Control, and Juvenile Justice Oversight Committee met at 10:00 a.m. on March 25, 2010 in Room 544, LOB. In attendance were Co-Chair Representative Jimmy Love, presiding, Co-Chair Senator Edward Jones, Representatives Boles, Guice, Mobley, Randleman, and Spear, and Senators Apodaca and Bingham. A copy of the visitor registration sheets is attached hereto and made a part of these minutes.

Representative Love called the meeting to order and recognized the Sergeants-at-Arms.

The Chair called on Representative Guice to speak about HB 1338, Study Post-Conviction/Post-Release Bond, as Representative Pryor Gibson was unable to make the meeting. Representative Guice highlighted the unique opportunity offered by conditional post-conviction/post-release bonds. This would be an important tool for the courts to use in relation to offenders being released back in the community. He commented on the importance of the Justice Reinvestment initiative in North Carolina, the Division of Community Corrections looking at evidence-based practices, and the Ex-Offender Reentry Committee. North Carolina was currently looking at many ways to improve its criminal justice system. He noted that HB 1338 could be an important asset to these initiatives, it being another opportunity to find appropriate punishments other than imprisonment. Judges would have other mechanisms to keep offenders in the community rather than imprisoning them.

The Chair called on Michael Mann of the North Carolina Bail Agents Association. He introduced other gentleman present who would speak about the proposal, including Mike Huff, Dennis Bartlett, Gene Newman from Mississippi, and Theodis Beck.

The Chair called on Michael Huff of the American Legislative Exchange Council for a brief explanation of the bill. Mr. Huff noted that the problem of prison overcrowding had no cure-all, but that post-conviction/post-release bonds could be part of a wider solution. The commercial bail industry would work with the state to alleviate prison overcrowding. He mentioned that Representative Jerry Madden of Texas had supported a similar measure in Texas. He noted that emergency releases from prisons are not the answer, and that the bill is designed for the release of juveniles and non-violent offenders. In many cases, the family of the offender would post the bond, so that there was more of an investment in the individual not re-offending. The family would have a financial incentive to stay out of trouble.

Member questions were answered. Senator Jones thanked Mr. Huff for coming and asked how many people the bill would reduce the prison population by. Mr. Huff stated that he had no definite numbers, as some judges would use the measure more than others. Representative

Mobley asked Mr. Huff to explain his reference to juvenile offenders. Mr. Huff referred to the website www.alec.org which offered more details about the plan to reduce prison overcrowding. The original plan included measures to reduce juvenile offenders in prison. The goal was to identify juvenile offenders and release them on bond, with requirements to follow such as staying in school, remaining drug free, keeping employment, etc. If a juvenile were in violation of the rules, he or she would be returned to incarceration. Representative Mobley asked what age of juveniles he was referring to, as in NC juveniles are not accorded bail. Mr. Huff responded that this would be a new program and a change in the law, and would be post-conviction rather than pre-trial. Senator Bingham asked about the three states that had enacted the measure and for the data on the percentages of juveniles versus adults in those states. Mr. Huff responded that Gene Newman would be able to talk about numbers in Mississippi. He would find the numbers from other states and provide the information.

The Chair recognized Dennis Bartlett from the American Bail Coalition. Mr. Bartlett gave an overview of other states in the nation with this program. He noted that in addition to the three states who had already enacted the program, South Carolina and Indiana had recently introduced a similar program, and that a host of other states had expressed in interest in learning more about it. The bail release offers an extra surety and protection to keep people from re-offending.

The Chair then recognized Russell Gene Newman, the legislative chair for the Mississippi Bail Agents Association to speak about the measure in Mississippi. Mr. Newman noted that the law was originally passed in 2007, but that the original form was not usable. The current version dated from July 1, 2008, and it was very brief. A judge could give 72 hours notice to have a hearing for an appearance bond, with a court date set for the end of the duration of time. At that hearing, the defendant must reappear and prove that he/she can continue on probation. Judges in Mississippi were getting used to the law, and it is getting used more and more frequently. However, he was still unable to provide real numbers for comparison because of the age of the law. He guessed that over 1000 bonds had been written to date, in total. The forfeiture rate in Mississippi was the same as for normal appearance bonds, which was surprising. This was most likely due to the positive effects of family involvement. The failure rate of the measure was lower than expected, and it was helping probation officers. In answer to the question of whether the measure has an adverse effect on the poor and indigent, Mississippi had found that officers could spend more time with the indigent than previously, which actually helps them.

Member questions were answered. Senator Jones asked if this is an additional bond to the bond posted when the defendant is first arrested. Mr. Newman responded in the affirmative. Representative Spear asked whether in Mississippi, the measure applies to people with active sentences, or to probationers. Mr. Newman responded that the measure applies to any sentence, in addition to ex-offenders who are on parole. The punishment can apply to those who are simply fined to those who are newly released from prison. Representative Spear asked if there was a minimum length of time to serve before an offender becomes eligible for the bond. Mr. Newman responded that the bond is separate from the sentence. A parole board or judge could require the bond, which is different from the sentence from Corrections. What had been happening was that person with a technical violation on a parole issue went back before a judge, who required the bond. Representative Spear asked staff how this measure would apply to structured sentencing in North Carolina. Susan Sitze responded that the measure would apply to post-release supervision

period of 9 months in North Carolina. Someone would be released from an active sentence 9 months before their max date, and then during that period, the bond would be required. If there was a violation during that period, the offender could be sent back to prison for the remainder of their active sentence. Representative Boles asked if an offender were unable to afford bond, would he/she be forced to serve the active sentence. Ms. Sitze answered that currently, there was a requirement to release certain felony offenders 9 months prior to release date. Unless the General Assembly changed the language, there would still be that requirement in place. If the General Assembly chose to adopt the post-conviction bond, the question of affordability would have to be addressed in the language. Representative Boles asked Mr. Newman what would happen in Mississippi if an offender could not afford the bond. Mr. Newman responded that usually, it was affordable. In cases when it was not, it was usually true that the family just did not want to get involved and to help because they were sick of dealing with the person. Then, the case would go back to the judge for an alternate option. This could involve GPS monitoring, or other measures to keep the offender in line. Representative Guice noted that a bill would have to be drafted that would fit North Carolina and structured sentencing, and that many things would likely have to change, including the post-release supervision period. It would be important to consider the judicial aspect at the time of sentencing, because judges, knowing the cost of incarceration, would rather not send people to prison. Also in North Carolina, it would be necessary to deal with the absconder population. Representative Love noted that it was understood that this is just a study of the issue in order to formulate a recommendation of what to do later. There was no legislation in place at this point.

The Chair recognized Theodis Beck, former Secretary for the Department of Correction, to speak on behalf of the post-conviction bonds. Mr. Beck was interested in the work being done by the Bail Agents Association, and he noted that this is an opportunity to advance a worthy possibility. The measure would provide an opportunity to foster a public/private partnership, and pool the resources of bail agents, law enforcement officers and corrections officers at a low cost to the state. This would ultimately have a great benefit to the state, at little or no cost. If one could get an offender's family and friends to help post bond, they would have a vested interest in keeping that offender from re-offending. It was not a fix-all, or a silver bullet, but it represented a great deal of hope and possibility.

Member questions were answered. Senator Bingham asked about the 9 months post-release supervision mentioned earlier, and asked how many people annually go out on post-release supervision. Douglas Holbrook responded that staff would get the numbers on post-release supervision. Senator Jones agreed that the measure would save the state money and free up beds. He hoped that in a study committee, the issue would be studied further. Representative Guice thanked former Secretary Beck and emphasized that the measure was just another tool, not a fix-all. He noted that a report he had read stated that in 2008, in North Carolina, 28,000 inmates came into the system, but just 27,000 were released. Officers who are supervising offenders should spend more time with a population that appears in court quite regularly, and that the court system wanted to keep people in the community as much as possible, with the exception of dangerous cases. If an offender paid with the help of family, there was an extra incentive to complete the sentence and debt to society. He noted that Senator Snow, who could not be present, had also expressed his support for the measure.

The Chair recognized Robert Brinson, the CIO for the NC Department of Correction for a report on CJIN (Criminal Justice Information Network). His presentation is attached hereto and made a part of these minutes.

There were no member questions.

The Chair recognized Gwendolyn Burrell, the Executive Director of the Governor's Crime Commission, to present the Gang Assessment Report and Update on Gang Grant Programs. She introduced Richard Hayes, Senior Research Analyst, to present, and referred to handouts. The handouts and presentation are attached hereto and made a part of these minutes.

Member questions were answered. Senator Bingham asked what the criterion for a gang is, and how many members constituted a gang. Mr. Hayes responded that if one gang member was validated, meeting 2-3 criteria, that would constitute gang presence. Senator Bingham was of the opinion that gang activity was secretive, and he asked if it was difficult to get information about gangs. How was the information in the report gathered, and was it credible? Mr. Hayes noted that the information is very credible, because it came from the network from law enforcement. He referred to GANG net, which made it possible to track gang members even across different counties. Senator Jones asked about the disproportionate racial proportions in gangs, and how to turn this around. Mr. Hayes noted that continuing prevention programs and intervention in youth seemed to help somewhat. The most successful programs were taken to households and neighborhoods, and these seemed to cause gang activity to go down. There is no empirical evidence that any one program works best, but together, they are all very good. Senator Jones asked if the prison population breakdown is roughly the same as the racial breakdown in gangs, and why it is even important to look at breakdowns by race. Mr. Hayes noted that these were just numbers that turned up in research, from contacts with law enforcement. He noted that there was a 20% Hispanic involvement in gangs, with 40% black and the rest white. These numbers are based on actual contacts with law enforcement, with identified gang members. Senator Jones noted that race does not appear on driver's licenses anymore, so he wondered how the races were even identified. Mr. Hayes noted that sometimes, Hispanic and white numbers ran together, both being considered white. Senator Apodaca noted that Buncombe County did not report back, but still got grant money. Was there no requirement to report? Mr. Hayes noted that there are state requirements, but he didn't know about federal requirements. Ms. Burrell noted that there is no requirement to report for some federal funds and other state funds in order to obtain money.

The Chair called on C. John Ledford, Director of the NC Alcohol Law Enforcement Division, to present on Weapons Acquisition and Storage Policies. He introduced three of his staff, Mr. Allen Page, Mr. Mark Senter, and Mr. Bob Stocks, all 20 year veterans of the ALE. He gave an overview of ALE policies and authorities, with a focus on alcohol laws, ABC licensed outlets, and gambling laws in North Carolina. He noted that ALE agents were assigned to a variety of task forces on both the federal and state levels, including task forces against terrorism, gangs, tobacco diversion, etc. A copy of his presentation on weapons policy is attached hereto and made a part of these minutes.

Member questions were answered. Senator Apodaca noted that one of the incidents in his area that had prompted a review of the firearms policy had been taken care of, as far as he knew. He

asked if the ALE felt confident about the measures they had taken. Mr. Ledford responded that they did feel confident about the outcome. They were constantly trying to make the policy as efficient as possible. They were working to find a universal locking system that would allow access to the handgun while still making sure it is secure. Mr. Apodaca asked about the video sweepstakes internet gambling things, and asked if the ALE had any control over that. Mr. Ledford noted that he could not really speak about those things, but that they were waiting for any directives from the GA or the courts to do what they needed to do to stop such solicitations. Representative Boles asked if the ALE was fully staffed. Mr. Ledford asked for clarification. Representative Boles asked about the budget allotment. Mr. Ledford said they were very close, and that they were continually running evaluations and assessments for new agents. They had four frozen top positions because of budget concerns, and that they tried to remain as fully staffed as possible. Representative Spear wanted to pay tribute to the officers in his district, who did an outstanding job. Senator Jones echoed Representative Spear and said the officers needed more help, though they were doing an outstanding job. Representative Guice commented that he appreciated the ALE and staff, and he thought the leadership chosen by the governor was excellent and much appreciated.

The Chair recognized Thomas Caves, Special Assistant to Secretary Reuben Young of the North Carolina Department of Crime Control and Public Safety, to give a Status Report on the Law Enforcement Support Services Program. He introduced staff evidence technicians who worked with the program. A copy of his presentation is attached hereto and made a part of these minutes.

Member questions were answered. Senator Jones asked if police departments could not afford $50 per year. Mr. Caves responded that according to the budget, that was true. They would like to see the provision changed from the budget if they were expected to get a receipt. They wanted the flexibility to charge everyone for the services, but it would still fall short of the total annual requirement needed. Senator Jones asked if fire departments could help increase the fee, and if this could be looked at. Mr. Caves noted that they had worked with fire departments in the past. Robert Minish responded that the 1033 excess property program was restricted by law to deal with law enforcement agencies only. They could not deal with fire departments, the park services, service organizations, and others, only state supported or taxpayer supported law enforcement agencies. The 1122 program, which was the General Services Administration purchasing and DOD purchasing, was allowed to deal with fire departments, EMS, emergency management, and law enforcement. North Carolina had a pilot program currently underway, but it was a small part of the operation. Senator Jones asked if law enforcement included company police also. Mr. Minish responded no, because it was not taxpayer supported. Representative Boles asked with the budget cuts, was the department needing equipment more this year? Why couldn't departments pay the $50 fee? Did departments feel they didn't need the equipment now, or could they just not afford it. Mr. Caves noted that the provision in the budget preventing DCCPS from charging the fees was inserted into the budget without consulting DCCPS and law enforcement agencies. As budget cuts trickled down to the local level, the demand for receiving excess property including bulletproof vests, night-vision goggles, etc. the tools that law-enforcement agencies need to serve and protect the citizens of the state, the demand for using the services increased. Representative Guice commented that they were not paying the fee because the GA wrote the law and passed it that way. It was wrong to assume an agency wouldn't pay a $50 fee, it was just the way the law was written. He supported the program and wanted to tour

some of the sites. Mr. Caves welcomed visitors at any time. Representative Spear thanked Mr. Caves and noted that it was a good program. They would try to fund the program again this year. Mr. Caves commented that even if every law-enforcement agency in the state that can pay, does pay, they will still fall very short in their own budget. Agencies would not be able to pay what is really needed. The state should lift up and support the local agencies, rather than drawing resources away.

The Chair concluded the official business of the meeting and drew attention to a few points. The JPS Appropriations Committees would begin meeting from April 6, to make a report on Monday, April 19. Everyone should be ready to begin getting recommendations together. He also noted that Kristine Leggett would be the new head of the JPS team, along with John Poteat and Doug Holbrook. He appreciated all that Jean Sandaire had done in his previous position and thanked him.

There being no further business, the meeting was adjourned.

Respectfully submitted,

Representative Jimmy Love, Presiding Chair

Leah Peroutka, Committee Assistant

JOINT LEGISLATIVE CORRECTION, CRIME CONTROL, AND JUVENILE JUSTICE OVERSIGHT COMMITTEE

Room 544, Legislative Office Building
March 25, 2010, 10:00 a.m.

I. CALL TO ORDER

Committee Chairs: Representative Jimmy Love, Presiding
Representative Alice Bordsen
Senator Ed Jones
Senator Ellie Kinnaird

II. PRESENTATIONS

Opening Remarks by Chairs

Study Post-Conviction/Post-Release Bond (HB 1338)
Representative Pryor Gibson

Criminal Justice Information Network (CJIN) Update
Bob Brinson, Chairman
Criminal Justice Information Network

Department of Crime Control and Public Safety

- Gang Assessment Report and Update on Gang Grant Programs
  Gwendolyn Burrell, Executive Director
  NC Governor's Crime Commission

- Alcohol Law Enforcement Weapons Acquisition and Storage Policies
  C. John Ledford, Director
  NC Alcohol Law Enforcement Division

- Status Report on the Law Enforcement Support Services Program
  Thomas Caves, Special Assistant to the Secretary
  NC Department of Crime Control and Public Safety

III. OTHER BUSINESS:

IV ADJOURNMENT

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H

HOUSE BILL 1338

Short Title:	Study Post-Conviction/Post-Release Bond.	(Public)
Sponsors:	Representatives Gibson, Brubaker (Primary Sponsors); and Lucas.	
Referred to:	Judiciary III, if favorable, Rules, Calendar, and Operations of the House.	

April 9, 2009

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE JOINT LEGISLATIVE COMMITTEE ON POST-CONVICTION AND POST-RELEASE BOND.

The General Assembly of North Carolina enacts:

SECTION 1. There is created the Joint Legislative Study Committee on Post-Conviction and Post-Release Bond. The Committee shall consist of 10 members. The Speaker of the House of Representatives shall appoint five members, and the President Pro Tempore of the Senate shall appoint five members.

The Speaker of the House of Representatives shall appoint a cochair for the Committee, and the President Pro Tempore of the Senate shall appoint a cochair. The Committee may meet at any time upon the joint call of the cochairs. Vacancies on the Committee shall be filled by the same appointing authority as made the initial appointment.

The Committee, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Committee may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02.

Subject to the approval of the Legislative Services Commission, the Committee may meet in the Legislative Building or the Legislative Office Building. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Committee in its work. The House of Representatives' and the Senate's Directors of Legislative Assistants shall assign clerical staff to the Committee, and the expenses relating to the clerical employees shall be borne by the Committee. Members of the Committee shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 2. The Committee shall study the feasibility of reducing prison overcrowding through a post-conviction and post-release bond program that would allow bail bondsmen to bond out prisoners who have completed the major portions of their active sentences. In its study the Committee may consider all of the following:

(1) The qualifications, background checks, and other criteria that should be required for a bondsman to participate in this type of program.

(2) The categories of prisoners who would be considered for early release and the criteria that would be used to determine the eligibility of a prisoner to participate in the program.

(3) The procedural design and aspects of the program including prisoner eligibility reviews, actual release of a prisoner, post-release supervision of a prisoner, revocation of release upon violation of post-release conditions, and establishment of bond terms.

(4) Who would determine the eligibility of a prisoner for early release and evaluate whether the prisoner satisfied the criteria for early release.
(5) The conditions and restrictions that would be imposed for early release.
(6) The bonding procedures to be followed in securing an early release bond.
(7) The appropriate terms for an early release bond.
(8) The authority of a bondsman to enforce the conditions of the bond against an early release principal, to arrest a principal who breaches the conditions of bond, and to surrender a principal to a law enforcement agency.
(9) Any other issues deemed relevant to the study.

SECTION 3. The Committee may make an interim report, including any legislative recommendations, to the 2009 General Assembly, 2010 Regular Session, and shall submit a final report, including any legislative recommendations, to the 2011 General Assembly. The Committee shall terminate upon filing its final report or upon the convening of the 2011 General Assembly, whichever is earlier.

SECTION 4. From the funds available to the General Assembly, the Legislative Services Commission may allocate monies to fund the work of the Committee.

SECTION 5. This act becomes effective July 1, 2009.

CONDITIONAL POST CONVICTION RELEASE BONDS

Post Conviction Bonds (PCB) is not a radical concept. It was developed by the American Legislative Exchange Council (ALEC). It simply provides the Courts and the Parole Board an additional optional tool they might use in certain cases when determining the conditions of probation or parole for low risk criminals.

PCB has the potential to reduce the time low risk criminals are committed to the corrections system and increase the number of low risk convicts approved for early parole. Without a doubt PCB will reduce the number of absconders...at no cost to the tax payer.

Nothing in the proposed law would change or encroach upon the duties and responsibilities of the probation/parole officer. In fact, PCB would be a great assistance to the probation/parole officer by reducing the number of absconders for whom the officer must search.

At this point there is no way of determining the exact number of jail/prison beds PCB would free up each year. The actual number will be determined by utilization...how often Judges and the Parole Board use the law. It may take time for the Courts and the Parole Board to become familiar and comfortable with the new concept. However, it will free up beds needed for more serious convicts.

Three states, Mississippi, Michigan and South Dakota, have recently passed versions of the Post Conviction Bond law developed by the American Legislative Exchange Council. Several other states are presently considering the law.

The concealed handgun permit requirement was included to make the law more restrictive. The background check for a concealed handgun permit is more thorough than is the background check for a bail bond license. The concealed handgun permit requires the applicant to present herself/himself to a sheriff, submit to a criminal background check, a mental health records check and be at least twenty-one years of age. A bail agent applicant need only have a criminal background check and be at least eighteen years of age.

Appearance bond as condition of any court ordered supervision; defendant's failure to appear as grounds to issue bond forfeiture.

1) As a condition of any probation/parole, payment plan for any fine imposed or any other court ordered supervision, the court or parole board may order the posting of a bond to secure the appearance of the defendant at any subsequent court proceeding. Any duly licensed and approved bail agent shall file an appearance bond with the magistrate, per chapter NC GS 58-71.

2) The court may issue an order for an arrest (OFA) upon notice by the clerk or the probation/parole officer that the person has violated the terms of probation/parole, court ordered supervision or other applicable court order to produce the defendant. The court or the clerk shall give the bail agent a minimum of ninety six hours notice to have the defendant before the court. If the bail agent fails to produce the defendant in the court, to the probation/parole officer or to the sheriff at the time noticed by the court, the bail agent shall be issued a forfeiture notice per GS 15A-544.1 thru 15A-544.8

3) To qualify as an approved bail agent for the purpose of post conviction bonds, the agent must be licensed by the North Carolina Department of Insurance as a Professional Bondsman, Bail Bond Runner or Surety Bondsman and possess a valid North Carolina concealed handgun permit. The bail agent shall present to the magistrate/clerk a current bail bonding license and a valid North Carolina concealed handgun permit at the time the appearance bond is submitted in the county of probationer's/parolee's supervision.

Criminal Justice Information Network Governing Board

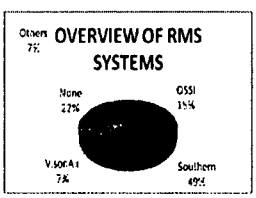
2010 Annual Report

Background

- Section 23.3 of Chapter 18 of the Session Laws of the 1996 Second Extra Session
- Comprised of 21 members appointed by the Governor, House, Senate, Chief Justice, Attorney General and State CIO (Pg. 6)
- Funding Summary (Pg. 7)

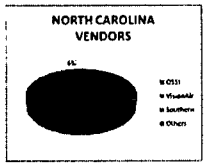
Information Sharing Initiative – Overview

- Compiled profile of local law enforcement agencies (Pg. 9)
- Record Management Systems & Ability to Share Information
- 569 Total Agencies
- 125 without RMS



Information Sharing Initiative – Creating Partnerships

- 11 Vendors serving NC
- 3 Vendors in NC have approximately 94% of the RMS market – (all 3 are NC based companies)
- CJIN has contacted the three vendors, scheduling workshops
- Vendor offers standard extract of RMS data to the FBI



Information Sharing Initiative – Creating Partnerships

- FBI's new Initiative – National Data Exchange, NCIC, IAFIS, DNA
- People, vehicle/property, location, and/or crime characteristics
- "Connects the Dots" between data that is not seemingly related
- Searches on Narrative – Google-like

Information Sharing Initiative - Outcomes

- Local law enforcement shares information statewide
- Information sharing with other states
- Analytical tools available
- Potential for no initial cost
- Potential for no future operating expenditures

CJIN Activities

- Numerous Presentations from Counties and Cities (Pg 24)
- Workshops with FBI, NCIS, & other States
- Discussions of Criminal Justice Technology & Policy
- Electronic Discovery, Warrants, Correction Photos, Digital Signature & E-forms

CJIN Original Vision

- To develop a statewide criminal justice information network in North Carolina that will enable a properly authorized user to readily and effectively use information, regardless of its location in national, state, and local databases

Project Section

- Original Initiatives (Pg 37)
- Recently Completed Initiatives (Pg 38)
  - eCitation
  - Statewide Automated Fingerprint Identification System
- Ongoing (Pg 44)
  - NCAWARE
  - VIPER
  - Mobile Data

Activities & Recommendations

- Review of 2009 Section (Pg. 51)
- Future - Support the Ongoing Projects (Pg. 55)
- Information Sharing Initiatives – Local LE
- Wake County Pilot Project
- Electronic Discovery
- Digital Signature

North Carolina Criminal Justice Information Network Governing Board Report

Submitted to the

Chairs, Co-Chairs, and Vice Chairs of the
Senate and House Appropriations Committees

and the

Chairs, Co-Chairs, and Vice Chairs of the
Senate and House Appropriations Subcommittees on Justice and Public Safety

April 2010

Table of Contents

Executive Summary

The Criminal Justice Information Network (CJIN) Governing Board created pursuant to Section 23.3 of Chapter 18 of the Session Laws of the 1996 Second Extra Session shall report by April 1st of each year, to the Chairs of the Senate and House Appropriations Committees, the Chairs of the Senate and House Appropriations subcommittees on Justice and Public Safety, and the Fiscal Research Division of the General Assembly on:

The operating budget of the Board, the expenditures of the Board as of the date of the report, and the amount of funds in reserve for the operation of the Board; and

A long-term strategic plan and the cost analysis for statewide implementation of the Criminal Justice Information Network. For each component of the Network, the initial cost estimate of the component, the amount of funds spent to date on the component, the source of funds for expenditures to date, and a timetable for completion of that component, including additional resources needed at each point.

The report contains background information regarding the Governing Board and the membership, an update on criminal justice activities, a financial summary, an information sharing initiative, project overviews and updates, research derived from federal, state and local government initiatives as they relate to a technical road map and a long-term strategic plan, recognition of personnel providing assistance, the status of our identified 2009 opportunities, and various recommendations moving forward.

The General Appropriations Committee, the Appropriations Justice and Public Safety Subcommittee, and the Joint Legislative Correction, Crime Control, and Juvenile Justice Oversight Committee have historically relied upon the CJIN Board to undertake high profile initiatives, requested cost allocation reports with recommendations, and allowed the Board to provide technical demonstrations.

The CJIN Board has successfully installed a statewide criminal justice infrastructure that has made information sharing a possibility – their implemented projects included mobile voice & data, fingerprinting, court and juvenile justice applications, along with access to federal data bases. The CJIN Board is by far the most knowledgeable cross-section of criminal justice professionals assembled in North Carolina and possesses a proven track record of success. Because most statewide projects cross over the jurisdictional boundaries between the Judicial and the Executive branches, the membership of the CJIN Board is well represented by both sides and has a history of success in working together.

Board activities in the last several years have included law enforcement presentations, technical workshops, and live demonstrations to the Board from counties, cities, and towns in North Carolina along with all the major state agencies (law enforcement), federal authorities and numerous other states. These activities have positioned the CJIN Board to handle all the recommendations being made in this report. With the Board's expertise and existing partnerships throughout the state, the General Appropriations Committee will be ensured that the funding of these projects will not only meet the expectations of the General Assembly but of all the criminal justice users. The 2009 Report identified various opportunities and made recommendations regarding the criminal justice community – updates are provided in this report.

During 2009 the Board concentrated on several areas; continuing to assist the Office of the State Controller with the CJLEADS Project, monitoring various ongoing projects, conducting workshops with several federal agencies (FBI and NCIS), working with local law enforcement on an information sharing initiative, conducting several workshops with local law enforcement, working with court officials to address document management and the interfacing of warrants into local systems, addressing technical

issues, undertaking a feasibility study of a statewide pawn transaction system, and compiling a list of future recommendations and activities.

In the various workshops and meetings the Board was requested to provide the officers on the road with the following:

One interface to provide critical information to the officer;

- Provide the ability to check local databases simultaneously when checking state and federal data;
- Create a standard for extracting data for information sharing;
- Address the issue of system timeout;
- Auto populate E-Citation and E-Crash applications; and
- Investigate the GIS-AVL technology to provide geographical awareness of responders to incidents as they unfold.

The CJIN Board will be addressing all the aforementioned requests during the upcoming year.

In summary, the Board is comprised of 21 members appointed by the Governor, Chief Justice, Speaker of the House, Senate President, Attorney General, and State Chief Information Officer. It is the background of these members that has made all the aforementioned projects and the ones highlighted in this report a success – Six Chief Information Officers/IT Directors, four from law enforcement, five Officers of the Court, four general public, DMV Commissioner, and Chief of Staff with Juvenile Justice.

Background

The North Carolina Criminal Justice Information Network (CJIN) initiative is a project which will allow the sharing of information between state and local criminal justice agencies.

During the 1994 Special Crime Session, the North Carolina General Assembly created the CJIN Study Committee and appropriated monies to study and develop a plan for a statewide criminal justice information network. The CJIN Study Final Report, dated April 7, 1995, outlined a comprehensive strategic plan that provided the vision for the statewide Criminal Justice Information Network in North Carolina. Based on recommendations and strategies identified in the plan, the General Assembly established the Criminal Justice Information Network (CJIN) Governing Board in Section 23.3 of Chapter 18 of the Session Laws of the 1996 Second Extra Session.

North Carolina is recognized today in the nation as one of the leading states in developing a statewide criminal justice infrastructure. Our success is due directly in part to the North Carolina General Assembly recognizing the need for further coordination and cooperation between state and local agencies in establishing standards for sharing of criminal justice information.

The CJIN Governing Board created the following vision:

- *To develop a statewide criminal justice information network in North Carolina that will enable a properly authorized user to readily and effectively use information, regardless of its location in national, state, or local databases.*

The Governing Board has built an outstanding reputation for successfully implementing statewide programs. This success can be directly attributable to the hard work and dedication of the board members along with their experience and diversity. The composition of the board is made up of professionals from the state, county, and municipal levels representing law enforcement, the court system, corrections, juvenile justice, information technology, and the public.

Study Final Report Findings

The North Carolina Legislature, during their 1994 Special Crime Session, created a 'Blue Ribbon' Study Committee to identify alternative strategies for developing and implementing a statewide criminal justice information network in North Carolina that would permit the sharing of information between state and local agencies. An examination of the state's current criminal justice information systems revealed the following deficiencies:

- It takes too long to positively identify persons. From fingerprints to photographs, information is scattered across different databases and filing systems.
- A single, comprehensive source for a person's criminal history is not available in North Carolina. Bits and pieces must be assembled on each individual, causing valuable time to be wasted on information collection.
- There is no single source of outstanding warrants. A person wanted in one county could be stopped in another while the officer has no knowledge of an outstanding warrant. This situation compromises public and officer safety.
- Data is entered excessively and redundantly. There is no single, centralized location for all information and records so data is entered and reentered over and over again into separate databases using different coding systems.
- There is no statewide, interagency mobile voice and data communications system. Officers cannot talk to their counterparts across their own county, much less to those across the state.

Study Final Report Recommendations

The CJIN Study Committee outlined the following major recommendations for removing these barriers that hindered the establishment and implementation of a comprehensive criminal justice information network. These recommendations also took into account the major building blocks for a statewide criminal justice information network that were already in place in 1995.

- Establish a CJIN Governing Board to create, promote, and enforce policies and standards.
- Adopt system architecture standards, end-user upgrades, and system security standards to facilitate movement of data between systems.
- Establish data standards for sharing information, including common definitions, code structures, and formats.
- Implement Live Scan digitized fingerprint systems and Statewide Automated Fingerprint Identification System (SAFIS) technology to accomplish positive fingerprint identification within two hours of arrest.
- Implement a statewide magistrate system to streamline the process of warrant and case creation.
- Build a statewide warrant repository that contains all new and served warrant information.
- Implement a statewide fingerprint-based criminal history that includes all arrests and dispositions.
- Build a statewide identification index that includes information from all state and local agencies, as well as necessary linkages to federal justice agencies.
- Establish standards for, and implement a mobile voice and data communication network that allows state and local law enforcement and public safety agencies to communicate with each other, regardless of location within the state.

Participants

CJIN is comprised of state, local, public and private representatives. The Department of Justice, the Department of Correction, the Department of Crime Control and Public Safety, the Administrative Office of the Courts, the Department of Juvenile Justice and Delinquency Prevention, the Division of Motor Vehicles, and the State Chief Information Officer are participating CJIN state agencies. Local representation includes Police Chiefs, Sheriffs, County Commissioners, County Information System Directors, North Carolina Chapter of Public Communications Officials International, Court Clerks of Superior Court, Judges, District Attorneys, general public appointments by the Speaker of the House of Representatives and President Pro Tempore of the Senate, and the North Carolina Local Government Information System Association (NCLGISA).

Initiatives

The following CJIN initiatives evolved from the CJIN Study Final Report Recommendations:

- Voice Interoperability Plan for Emergency Responders (VIPER)
- Statewide Automated Fingerprint Identification System (SAFIS)
- CJIN-Mobile Data Network (CJIN-MDN)
- North Carolina Juvenile Online Information Network (NC-JOIN)
- Statewide Magistrate System
- End-User Technology
- CJIN Network Security
- CJIN Data Sharing Standards

Governing Board

Section 23.3 of Chapter 18 of the Session Laws of the 1996 Second Extra Session established the Criminal Justice Information Network Governing Board within the Department of Justice (DOJ) for administrative and budgetary purposes. Section 17.1.(a) of the Session Law 2003-284 House Bill 397 transferred CJIN to the Department of Crime Control and Public Safety (DCC&PS). The CJIN Governing Board is established within the DCC&PS for organizational and budgetary purposes only and the Board exercises all of its statutory power independent of control by the DCC&PS.

CJIN Governing Board Membership

There are twenty-one legislatively defined members on the Board. The CJIN Executive Director serves as an advisory member to the Board and is supported by an Administrative Assistant. There is also an ex-officio advisory member that represents the local city and county Information System (IS) directors.

Mr. Robert Brinson, Department of Correction Chief Information Officer, was re-elected as the CJIN Chair and Mr. Bill Stice, Technology Services Director, Town of Cary was re-elected as the Vice-Chair. The CJIN Board has two full-time positions, an Executive Director and an Administrative Assistant. All CJIN agencies contribute their resources in an in-kind, ad-hoc fashion.

The CJIN Web Site is composed of meeting minutes, reports to the General Assembly, Board membership, and other relevant CJIN project materials. A CJIN email address is available for questions on CJIN operations. Based on all the presentations and workshops over the last eighteen months an information sharing section was added to the Web Site that reflects projects from the federal, state, and local levels – power point presentations, handouts, contact information, etc.

CJIN Governing Board Financials

Until last year, the CJIN Board had operated on two, non-recurring appropriations of $100,000 each – the first funded Board operations from 1996 until 2004. The second $100,000 appropriation for the CJIN Board had a balance of $67,741.88 as of the March, 2009 Department of Crime Control and Public Safety, Administration Division, Fiscal Section. This balance was eliminated and replaced with an operating fund of $5,000 for FY 2009/2010.

The $5,000 authorized budget has an unencumbered balance of $1,109.06 as of March 9, 2010 (run date), based on Crime Control budget report. The Board will be requesting an operating fund for the FY 2010/2011.

CJIN Governing Board

Appointed By	Description	Current Member
Governor	Employee of Department of Crime Control & Public Safety	Alan Melvin, Captain, North Carolina Highway Patrol
Governor	Director or employee of State Correction Agency	Robert Brinson, Chief Information Officer, Dept. of Correction
Governor	Representative recommended by the Association of Chiefs of Police	Glen Allen, Chief, Clayton P.D.
Governor	Employee of Department of Juvenile Justice and Delinquency Prevention	David Jones, Deputy Secretary
Governor	Employee of Division of Motor Vehicles	Commissioner Mike Robertson
General Assembly	Representative of general public, recommended by the President Pro Tempore of the Senate	Robert Lee
General Assembly	Representative of general public, recommended by the President Pro Tempore of the Senate	Doug Logan, Emergency Management Coordinator, Granville County
General Assembly	Individual who is member of or working directly for the governing board of a NC municipality and recommended by President Pro Tempore of the Senate	Bill Stice, Technology Services Director, Town of Cary
General Assembly	Representative of the general public, recommended by the Speaker of the House of Representatives	Barker French, Durham County
General Assembly	Representative of the general public, recommended by the Speaker of the House of Representatives	Donnie Holt, Forsyth County
General Assembly	Individual who is a working member of or working directly for the governing board of a NC county, recommended by the Speaker of the House of Representatives	Todd Jones, Orange County, Chief Information Officer
Attorney General	Employee of the Attorney General	Pam Tully, Assistant Director, State Bureau of Investigation
Attorney General	Representative recommended by the Sheriffs' Association	Tommy W. Allen, Sheriff, Anson County
Chief Justice, Supreme Court	Director or employee of the Administrative Office of the Courts	Cliff Layman, Chief Information Officer, AOC Technology Division
Chief Justice, Supreme Court	Clerk of the Superior Court	Mike McArthur, Chowan County
Chief Justice, Supreme Court	Judge, trial court of the General Court of Justice	Henry "Chip" Hight, Jr., Superior Court Judge, District 9
Chief Justice, Supreme Court	Judge, trial court of the General Court of Justice	H. Thomas Jarrell, Jr., District Court Judge, Judicial District 18
Chief Justice, Supreme Court	District Attorney	Al Williams, Sr. Assistant District Attorney, Judicial District 28
Chief Justice, Supreme Court	Magistrate	Eric Van Vleet, Durham County
State Chief Information Officer	Appointment by the State Chief Information Officer	George Bakolia, Deputy State Chief Information Officer
NC Chapter of Public Communications Officials International, President	Active member of the NC Chapter of Public Communications Officials International	Steve Lingerfelt, City of High Point

Governing Board Counsel – Lars Nance, Technical Advisor – Earl Bunting, Administrative Assistant – LaVonda Fowler, Executive Director – Eugene Vardaman

CJIN Funding Summary

This section is intended to provide a summary of CJIN funding by project – a detailed breakdown of financial information is contained in the Project Section of this report.

CJIN FUNDING SOURCES – DEVELOPMENT	STATE/AOC	FEDERAL	ESTIMATE TO COMPLETE
CJIN Feasibility Study (1995). Please note that this figure does not include the overhead costs and salaries for project staff.	$ 769,000	$ 0	N/A
CJIN Governing Board	$ 200,000	$ 15,000	N/A
CJIN – Mobile Data Network (CJIN-MDN)	$ 8,210,588	$ 6,757,805	N/A
Voice Interoperability Plan for Emergency Responders – VIPER	$ 23,200,000	$ 104,700,000	$ 61,100,000
Automated Warrant Repository System (NCAWARE)	$ 13,578,243	$ 3,460,992	$ 0
CJIN Planning Study (2002)	$ 80,100	$ 1,043,802	N/A
Statewide Automated Fingerprint Identification System (SAFIS)	$ 6,394,321	$ 0	$ 0
TOTAL	**$ 52,432,252**	**$ 115,977,599**	**$ 61,100,000**

CJIN FUNDING SOURCES – OPERATIONS (RECURRING COSTS)	SFY 06-07	SFY 07-08	SFY 08-09	SFY 09-10
CJIN – Mobile Data Network (CJIN-MDN)	$ 104,701	$ 104,701	$ 111,681	$ 111,681
Voice Interoperability Plan for Emergency Responders – VIPER	$ 208,892	$ 2,261,199	$ 2,359,426	$ 2,500,000
Statewide Automated Fingerprint Identification System (SAFIS)	$ 94,907	$ 85,826	$ 0	$ 0
Total	**$ 408,500**	**$ 2,451,726**	**$ 2,471,107**	**$ 2,611,681**

CJIN Funding Summary

Other CJIN Funding Notes

Since CJIN's inception, the Governor's Crime Commission (GCC) has been instrumental in aligning its objectives, particularly in the area of technology, to CJIN initiatives. This alignment resulted in grant funds providing significant help in meeting CJIN objectives. CJIN projects receiving funds included Mobile Data Computers, Live Scan Devices, Incident Based Crime Reporting Systems, Geographical Information Systems, 800 MHz radios, and Cybercrime projects. In recent years, overall funding available to the GCC has decreased significantly, limiting the GCC's ability to provide continuing support or help initiate large new CJIN efforts.

Federal earmarks and direct grants also provided significant funding for some of the early CJIN successes. That approach has also become increasingly more difficult recently. It is particularly difficult with projects that involve refreshing technology, where part of the original justification was that federal funding would provide "seed money" to establish the capability, but the business improvements allowed by the technology would be so compelling that second round, or refresh, funding would be available from State and local resources.

The Governor's Highway Safety Program (GHSP) has provided funding for the administration of a highway safety program designed to reduce traffic crashes and the resulting deaths, injuries and property damage. GHSP funding has gone to the eCitation® program, the eCrash project, and mobile data terminals in law enforcement vehicles.

The Department of Homeland Security Grant Program has provided important funding for VIPER. Cooperative agreements between local and state government have been a critical success factor in making this funding source work.

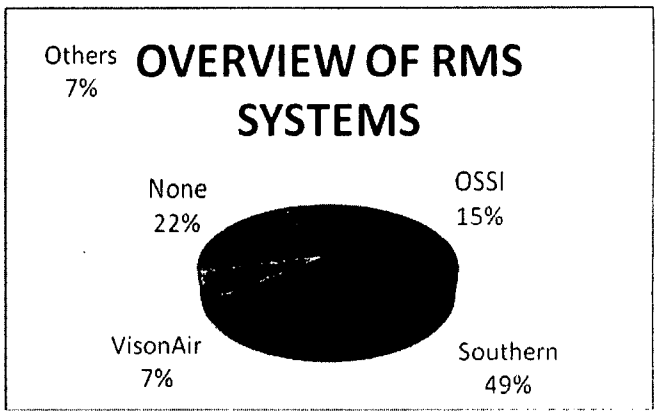
Although we focus on projects; continuing appropriations to state agencies for their infrastructure and maintenance of key applications, as well as local funding of their infrastructure and operations, provides the foundation that many of the CJIN projects require for success. That continuing funding, whether state or local is not fully captured in the CJIN funding charts presented in this report.

Information Sharing Initiative

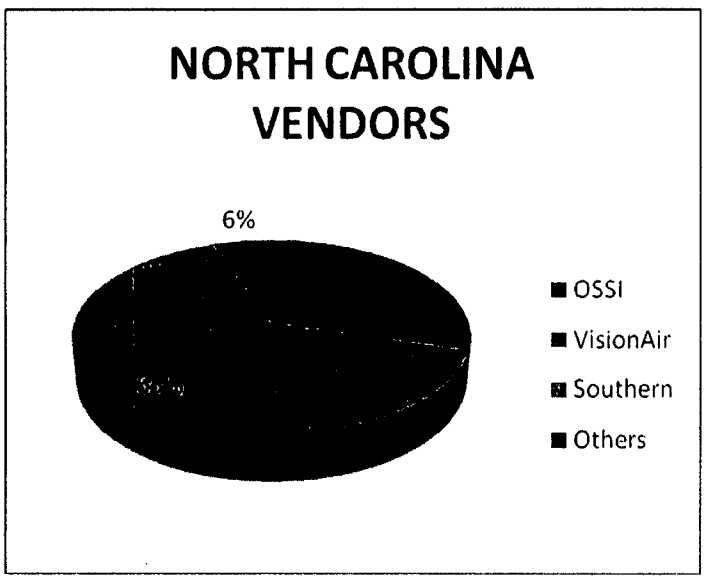
One of the key sources of criminal justice and public safety information is the Record Management System (RMS) used by the majority of law enforcement agencies within the state. These record systems contain a wealth of information regarding each incident that occurs within that jurisdiction. These data bases contain the official record of an incident along with the written report or narrative. These systems are the source of information used for tracking crimes (trend analysis), mapping crimes, searching for specific information (color of vehicle, description of property, personnel at the scene, interview, etc.), advanced crime analysis, etc. It is the repository of crime fighting information.

The CJIN Board started the information sharing initiative by compiling a statewide list of local law enforcement agencies (see enclosed list of 569 agencies), the number of RMS vendors (see below list of 11 vendors) serving these agencies and keeping in mind that not all agencies possess an RMS (125 agencies). The attached is a list of the vendors serving North Carolina and the corresponding number of agencies:

Vendor	Number of Agencies
DaPro	1
HTE (OSSI Corporate)	16
InterAct	8
Keystone	1
New World	2
OSSI	85
Shield	1
Southern Software	279
Spillman	6
USA	2
VisonAir	40



Note: There are two agencies that developed their own records internally and there are 125 agencies that do not have an RMS.



The top three RMS Vendors are all located in North Carolina and they provide record systems to approximately 94% of the agencies (that have record systems). All three of these vendors have information sharing services. OSSI has a product called "Police to Police" (P2P), VisionAir has "Vision Inform", and Southern Software has a product called "Rambler". These applications allow the various agencies to control and share information with other agencies that possess the same vendor. In some cases, the vendors have written interfaces to allow agencies to cross over the vendor barrier thus sharing information between vendors.

The Federal Bureau of Investigation began a national information sharing initiative by creating a data repository within their Criminal Justice Information Services facility in West Virginia.

This facility currently is the home to the National Crime Information Center (NCIC), the International Automated Fingerprint Identification System (IAFIS), Law Enforcement Online, etc. The FBI's new initiative, that is in production and has some states connected, is called the National Data Exchange (N-DEx). This repository is designed to store all the local law enforcement incident data contained in every record management system throughout the United States. The system will also be storing case reports, booking and incarceration data, and parole/probation information. N-DEx detects relationships between people, vehicle/property, location, and/or crime characteristics. It "connects the dots" between data that is seemingly unrelated. It also supports multi-jurisdictional task forces – by enhancing national information sharing, identifying links between regional and state systems, and illustrating virtual regional information sharing.

The CJIN Board has contacted the major vendors in North Carolina and all three are receptive to working with us to develop an extract program that meets the national standards in order to facilitate the process of uploading all the local law enforcement incident information. The Board took the process one step further and identified other sources of potential information that are being collected in regional systems – COPLINK, American Law Enforcement Network, and NCIS's LInX systems. These regional system providers have also expressed a willingness to work with the CJIN Board to upload their information. COPLINK and LInX already have identified a link to the FBI system in their technical roadmap.

If the CJIN Board is successful in creating these partnerships with our in-state vendors, we will avoid the cost of having to write an interface to each one of the local law enforcement agencies. Furthermore, if the vendors offer this interface as a part of their core suite of products we may be able to forego future operating expenditures. The following information was assembled to identify each local law enforcement agency and their corresponding records system along with any information sharing initiatives, the column marked Leads was for identifying agencies sharing pawn transactions:

AGENCY NAME	RMS Vendor	County	Coplink	LInX	P2P	Rambler	ALEN	Leads
Aberdeen PD	Southern	Moore				X		X
Ahoskie PD	Southern	Hertford				X		
Alamance County SO	OSSI	Alamance			X			
Albemarle PD	OSSI	Stanly	X					
Albert J. Ellis PD		Onslow						
Alexander County SO	OSSI	Alexander			X			
Alleghany County SO	Southern	Alleghany				X		
Andrews PD	Southern	Cherokee						
Angier PD	Southern	Harnett					X	X
Anson County SO	InterAct	Anson	X				X	
Apex PD	New World	Wake			X			
Appalachian State University	Southern	Watauga				X	X	
Archdale PD	OSSI	Randolph			X			
Ashe County SO	Southern	Ashe				X		
Asheboro PD	Spillman	Randolph						
Asheville ABC Board		Buncombe						
Asheville PD		Buncombe			X			X

AGENCY NAME	RMS Vendor	County	Coplink	LInX	P2P	Rambler	ALEN	Leads
Asheville Regional Airport Authority		Buncombe						
Atlantic Beach PD	Southern	Carteret				X		X
Aulander PD	Southern	Bertie						
Aurora PD		Beaufort						
Avery County SO	Southern	Avery				X		
Ayden PD	VisionAir	Pitt						
Badin PD	OSSI	Stanly						
Bailey PD	Southern	Nash						
Bakersville PD		Mitchell						
Bald Head Island PD	Southern	Brunswick						
Banner Elk PD	Southern	Avery						
Beaufort CC Campus Police		Beaufort						
Beaufort County ABC Board		Beaufort						
Beaufort County SO	Spillman	Beaufort						
Beaufort PD	Southern	Carteret				X		
Beech Mountain PD	Southern	Avery				X		
Belhaven PD	Southern	Beaufort				X		
Belmont Abbey College		Gaston						
Belmont PD	Southern	Gaston	X			X		
Benson PD	Southern	Johnston				X		
Bertie County SO	VisionAir	Bertie				X		
Bethel PD	Southern	Pitt				X		
Beulaville PD	Southern	Duplin						
Biltmore Forest PD	Southern	Buncombe			X			X
Biscoe PD	Southern	Montgomery						
Black Creek PD		Wilson						
Black Mountain PD	Southern	Buncombe			X			X
Bladen County SO	OSSI	Bladen			X			
Bladenboro PD	OSSI	Bladen						
Blowing Rock PD	Southern	Watauga			X	X	X	
Boiling Spring Lakes PD	Southern	Brunswick						
Boiling Springs PD	Southern	Cleveland						
Boone PD	Southern	Watauga				X		
Boonville PD		Yadkin						
Brevard PD	Southern	Transylvania				X	X	
Bridgeton PD		Craven						
Broadway PD		Lee						
Brookford PD		Catawba	X					
Broughton Hospital PD		Burke						
Brunswick CC Campus		Brunswick						
Brunswick County SO	Southern	Brunswick		X	X	X		X
Bryson City PD	VisionAir	Swain						
Buncombe County SO	OSSI	Buncombe			X			X
Bunn PD		Franklin						
Burgaw PD	Southern	Pender		X				
Burke County SO	OSSI	Burke			X			
Burlington PD	OSSI	Alamance			X			

AGENCY NAME	RMS Vendor	County	Coplink	LInX	P2P	Rambler	ALEN	Leads
Burnsville PD	Southern	Yancey						
Butner Public Safety	Southern	Granville						
Cabarrus County SO	OSSI	Cabarrus	X		X			
Caldwell County SO	OSSI	Caldwell			X			
Camden County SO	OSSI	Camden						
Cameron PD	Southern	Moore						
Candor PD	Southern	Montgomery						
Canton PD	Southern	Haywood				X		X
Cape Carteret PD	Southern	Carteret				X		
Carolina Beach PD	VisionAir	New Hanover				X		
Carolina Beach State Park	Southern	New Hanover						
Carrboro PD	OSSI	Orange			X			
Carteret County ABC Board		Carteret						
Carteret County SO	Southern	Carteret		X		X		X
Carthage PD	Southern	Moore				X		
Cary PD	HTE	Wake						
Caswell Beach PD	Southern	Brunswick						
Caswell Center Hospital Police		Lenoir						
Caswell County SO	Southern	Caswell				X		
Catawba County ABC Board		Catawba						
Catawba County SO	VisionAir	Catawba	X				X	
Catawba PD	Southern	Catawba						
Chadbourn PD	Southern	Columbus						
Chapel Hill PD	OSSI	Orange			X			
Charlotte/Douglas Airport Police		Mecklenburg						
Charlotte-Mecklenburg PD		Mecklenburg	X					
Chatham County SO	Southern	Chatham				X		
Cherokee County SO		Cherokee					X	
Cherokee PD		Swain				X		
Cherry O'Berry Hospital Police		Wayne		X				
Cherryville PD	Southern	Gaston	X			X		
Chimney Rock State Park	Southern	Rutherford						
China Grove PD	Southern	Rowan						
Chocowinity PD	Southern	Beaufort				X		
Chowan County SO	Southern	Chowan				X		
Chowan University Campus Police		Hertford						
Claremont PD	Southern	Catawba						
Clay County SO	Southern	Clay						
Clayton PD	OSSI	Johnston						
Cleveland County SO	OSSI	Cleveland			X			
Cleveland PD	Southern	Rowan						
Cliffs of the Neuse State Park	Southern	Wayne						
Clinton PD	VisionAir	Sampson						

AGENCY NAME	RMS Vendor	County	Coplink	LInX	P2P	Rambler	ALEN	Leads
Clyde PD	Southern	Haywood						
Coats PD	Southern	Harnett				X	X	
Columbus County SO	Southern	Columbus				X		X
Columbus PD	Southern	Polk						X
Concord PD	OSSI	Cabarrus	X		X			
Conover PD	VisionAir	Catawba	X					
Conway PD		Northampton						
Cooleemee PD		Davie						
Cornelius PD	OSSI	Mecklenburg	X		X			
Cramerton PD	Southern	Gaston	X					
Craven County SO	HTE	Craven		X				
Creedmoor PD	Southern	Granville				X		
Crowders Mountain State Park	Southern	Cleveland						
Cumberland County ABC Board		Cumberland						
Cumberland County SO	OSSI	Cumberland		X	X			X
Currituck County SO	OSSI	Currituck			X			
Dallas PD		Gaston						
Dare County ABC Board		Dare						
Dare County SO	OSSI	Dare						
Davidson College Public Safety		Mecklenburg						
Davidson County SO	OSSI	Davidson			X			
Davidson PD		Mecklenburg	X					
Davie County SO	VisionAir	Davie			X			
Denton PDt		Davidson						
DHHS Police - Black Mountain		Buncombe						
Dismal Swamp State Natural Area	Southern	Camden						
Dobson PD	VisionAir	Surry						
Dorothea Dix Hospital		Wake						
Drexel PD	Southern	Burke			X			
Duck PD	Southern	Dare						
Duke University PD	OSSI	Durham			X			
Dunn PD	Southern	Harnett				X	X	
Duplin County SO	Southern	Duplin				X		
Durham County ABC Board		Durham						
Durham County SO		Durham		X	X			
Durham PD	OSSI	Durham		X	X			
East Bend PD		Yadkin						
East Carolina University	InterAct	Pitt						
East Spencer PD	Southern	Rowan						
Eden PD	Southern	Rockingham				X		
Edenton PD	Southern	Chowan				X		
Edgecombe County SO	VisionAir	Edgecombe						
Elizabeth City PD	OSSI	Pasquotank						

AGENCY NAME	RMS Vendor	County	Coplink	LInX	P2P	Rambler	ALEN	Leads
Elizabeth City State University	Southern	Pasquotank						
Elizabethtown PD	OSSI	Bladen						
Elk Knob State Natural Area	Southern	Watauga						
Elk Park PD		Avery						
Elkin PD	VisionAir	Surry						
Elon PD	OSSI	Alamance			X		X	
Elon University Campus Safety and Police	OSSI	Alamance						
Emerald Isle PD	VisionAir	Carteret				X		X
Enfield PD	Southern	Halifax						
Eno River State Park	Southern	Durham						
Erwin PD	Southern	Harnett				X		
Fair Bluff PD		Columbus						
Fairmont Department of Public Safety	Southern	Robeson				X		
Falls Lake State Recreation Area	Southern	Wake						
Farmville PD	Southern	Pitt				X		
Fayetteville PD	VisionAir	Cumberland		X	X			X
Fayetteville State University	Southern	Cumberland						
Fletcher PD	Southern	Henderson				X	X	
Forest City PD	Shield Technology	Rutherford					X	
Forsyth County SO	OSSI	Forsyth			X			
Fort Fisher State Recreation Area	Southern	New Hanover						
Fort Macon State Park	Southern	Carteret						
Four Oaks PD	Southern	Johnston						
Foxfire Village PD		Moore						
Franklin County SO	Southern	Franklin				X	X	
Franklin PD	Southern	Macon				X		
Franklinton PD	Southern	Franklin					X	
Fremont PD		Wayne		X				
Fuquay-Varina PD	VisionAir	Wake						
Gardner-Webb University		Cleveland						
Garner PD	HTE	Wake			X			
Garysburg PD	Southern	Northampton				X		
Gaston County PD	New World	Gaston	X					
Gaston County SO		Gaston	X					
Gaston PD		Northampton						
Gastonia PD		Gaston	X				X	
Gates County SO	Southern	Gates				X		
Gibsonville PD	OSSI	Guilford						
Glen Alpine PD		Burke						
Goldsboro PD	OSSI	Wayne		X			X	
Goose Creek State Park	Southern	Beaufort						
Gorges State Park	Southern	Transylvania						
Graham County SO		Graham						

AGENCY NAME	RMS Vendor	County	Coplink	LInX	P2P	Rambler	ALEN	Leads
Graham PD	VisionAir	Alamance			X			
Granite Falls PD	Southern	Caldwell				X	X	
Granite Quarry PD	Southern	Rowan				X		
Granville County SO	Southern	Granville				X		
Greene County SO	Southern	Greene						
Greensboro ABC Board		Guilford						
Greensboro PD	OSSI	Guilford			X			
Greenville PD	HTE	Pitt		X				
Grifton PD	Southern	Pitt				X		
Grover PD		Cleveland						
Guilford County SO	Spillman	Guilford			X			
Halifax County SO	VisionAir	Halifax						
Hamlet PD	Southern	Richmond						
Hammocks Beach State Park	Southern	Onslow						
Hanging Rock State Park	Southern	Stokes						
Harnett County SO	VisionAir	Harnett		X		X		X
Havelock PD	InterAct	Craven		X				
Haw River PD	Southern	Alamance						
Haw River State Park	Southern	Rockingham						
Haywood County SO	Southern	Haywood				X		X
Henderson County SO	VisionAir	Henderson						X
Henderson PD	HTE	Vance						
Hendersonville PD	VisionAir	Henderson						
Hertford County SO	Southern	Hertford				X		
Hertford PD	Southern	Perquimans				X		
Hickory PD	OSSI	Catawba	X		X			
High Point PD	OSSI	Guilford			X			
Highlands PD	Southern	Macon						
Hillsborough PD	Southern	Orange				X		
Hobgood PD		Halifax						
Hoke County SO	Southern	Hoke		X				
Holden Beach PD	Southern	Brunswick						
Holly Ridge PD	Southern	Onslow						
Holly Springs Public Safety	HTE	Wake		X				
Hope Mills PD	VisionAir	Cumberland						
Hot Springs PD		Madison						
Hudson PD	Southern	Caldwell						
Huntersville PD	OSSI	Mecklenburg			X			
Hyde County SO	Southern	Hyde						
Indian Beach PD	Southern	Carteret						
Iredell County SO	VisionAir	Iredell	X					
Jackson County SO	Southern	Jackson				X		
Jackson PD		Northampton						
Jacksonville PD	HTE	Onslow			X	X		X
Jefferson PD	Southern	Ashe						
Jockey's Ridge State Park	Southern	Dare						

AGENCY NAME	RMS Vendor	County	Coplink	LInX	P2P	Rambler	ALEN	Leads
Johnson C. Smith University Campus PD		Mecklenburg						
Johnston County ABC		Johnston						
Johnston County SO	OSSI	Johnston						
Jones County SO	Southern	Jones					X	
Jones Lake State Park	Southern	Bladen						
Jonesville PD	Southern	Yadkin				X		
Jordan Lake State Recreation Area	Southern	Wake						
Kannapolis PD	VisionAir	Cabarrus	X		X			
Kenansville PD	Southern	Duplin			X			
Kenly PD	Southern	Johnston						
Kernersville PD	OSSI	Forsyth						
Kerr Lake State Recreation Area	Southern	Vance						
Kill Devil Hills PD	VisionAir	Dare						
King PD	Southern	Stokes			X	X		
Kings Mountain PD	OSSI	Cleveland						
Kingstown PD		Cleveland						
Kinston PD	OSSI	Lenoir						
Kitty Hawk PD	OSSI	Dare						
Knightdale PD	HTE	Wake		X				
Kure Beach PD		New Hanover						
La Grange PD	Southern	Lenoir						
Lake James State Park	Southern	McDowell						
Lake Lure PD	Southern	Rutherford					X	
Lake Norman State Park	Southern	Iredell						
Lake Royale Company Police	Southern	Franklin				X		
Lake Waccamaw PD	Southern	Columbus						
Lake Waccamaw State Park	Southern	Columbus						
Landis PD	Southern	Rowan						
Laurel Park PD	Southern	Henderson				X		
Laurinburg PD	VisionAir	Scotland						
Lee County SO	Southern	Lee				X		X
Lees-McRae College		Avery						
Leland PD	Southern	Brunswick				X		
Lenoir County SO	VisionAir	Lenoir						
Lenoir PD	VisionAir	Caldwell			X			
Lewiston Woodville PD		Bertie						
Lexington PD	OSSI	Davidson			X			
Liberty PD	Spillman	Randolph					X	
Lilesville PD		Anson						
Lillington PD	Southern	Harnett				X	X	
Lincoln County SO	OSSI	Lincoln	X		X	X		
Lincolnton PD	Southern	Lincoln	X			X		
Littleton PD		Halifax						
Locust PD	VisionAir	Stanly	X					
Longview PD	Southern	Catawba			X			
Louisburg PD	Southern	Franklin						

AGENCY NAME	RMS Vendor	County	Coplink	LInX	P2P	Rambler	ALEN	Leads
Lowell PD		Gaston						
Lumber River State Park	Southern	Robeson						
Lumberton PD	VisionAir	Robeson					X	
Macon County SO	Southern	Macon						
Madison County SO	Southern	Madison			X			
Madison PD	OSSI	Rockingham			X			X
Maggie Valley PD	Southern	Haywood				X	X	X
Magnolia PD	Southern	Duplin						
Maiden PD	Southern	Catawba	X			X		
Manteo PD	Southern	Dare						
Marion PD	Southern	McDowell				X		
Mars Hill PD	Southern	Madison						
Marshall PD		Madison						
Marshville PD	Southern	Union						
Martin County SO	Southern	Martin				X		
Matthews PD	OSSI	Mecklenburg	X					X
Maxton PD	Southern	Robeson						
Mayo River State Park	Southern	Rockingham						
Mayodan PD	OSSI	Rockingham			X			
Maysville PD	Southern	Jones						
McAdenville PD	Southern	Gaston	X					
McDowell County SO	Southern	McDowell				X		
Mebane PD	OSSI	Alamance			X			
Mecklenburg County ABC Board		Mecklenburg						
Mecklenburg County SO		Mecklenburg	X					
Medoc Mountain State Park	Southern	Halifax						
Merchants Millpond Park	Southern	Gates						
Meredith College Campus Police		Wake						
Methodist University PD	Southern	Cumberland						
Micro PD		Johnston						
Middlesex PD	Southern	Nash						
Mint Hill PD	Southern	Mecklenburg	X			X		
Mitchell County SO		Mitchell				X		
Mocksville PD	Southern	Davie				X	X	
Monroe PD	HTE	Union	X					
Montgomery County SO	Southern	Montgomery						
Montreat College Campus Police		Buncombe						
Montreat PD		Buncombe						
Moore County SO	Southern	Moore				X		X
Mooresville PD	OSSI	Iredell	X		X			
Morehead City PD	VisionAir	Carteret		X				
Morganton Public Safety	OSSI	Burke						
Morrisville PD	HTE	Wake						

AGENCY NAME	RMS Vendor	County	Coplink	LInX	P2P	Rambler	ALEN	Leads
Morrow Mountain State Park	Southern	Stanly						
Morven PD		Anson						
Mount Airy PD	VisionAir	Surry						
Mount Gilead PD	Southern	Montgomery						
Mount Holly PD	Southern	Gaston	X			X	X	
Mount Mitchell State Park	Southern	Yancey						
Mount Olive PD	OSSI	Wayne		X				
Murfreesboro PD	Southern	Hertford				X		
Murphy PD	Southern	Cherokee						
Nags Head PD	OSSI	Dare						
Nash County ABC Board		Nash						
Nash County SO	VisionAir	Nash						
Nashville PD	Southern	Nash						
Navassa PD		Brunswick						
New Bern PD	InterAct	Craven						
New Hanover County SO	OSSI	New Hanover		X	X			
New River State Park / Mount Jefferson State Natural Area	Southern	Ashe						
Newland PD	Southern	Avery				X		
Newport PD	Southern	Carteret				X		
Newton Grove PD		Sampson						
Newton PD	HTE	Catawba	X		X		X	X
Norlina PD		Warren						
North Carolina A & T State University	Southern	Guilford			X			
North Carolina Alcohol Law Enforcement		Statewide						
North Carolina Arboretum Campus Police		Buncombe						
North Carolina Central University	OSSI	Durham			X			
North Carolina Division of Marine Fisheries								
North Carolina Division of Motor Vehicles								
North Carolina Fairgrounds Police		Wake						
North Carolina Division of Forestry		Johnston						
North Carolina State Highway Patrol	Internal	Statewide		X				
North Carolina State University	USA Software	Wake			X			
North Carolina Wildlife Commission		Statewide						
North Topsail Beach PD	Southern	Onslow					X	
North Wilkesboro PD	Southern	Wilkes			X		X	
Northampton County SO	VisionAir	Northampton						
Northwest PD		Brunswick						

AGENCY NAME	RMS Vendor	County	Coplink	LInX	P2P	Rambler	ALEN	Leads
Norwood PD	OSSI	Stanly	X					
Oak Island PD	Southern	Brunswick				X		
Oakboro PD		Stanly	X					
Ocean Isle Beach PD	Southern	Brunswick				X		
Old Fort PD	Southern	McDowell						
Onslow County SO	OSSI	Onslow		X	X			X
Orange County SO	OSSI	Orange			X			
Oriental PD		Pamlico						
Oxford PD	VisionAir	Granville				X		
Pamlico County SO	InterAct	Pamlico						
Parkton PD		Robeson						
Pasquotank County SO	OSSI	Pasquotank						
Pembroke PD	Southern	Robeson						
Pender County SO	OSSI	Pender		X	X			X
Perquimans County SO	Southern	Perquimans				X		
Person County SO	Southern	Person				X		
Pettigrew State Park	Southern	Washington						
Piedmont Triad International Airport	Southern	Guilford				X		
Pikeville PD		Wayne		X				
Pilot Mountain PD	VisionAir	Surry						
Pilot Mountain State Park	Southern	Stokes						
Pine Knoll Shores PD	Southern	Carteret				X		
Pine Level PD	Southern	Johnston				X		
Pinebluff PD	Southern	Moore						
Pinehurst PD	Southern	Moore						
Pinetops PD	Southern	Edgecombe						
Pineville PD	USA Software	Mecklenburg	X					
Pink Hill PD		Lenoir				X		
Pitt County ABC Board		Pitt						
Pitt County SO	OSSI	Pitt		X				
Pittsboro PD	Southern	Chatham				X	X	
Plymouth PD	Southern	Washington				X		
Polk County SO	Southern	Polk						X
Princeton PD	Southern	Johnston						
Princeville PD		Edgecombe						
Queens University of Charlotte Campus Police		Mecklenburg						
Raeford PD	Southern	Hoke				X		
Raleigh PD	Keystone	Wake		X	X			
Raleigh-Durham Int'l Airport	OSSI	Wake			X			
Ramseur PD	Spillman	Randolph						
Randleman PD		Randolph			X			
Randolph County SO		Randolph						
Ranlo PD		Gaston					X	
Raven Rock State Park	Southern	Harnett						
Red Springs PD	Southern	Robeson						

AGENCY NAME	RMS Vendor	County	Coplink	LInX	P2P	Rambler	ALEN	Leads
Reidsville PD	OSSI	Rockingham			X			
Rhodhiss PD		Caldwell						
Rich Square PD	Southern	Northampton					X	
Richlands PD	Southern	Onslow		X		X		
Richmond County SO	OSSI	Richmond						
River Bend PD	InterAct	Craven						
Roanoke Rapids PD	VisionAir	Halifax						
Robbins PD	Southern	Moore				X		
Robersonville PD	Southern	Martin				X		
Robeson County SO	OSSI	Robeson			X			
Rockingham County SO	HTE	Rockingham			X			
Rockingham PD	Southern	Richmond				X		
Rockwell PD	Southern	Rowan				X		
Rocky Mount PD	OSSI	Edgecombe						
Rolesville PD	Southern	Wake						
Roper PD		Washington						
Rose Hill PD		Duplin						
Rowan County SO	OSSI	Rowan			X			
Rowan-Kannapolis ABC Board		Rowan						
Rowland PD	Southern	Robeson						
Roxboro PD	Southern	Person				X		
Rutherford County SO	VisionAir	Rutherford						
Rutherfordton PD	Southern	Rutherford						
Saint Pauls PD	OSSI	Robeson						
Salemburg PD		Sampson						
Salisbury PD	OSSI	Rowan			X			
Saluda PD		Polk				X		X
Sampson County SO	VisionAir	Sampson						
Sanford PD	OSSI	Lee			X			
Scotland County SO	Southern	Scotland						
Scotland Neck PD	Southern	Halifax					X	
Seaboard PD		Northampton						
Seagrove PD		Randolph						
Selma PD	Southern	Johnston						
Seven Devils PD		Watauga						
Severn PD		Northampton						
Shallotte PD	Southern	Brunswick					X	
Sharpsburg PD	Southern	Nash						
Shaw University PD		Wake						
Shelby PD	OSSI	Cleveland						
Siler City PD	Southern	Chatham				X		
Singletary Lake State Park	Southern	Bladen						
Smithfield PD	InterAct	Johnston						
South Mountains State Park	Southern	Burke						
Southern Pines PD	OSSI	Moore			X			
Southern Shores PD	OSSI	Dare						
Southport PD	Southern	Brunswick				X		

AGENCY NAME	RMS Vendor	County	Coplink	LInX	P2P	Rambler	ALEN	Leads
Sparta PD	Southern	Alleghany						
Spencer PD	Southern	Rowan						
Spindale PD	Southern	Rutherford						
Spring Hope PD	Southern	Nash						
Spring Lake PD	Southern	Cumberland						X
Spruce Pine PD	Southern	Mitchell				X		
St. Augustine's College		Wake						
Stallings PD	Southern	Union	X			X		
Stanfield PD		Stanly						
Stanley PD	Southern	Gaston	X					
Stanly County SO	OSSI	Stanly	X					
Stantonsburg PD		Wilson					X	
Star PD	Southern	Montgomery						
State Capitol Police	Southern	Wake						
Statesville ABC Board		Iredell						
Statesville PD	HTE	Iredell	X					
Stedman PD		Cumberland						
Stem PD		Granville						
Stokes County SO	Spillman	Stokes					X	
Stone Mountain State Park	Southern	Alleghany						
Stoneville PD		Rockingham						
Stovall PD		Granville						
Sugar Mountain PD	Southern	Avery				X		
Sunset Beach PD	Southern	Brunswick				X		
Surf City PD	Southern	Pender						
Surry County SO	VisionAir	Surry						
Swain County SO	Southern	Swain						
Swansboro PD	Southern	Onslow		X				
Sylva PD	Southern	Jackson				X		
Tabor City PD	Southern	Columbus				X	X	
Tarboro PD	VisionAir	Edgecombe						
Taylorsville PD	Southern	Alexander				X		
Taylortown PD		Moore						
Thomasville PD	OSSI	Davidson			X			
Topsail Beach PD		Pender						
Transylvania County SO	DaPro Systems	Transylvania				X		X
Trent Woods PD	Southern	Craven				X		
Triad Municipal ABC Law Enforcement		Forsyth						
Troutman PD	Southern	Iredell	X			X	X	
Troy PD	Southern	Montgomery				X		
Tryon PD	Southern	Polk						X
Tyrrell County SO	Southern	Tyrrell				X		
UNC Hospitals Special Police		Orange						
UNC School of the Arts	Southern	Forsyth			X			
UNC Asheville University Police	Southern	Buncombe						
UNC Chapel Hill University Police	OSSI	Orange			X			

AGENCY NAME	RMS Vendor	County	Coplink	LInX	P2P	Rambler	ALEN	Leads
UNC Charlotte University Police	Southern	Mecklenburg	X					
UNC Greensboro University Police	Southern	Guilford			X			
UNC Pembroke University Police	Southern	Robeson						
UNC Wilmington University Police	VisionAir	New Hanover						
Union County SO		Union	X		X			
Valdese PD	OSSI	Burke					X	
Vance County SO	Southern	Vance						
Vanceboro PD	Southern	Craven						
Vass PD	Southern	Moore						
Village of Misenheimer PD	OSSI	Stanly						
Village of Simpson PD		Pitt						
Wadesboro PD	Southern	Anson	X			X		
Wagram PD	Southern	Scotland						
Wake County ABC Board		Wake						
Wake County SO	HTE	Wake		X	X			
Wake Forest PD	HTE	Wake			X			
Wake Forest University	OSSI	Forsyth			X			
Wake Medical Campus Police	Southern	Wake						
Wallace PD	Southern	Duplin						
Walnut Cove PD	Southern	Stokes					X	
Walnut Creek PD		Wayne		X			X	
Warren County SO	Southern	Warren						
Warrenton PD		Warren						
Warsaw PD	Southern	Duplin						
Washington County SO	InterAct	Washington						
Washington PD	Southern	Beaufort				X		
Watauga County SO	Southern	Watauga			X	X	X	
Waxhaw PD	Southern	Union						
Wayne County SO	OSSI	Wayne		X			X	
Waynesville PD	Southern	Haywood				X		
Weaverville PD	Southern	Buncombe				X		
Weldon PD	Southern	Halifax					X	
Wendell PD	HTE	Wake		X				
West Jefferson PD	Southern	Ashe						
Western Carolina University Police	Southern	Jackson				X		
Weymouth Woods-Sandhill Nature Preserve	Southern	Moore						
Whispering Pines PD	Southern	Moore				X		
Whitakers PD	Southern	Nash						
White Lake PD	OSSI	Bladen						
Whiteville PD	Southern	Columbus				X		
Wilkes County SO	OSSI	Wilkes			X			
Wilkesboro PD	Southern	Wilkes				X	X	

William B. Umstead State Park	Southern	Wake						
Williamston PD	Southern	Martin			X			
Wilmington International Airport PD	Southern	New Hanover						
Wilmington PD	OSSI	New Hanover	X	X				
Wilson County SO	OSSI	Wilson		X				
Wilson PD	OSSI	Wilson		X				
Wilson's Mills PD	Southern	Johnston						
Windsor PD	Southern	Bertie						
Winfall PD		Perquimans						
Wingate PD	OSSI	Union						
Winston-Salem PD	OSSI	Forsyth		X				
Winston-Salem State University	Southern	Forsyth		X				
Winterville PD	Southern	Pitt			X	X		
Winton PD		Hertford						
Woodfin PD	Southern	Buncombe			X		X	
Woodland PD	Southern	Northampton			X			
Wrightsville Beach PD	Southern	New Hanover			X			
Yadkin County SO	Southern	Yadkin		X				
Yadkinville PD	Southern	Yadkin						
Yancey County SO	Southern	Yancey						
Youngsville PD	Southern	Franklin						
Zebulon PD	Southern	Wake	X					
North Carolina Division of Parks & Recreation Headquarters		Wake						

Activities

The Board met numerous times in the last several years for the purpose of discussing criminal justice information sharing projects. The CJIN Staff over the last year has replaced the comprehensive CJIN Handbook by enhancing the CJIN website. The website contains all the information that was contained in our handbook in addition to the presentations that were given at the meetings. Since the fall of 2007, the Board has participated in the following activities:

- Workshop with the Federal Bureau of Investigation, National Data Exchange (NDEx)
- Workshop with the Naval Criminal Investigative Services, Law Enforcement Information Exchange (LInX)
- Presentation from State Representative on Digital Signature/E-Forms
- Received multiple updates on major CJIN Initiatives from the NC Highway Patrol, the Administrative Office of the Courts, the State Bureau of Investigation, the State Information Technology Services, the Department of Corrections, the Department of Justice, the Office of the State Controller, and the Juvenile Justice and Delinquency Prevention
- Criminal Justice Integration Presentations from the States of Pennsylvania, Texas, Nebraska (connected to Kansas, Alabama, & Wyoming), Oregon, and Michigan
- Technical Overviews on information sharing from the Towns of Cary, Angier and Coats and the Cities of High Point, Wilson, Jacksonville, Durham, Raleigh, Charlotte, Dunn, Greensboro, Fayetteville, Lillington, Asheville, Whiteville, and Kinston
- Technical Presentations from the Counties of Durham, Buncombe, Wake, Mecklenburg, Cumberland, Onslow, Columbus, Harnett, Lee, Guilford, and Johnston
- E-Forms Presentation on California DMV, Portland Police Department – Oregon, and California Parole
- Department of Correction, Photos to the mobile data terminals
- Technical Workshop on Statewide Pawn Study including law enforcement, CJIN members, pawn shop owners, lobbyist of pawn shop associations
- Governor's Crime Commission – Grants & Chair Linda Hayes as a Guest Speaker
- Presentation on the NC Fusion Center - Information Sharing and Analysis Center
- Pilot Project on the DMV photos using the CJIN Mobile Data Network
- Several GangNet Presentations from the Durham Sheriff's Office and Police Department
- E911 Challenges, a comprehensive presentation from the E911 Wireless Board
- On-line presentation of the capabilities of the Offender Population Unified System by the NC Department of Correction
- Technical overview on the State's Second Major Data Center by the Office of Information Technology Services
- Updates and activities associated with the NC Local Government Information Systems Association from the City of Salisbury
- Meetings with the US Department of Justice on National Information Sharing
- Presentation from the Federal Bureau of Investigation on InfraGard
- Several presentations on the Wake County Pilot Project, CJLEADS

The CJIN Board has been dedicated to helping solve the challenge of statewide information sharing. The following cities, counties, and municipalities have shared with the Board their solution – we have also reported solutions from other states and federal agencies:

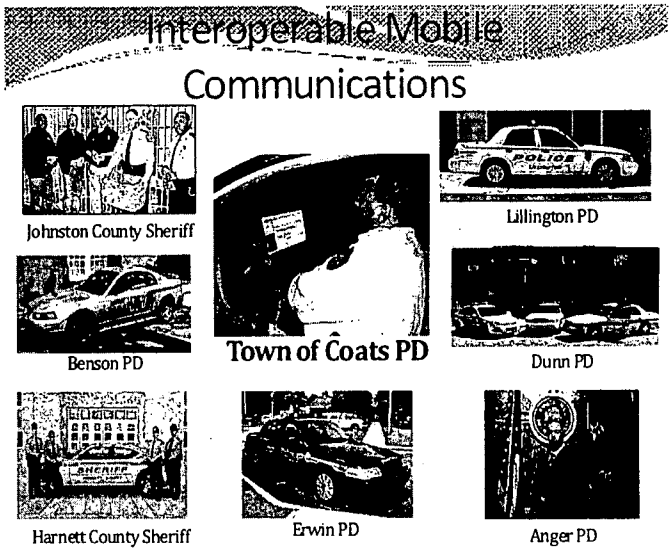
Cities and Towns

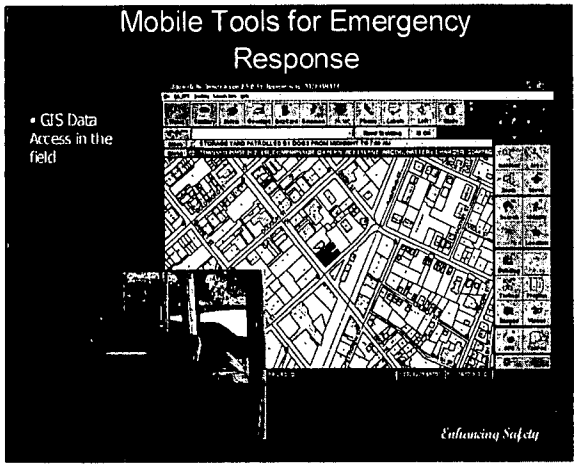
Town of Cary

Bill Stice, Information Technology Director, shared with the Board his comprehensive wireless long range plans including the history of wireless in Cary since the mid 1990's up to the current status including EVDO Rev A in laptops and PDAs, the 802.X being deployed in fire stations, the use of fiber and his deployment plans for public safety, public works, engineering inspections, and building inspections, fiber connected to 141 traffic signals, 802.X to some or all of the intersections, discussion on bandwidth issues, air cards not always working in fire stations, a discussion of in-building penetration of radio signals and the use of bi-directional amplifiers, a discussion of encryption and security, air card compatibility, the use of and coverage of public wireless carriers, and numerous upcoming decisions to be made.

Town of Coats

Eddie Jaggers, Police Chief, provided the Board with an overview of the police department, background on the Town of Coats, and an overview of the police department's wireless communication law enforcement system including challenges with the previous system, partnership with American Law Enforcement Network, the use of digital technology and security, the inquiries into NCIC and SBI, incident reports, the ability to query other states, interoperability with the Harnett County Sheriff's Office and other agencies in the region, the cost, number of components, and configuration of the system, Police Pak Software and hand held devices. Chief Jaggers emphasized the importance of having the information in the field.





City of Wilson

Will Aycock, Assistant Director of Information Technology Services, provided the Board with an overview of technical solutions that focused on distinct needs and the difference between mobile versus wireless including automating fire inspections using mobile devices (schedule of inspections, field data entry, printing reports in the field, 35% increase in productivity), mobile tools for emergency responders – GIS data access in the field, digital photographs, Geo-reference oblique imagery in the field, pre-incident surveys linked to geographic features, annotated floor plans accessible in the field, automated vehicle location (closest unit response), connection to CAD with silent dispatch (using time stamping), using

mobile tools for conducting analysis during emergency situations with an example of a break in the gas main, mobile wireless technology for the police department using field based reporting being populated with CAD, creating standards in mobile tools being deployed in different departments, mobile platforms, software being used, diagrams of wireless infrastructure, and a summary of mobile technologies.

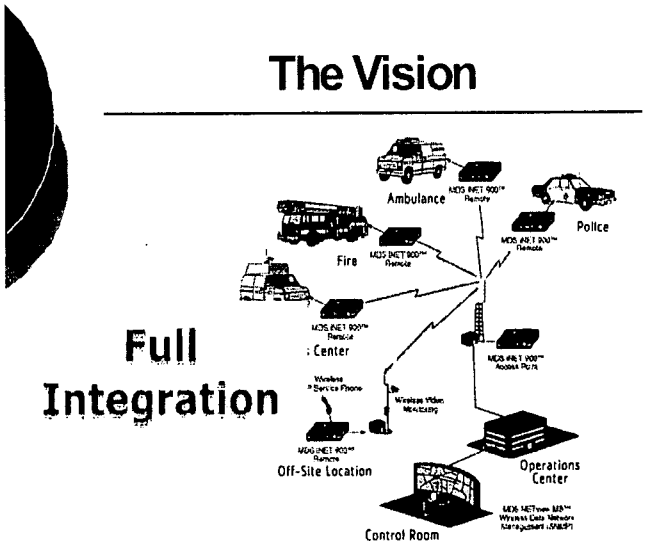
Will Aycock stressed the importance of having mobile tools in the hands of emergency responders – slide taken from his presentation.

City of Raleigh

Officer John Maultsby, City of Raleigh Police Department, presented an overview of mobile applications and technology including the broadband connections, how the City handles the rural areas, the crash application with intersection drawings, access to the intranet, numerous operating pictures, cross referencing systems – Wake County jail, Wake warrants, Durham County jail, Durham warrants, NC Department of Correction, AOC records for Wake County, etc. record retrievals, technology for their bicycle and horse patrol, being the recipient of the QualComm 3G award for law enforcement, and the vision of technology in the future.

City of Kinston

Scotty Hill, Deputy Director of Public Safety, gave a presentation regarding the 900 MHz infrastructure for their mobile data system and applications used. The presentation included the issues that the City of Kinston faced along with the vision they had for full integration, the unit of the MDS iNET 900, how the unit works, the coverage area, the access points and how they were determined, the point sites, pictures of the installation process, the upload and download speeds and future uses for this model.



Scotty Hill shared with the Board his technology vision for the City of Kinston – slide from the presentation.

City of Jacksonville

Earl Bunting, Director of Information Services, provided the Board with a technical presentation including the Records Management System, the Police Department's access to a WiFi contiguous zone for public safety, the GIS segments for patrol and police zones, the hybrid infrastructure being used for mobile communications including fiber connection between city buildings (fiber owned by the city), wireless point to point, and hot spots, EVDO Rev A, closest unit response, message switch, fiber connections to all the water towers, towers equipped with access points, the use of GPS receivers, a 48 site surveillance network, power to the access units on utility poles, involvement of the State Utility Commission and using a structural

engineer, proof of concept documents, partnering with mesh units, an increase of 20% in the marine population, and the department's vision for the future.

City of Durham

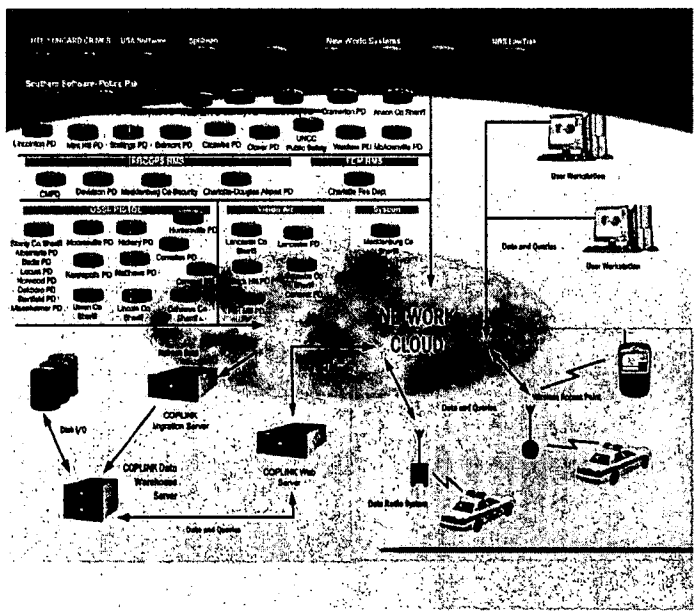
Steve Mihaich, Assistant Police Chief, provide a conceptual overview for potential statewide criminal justice information sharing including a discussion for interfacing GangNet, utilizing the I-2 Analyst Notebook and Bridge, using Police to Police (P2P, an OSSI product that works independent of the RMS Vendor, benefits and adverse consequences), data warehousing not required, link analysis, spider diagrams, crime view using ESRI, crystal reports, sharing of experience in Florida, and possibilities for the future.

City of High Point

Steve Lingerfelt, Communication and Information Services, along with police officers James Shores and Brandon Barber demonstrated the functionality of their field reporting system using a mobile data terminal with an air card including a real-time access to photos, NCIC, DMV, voice information provided to police officers on traffic stops, event information (previous with time stamp), example of SWAT Team event, police and fire alerts, mobility hardware, EVDO Rev A wireless infrastructure, uploads from digital camera, access to in-house Intranet (City ordinances), Automatic Vehicle Location, establishing perimeters, GPS, email, wireless carrier provides set price per month regardless of usage, integrated system from E911 to CAD to Field to RMS, access to city video cameras from website, eCITATION, a demo using High Point dispatch center, and the City of High Point's vision of the future concerning mobile technology.

City of Charlotte – CRISS

Crystal Cody, Program Director, Charlotte Police Department gave a presentation to the CJIN Board on the new Charlotte Regional Information Sharing System – CRISS. Ms. Cody explained the need for the system, and then went on to explain the strategy and features of the system. The CRISS system will be a data sharing platform for 57 agencies which will connect 11 counties in North and South Carolina. The CRISS system will not only be able to share information to its users but also allow for analytical tools, such as crime mapping by location, individual associations, property associations and events across jurisdictional boundaries, which will allow for a visual representation of a criminal network. Ms. Cody explained about the cost, governance and continuing benefit of the program. The committee was reviewed along with the project schedule and screen shots of the program itself.



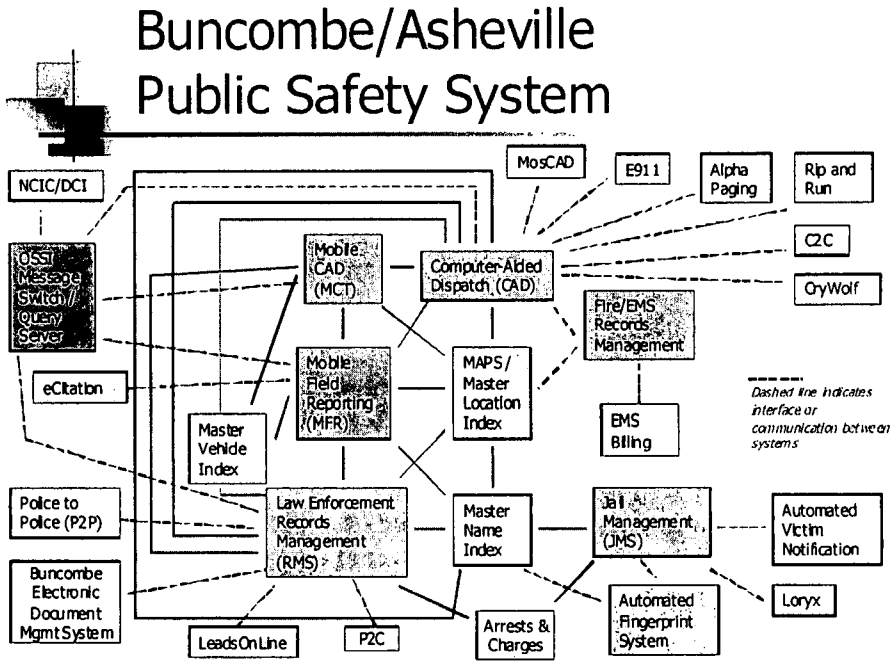
Counties

Buncombe County

Al Williams, Senior Assistant State Attorney, provided an overview of several applications developed for Buncombe County and an update on document imaging including the connectivity capabilities of the system for court calendaring, the ease of use, the ability to update and/or change, the use of CITRIX, the automation of activities, the role of officers of the Court, the Records Management System, the document imaging project including prosecution summary, defendant statement, officer and witness statement, physical evidence, arrest information, habitual felon workup, and all the subsets of each of the above sections, and his vision of automation within the Courts.

Buncombe County

Al Williams, Buncombe County Senior District Attorney and Board Member, introduced Ron Moore - Buncombe County District Attorney, Rodney Hasty – Assistant District Attorney, and senior management Kim Pruett, Vance Bell, Johnny King, Pat Freeman, and Pat Cowan. The next two hours were spent providing the Board with a comprehensive presentation of the how the Cities and County integrated their criminal justice system including a history of the system, a list of all the agencies, the consolidation of Enhanced 911 systems, the Computer Aided Dispatch System (CAD) and Mobile CAD, Mobile Field Based Reporting, Jail Management, Law Enforcement Records Management System, Fingerprinting, Fire/EMS Records Management System, etc. After the comprehensive presentation, Buncombe County presented a live demonstration of all the aforementioned systems including details of their process work flows and the different interactions between users including the Magistrate, Clerk, District Attorney, Judges, Police, Sheriff, Fire, EMS, IT Support, etc. They also shared the concept and their implementation plans for a Document Management System. Buncombe County staff presented the following overview of their Criminal Justice Integration System:



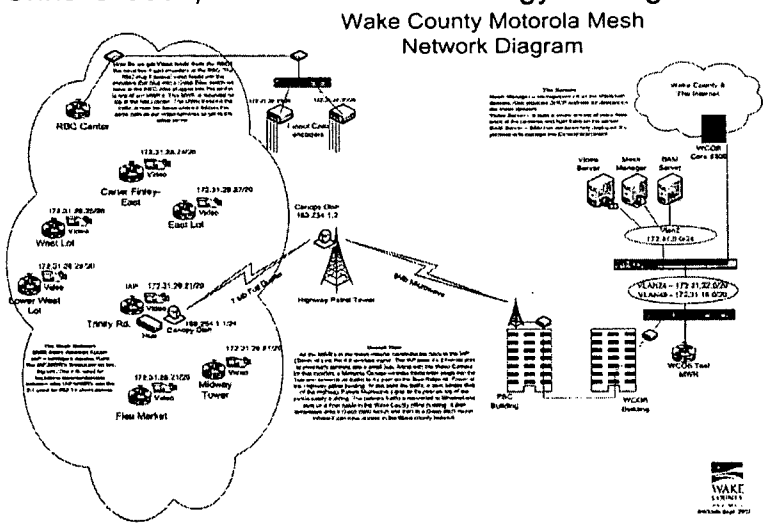
Wake County

POLICE 2 POLICE PROGRAM

Chris Creech, Information Technology Manager for Wake County Sheriff's Department and Officer John Maultsby with the City of Raleigh Police Department (info listed above under City of Raleigh PD), provided the Board with a live demonstration of the Information Sharing Application P2P that is used by both departments. Both Officers shared stories where the P2P application helped to solve cases. They showed how this application is used by the departments to share information with other Law Enforcement Agencies within NC and Nationally.

WAKE COUNTY VIDEO PROJECT

Chris Creech, Information Technology Manager for Wake County Sheriff's Department who gave the CJIN Board a presentation on the Video link between the NC State Fairgrounds, RBC Center, and Carter-Finley Stadium to the Wake County Dispatch Center. The system that Wake County has deployed is a streaming video system that is recorded – fully accessible not only in the dispatch center, but also on laptops and handheld devices in the field. The video that is recorded is treated in the same manner as a 911 call to the dispatch center. The video is kept for several months before it is deleted or destroyed. However, if there is an incident that is captured on the video, it is segmented and treated as evidence in a case. At this point it has to have a chain of custody to ensure that it is not lost or destroyed.

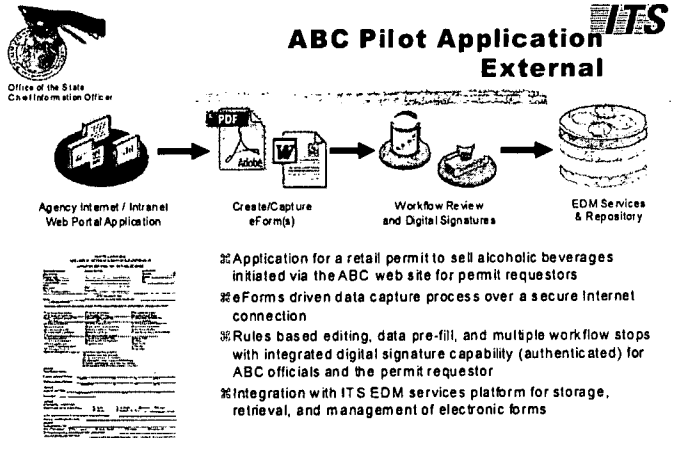


Johnston County

Gary Snow and Chris Strickland with the Johnston County Sheriff's Office demonstrated live the Mobile Cad Terminal within the Deputies cars for Johnston County. Gary and Chris also explained the evolution of the wireless structure that was developed by Sheriff Bissell in Johnston County. Chris and Gary also showed the Board how the new NCAWARE system interacts with the technology they have installed within the vehicles.

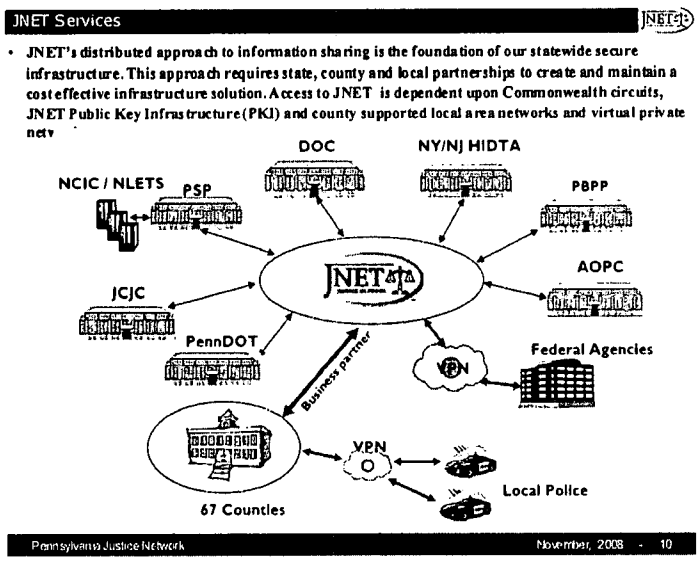
State Systems

State of North Carolina



Representative Tolson shared with the Board his vision of automating paperwork within the state system and directed some of his comments toward the use of Digital Signatures and E-Forms. He discussed the Digital Signature Pilot Project being conducted by the ITS Division and introduced Sharon Hayes, Deputy State CIO. Representative Tolson also requested that the CJIN Board provide ITS and his office with areas that criminal justice could use Digital Signatures and E-Forms.

Sharon Hayes, Deputy State CIO, presented a PowerPoint to the Board that included the problem of the State being overloaded with information and document processing, the inefficiency of the paper system, the inadequate access to the paper documents, the problem with compliance by agencies, the General Statue that enacted Electronic Commerce in Government, the Federal E-sign Act, the Uniform Electronic Transactions Act, the fact that there are thousands of paper forms across agencies, the evolution of e-forms from paper to totally interactive, NC is in the middle with a hybrid system of some paper and some electronic forms, the Pilot Project was to create a uniform and consistent set of policies and procedures for managing and preserving electronic records, develop and establish statewide electronic records training and certification programs, promote the use of public records in digital format, develop statewide procurement standards, provide guidance and assistance for all customers, report back to the General Assembly on the status and effectiveness of the Pilot by April 1, 2009, the qualifications for the project, the internal process of the pilot, the external process of the pilot, digital signatures in other states, benefits of using e-forms and digital signatures, criminal justice applications for use, etc. Sharon Hayes discussed the pilot application and work flow – slide from the presentation.



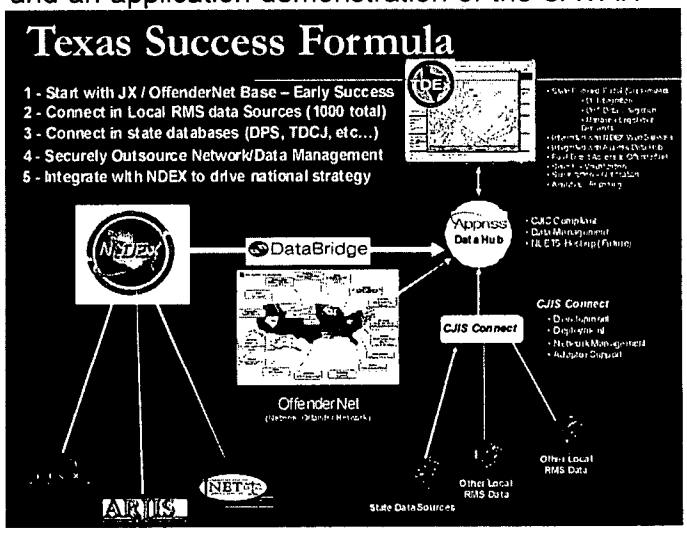
Pennsylvania

David Naisby, Executive Director, Pennsylvania Justice Network provided the Board with a comprehensive overview of criminal justice integration within the State of Pennsylvania including a history of the project, the participating agencies, the governance and structure, the executive council, steering committee, senior policy team, their vision and mission statement, the number of users, an overview of their infrastructure, their security model, the training classes being offered, the functionality, the information accessible, their policies and how they

relate to national standards, the barriers they faced, etc. David Naisby provided the following diagram of the J-NET System:

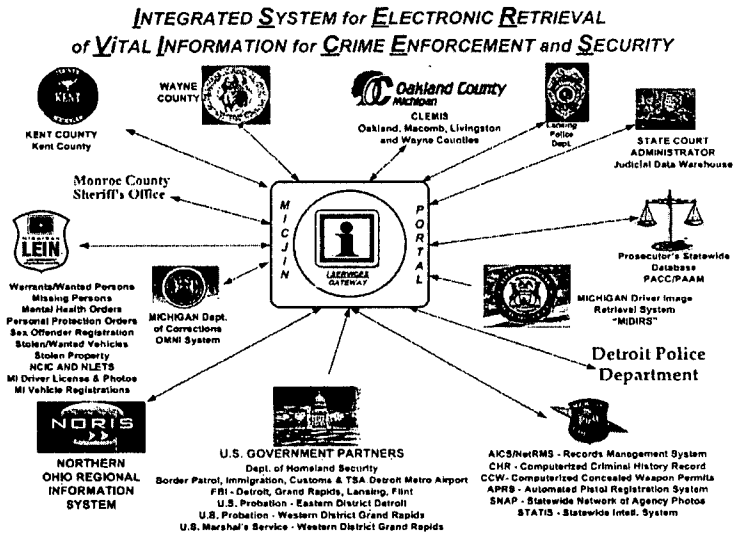
Texas

Appriss Corporation gave an overview, history, and an application demonstration of the SAVAN project including how SAVAN works (collection of data, processing of data, and providing actionable information), the national model, modules (VINE Link, Watch, Court, Photo, and Protective Order), a detailed explanation of Offender Custody, Court Case Information, and Administrative Functions, Justice Xchange with offender management and historical/current offender data, results of the pilot project (activities, user feedback, success stories, and statistics), a brief overview of the system architecture, data access, existing system interfaces, 950 data elements being collected covering various subject areas (offender, charge, arrest, incident, vehicle, warrant, victim, suspect, citation, etc.), data field design (handout), and Record Management System Standard Data Layout (handout), and Texas Case Study (live demonstration of the Texas System including challenges of sharing local information and formula for success). The Texas System, TDEx, was presented along with their formula for success.



Michigan

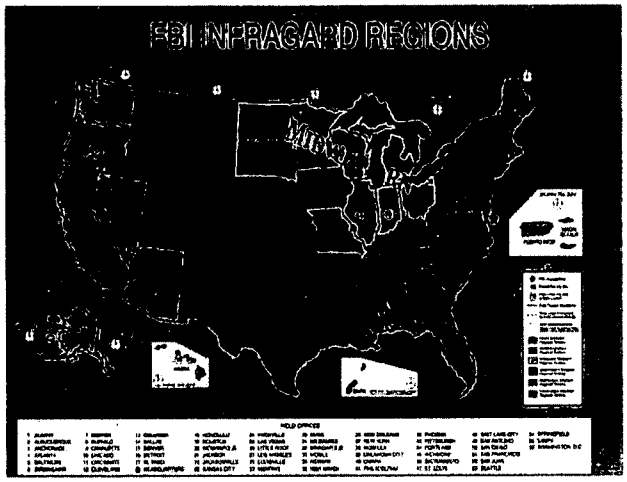
Laude Hartum, Chairman, Law Enforcement Steering Committee, shared with the Board the history and functionality of the Law Enforcement Information Network (LEIN) used in Michigan for access to NCIC and NLETS along with a number of Criminal Justice Information System Policy Councils. Laude provided the state's vision, mission, goals, business model including the concept of ISERVICES Gateway with 350 participating agencies, 75 accessible systems (Courts, Corrections, Prosecutors, Driver's License, Mug-shot Photos, 3rd party systems, etc.), Federated Query Architecture, multi-bridge servers, agencies own and control their data (agencies establish sharing parameters, share and access data regardless of RMS/JMS/CAD software, affordable, scalable, real-time data, simple application, and configuration).



State of Nebraska

Mike Overton, Chief Information Services Division, Nebraska Crime Commission (NCC). Mike gave the Board a presentation on the Criminal Justice Integration Project that has been successfully implemented in Nebraska. The solution that Nebraska developed was web-based in nature, so that all personnel that had internet access could use the solution. This is also a solution used by multiple states, including Alabama, Nebraska, Wyoming and Kansas. Mike discussed the various challenges and obstacles that were encountered in the design and implementation of the project, as well as sharing screen shots of the actual working version. He then did a live demonstration of the program for the Board members. Mike explained that the software developed for this project was offered to Kansas at no cost and also to North Carolina. He clarified that the installation of the software would have an associated cost unless the State had the expertise in house to install it.

Federal Agencies

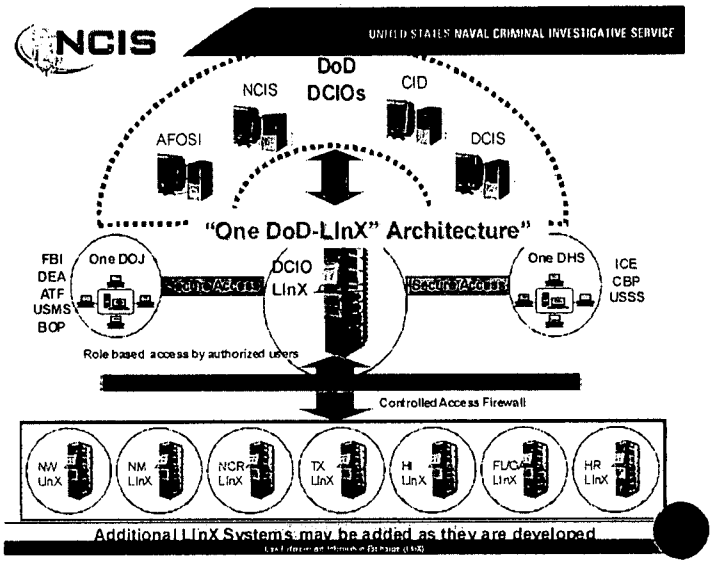


InfraGard Organization

Special Agent Greg Baker of the FBI provided the Board with a presentation of the InfraGard program, a partnership between the FBI and private industry which encourages the sharing of information between the government and private sector for the purpose of national critical infrastructure protection, including a definition of critical infrastructures, impact on private industry, types of threats, how to protect infrastructures, history of the program and changes in focus, mission statement, organizational structure within the FBI (regions, field offices, and chapters), the role of the FBI within the program, sharing of FBI and DHS information from the FBI's National Infrastructure Protection Center, highlights from different chapters, special interest groups, ability to receive analysis and warning with alerts and advisories.

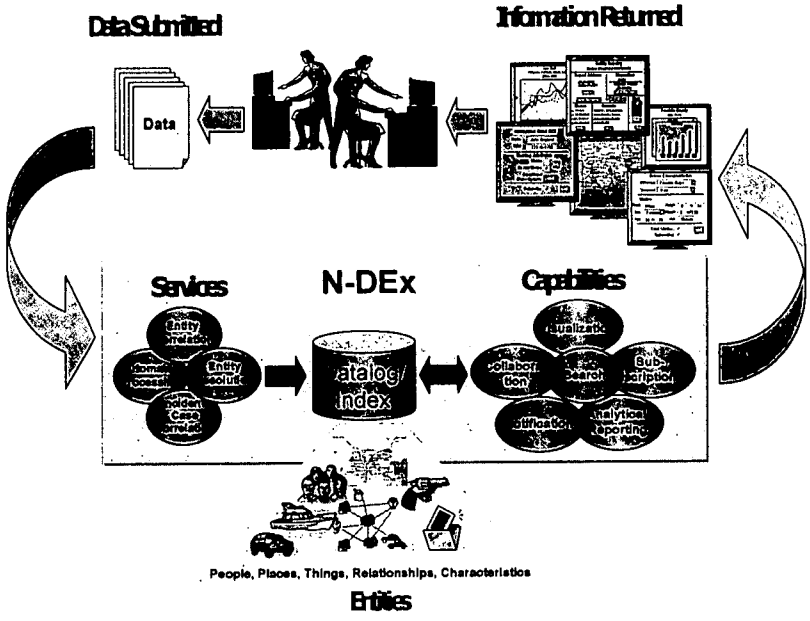
Naval Criminal Investigative Service – LInX Project

NCIS Deputy Director, Christopher Cote, gave the CJIN Board an overview of the LInX project. This is a Department of the Navy product that was designed to share information between NCIS to protect the surrounding Navel Installations and its personnel. There are over 600 Law Enforcement Agencies contribute and/or share data today, not just NCIS. There are existing partnerships between the Department of Justice and the Department of Homeland Security within each of the 9 regions that have LInX deployed. Director



Cote explained the origins of the project, the type of data that is collected in the program, how it is used, the status of the program, where they are now in the United States, the future development of the project, how LInX plans to connect to NDEx, LInX Success stories, security of the program and the governance of LInX. Director Cote then went into a live demonstration of the project.

Federal Bureau of Investigation – National Data Exchange – NDEx



Brian Withers, Information Technology Manager and Damon Villella of the Federal Bureau of Investigation gave a presentation to the CJIN Board on the National Data Exchange Project and the ONE DOJ system. NDEx will allow the user to have a "Google" type search on all the data in the system, including person, places, things, etc. as well as the incident data in the narrative. The presentation covered the purpose of the project, the need for National information sharing, the deployment of the project, key features, states that are participating, states who will be participating, status of the project along with new features, deployment of individual increments, integration into the ONE DOJ System, governance, policy advisory board, information sharing subcommittee, partnerships and support services, overview and searchable records.

Friends of CJIN

The CJIN Board received an abundant amount of information over the last several years regarding criminal justice activities. This information came in the form of presentations to the Board from state, federal, and local law enforcement agencies along with interaction with other boards, associations, user groups, workshops throughout the state, conferences and meetings with other states, vendors, etc. All of these activities have resulted in the Board being able to formulate a position on different issues impacting the criminal justice community especially in the area of technology. We are very appreciated of all the assistance that we received from the following people:

Anthony Allen	NC ACC
Ben Comer	AOC
Bill Carter	NC SBI
Bill Scoggin	Alcatel Lucent
Bob Lukaszewski	NCSHP
Bob Moulton	National Pawn Association
Brandon Barber	City of High Point
Brent Crossland	Entrust
Brent Rhodarmer	Buncombe County
Brian Page	Software AG
Brian Withers	FBI NDEX
Cameron Taylor	NCSHP
Carol Burroughs	OSC
Carol Ingram	NC EM
Charles Callahan	Dunn PD
Charles Pittman	E-NC Rural Authority
Charles Wright	NCSHP
Chris Bailey	City of Wilson
Chris Battista	NC SBI
Chris Creech	Wake County SO
Chris Haggard	City of Kinston
Chris Kelley	Alcatel Lucent
Chris Strickland	Johnston County SO
Christopher Cote	NCIS
Cindy Cousins	NC DOC
Clay Whitehead	Motorola
Cooper Hancock	NC Homeland Security
Craig Vardaman	Durham County
Crystal Cody	Charlotte-Mecklenburg PD
Damon Villella	FBI NDEX
Dan Jahn	SAS
Darlene M. Johnson	NC EM
Dave Beck	NC Pawn Brokers
Dave Finley	Leads-Online
Dave Krum	DCCPS
David P Lewis	US DOJ
David Pauley	DCCPS
David Register	Dunn PD
David Shaw	Guilford County Sheriff
Denise Thomas	Fiscal Research Division GA
Dennis Reynolds	Adobe
Derek Simmons	Jacksonville PD
Dick Evans	Charlotte-Mecklenburg PD
Donald Gabbin	IJIS
Donald Ladd	Durham County SO
Doug Hoell	NC EM
Ed Harr	Motorola
Eddie Jaggers	Coats PD
Elaine Bushfan	Durham County Judge
Emily Young	NC EM
Floyd Thomas	Adobe
Fran Karp	American Law Enforcement Network
Frank Palombo	Chief, New Bern PD
Frank Seiber	Department of Labor
Gary Alexander	ITS
Gary Kearney	NCDJJDP
Gary Snow	Johnston County SO
Glen Mack	DCCPS
Greg Jones	DCCPS

Holt Watts	Motorola
James Klopovic	GCC
James Shores	High Point PD
Jane Patterson	E-NC Rural Authority
Janet Greene	AOC
Jason Dye	NCSU PD
Jason Schiess	Durham PD
Jean M. Sandaire	AOC
Jeremy Jernigan	Columbus County
Jeremy Twiggs	Buncombe County
Jerry McCormick	Cary PD
Jerry Ratley	Assistant Director SBI
Jerry Wright	J2 Software Solutions
Jim Klopovice	GCC
Jimmy Pope	Dunn PD
Joe Tolson	NC State Representative
John Cafaro	Alcatel-Lucent
John Letteney	Chief Southern Pines PD
John Maultsby	Raleigh PD
John Maultsby	Raleigh PD
John Yarboro	NC Homeland Security
Johnny King	Buncombe County
Jon Williams	DCCPS
Kamal Ballout	Alcatel-Lucent
Karen Jayson	GCC
Karlynn O'Shaughnessy	Fiscal Research Division GA
Kathy Glass	Buncombe County
Kay Meyer	OSC
Kelly Fields	Coats PD
Ken Clark	Core Technologies
Kim Pruett	Buncombe County
Kim Simma	Charlotte-Mecklenburg PD
Larry Cureton	Durham County SO
Larry Ware	Cleveland County
Laude Hartrum	Michigan State Police
Leslie Stanfield	New Hanover County
Linda Hayes	Secretary DJJDP
Lorrin Freeman	Wake County Clerk of Court
Mark Beason	NC Pawn Brokers
Mark Brown	NC EM
Mark Eisele	Wake County Sheriff
Mary Beth Young	NC EM
Meredith Weinstein	DCCPS
Michael Crowell	City of Salisbury
Michael Daniska	NC Homeland Security
Michael G. Yaniero	Chief, Jacksonville PD
Michael Klein	NCIS
Michelle Beck	GA, Sr. Program Eval.
Mike Garner	Sunguard
Mike Montague	City of Salisbury
Mike Sprayberry	NC EM
Nancy Kiesenhofer	AOC
Nancy Lowe	NC DOJ
Navin Puri	GCC
Pablo Rodriguez	Durham County SO
Pat Cowan	Buncombe County
Pat Freeman	Buncombe County
Patty McQuillan	DCCPS
Paul Murdock	Software AG
Percina M. Curtis-Diggs	North Carolina Homeland Security
Pete Smith	Zebulon PD
Pierre Lamoureux	Radio IP
Rebecca Troutman	NC
Rhonda Raney	DCCPS
Richard Bargfrede	Raleigh PD
Richard Brown	FBI NDEX
Richard Little	AOC
Richard Taylor	ITS
Robin Murray	AOC
Rodney Hasty	Buncombe County
Rodney Spell	NCSHP
Ron Moore	Buncombe County
Ronnie Blake	NC DOJ
Rowena Heath	Analysts International
Scott Chadwick	Software AG
Scott Glawson	Deputy CIO, DOJ
Scotty Hill	City of Kinston
Sharon Hayes	ITS

Stephanie Young	NC DOC
Stephen Nibert	FBI NDEX
Steve Bartay	NCSU PD
Steve Mihaich	Durham PD
Susan Moore	NC DOJ
T. Jerry Williams	NC Pawn Brokers Association
T. L. Hobbs	SHP, VIPER Group
Tanya Luter	NCSHP
Teresa Crabtree	Durham County SO
Terry Buff	City of Salisbury
Terry Yates	Town of Cary
Tom Bennett	ED, NC Victim Assist.
Tom Geisler	Charlotte-Mecklenburg PD
Tom Goodman	NCIS/ LInX
Tom Stewart	Alcatel-Lucent
Travis Knotts	Anson County SO
Van Short	Core Technologies
Vance Bell	Buncombe County
Wanda Thomas	AOC
Wellington Scott	NCSHP
Will Aycock	City of Wilson
William Hogan	Chief, Asheville PD
William Willis	ITS
Windy Brinkley	NC SBI
Woody Sandy	NCSHP
Wyatt Pettengill	NC SBI

The staff of the CJIN Board had the opportunity to attend various workshops, commission and committee meetings, the following is a listing of some of these events:

- Buncombe County Technical Workshop
- NC Law Enforcement Planners Session
- NC Association of County Commissioners, Technical Subcommittee
- NC District Attorney's Conference
- NC DCCPS Senior Management/ Emergency Management
- Columbus County Commission Workshop
- Onslow County and City of Jacksonville Technical Workshop
- Harnett County Technical Workshop
- Domestic Preparedness and Readiness Workshop – Lee County
- Durham Crime Cabinet
- NC Smartnet Users Workshop

Projects

Original Initiatives:

The following projects were an original initiative that have been completed and are now in the maintenance mode:

North Caroline Juvenile Online Information Network (NC-JOIN)

NC-JOIN established an automated statewide system to manage the business of tracking the flow of juveniles through the juvenile justice system. Current users are juvenile court counselors and administrative staff statewide. Youth Development Centers, assessment center, and detention center staff began using NC-JOIN in May 2004. Future phases will expand functionality and improve data sharing with other criminal justice agencies.

Statewide Magistrate System

The Magistrate System used to be operational in ninety-eight counties. With the rollout of NCAWARE which replaces the Magistrate System, only 54 counties remain on the Magistrate System as of March 1, 2010. Wake County, who was not on the Magistrate System, is already implemented on NCAWARE. Buncombe County, who was also not on the Magistrate System, is planned for implementation on NCAWARE.

End-User Technology

End User Technology has allowed the Administrative Office of the Courts to implement and upgrade the Local Architecture Network infrastructure, replace equipment, and provide an infrastructure that readies courthouses for web based applications. End User Technology has supplemented the Department of Justice's migration to a distributed environment that is compliant with Statewide Technical Architecture and Senate Bill 222.

CJIN Network Security

CJIN Network Security developed 'best of industry' strategies for firewalls, data encryption, and authentication/authorization and then deployed equipment to fulfill some of the outstanding network security needs in the State agencies.

CJIN Data Sharing Standards

CJIN Data Sharing Standards had three successful pilots using the Global Justice Extensible Markup Language (XML) Data Model. XML is a multi-agency data transport tool that allows disparate systems to more easily "talk" to one another. XML appears to be emerging as a universal standard for sharing data across criminal justice information systems.

Recently Completed Projects:

The following three projects have been implemented and are fully operational:

E-CITATION®

E-CITATION® automates the issuing of traffic citations in North Carolina (NC). Six hundred law enforcement agencies (LEAs) issue more than one million traffic and infraction citations annually. Prior to the implementation of the eCITATION® system, NC law enforcement officers (LEOs) wrote all citations by hand. Copies of the handwritten citation were given to the recipient, delivered to the local clerk of superior court (CSC) office, and kept on file by both the LEA and CSC involved. This process could be rather cumbersome and lengthy, as it involved entering the same information multiple times in different systems. Additionally, there was a high probability of mistakes being introduced due to illegible handwriting.

The project was conceived and developed as a solution to this manual process. With the advent of eCITATION®, a LEO may now enter citation information using a mobile data computer (MDC) in the patrol car and print out the citation to give to the recipient. The information is transmitted almost immediately and is available for access by the local CSC office, the official court record keeper. North Carolina is the first and only state to implement such a system. Two major benefits are time savings for both LEAs and CSC offices and the elimination of multiple data entry. LEOs can then spend more time on the streets, and clerks can better respond to court customers. As legislative mandates are given and user requests are evaluated, the AOC will continue to enhance the application in order to better serve the needs of the users.

The project was developed as a joint venture between the NC Administrative Office of the Courts (AOC) and the NC State Highway Patrol. Significant funding was also provided by the Governor's Highway Safety Fund and the Governor's Crime Commission. It is the first component of the AOC's eCourt initiative, and it automates the creation of "non-arrestable" criminal and traffic citations by LEOs. During October 1999 through September 2001, a pilot project was conducted in Cumberland County, and after a successful pilot, eCITATION® was implemented in all 100 counties. As of December 31, 2007:

- 223 LEAs with 9,809 officers statewide have been provided with eCITATION® access.
- 3,759,342 electronic citations have been processed since inception.
- 1,104,168 electronic citations were issued in calendar year 2009.
- Over 76% of traffic and infractions citations are now issued through eCITATION®, and this number continues to grow.

While the AOC provides eCITATION® software at no cost to participating courts and LEAs, implementation, eCITATION® requires the following components:

- Each participating CSC office must have a desktop PC with Internet connectivity and a laser printer.
- Each participating LEA must have patrol cars equipped with a printer and MDC that access a wireless network.

E-CITATION® is a successful initiative because it automates a complex criminal justice process and its technological components are readily available. The project is an excellent example of collaboration among government agencies, including those in constitutionally separate branches of state and local government. Additionally, eCITATION® builds on the current infrastructure of the NC Criminal Justice Information Network Mobile Data Network.

E-CITATION® continues to progress. With the addition of their specific citation forms (AOC-CR-502), the system is now also used statewide by NC Alcohol Law Enforcement [ALE] officers. The AOC continues to seek further grant funding to purchase printers for LEAs. Two active advisory committees, one for

CSC users and another for LEA users, meet periodically to collaborate with the developers and each other and to discuss ways the system can be enhanced. Further envisioned enhancements include:

Messaging – providing the clerks a highly desired capability to contact LEOs through eCITATION® through written messages.

Courtroom profiles – allowing clerks' offices another highly desired capability to set specific rules or constraints to better regulate the volume of citation cases in courtrooms.

Longer term plans include the capability to process "arrestable" offenses.

Statewide Automated Fingerprint Identification System:

North Carolina has made a significant financial investment to replace a critical crime-fighting tool that supports law enforcement and protects our communities. North Carolina's Statewide Automated Fingerprint Identification System (SAFIS) is a vital law enforcement and public safety resource that serves over 500 law enforcement agencies. The equipment that backs the state's fingerprint identification infrastructure was nearly obsolete and was replaced. Law enforcement uses this system to pinpoint a suspect in a matter of minutes using the unique identifiers found on fingerprints left at a crime scene. That means arresting rapists and murderers who could otherwise strike again. With it we have stopped criminals from working at the bedsides of our most vulnerable senior citizens and in the classrooms right next to our children. Hundreds of law enforcers, schools, nursing homes, and childcare facilities depend on the automated fingerprint system to disqualify job applicants with criminal records.

This computerized fingerprint system protects all North Carolinians by solving crimes and helping to put criminals in jail. It also keeps felons and other dangerous individuals out of positions where they could prey on our state's most vulnerable residents.

During the 2007 calendar year, an average of 207 fingerprint matches per day were made based on fingerprint cards submitted due to either arrests or pre-employment screenings. In addition, over 1,500 fingerprints from crime scenes were identified through remote latent search stations that same year. Rapid turnaround time is one of SAFIS' most important benefits. Prior to SAFIS criminal fingerprint searches could take up to 100 days, and a full year of processing time for non-law enforcement fingerprint cards was not uncommon. With SAFIS, criminal fingerprint searches can be done in two hours, and the processing of non-law enforcement fingerprint cards is now routinely completed in one week.

SAFIS consists of central processing computer systems and more than 180 remote fingerprint facilities located within law enforcement agencies across the state. The North Carolina State Bureau of Investigation (SBI) serves as the criminal fingerprint repository for the state and has the responsibility of operating and managing SAFIS.

System Description:

Prior to SAFIS, processing a positive fingerprint identification of a suspect could take months. Prior to SAFIS, it was not unheard of for a criminal suspect to be placed in jail, released on bond by a magistrate, charged by a district attorney, meet with their defense attorney, and attend the first court appearance before being identified as a person with a criminal record. Since its initial implementation in 1986, SAFIS has resolved this problem by greatly reducing the time it takes to find a positive fingerprint match. The suspect can now be identified within two hours, instead of several weeks or months.

SAFIS receives and processes electronic and manually rolled fingerprint card submissions for criminal identifications, job applications, background checks, and requests for permits to carry a concealed weapon. SAFIS accepts, stores, and retrieves scanned fingerprint data, and performs automated searches and comparisons. In addition, SAFIS maintains a direct secure network link to the Federal Bureau of Investigation (FBI) and the National Crime Information Center (NCIC).

The SAFIS infrastructure is currently comprised of the following main components:

- 3 central processing systems
- 162 remote Live Scan devices
- 23 remote latent search stations

FY 0607	Electronic Submissions	Manually Rolled Card Submissions	Total Submissions
Criminal Fingerprint Cards	**88 %**	**12 %**	**197,260**
Non-Criminal Fingerprint Cards*	**17 %**	**83 %**	**131,059**
		TOTAL:	**328,319**

Table 1: Total Fingerprint Card Submissions for FY0607

* Fingerprint cards submitted for job applications, background checks and permits.

SAFIS is currently linked to North Carolina's computerized criminal history files (CCH). Once the fingerprint card has been processed by the SBI, personal information and charge-related data are automatically forwarded to CCH. Existing criminal history records are automatically updated or a new criminal history record is established. Maintaining the link between SAFIS and CCH is essential to the law enforcement community. SAFIS is also linked to the SBI's fingerprint database, which electronically archives criminal fingerprint cards.

Central Processing Systems

The three central processing systems are responsible for searching, verifying, adding, and updating fingerprint records in the SAFIS database and adding charge-related information to CCH. These systems are comprised of input/verification stations, data entry computers, and servers that control and process the activity and transactions that flow through SAFIS. The central processing systems are located at the SBI, the Mecklenburg County Sheriff's Office (MCSO), and the North Carolina Department of Correction (DOC). Additional database servers, storage devices and search processors are located at the SBI.

The SAFIS fingerprint database currently contains approximately 1,500,000 fingerprints. Records for those who have either been arrested in North Carolina or have been licensed to carry concealed handguns are stored in the database.

Live Scan Devices

There are currently 162 Live Scan devices connected to SAFIS throughout the state. Live Scan devices capture fingerprints electronically without the use of ink and fingerprint card stock. These devices utilize computers and optical lenses to record the fingerprints in a digital format. Identifying information of the person being fingerprinted is also entered into the Live Scan device. The fingerprint images and the descriptive information are then electronically submitted to the SBI. The information is received by the SBI in a format that meets standards set by FBI for processing at the national level. A Live Scan device

is required in order to electronically submit fingerprints to the SBI.

Live Scan devices provide additional benefits to the contributing law enforcement agency and the entire law enforcement community:

- Consistently provide high quality fingerprint images
- Facilitate individuals' criminal history records being updated in an efficient and timely manner
- Reduces the risk of the fingerprint card being rejected due to the poor quality of the captured fingerprints
- Reduces the time required to fingerprint an individual, which saves money and lessens close-quarters contact with a suspect
- Submissions are received by the SBI more quickly than inked fingerprint cards which require mailing through the postal service
- Provide a standard format for descriptive information and associated charges which reduces the risk of a fingerprint card being rejected

In 1997, North Carolina became the first state to allow submissions of electronic fingerprint cards from Live Scan devices of different vendors. This has provided a competitive environment for vendors to do business in North Carolina.

Currently, seventeen counties do not have a Live Scan device from which fingerprints can be electronically submitted to the SBI. The initial purchase price of the device and the associated maintenance cost made it prohibitive for smaller law enforcement agencies. Law enforcement officers in those counties must collect fingerprints using the manually rolled ink method. The inked fingerprint cards must then be mailed to the SBI for processing. Once these cards are received at the SBI, they must be scanned in and converted into the appropriate digital format for submission to the FBI. The Electronic Fingerprint Transmission Specification (EFTS) defines the link between the FBI and other agencies' systems and establishes a national standard for fingerprint transmissions. This conversion process is labor-intensive, time-consuming, and places considerable stress on the SAFIS workflow due to the age of the SAFIS central processing systems.

Latent Search Stations

There are currently 23 latent search stations throughout the state. The term "latent" means hidden or unseen. A latent fingerprint is one that is inadvertently left at a crime scene by a suspect and then searched for and found by law enforcement personnel. Latent fingerprints require forensic processing in order to be seen with the naked eye. Once a latent fingerprint is visible, it can be searched against the SAFIS database of fingerprints by using a latent search station in an effort to find a match.

A latent search station establishes a remote two-way connection with the SAFIS database. It allows a fingerprint examiner to search a latent fingerprint against fingerprints currently stored in SAFIS. Once the latent fingerprint has been submitted for searching, SAFIS will transmit back to the fingerprint examiner a list of possible identifications. The fingerprint examiner will then conduct a side-by-side comparison to determine if a match exists.

The ability to search latent fingerprints from crime scenes makes SAFIS a remarkable crime-fighting tool. It can pinpoint or eliminate suspects, and enhances the important detective work of law enforcement officers. During the 2007 calendar year, over 1,500 latent fingerprints from crime scenes were identified through remote latent search stations.

As initially anticipated, the SAFIS Replacement Project is planned to span approximately three years. It is essential that the transition and migration to the upgraded SAFIS environment be seamless, so critical

fingerprint services provided to SAFIS stakeholders are not negatively impacted. An incremental approach is being utilized to facilitate managing the complexity of this project.

A proof of concept phase was incorporated into the SAFIS Replacement Project to test various components of the new biometric identification system and to validate Motorola's conversion procedures. The proof of concept phase, which has been successfully completed, included the following elements:

- Conversion Validation – A sample of approximately 40,000 images of various types of media (electronic fingerprint images & fingerprint cards) were submitted to Motorola in June 2006 in order to validate their ability to successfully convert NC SAFIS data. An 'acceptance test' was conducted on the converted data by NC DOJ staff in September 2006. The result of the 'acceptance test' was such that Motorola successfully demonstrated their ability to convert NC SAFIS data.

- SAFIS Prototype- A prototype of the new SAFIS was designed and built by Motorola in accordance with contractual specifications. The converted data was loaded on the prototype and was subsequently installed at the SBI in Raleigh. DOJ representatives tested the screens and workflows of the prototype with positive results.

- Live-scan Device Communication Validation – As required in the contract, all legacy live-scan devices must be able to communicate to the new SAFIS. A validation test was successfully conducted on the prototype while installed at the SBI. All variations of legacy live-scan devices (both Motorola and non-Motorola) will be able to communicate to the new SAFIS.

- Fingerprint Card Conversion – The SBI sent 1,750,000 fingerprint cards to Motorola for conversion to an electronic format. An 'acceptance test' was successfully conducted on the converted fingerprint cards prior to these images being added to the SAFIS fingerprint database.

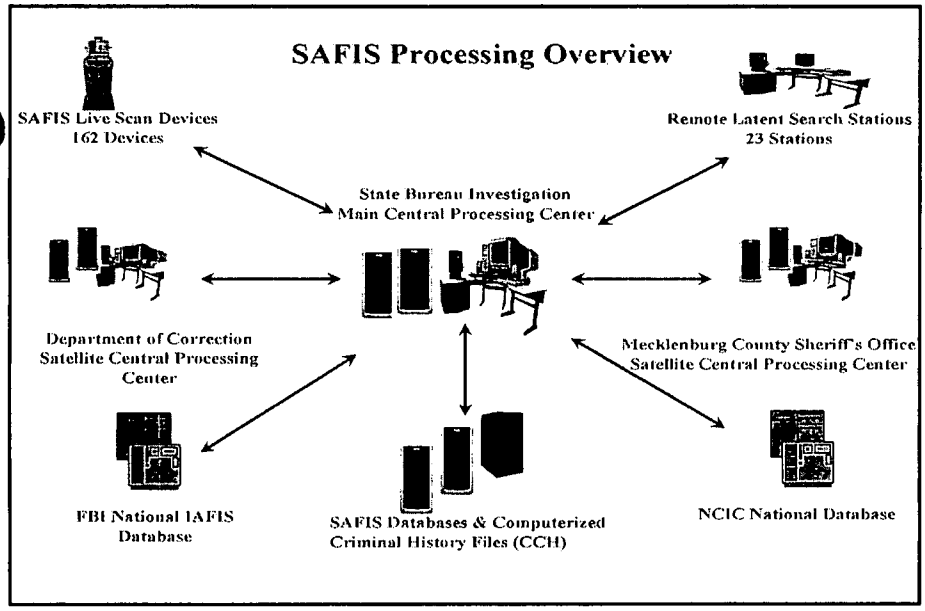
- Joint-Agency meetings with Mecklenburg County Sheriffs Office and N. C. Department of Correction – Due to the complexity of the SAFIS replacement project, NC DOJ staff has conducted multiple meetings and on-site walkthroughs with the other satellite sites (MCSO and DOC) to outline project schedule and validate required resources.

- System Documentation Review – NC DOJ staff has completed the review and validation of system requirements and workflows. This activity included reviewing and updating of multiple deliverables such as system requirements, data dictionary and the interface control document.

- Factory Acceptance Testing – Representatives from DOJ, Department of Corrections (DOC), and Mecklenburg County Sheriff's Office (MCSO) successfully completed the factory acceptance test of the new SAFIS. The factory acceptance test procedures included verification and validation of all the necessary workflows and interfaces.

- Central Processing Equipment Installation – All of the SAFIS-related central processing equipment has been shipped and installed, including the equipment for the disaster recovery site.

- Remote Latent Search Stations Installation – New latent search stations have been deployed to replace all existing latent search stations currently in use at the SBI and all local agencies.



SAFIS system interface with SBI North Carolina Applicant Tracking Systems

- On-site Integration Testing – DOJ completed integration testing of system interfaces with Computerized Criminal History (CCH), Mecklenburg County Criminal Justice Information System (MC CJIS), DOC Offender Population Unified System (OPUS), and FBI Integrated Automated Fingerprint Identification System (IAFIS) and initiated integration testing of

The adjacent illustration reflects a high level overview of SAFIS processing and its components. The infrastructure is configured in such a manner that the simultaneous upgrade to all central processing systems is essential in order to maintain system integrity and the current level of service provided by SAFIS.

CJIN Mobile Data Network

Description

Public safety agencies across North Carolina depend on their communication systems as a "life line" for support and individual officer safety. Incompatible radio and data communications equipment inhibits interagency communications in routine and emergency situations. The CJIN – Mobile Data Network (CJIN-MDN) is focused on maintaining the "backbone" of a statewide, shared, public safety mobile data network consistent with the goals and objectives of the North Carolina Criminal Justice Information Network.

Benefits

The CJIN-MDN makes available mobile data service to all public safety agencies in North Carolina including federal, state and local agencies. This service allows smaller departments with limited financial resources to have the same assets to fight crime and provide officer safety as the larger departments have.

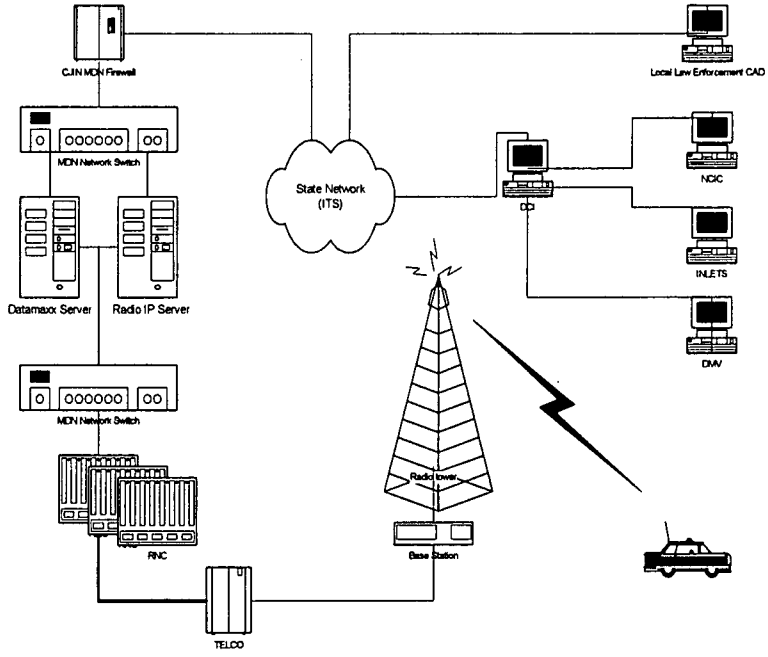
Project Status

CJIN-MDN was a five-phase project that began in 1996 and concluded in 2002. Phase V completed coverage for the State's approximate 48,000 square miles. The current focus of CJIN-MDN is on optimizing coverage, replacing aging base stations, exploring and evaluating new applications, and supporting and maintaining CJIN-MDN deployed infrastructure. Additionally, we will be exploring viable options for the next generation of Public Safety grade wireless data services. Motorola, the MDN system equipment provider, has announced "end-of-life" for all the CJIN-MDN infrastructure and

subscriber equipment. A funding source for the maintenance of aging equipment and/or next generation equipment has not been identified.

Description of Data

Vehicle registration (car and boat), driver's license, state & national wanted persons, securities (could be stolen traveler checks), stolen articles (TV, VCR, etc.), stolen guns, concealed carry permits, missing persons, domestic violence orders, sexual offender registration violations, and messaging. Agencies with Computer Aided Dispatch (CAD) and Records Management Systems (RMS) have the ability to send reports and dispatch cars via the network. Authorized members have the ability to transmit citations directly to the Administrative Office of the Courts and a few CJIN partners are testing in-vehicle facial image recognition software. Users performing general inquiries on drivers and registration enjoy a twelve second response time.



CJIN Mobile Data Nework

Lead State Agency Responsible for Project

Department of Crime Control and Public Safety (DCC&PS), State Highway Patrol (SHP).

NC Automated Warrant Repository (NCAWARE)

Description

The state of North Carolina lacks a complete and effective statewide repository of criminal processes, including warrants and orders for arrest. Several counties maintain their own local repository. Some use a manual process, such as a collection of the paper warrants in a central location. Others are automated. The NCAWARE system provides an automated, web-based statewide warrant repository to maintain and track criminal processes and offender information. A primary goal of this project has been the migration of the existing Magistrate System from a client-server platform to a web browser-based environment, providing secure, broad access to all of the criminal justice and law enforcement communities. Initially the system will be populated by data from both the existing Administrative Office of the Courts (AOC) Magistrate System and the Automated Criminal Infraction System (ACIS). The completion of the NCAWARE system provides increased compliance with AOC's new technical architecture and completes a significant part of the many modules that together will make up the AOC's modernized Court Information System (CIS). The goals of the NCAWARE system are to

- provide an automated statewide warrant repository to maintain and track criminal processes and offender information
- provide system access to all North Carolina court officials and law enforcement agencies
- move the AOC Magistrate System from client-server platform to a web browser-based environment
- convert existing Magistrate System data and outstanding processes in ACIS to NCAWARE

Benefits

The benefits of the new NCAWARE system are to

- provide real-time statewide access to all law enforcement and court officials from any location with web access
- reduce risk to personal safety of the public, law enforcement officers, and court officials by equipping them with information about offenders in a timely manner
- provide the ability to print and serve outstanding processes from any county in the state
- perform automatic searches for outstanding processes on any defendant, complainant, or witness entered on a process

NCAWARE User Advisory Committee and Subcommittees

The NCAWARE User Advisory Committee is made up of a representative group of magistrates, clerks, law enforcement officers, district attorneys, and one judge. The purpose of the advisory committee initially was to help define and confirm the scope of the project and later to approve system business flows and screen prototypes. During the early stages of the project, the committee was broken down into three subcommittees: the magistrate subcommittee, the clerk subcommittee, and the law enforcement subcommittee. The purpose of each of these subcommittees was to assist the NCAWARE analysts in making decisions regarding business logic and process flows in their respective areas of expertise. The NCAWARE analysts held working sessions with each of these committees to define and confirm functionality that would be included in the system. The NCAWARE User Advisory Committee continues to be an integral part of the project as they provide input on the definition and prioritization of new features.

System Architecture

Distributed Architecture – With the help of the Gartner Group, AOC's Technology Services Division has embarked on a strategic initiative to move all supported applications to a distributed architecture built around a central enterprise server. NCAWARE is the first major AOC project in this initiative and will set the groundwork for other projects.

Development – NCAWARE has been developed as a multi-tiered J2EE web application. The design separates the logical layers of User Interface, Business Logic, and Data Access that are characteristic of n-tier systems. The advantages of using the N-tier approach for NCAWARE are as follows:

- shared code with common functions promoting code re-usability, and
- easier maintenance as common functions are developed to be independent and re-usable, meaning there is less room for error and fewer places to change code.

NCAWARE interfaces to external applications are compliant with the National Information Exchange Model (NIEM) XML standard. NCAWARE was developed using JAVA programming language, JAVA Server Pages (JSPs), and STRUTS development framework. Additionally, the team used WebSphere Application Developer (WSAD) and Rational requirements management and defect management tools.

Deployment – The NCAWARE system is deployed on the AOC Enterprise Server (IBM Mainframe) and runs on IBM's WebSphere Application Server. The database is DB2, and the messaging component is WebSphere MQ Series, also running on the Enterprise Server.

Security – Login security is handled by AOC's single sign-on process, using LDAP managed by RACF on the mainframe for user authentication. Once authenticated, user permissions are granted using DB2 table-based rules.

Information Maintained and Tracked in NCAWARE

Master Name: (defendant, complainant, witness)	Process Types	Process Functions
- Demographic Information - Images - Alias Names - Address History - Identification Numbers - Vehicle Information - Prior Processes (criminal history) - Contact Numbers - Employer Information - Identifying Marks and Tattoos - Known Associates and Gangs - Investigative Notes	- Warrants for Arrest (WFA) - Magistrate Orders - Orders for Arrest (OFA) - Criminal Summons - Citations (when defendant is arrested) - Fugitive Warrants & Orders - Worthless Check Warrants and Summons - Release Orders - Appearance Bonds - Subpoenas	- Duplicate process for multiple warrants on same defendant or multiple warrants of same offense type but different defendants - Utilize previously entered data for repeat offender, complainant, or witness - Search for offenses by general statute number, offense code, keywords - Standardized offense charging language - Default standard user and court information to process - Process tracking of servable processes (WFA, OFA, Summons)

Description of Users

The following users will all have Internet-based access to the NCAWARE system: magistrates, county clerks, law enforcement officers (local, state, and federal), and district attorneys.

	FY 00-04	FY 04-05	FY 05-06	FY 06-07	FY 07-08	FY 08-09	Est. FY 09-10	Totals
State Funding	$ 0	$ 500,000	$ 0	$ 0	$ 0	$ 0	$ 0	$ 500,000
Federal Grants	$1,185,793	$ 424,996	$ 320,659	$ 0	$ 0	$ 0	$ 0	$ 3,460,992
AOC Internal Funds (Grant Match Money)	$ 247,932	$ 47,222	$ 0	$ 0	$ 0	$ 0	$ 0	$ 509,309
Funding Subtotal	$ 1,433,725	$ 972,218	$ 320,659	$ 0	$ 0	$ 0	$ 0	$ 4,470,301
AOC funded	$ 866,021	$ 1,065,478	$1,531,429	$ 2,159,126	$ 2,725,641	$ 2,297,081	$ 1,257,326	$ 12,568,934
Cumulative System Cost	**$ 4,710,277**	**$ 6,747,973**	**$8,600,061**	**$10,759,187**	**$ 13,484,828**	**$ 15,781,909**	**$ 17,039,235**	**$ 17,039,235**

NCAWARE Project Update

Project Status

NCAWARE is currently successfully implemented in 45 of the 100 counties. The team implemented Orders for Arrest enhancements, Probation Violations, and Involuntary Commitments. The team is aggressively implementing the remaining counties and working on Phase 1 of the generic interface to local law enforcement agencies.

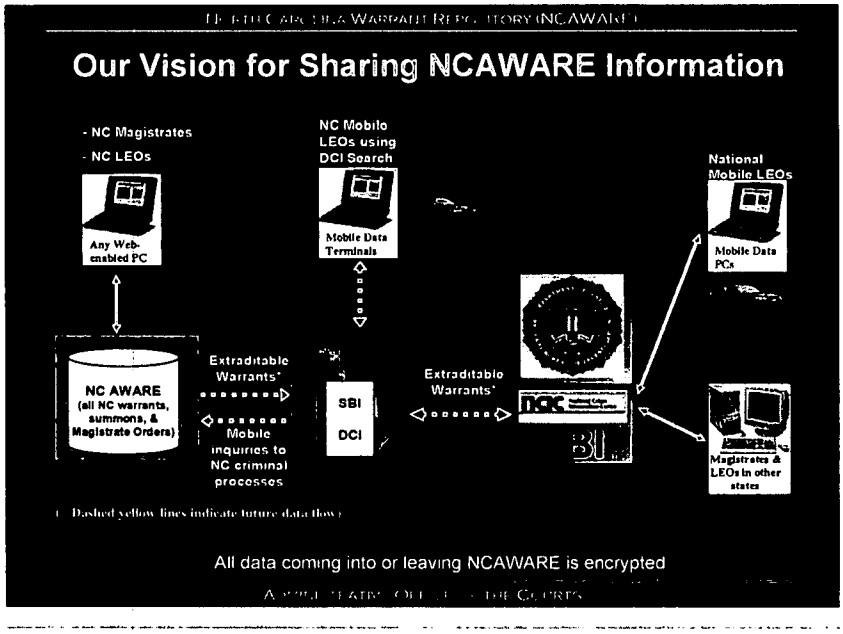
Major Enhancements and Statewide Rollout Schedules

Action	Purpose	Timeline
Major Enhancements	1. Add Orders for Arrest for Child Support	TBD
	2. Interface with eCitation	TBD
	3. Direct Criminal Contempt	TBD
	4. Department of Corrections (DOC) Interface	TBD
	5. Build Interfaces -local law enforcement systems, -DOC Offender Population Unified System (OPUS) and local jail systems for prison / jail status, release dates and other person data)	TBD
Rollout to 64% of the counties	Deploy system to the following counties:	
	1. Greene	July 15, 2009
	2. Wake	July 22, 2009
	3. Martin	August 5, 2009
	4. Wayne	August 5, 2009
	5. Orange	August 19, 2009
	6. Chatham	August 19, 2009
	7. Person	August 26, 2009
	8. Durham	September 9, 2009
	9. Alamance	September 16, 2009
	10. Caswell	September 16, 2009
	11. Lenoir	September 23, 2009
	12. Jones	September 23, 2009
	13. Cumberland	September 30, 2009
	14. Hoke	October 7, 2009
	15. Brunswick	October 14, 2009
	16. Duplin	November 4, 2009
	17. Pender	November 4, 2009
	18. New Hanover	November 18, 2009
	19. Craven	December 2, 2009
	20. Pamlico	December 2, 2009
	21. Northampton	December 9, 2009
	22. Perquimans	December 9, 2009
	23. Hertford	December 16, 2009
	24. Chowan	December 16, 2009
	25. Washington	January 6, 2010
	26. Tyrrell	January 6, 2010
	27. Dare	January 20, 2010
	28. Currituck	January 20, 2010
	29. Beaufort	January 27, 2010

Action	Purpose	Timeline
	30. Hyde	January 27, 2010
	31. Pasquotank	February 3, 2010
	32. Camden	February 3, 2010
	33. Gates	February 10, 2010
	34. Bertie	February 10, 2010
	35. Onslow	February 17, 2010
	36. Carteret	February 17, 2010
	37. Halifax	February 24, 2010
	38. Franklin	February 24, 2010
	39. Pitt	March 3, 2010
	40. Guilford	March 17, 2010
	41. Moore	March 24, 2010
	42. Granville	March 24, 2010
	43. Vance	April 7, 2010
	44. Warren	April 7, 2010
	45. Forsyth	April 14, 2010
	46. Stokes	April 14, 2010
	47. Sampson	April 21, 2010
	48. Rockingham	April 21, 2010
	49. Columbus	April 28, 2010
	50. Bladen	April 28, 2010
	51. Robeson	May 5, 2010
	52. Randolph	May 12, 2010
	53. Montgomery	May 12, 2010
	54. Richmond	May 19, 2010
	55. Scotland	May 19, 2010
	56. Davidson	June 2, 2010
	57. Yadkin	June 2, 2010
	58. Wilkes	June 9, 2010
Statewide Rollout	Deploy system in remaining counties statewide	Mid 2010 – Late 2010

The Future

After successful implementation of the top five (5) major enhancements, the AOC will develop additional system features and other interfaces.



Voice Interoperability Plan for Emergency Responders (VIPER)

Description

In the Criminal Justice Information Network (CJIN) Study Final Report, dated April 7, 1995, Price Waterhouse LLP recommended that CJIN establish standards for and implement a mobile voice and data communications network that would allow all North Carolina law enforcement and public safety agencies to communicate with each other, regardless of location. While our CJIN Mobile Data Network (CJIN-MDN) solution is fully deployed across the State, VIPER, formerly known as the CJIN Voice Trunked Network (CJIN-VTN) initiative, has struggled over the years. Although it is a high priority for CJIN, VIPER has the greatest projected cost and is the biggest project under development.

A revalidation study completed by Gartner Group in November, 2002 reconfirmed our strategy to deploy an 800 MHz solution. This strategy supports the existing local 800 MHz investments. Both the 1995 CJIN Governing Board study and the re-validation study in 2002 recognized that a statewide voice radio communications system should be constructed using the 800 MHz frequency spectrum. This is due to the availability of 800 MHz frequencies for public safety, the widespread use of 800 MHz by most of North Carolina's major metropolitan areas, and the commencement of 800 MHz system development by the State Highway Patrol in 1999. VIPER currently operates a Motorola SmartZone 800 MHz system with ninety-two remote voice radio transmitter sites. The planned VIPER strategic solution will include two-hundred thirty-eight sites.

Benefits

Prior to the organization of CJIN, there was no unified comprehensive communications plan that afforded users access to interagency communications. VIPER will provide the ability to communicate interagency, thus enhancing officer safety and allowing our public safety community to better serve the citizens of North Carolina.

Project Status

The VIPER project plan includes a two-pronged approach: a short-term tactical phase and a strategic long-term statewide 800 MHz solution. The tactical approach, a short-term solution for emergency communications with portable/mobile assets, was completed in July 2005. A detailed project plan for the strategic phase, a statewide 800 MHz trunked radio system for all emergency responders and setting up mutual aid talk groups, was completed in August 2004. The first phase of the project is complete. Two phases are funded and under development. Funding for the deployment of VIPER to date totals approximately $102m. This does not reflect funds sought by VIPER prior to 2004-05 and used to provide a foundation for VIPER development. A VIPER Legislative report was submitted on December 1, 2004 per the 2004 Legislative Session House Bill 1414 Part XVII, Section 18.4.

VIPER Quick Facts:

- 240 total sites planned for statewide coverage
- 144 sites constructed and on-the-air
- 50 sites are fully funded and under construction
- 25 sites PARTIALLY FUNDED via 2008 Public Safety Interoperable Communications Grant (PSIC) awaiting $4.7M State matching funds, otherwise return $13.1M to Capitol Hill
- 21 sites UNFUNDED
- VIPER estimated to cost $189M
- $110M funded to date

  Pending: $13.2M Public Safety Interoperable Communications grant (PSIC) has been awarded pending State match of $4.7M

- Pending: Additional $61.1M is left to be funded (assuming PSIC matched)
- VIPER is 60% complete (number of sites) with 144 sites on-the-air
- VIPER infrastructure is 59% funded
- 41% of VIPER remains to be funded
- 35,000 Users are currently on the VIPER Network
- 182 Emergency Responding agencies makeup the VIPER user network

Review of 2009 Activities & Recommendations

In the 2009 General Assembly Report the CJIN Board identified multiple high-profile activities and made some appropriate recommendations.

North Carolina Warrant Repository (NCAWARE): Based on the 2009 submission from the Administrative Office of the Courts (AOC), the CJIN Board is recommending the continuing funding of this very valuable project. The recent report demonstrates significant process in the area of system rollout and the projected rollout to other counties. Based on requests from Board members and law enforcement users, we are requesting that AOC evaluate the feasibility of providing interfaces to local systems. This request is not intended to negatively impact the rollout; however, it is important that state systems take into account the numerous local systems.

Review: The CJIN Board recommended the continued funding and the NCAWARE project is on schedule.

Voice Interoperability Plan for Emergency Responders (VIPER): The CJIN Board recommends the continued funding of the VIPER project and especially the matching grants. The State Highway Patrol (SHP) has made significant progress with continuing to expand and rollout the VIPER System. It provides the state with voice interoperability that an excess of 22,000 users take advantage of on a daily basis. The Board does have a request that SHP evaluate the feasibility of migrating statewide to a Project 25 System. We are certain that it is their technical roadmap; however, some Board members and users have inquired about features that are standard with Project 25.

Review: The CJIN Board recommended the continued funding; however, the Board has some concerns regarding the funding of the migration to Project 25.

Division of Motor Vehicles (DMV) Photograph Project: The CJIN Board has encouraged DMV to continue to upgrade their computer system in order to expand the successful pilot project to more users. We also request that DMV along with SHP and the State Bureau of Investigation evaluate the feasibility of allowing law enforcement users with air cards to access the system for photos. We are aware of some of the technical limitations; however, this is a very valuable tool for law enforcement – especially in the field.

Review: The CJIN Board commends the Division of Motor Vehicles and the State Bureau of Investigation for doing an outstanding job in the area of providing local law enforcement users (with air cards) access to the DMV photographs.

Department of Corrections (DOC) Photograph Project: The CJIN Board is fully aware that the DOC is in the infancy of this pilot project. We also understand that they are working with the State of Oregon and the Department of Justice which is why we are only requesting that the Board receive periodic updates.

Review: The Department of Correction, Department of Justice, and the State Bureau of Investigation did an outstanding job in providing all law enforcement mobile users with access to correction photos. This is especially commendable because DOC provided the access in the

form of a web-service and users received the information/photo within their normal business application in the vehicle. The State Bureau of Investigation was able to provide DOC with information regarding the law enforcement request and this will result in an alert to the appropriate probation officer that one of their offenders was involved in an incident.

Statewide Criminal Justice Data Integration: The CJIN Board is aware that to expand the current Wake County pilot project will require numerous decisions. One of these decisions may involve a comprehensive plan and Request For Proposal (RFP). The CJIN Board has demonstrated the ability to provide the leadership required to develop an RFP and is recommending that this activity be entrusted to the Board. We have already discussed with other states the challenges associated with this undertaking; however, it is a project that the CJIN Board possesses the expertise to accomplish.

Review: The CJIN Board members continue to work with the Office of State Controller regarding the Wake County Pilot Project. A decision was made not to utilize the RFP process.

Savings Through Partnering: The CJIN Board has been meeting with numerous state, county, city, and town law enforcement agencies regarding a variety of projects. All of these undertakings to some extent require the use of voice, data, and video circuits. The Board is recommending that a subcommittee be formed to work with agencies and organizations to evaluate the feasibility of reducing operating expenditures by sharing telecommunication resources.

Review: The CJIN Board commends the Office of Information Technology for negotiating a state contract with Verizon and allowing the local law enforcement agencies to utilize this contract. The new rate for air cards has resulted in substantial savings for local law enforcement agencies within the state.

Wireless Technology: The CJIN Board has met with numerous law enforcement agencies that use a variety of wireless technologies – licensed & unlicensed frequencies, air cards, CJIN – Mobile Data System (nearing obsolescence), broadband, wireless LANs, middle ware (Radio IP), Net Motion (provides static IP addressing), 700 MHz Nation-wide project, etc. The Board undertook this project because of the CJIN – Mobile Data Network and was excited about all the agencies that responded when we requested assistance. The Board will continue to work on a cost effective recommendation and solicit help from other states – especially Ohio because they have a statewide system similar to ours. The Board intends to continue to meet with agencies and organizations within the state.

Review: The CJIN Board continues to address numerous challenges in the area of wireless technology.

Increase in Fingerprinting: The CJIN Board while meeting with Pennsylvania regarding their Statewide Criminal Justice Information System – J-NET learned that no one in their state goes before a judge without being fingerprinted and positively identified. The Board has also met with several Sheriff's Offices regarding the increase in fingerprinting due to INS requirements – this is a new federal program in the pilot phase. Additionally, we have been requested to evaluate the impact of fingerprinting all serious misdemeanors – staff resources, equipment, legislation required (if any), etc. The Board will be pursuing this initiative and will consider it a deliverable.

Review: The CJIN Board continues to address areas of fingerprinting.

National Data Exchange (NDEx): The CJIN Board had a presentation from Texas in which their statewide integration initiative included interfacing to all the local Record Management Systems prior to implementing the interfaces to the State Agencies. Interfacing to NDEx is being done by San Diego (ARJIS) and Pennsylvania (J-NET). The Board will be further evaluating the requirements to interface with NDEx and will consider this a deliverable.

Review: The CJIN Board has worked with the Department of Justice and the Governor's Crime Commission to address the interfacing of local records to the National Data Exchange. The CJIN Board had a presentation from the FBI and several workshops to discuss the various alternatives. This is ongoing and will be partially addressed in the information sharing initiative in 2010.

States sharing Software: Nebraska contracted for the development and implementation of a criminal justice information system and upon successful completion shared the software with Kansas. These states are not as large as North Carolina; however, the concept of sharing at the state level has merit. The CJIN Board will explore this concept, evaluate its feasibility and generate a report.

Review: The CJIN Board continues to look at opportunities to share software being developed by other states, at the state level as well as the local level.

Policies, Procedures, & Regulations: The CJIN Board has communicated on a regular basis with various federal agencies regarding new policies, procedures, and regulations. The Board has disseminated information only on occasion. The Board will be taking a more active role in meeting with state and local agencies and organizations to communicate changes that impact criminal justice information sharing.

Review: This is an ongoing process and will continue in 2010.

Life Cycle of Projects: The CJIN Board has implemented statewide criminal justice infrastructures but has not always identified the life cycle of these projects. The Board intends to identify the life cycle of each one of the existing components within each infrastructure. The Board will consider this a deliverable.

Review: This is an ongoing process and will continue in 2010.

Develop Performance & Process Indicators: The Bureau of Justice Assistance recently released acceptable performance and process indicators for the majority of criminal justice systems. The CJIN Board intends to evaluate the feasibility of including these indicators in our future systems. The Board will take this as a deliverable.

Review: This is an ongoing process and will continue in 2010.

Digital Signature & E-forms: The CJIN Board will continue to work with Information Technology Services to provide processes that digital signature and e-forms have the potential to benefit the Criminal Justice Community. This is will be a Board deliverable.

Review: The CJIN Board has had several workshops and presentations from ITS and Adobe regarding utilizing the digital signature and e-forms within the criminal justice system. One function that was successfully implemented in other states was orders for protection, domestic violence, etc.

Coordinate with State Organizations: The CJIN Board has been active in communicating criminal justice information sharing initiatives to the various state organizations and will continue to perform this service along with maintaining an information sharing section on the CJIN Website.

Review: This is an ongoing process and will continue in 2010.

Position on Emerging Technologies: The CJIN Board will take the leadership role in representing the criminal justice community as it relates to emerging technologies especially federal initiatives – the 700 MHz project which calls for a national public safety data system, INS/ICE Issues, Wireless/ FCC, Voice Response/Vehicle, etc. The Board will undertake these issues on a regular basis and determine the most effective means for communicating our position.

Review: This is an ongoing process and will continue in 2010.

Future Activities & Recommendations

The CJIN Board has been involved with numerous projects over the last several years as highlighted in the report and the Board was very excited about the accomplishments in the area of criminal justice over the last year. The role of the Board has increased in various areas, including the interaction with numerous law enforcement agencies within North Carolina and other states. The Board also has conducted workshops with several federal agencies regarding information sharing, especially as it impacts local law enforcement.

The Board has also supported the Wake County Pilot Project on Criminal Justice Data Integration (the integration of data from the Department of Correction and the Administration Office of the Courts) and has been evaluating numerous wireless technologies being used within the criminal justice communities.

One area of significant impact is Electronic Discovery. The Board has been closely monitoring the pilot project underway in Buncombe County regarding document or imaging management. This project is being supported by the Administration Office of the Courts and has the potential to significantly enhance and streamline the judicial discovery process.

In the various workshops and meetings the Board was requested to provide the officers on the road with the following:

- One interface to provide critical information to the officer;
- Provide the ability to check local databases simultaneously when checking state and federal data;
- Create a standard for extracting data for information sharing;
- Address the issue of system timeout;
- Auto populate E-Citation and E-Crash applications; and
- Investigate the GIS-AVL technology to provide geographical awareness of responders to incidents as they unfold.

Each one of the above requests will be evaluated by the Board in the upcoming months.

The Board is recommending the continued funding of several projects along with targeting some deliverables and activities in which the Board possesses the expertise to perform:

North Carolina Warrant Repository (NCAWARE): Based on the 2010 submission from the Administrative Office of the Courts (AOC), the CJIN Board is recommending the continuing funding of this very valuable project. The recent report demonstrates significant progress in the area of system and projected rollouts to the counties. We will continue to track the requests from Board members and law enforcement users regarding the feasibility of providing interfaces to local systems. As we stated before, the request to have AOC explore an interface is not intended to negatively impact their rollout; however, it is important that state systems take into account the numerous advancements and impacts on local systems.

Local Law Enforcement Information Sharing Initiative: The CJIN Board included a section within the report outlining several opportunities to enhance the information sharing capabilities of local law enforcement along with the ability to obtain advanced crime fighting tools – crime mapping, searching narratives, connecting known associates, property, vehicles, etc. The opportunity to share and use these crime tools can be obtained by exporting the information within the local record management systems to the FBI's National Data Exchange System. As stated in the report, the CJIN Board will continue to meet with the vendors of North Carolina to facilitate an interface between local law enforcement and the FBI.

Voice Interoperability Plan for Emergency Responders (VIPER): The CJIN Board recommends the continued funding of the VIPER project and especially the matching funds for the Public Safety Interoperable Communications (PSIC) grant. The State Highway Patrol (SHP) has made significant progress with continuing to expand and rollout the VIPER System. It provides the State with voice interoperability that an excess of 35,000 emergency responders take advantage of on a daily basis. In addition to expanding the VIPER coverage, the SHP has also worked diligently to position the system for a migration to Project 25 compliance. Whereas the system was originally designed to be Project 25 Common Air Interface (CAI) compliant, the SHP has invested a portion of its Legislative Appropriations as well as a recent American Recovery and Revitalization Act (ARRA) award supported by Governor Bev Perdue to purchase and install the main controllers that will provide the first phase of the upgrade to full Project 25 operation. Furthermore the remaining funds necessary to complete the upgrade to Project 25 are contained within the $61.1M sought by the SHP as part of the 2010 -12 Expansion Budget.

CJIN Mobile Data Network: The CJIN Mobile Data Network is past its obsolescence and needs to be refreshed. At speeds well below accepted broadband levels, it can no longer transport some of the new applications. The CJIN Board has called upon numerous law enforcement agencies within the state to share with the Board their experiences and provide alternatives to the network. We discovered other private networks being deployed in Kinston (and nearby cities) and a significant increase in the use of commercial air cards from the cellular companies. There were approximately 12,000 users on the network in 2008. The number of law enforcement users today has decreased below 5,000 users.

The Board will continue to explore opportunities and provide a forum to discuss technology; however, the Board does have a major concern that some of the projects being developed will not be able to reach this user base.

Wake County Pilot Project – Office of the State Controller: As previously stated the CJIN Board has been working with the CJLEADS project team and fully supports the project. The aforementioned concern regarding the lack of broadband has the Board searching for solutions to this issue. There is a significant portion of law enforcement users that may not be able to take advantage of this application.

The CJIN Board has made a significant effort to include the local law enforcement agencies in our information sharing plans and it is our intent to continue to work with the CJLEADS project team to ensure that in their next phases that these agencies are included. The Board is also stressing the importance of information being collected at the federal level. We are fully aware that the project is in its infancy and these are future deliverables.

Based on the expertise of SAS coupled with the decision to house the data repository at their facility could provide significant value to state agencies in the future. One of these valuable benefits, to be considered, would be to provide state agencies with a web service that would enhance their internal business processes. If North Carolina could demonstrate the numerous benefits of a web service approach, the concept and product may be marketable to other states.

Electronic Discovery, District Attorney, Document Management: The CJIN Board fully supports this pilot and recommends the continued funding. It also commends Buncombe County and the Administrative Office of the Courts for deploying this innovative approach.

Wireless Technology: The CJIN Board will continue to meet law enforcement agencies that use a variety of wireless technologies – licensed & unlicensed frequencies, air cards, CJIN – Mobile Data System (nearing obsolescence), broadband, wireless LANs, middle ware (Radio IP), Net Motion (provides static IP addressing), 700 MHz Nation-wide project, etc. The Board undertook this project because of the CJIN – Mobile Data Network and was excited about all the agencies that responded when we requested assistance. The Board will continue to work on a cost effective recommendation and solicit help from other states – especially Ohio because they have a statewide system similar to ours. The Board intends to continue to meet with agencies and organizations within the state.

Savings Through Partnering: The CJIN Board will continue to meet with other state, county, city, and town law enforcement agencies regarding a variety of projects. All of these undertakings to some extent require the use of voice, data, and video circuits. The Board is recommending that a subcommittee be formed to work with agencies and organizations to evaluate the feasibility of reducing operating expenditures by sharing telecommunication resources.

Increase in Fingerprinting: The CJIN Board will continue to discuss fingerprinting with other states, monitor federal changes, and handle requests from North Carolina's law enforcement agencies and court officials.

National Data Exchange (NDEx): The CJIN Board will continue to work with the FBI on opportunities for sharing information and new applications being developed at the federal level.

States Sharing Software: The CJIN Board will continue to discuss opportunities to share software with other states.

Policies, Procedures, & Regulations: The CJIN Board has communicated on a regular basis with various federal agencies regarding new policies, procedures, and regulations. The Board has disseminated information only on occasion. The Board will continue to take an active role in meeting with state and local agencies and organizations to communicate changes that impact criminal justice information sharing.

Life Cycle of Projects: The CJIN Board will continue to address the need to evaluate statewide criminal justice infrastructures and identify the life cycle of these projects.

Digital Signature & E-forms: The CJIN Board will continue to work with Information Technology Services to provide processes that digital signature and e-forms have the potential to benefit the Criminal Justice Community. This is will be a Board deliverable.

Coordinate with State Organizations: The CJIN Board will be active in communicating criminal justice information sharing initiatives to the various state organizations and will continue to perform this service along with maintaining an information sharing section on the CJIN Website.

Position on Emerging Technologies: The CJIN Board will take the leadership role in representing the criminal justice community as it relates to emerging technologies especially federal initiatives – the 700 MHz project which calls for a national public safety data system, INS/ICE Issues, Wireless/ FCC, Voice Response/Vehicle, etc. The Board will undertake these issues on a regular basis and determine the most effective means for communicating our position.

Gangs in North Carolina

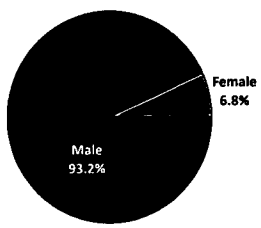
The 2010 Report to the General Assembly

Governor's Crime Commission
Criminal Justice Analysis Center

March 25, 2010

Gang Membership by Gender

- NC GangNET data as opposed to conducting new surveys of Law Enforcement
- Disproportionate Male gang membership



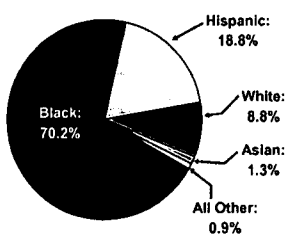
Gang Membership by Race and Ethnicity

- Disproportionate minority representation

General Population

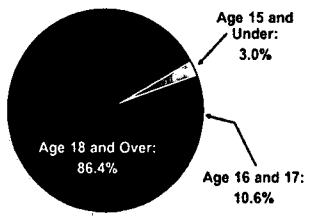
- Black – 22%
- Hispanic – 7%
- White – 67% *(non Hispanic)*
- Other – 4%

2008 US Census Bureau NC estimates



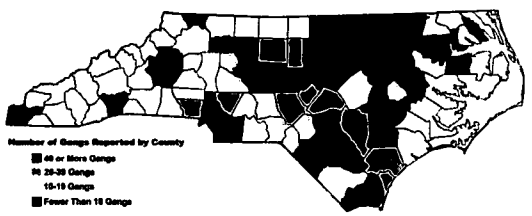
Gang Membership by Age

- Criminal Youth Gangs or Adult Criminal Gangs with Youth Involvement?
- Point to study – Do agencies have policies to not include juveniles in GangNET?

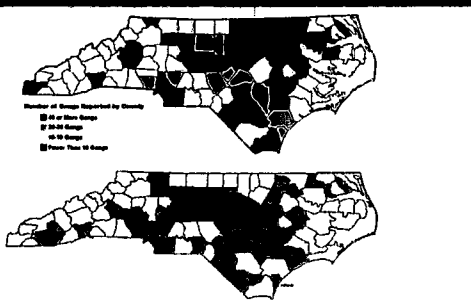


NC GangNET Gang Reporting

December 2009

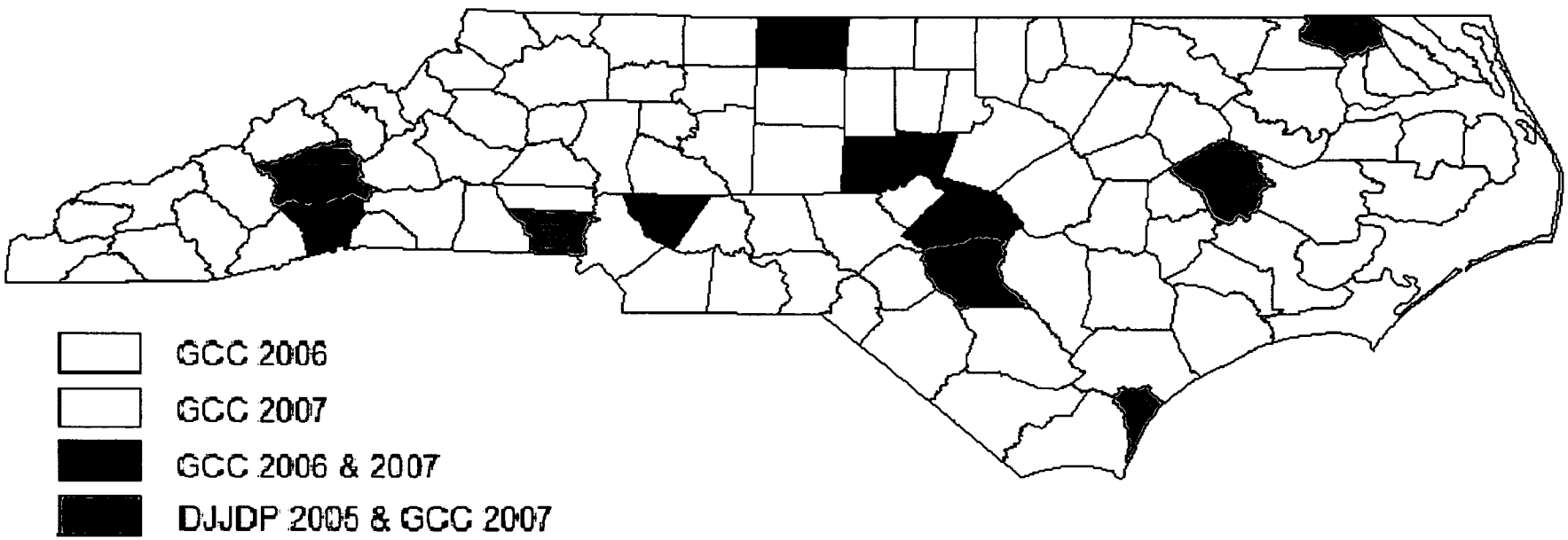


Current GangNET versus GCC 2006 Assessment of NC Counties with a Gang Threat



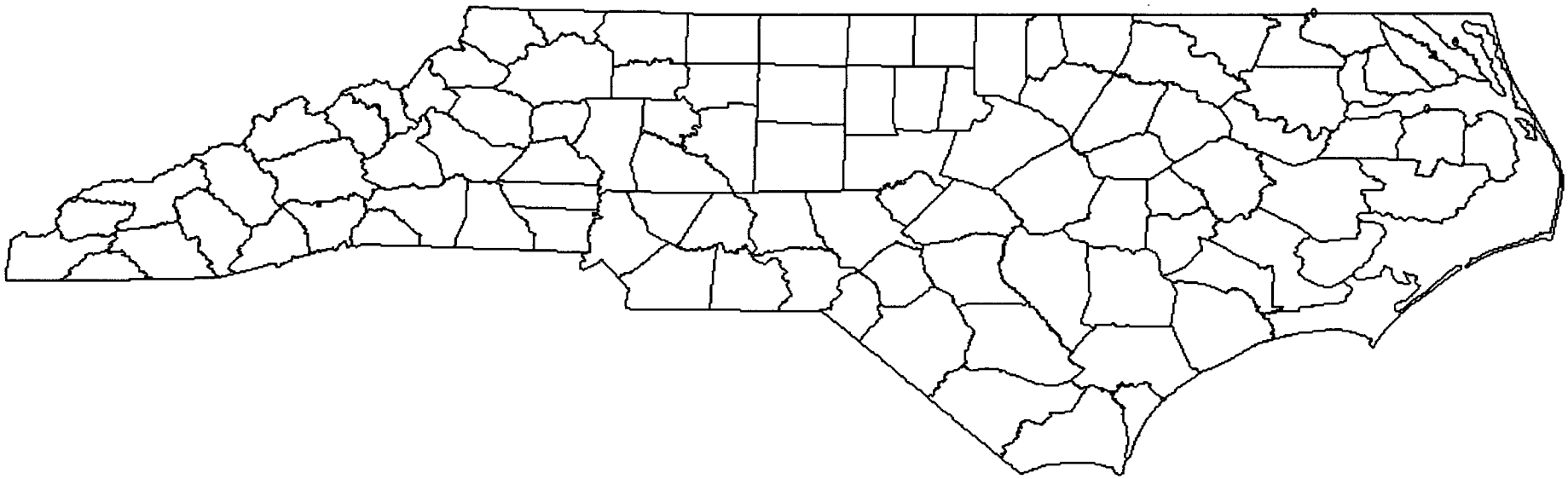
Governor's Crime Commission

Gang Grants – State Appropriations (2005-2007)



Attachment 8

Governor's Crime Commission
Gang Grants - Federal Funds (2008 - 2010)



Grant Update

A Summary of Grant Activity

Governor's Crime Commission

NC Criminal Justice Analysis Center

Gang of One

Headlines from news reports continue to focus on the increasing presence of gangs in North Carolina. Recent news stories, such as "L.A. Gang Invasion"[1], discuss the growing Hispanic gang population in the Charlotte area, while News 14 Carolina reports the concerns of a West Charlotte community that children in their area are joining gangs and skipping school.[2] According to GangNet (a NC law enforcement gang intelligence database) there are currently 157 separate gangs with 1,503 reported and validated gang members, 178 suspected gang members and 244 gang associates in Charlotte and Mecklenburg County.

Gang of One was implemented in Charlotte in an effort to curb the growth of gangs in the metropolitan area.

The Problem

The increase in gangs has had a negative impact on Charlotte and Mecklenburg County. During the 2004 fiscal year, juvenile gang-related crime in the area increased by 42 percent, while other gang related crimes increased by 23 percent. Approximately 37 percent of reported gang members are under the age of 18. A report released by the U.S. Attorney General's office in April 2008 lists Charlotte as one of three areas across the nation where suburban gangs pose a serious threat to the security and safety of Charlotte/Mecklenburg neighborhoods. The report states "Charlotte-based gangs, particularly Hispanic gangs, have increased in number, sophistication, organization and mobility. Gangs in the Charlotte area have become more criminally active and have expanded their connections with other organized crime entities, including major drug trafficking organizations."[3]

The Charlotte-Mecklenburg Police Department (CMPD) formed a Gang Intelligence Unit in August of 2003 in an effort to reduce gang related crime. One of the responses is the Gang of One pilot project, which was implemented in February 2004.

The Grant

Gang of One was put into action in the Eastway Division of CMPD to provide gang resistance resources for area youth and to educate the community about gangs and gang activity through the Charlotte Mecklenburg Police Department. The goal of the program is to reduce gang crime and violence in communities targeted by the Project Safe Neighborhoods[4] initiative by focusing on prevention, intervention and suppression of gangs and gang activity. Gang of One's mission is: "To prevent youth from joining a gang, support youth being pressured to join a gang, and assist youth in getting out of a gang." It encompasses several programs designed to address youth at different age levels by providing them with information on the repercussions of being in or involved with a gang.

A gang hotline was set up to take calls relating to youth in gangs, youth at risk for joining a gang, gang education, reporting gang threats, information on gang activity and other related information. Staff members are able to refer callers to resources

A Charlotte-Mecklenburg police officer gives a 'Dangers Involved with Gangs' presentation to a fifth grade class in a Charlotte elementary school.

for assistance in getting out of gangs and to provide support services. The hotline is open 24 hours a day, seven days a week and is staffed by bilingual assistants who take calls, answer questions and refer people to programs or agencies as necessary.

The Gang Reduction Model utilized by Gang of One addresses various levels of gang involvement. Gang prevention is dealt with on the first two levels. Primary prevention takes place in the entire population living in higher risk areas, while secondary prevention focuses on the youth who live in these areas by making them aware of the risks associated with gang involvement and providing resources to help them resist gang involvement. The third level addresses gang involved youth by intervening to help them disassociate from gangs and their activities. Suppression is the fourth and most serious level, aimed at chronic, serious offenders and gang leaders. It involves law enforcement, probation, and prosecution to remove gang members from the community. The fifth level - reentry - provides support to former gang members in returning to the community.

Goals and Objectives

The goals of Gang of One are simple and straightforward, as their mission states: to prevent and reduce the influence of gangs and gang participation. The leadership team realized that the earlier intervention occurs, the more likely it is to succeed. At the same time, they acknowledged that adults need to be made aware of the presence of gangs in the area, their activities and the detrimental influence they have on youth. The team worked to educate youth and adults to the dangers of gang activity and gang involvement by setting up training sessions to provide information to citizens about gangs, gang activity, and what they as citizens can do. Anti-gang and gang resistance programs have been established in elementary and middle schools in an effort to reach these students before they could be influenced by gang members.

Peer leaders in 'No Easy Walk' participate in a field trip to the National Whitewater Center.

Separate programs have been established to work with specific age groups. Gang education training is conducted for adults to increase their knowledge and awareness of gangs and gang activities in their area. 'Dangers Involved with Gangs' (DIG), the brainchild of a CMPD officer, is directed toward fifth grade students to help them resist the pressure to join a gang. For middle school students, 'No Easy Walk' (NEW) seeks to reduce out-of-school suspensions and improve grades through leadership training. Another facet of the program, Truancy/Safe Neighborhoods utilizes a team approach through the joint efforts of truancy officers, Charlotte-Mecklenburg schools and school social workers to identify juvenile gang members and reduce truancy in targeted areas.

Community Involvement

A variety of organizations provide support to Gang of One by offering after school programs and mentoring for youth. These include Boys and Girls Clubs of Greater Charlotte, the YWCA and the YMCA, Big Brother/ Big Sisters, Boy Scouts, Mecklenburg County Parks and Recreation, the Charlotte Boxing Academy, and the Police Athletic League, as well as the officers of CMPD who speak to students in area schools. The University of North Carolina at Charlotte provides assessment of the program. Other agencies provide job placement for youth

looking for employment. United Family Services and Parent Stress Line offers support and information to parents.

Trust building excercises are part of peer leader training in the No Easy Walk program.

Accomplishments

The Gang of One hotline received 461 phone calls during the 2007 grant cycle. These calls included 109 reports of youth in a gang, 95 youth at risk, 124 educational calls, 103 information calls, 10 reporting a threat by a gang, 19 tips on gangs or gang activity and one miscellaneous call. Since being implemented in February 2004, the hotline has received over 2,000 phone calls. Of the cases opened, 1,478 have been closed. The majority of the calls (648) were to report youth in a gang.

Since 2004, Gang of One has extended its network and contacts in the Charlotte community. During the 2007 grant cycle, they have conducted 126 presentations on gangs and gang resistance, reaching almost 4,000 participants in schools and educational groups, government organizations, community agencies and faith-based groups. In the coming year, Gang of One school programs will expand to other CMPD divisions throughout the county. DIG will be presented in 35 schools, up from 23 this year. NEW was held in two schools last year; next year, it will be in five. The truancy program, currently supported in two divisions, will be expanded to two additional divisions covering 15 schools. Pilot programs established by Gang of One are being replicated in other parts of the metropolitan area.

Summary

Gang of One seeks to disrupt the cycle of youth joining gangs by stepping in before they become involved in gangs and by educating adults to the signs of gang involvement. As the director, Fran Cook, states, "When a child is six to 10 years old, they're familiar with gangs and can name them. When they're 10 to 11 years old, they're making decisions to join them. By 14 to 16 years, they are (typically) either in (a gang) or they are out." She added "We've got a great opportunity as a community to intervene before they (gangs) have more power and control."[5]

By reaching out to youth before they become actively involved in gang activity, Gang of One is able to intervene and give the youth of Charlotte the tools they need to say no to gangs.

well, officer, its been along time ... im not writing to snitch on anyone or give up anything just to tell you thank you for motivating me to do the right thing. i have relocated. im no longer in touch with l.d.n.[Latin Dragon Nation] i have really tried to get my life back on the right track...

— Text of an email to a Charlotte-Mecklenburg police officer from a Gang of One participant and former gang member.

Notes

[1] Grantham, Molly (Executive Producer) (2008, October 30) Special Report: L.A. Gang Invasion. [Television Broadcast]. Charlotte, NC (CBS)

[2] Waliga, Heather (Executive Producer) (2008, September 16) Truancy, Vandalism Concern Residents. [Television Broadcast] Charlotte, NC (Time Warner Cable)

[3] Attorney General's Report to Congress on the Growth of Violent Street Gangs in Suburban Areas, April 2008.

[4] Project Safe Neighborhoods (PSN) was implemented in 2001 through the U.S. Attorney General's Office to provide a comprehensive, strategic approach to reducing gun crime in America. By linking together federal, state, and local law enforcement, prosecutors, and community leaders, PSN provides a multifaceted approach to deterring and punishing gun crime.

[5] Dykema, A., (2008, June 20-26) "One Goal: Stop Gangs", Charlotte Weekly, pp. 20, 21-22.

Gang of One

GRANT SUMMARY

Grant: Gang of One

Area Served: Charlotte and Mecklenburg County

Implementing Agency: Charlotte-Mecklenburg Police Department

Project Director: K. Frances Cook

Funding: Total: $141,000.00 Federal Funds: $101,000.00

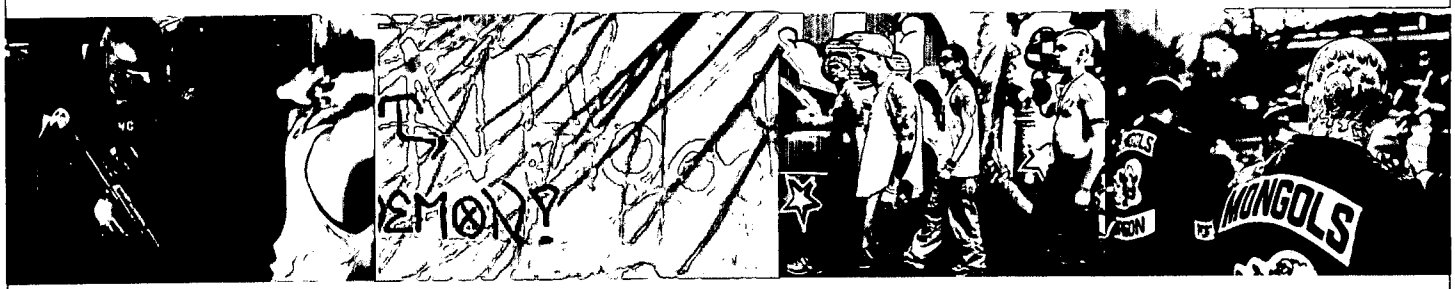
Overview: Gang of One was set up to provide gang resistance resources for Charlotte area youth and to educate the community at large about gangs and gang activity in the area.

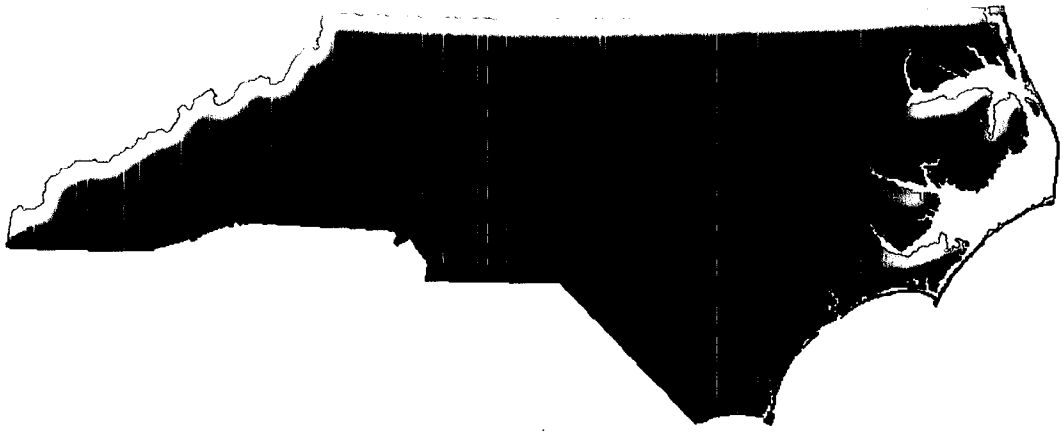
Accomplishments:

- Gang of One facilitated 126 training sessions, with 2,281 youth and 1,704 adults participating (3,985 total). Of the adults surveyed after the training, 80 percent indicated their knowledge of gangs had increased significantly, while an additional 19 percent indicated their knowledge increased 'somewhat'. Eighty-three percent of the youth responding to the survey indicated that they could resist gangs, while 81 percent indicated that they would call or recommend a friend contact Gang of One if they needed to discuss a gang issue.
- 2,672 fifth grade students in 23 Charlotte-Mecklenburg schools participated in Dangers Involved with Gangs (DIG). Twenty-two officers conducted 106 DIG classes in six divisions. The program will be expanding into 35 middle schools in the future.
- 179 middle school students in two Charlotte-Mecklenburg schools participated in No Easy Walk (NEW) as peer leaders. Of those, 155 (87 percent) completed the program. Peer leaders showed significant decreases in out-of-school suspensions and number of days absent compared to students in the control group and the student body. At the same time, end-of-grade testing results and in attitudes towards social responsibility increased, as compared to a control group. Five area schools will be participating in NEW in the upcoming year.
- CMPD Truancy Officers patrolled and picked up truant students from 'achievement zone' middle schools located in PSN communities, resulting in a significant decrease in criminal activity. One division reported a 100 percent decrease in Auto Theft and an 80 percent decrease in Residential Burglary in the immediate area around the school. The program has expanded from two divisions to four divisions of the department.
- The efforts of the CMPD Truancy Officers as part of the Intervention Team for Truancy in 'achievement zone' middle schools located in PSN communities resulted in an increase in school attendance.
- CMPD Truancy Officers identified juvenile gang members and associates in targeted PSN communities, resulting in 69 Gang of One referrals.
- A total of 461 calls were received through the gang hotline during the grant cycle. Since its inception, the hotline has received over 2,000 calls.

Gangs in North Carolina

The 2010 Report to the General Assembly





Governor's Crime Commission

North Carolina Department of Crime Control and Public Safety

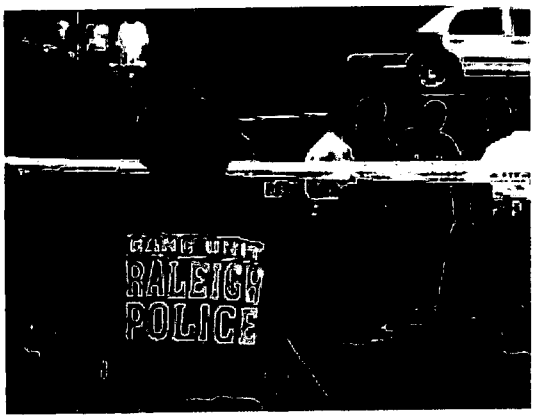
March 2010

Governor's Crime Commission
1201 Front Street, Suite 200
Raleigh, North Carolina 27609
919.733.4564

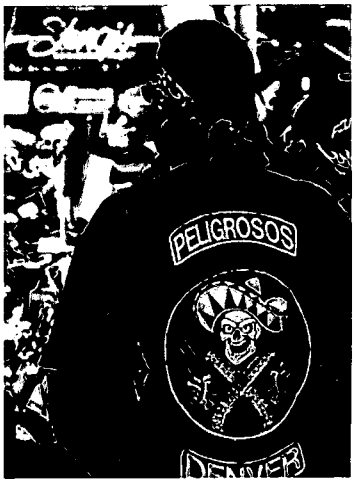
March 2010

INTRODUCTION

For the past 12 years the North Carolina Criminal Justice Analysis Center (NCCJAC) of the Governor's Crime Commission (GCC) has been investigating and reporting on the nature and extent of criminal gangs within the state. Early obstacles to this ongoing investigation included denial of the presence of or problems caused by gangs or a standardized definition of what constitutes these sociological entities. Today, there is little denying that criminal gangs exist within communities, both urban and rural, in the state and that they do represent a criminal justice problem. The North Carolina General Assembly has overcome the definitional issues by codifying a legal definition of criminal gangs. General Statute § 14-50.17 (1) defines a street gang as "any ongoing organization, association, or group of three or more persons, whether formal or informal, which engages in a pattern or criminal activity.



The GCC has supported the North Carolina Gang Investigators Association since its inception in 1999 and their work to educate our state's law enforcement officers during a capital strapped decade, and promote the growth of specialized gang units within their agencies. With the expansion of gang units and gang investigators came the need to share intelligence information between jurisdictions on these groups and associated individuals. The GCC sponsored a statewide web-based database called North Carolina GangNET that houses intelligence information on gang members from agencies that choose to enter the data. There are a few agencies that choose to have access and be trained on the system that only view the information. These agencies have no entries due to issues such as a lack of personnel resources to enter data or no known gang members.



Because of its strict definitional criteria for entry and validation, researchers with the NCCJAC determined that eventually NC GangNET data would be more useful in describing the nature and extent of criminal gangs within North Carolina than the subjective questionnaires of law enforcement agencies used in earlier studies. This analysis of gangs within the state uses NC GangNET aggregate data from December 2009 as an exclusive source of empirical information.

This update provides an overview of the current data as it is contrasted to data provided in previous reports and information on some of the gang prevention, intervention and suppression programs funded by the GCC in the previous year. This report

is designed to be an update and an extended investigation into this data and additional information is anticipated later in 2010.

GANG ACTIVITY

Reviewing the series of GCC research studies conducted by the NCCJAC on criminal gangs within North Carolina could cause the reader to assume there have been some overwhelming increases in criminal gangs across the state. This may not be the case, initial denial of the presence of gangs by many law enforcement agencies, the rapid increase in law enforcement investigators trained to recognize potential gang activity and then documenting this intelligence, differing definitions of what constitutes a gang or gang member, public perceptions of gang activity fueled by media, and changes in data collection have all led to an unclear picture into the nature and extent of criminal gangs in North Carolina. It is clear there is a presence of criminal gangs in the state and that many are involved in crimes relating to drugs and violent behaviors.

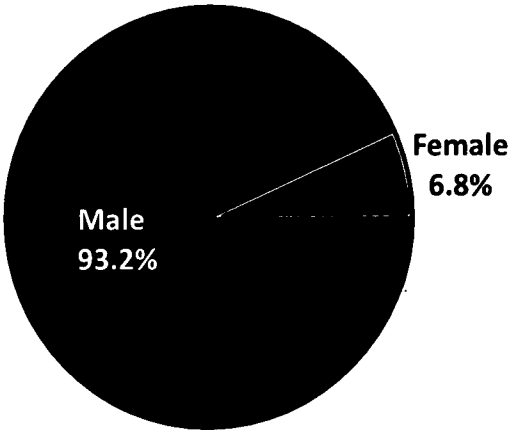
As provided in each of the GCC studies, the information and data are only as good as the responses received. Many agencies have overcome policies of not responding to such surveys with respect to the GCC since the objective of the commission involves supporting the mission of law enforcement. Previous survey data could be an approximation of intelligence data, include data older than five years, as well as include perceptions of gang investigators, school resource officers or others responding to surveys.

While NCGangNet provides more standardized and validated information, relying on GangNet does not offer the jurisdictional perceptions or even biases of previous survey respondents. Comparisons of the 2009 data to the 1999 data may not provide an accurate perception in the difference of the nature and extent of gangs, based on collection methodologies, however, it does indicate the increases in law enforcement documentation and understanding of a problem reaching into both urban and rural communities.

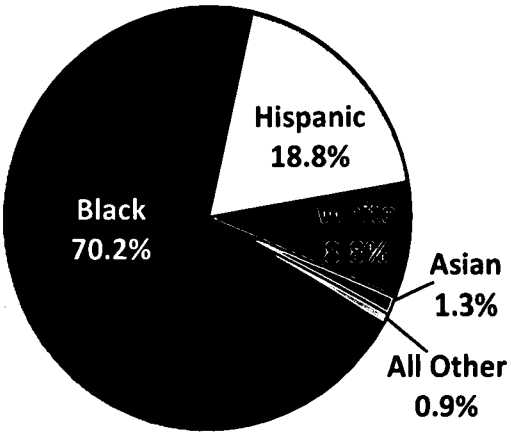
In December 2009 there were 13,699 validated gang members and associates in the NC GangNET database. These breakdown into the following listed demographic elements:

- Gender - 12,761 male (93.2%) and 938 female (6.8%)
- Race/Ethnicity – 9,540 black (70.2%), 2,554 Hispanic (18.8%), 1,191 white (8.8%), 178 Asian (1.3%) and 33 others (<1%) (*there were 103 with no racial or ethnic identifiers)*
- 13,589 included identified ages, of which 402 (3%) were age 15 and under, 1,446 (10.6%) ages 16 and 17 and 11,771 (86.4%) were 18 or older.

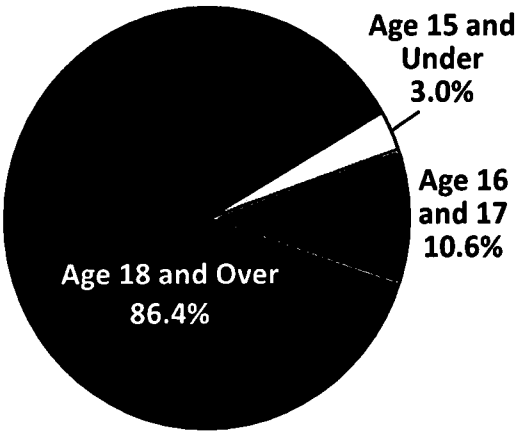
Gang Membership by Gender



Gang Membership by Race/Ethnicity



Gang Membership by Age



It is apparent that gang members identified via the NC GangNET system tend to be disproportionately adults, male and from black and Hispanic racial/ethnic makeup. Follow-up on the low youthful offender representation indicates there may be some undetermined level of under reporting of juveniles (ages 15 and younger). This might indicate a paradigm shift in the perception of gang members from involving large numbers of youths to indicating that criminal gangs being tracked in NC GangNET are adult entities with the involvement of juveniles at some level. This may also indicate that identifying neighborhoods and communities where criminal gangs flourish is paramount in targeting gang prevention, intervention and suppression programs.

The current number of validated gangs in North Carolina is 898 which is higher than the 855 noted in the GCC report to the General Assembly dated March 2009. The number of gang members and associates has also risen from 10,050 to the current 13,699. Of important note is the phasing into the NC GangNET system the N.C. Department of Correction (DOC) prison security threat group validated members which accounts for a number of these increased gang members. This year the DOC Division of Community Corrections will begin merging the community threat group validated members which are being monitored by probation. Security threat group and community threat group are the DOC designations for groups that generally fit the criteria for criminal gangs. (See Table 1 on the following page.)

Table 1: Gangs by County

Data from the Eastern Node of GangNET (Durham)		Data from the Western Node of GangNET (Charlotte)	
County Name	**# of Gangs**	**County Name**	**# of Gangs**
Alamance County	22	Alleghany	1
Bertie County	1	Burke	1
Bladen County	1	Cabarrus	34
Brunswick County	1	Caldwell	2
Chatham County	4	Catawba	13
Chowan County	3	Cherokee	4
Cumberland County	42	Davidson	9
Duplin County	8	Forsyth	60
Durham County	41	Gaston	21
Edgecombe County	41	Guilford	29
Franklin County	5	Henderson	8
Granville County	5	Iredell	15
Halifax County	1	Lincoln	10
Harnett County	37	Mecklenburg	160
Johnston County	14	Randolph	6
Lee County	20	Rockingham	12
Lenoir County	8	Union	1
Moore County	20	Yadkin	5
Nash County	3		
New Hanover County	27		
Northampton County	3		
Orange County	6		
Pasquotank County	5		
Pender County	39		
Person County	3		
Pitt County	6		
Robeson County	5		
Sampson County	24		
Vance County	1		
Wake County	97		
Warren County	2		
Washington County	1		
Wayne County	6		
Wilson County	1		
Total Number of Gangs Reported: 891			

Note: There were seven gangs with overlapping counties that were not included in this table as it could not be determined if the gang was already listed in that county. There were also 92 gangs listed in the western node whose county could no be determined and could be gangs from areas in South Carolina bordering on the Charlotte area who cross state lines.

With the data from NC GangNET, gaining an idea of the nature and extent in North Carolina has become more readily available with the knowledge that there is standardization in what represents a gang from jurisdiction to jurisdiction. Many new questions have arisen from this latest data that will be further investigated over the next several months. While it may not be a perfect system it affords participating local jurisdictions and the Governor's Crime Commission the ability to better understand the nature and extent of gangs in North Carolina's communities and to target gang prevention, intervention and suppression funding and efforts to areas that have identified and validated a gang presence.

Program Performance and Impact

Beginning with the 2009/2010 fiscal year, agencies receiving federal or state gang grant funds from the Governor's Crime Commission were required to submit quarterly performance reports documenting the progress of their respective programs as well as its impact on addressing the local gang problem or presence in their areas. Applicable grant project directors were asked to submit data for the last quarter, before grant implementation, to provide for pre and post programmatic comparisons. In the event that these directors were unable to provide this data the first three months after grant implementation, initial data were treated as baseline measures for tracking program progress throughout the life of the grant project.

An on-line Internet based application was developed to capture this program data with questions varying by program type. Directors from grant projects which are primarily law enforcement or suppression oriented are required to provide data on the number of suspected and confirmed gang members, the number and nature of gang investigations and indictments, as well as specific information on each unique gang such as its name, size, demographical composition and organizational structure. Criminal activity data is also collected in order to document the extent of the gang's violence and their drug and weapons involvement during the preceding quarter.

In addition to reporting on the number of gang members and gang activity intervention and prevention programs which work with current or potential gang members, agencies are also required to submit the number of persons entering and exiting these projects during each quarter. Programs that have any combination of intervention, prevention and suppression components are required to submit all of the data outlined above.

The following section presents a preliminary analysis of this performance and impact information by comparing pre-program implementation data during the period of March 1 – May 31, 2009 for the first cohort of grantees with the following first quarter (June 1 – August 31, 2009). As the number of gang grantees grows and as the amount of data being input into the on-line application expands over time a more complete and accurate portrait of gang activity in North Carolina can be developed and the commission can better document program performance and assess the effect of these programs on alleviating, or at least minimizing, gangs and gang crime across the state.

Thirty-two grant programs provided data for both reporting periods; i.e. three months prior to, and three months after, grant implementation.

A total of 1,658 individuals were admitted in the pre-grant implementation period by those programs that offer intervention and/or prevention services with the typical program admitting 52 people during this three-month period. The number of new admissions ranged from zero to 543. During the first three months, after grant implementation, a total of 1,788 individuals were admitted which equates to a 7.8 percent increase in new admissions over the three months prior to beginning the grant. The average number of program admissions, during the two reporting periods, grew from 52 before grant receipt to 56 after the programs received grant funding. Thus, on the average, program admissions increased after the GCC provided grant funding.

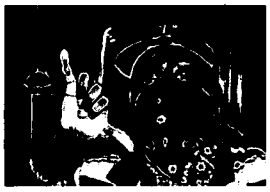
Table 2 presents comparative information for the two reporting periods on the average number of suspected and self identified gang members as well as data on active investigations and indictments.

Table 2: Average Number of Suspected and Identified Gang Members and Investigations and Indictments by Reporting Period

Variable	Three Months Prior to Grant Implementation	Three Months After Grant Implementation	Percent Change
Suspected Gang Members	375	234	-37.6
Self-Identified Gang Members	100	99	-.01
On-going Investigations	13.2	7.0	-47.0
Joint Federal and Interstate Investigations	2.5	1.4	-44.0
Federal and State Indictments	1.7	0.2	-88.0

Note: The average number of on-going investigations differ significantly over the two reporting periods, as do the average number of indictments ($p < .05$).

During the three month pre-implementation period, a total of 11,628 suspected gang members were reported by 31 of the grantees with single agency responses ranging from zero



members to a group high of 2,200. On the average each agency reported 375 suspected members during this period. Three months after grant implementation the total number of suspected members dropped from 11,628 to 7,732. The average number of reported suspected members also dropped from 375 to 234 (37.6%).[1]

The number of individuals claiming gang membership also dropped during the two periods with a total of 3,103 claiming membership prior to project implementation and a lesser 3,063 claiming membership three months later. The average number, per agency, experienced a slight decline of less than 1 percent, dropping from 100 to 99 persons who self-reported gang membership.

A total of 246[2] different gangs were reported by the grant project directors during the pre-implementation reporting period. This equates to an average of slightly more than seven gangs per agency. During the first three months of project operation this number dropped to 159 or 4.8 gangs per reporting agency.

A total of 410 on-going investigations were reported during the three month pre-implementation period with a lower 224 reported three months later. This equates to an aggregate 45 percent drop with the average number of gang investigations per agency declining from 13 to seven (- 47.0%). Declines also occurred for joint federal and interstate investigations dropping from a total of 78 to 44 after grant implementation. The average number of these investigations dropped from 2.5 to 1.4 per agency (-44.0%).

Declines were also present for federal and state indictments moving from 54 to six over the two periods. The average number of indictments dropped a substantial 88 percent from pre-implementation to the first three months after the grant funds were allocated.

Table 3 (on the following page) depicts the average number of reported gang crimes, or criminal activity which can be attributed to known gangs, for the three-month period prior to grant implementation as well as the first three months after project start-up. Increases occurred for six of the 12 listed offenses with reported rape and larceny-theft experiencing the most sizeable increases at 135 percent and 130 percent respectively.[1] The total number of reported rapes grew from nine to 21 while the total

[1] Given the low number of reporting periods thus far it is difficult to ascertain the extent to which the programs have directly impacted reported crime. It is possible that increases have occurred due to other non-programmatic factors such as increased awareness and reporting of gangs and gang crime by the public. Likewise declines could have also occurred due to factors extraneous to the programs. A more reliable assessment will be available at the end of the grant cycle.

[2] Some agencies received multiple grants thus the number of gangs reported by these agencies were only counted once. Also, if a gang with the same name was reported by both a city police department and its corresponding sheriff's office then this gang was counted as two distinct gangs. This only occurred once in this analysis.

number of reported larcenies grew from 246 to 567. Increases also occurred in the average number of reported incidents of auto theft (91.3%), robbery (33.3%), aggravated assaults (10.0%) and burglary (3.5%). A total of 72 auto thefts, 144 robberies, 224 aggravated assaults and 370 burglaries were reported by the 32 grantees during the three-month period prior to beginning their respective grant programs. During the first three months of project implementation, a total of 142 auto thefts, 192 robberies, 246 aggravated assaults and 385 burglaries were reported by these same agencies.

Declines occurred for five offense categories with the most sizeable reduction being reported for weapon sales which were reduced 100 percent down to no offenses. However, it should be noted that the total number of such incidents were comparably low with only 10 cases being reported prior to implementation and none thereafter. The average number of weapon possession cases declined by 47 percent with the aggregate number of such cases dropping from 190 to 98. Drug possession and drug manufacturing/distribution incidents declined as well moving down 18 percent and 20 percent respectively. The total number of drug possession incidents dropped from 550 to 452 while the total number of manufacturing/ distribution incidents declined from 126 to 99. Arson was a rare event with only two incidents being attributed to gangs during both study periods.

Table 3: Average Number of Reported Gang Crimes by Reporting Period

Crime	Three Months Prior to Grant Implementation	Three Months After Grant Implementation	Percent Change
Homicide	.44	.41	- 6.8
Forcible Rape	.28	.66	+ 135.7
Robbery	4.5	6.0	+ 33.3
Aggravated Assault	7.0	7.7	+ 10.0
Burglary	11.6	12.0	+ 3.5
Larceny	7.7	17.7	+ 129.9
Auto Theft	2.3	4.4	+ 91.3
Arson	.06	.06	0
Drug Possession	17.2	14.1	- 18.0
Drug Manufacturing/Distribution	3.9	3.1	- 20.5
Weapon Possession	5.9	3.1	- 47.5
Weapon Sales	.31	.00	- 100

Note: Despite substantial percentage declines and increases for several offense categories, no statistically significant differences were found to exist between the average number of reported offenses over the two periods.

Recommendations

The following recommendations were derived from the commission's prior and current gang research, discussions with practitioners and policy makers as well as members of the statewide GangNet steering committee.

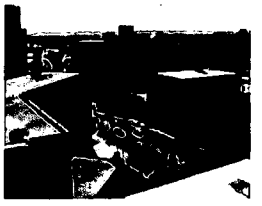
1. Appropriate state funding should be allocated to operate and maintain GangNet

Currently GangNet is 100 percent federally funded with no other supporting source of funding. Should the U.S. Congress reduce or eliminate the Byrne/JAG program, GangNet would in effect cease to exist or at least be shut down temporarily. State funds, roughly $600,000 to $1 million, should be allocated to ensure that the GangNet system remains functional and available to participating law enforcement agencies.

2. Operational and maintenance functions associated with GangNet should be housed within the State Bureau of Investigation

Currently GangNet is housed in multiple locations with an eastern node in Durham, a central node at the State Bureau of Investigation and a western node in Charlotte. For consolidation purposes, data and records should be housed in a central location and on a single server.

3. Funding for gang intervention and suppression programs should require replication of the High Point Model



Given the widespread publicity and demonstrated effectiveness of the High Point Model for addressing gang issues and gang related criminality, new programs should be required to follow this model. Replication of the High Point Model seems to be a more effective and efficient best practice for allocating scarce resources. This model returns the responsibility of curtailing gang and gun violence back to the communities by insisting on law enforcement and communities to enter into agreed partnerships that will empower neighborhoods, cities and towns to become proactive in isolating, identifying and removing the gang threat from their streets.

4. Encourage law enforcement and local school districts to properly identify and recognize gangs

Gang denial has diminished statewide but still exists in certain areas of North Carolina. Organizations that deal with teens and young adults should be encouraged to openly admit a gang presence, if one exists, and tackle this issue in a proactive and rational manner. Denying the existence of gangs only exacerbates current and future problems and may be worse than having the negative stigma associated with admitting a gang presence.

FIREARMS AND AMMUNITION

PURPOSE

The purpose of this Directive is to establish Division guidelines for the issuance, approval, and use of ammunition and firearms for on-duty as well as off-duty purposes.

POLICY

As sworn law enforcement officers of the State of North Carolina, ALE Agents are permitted to carry and use weapons issued and/or approved by the Division in the course of their duties. Agents shall only carry or use ALE issued or approved weapons or ammunition. Personally owned weapons or ammunition may be carried or used in primary, secondary, or back-up, capacities. Agents are not required to carry secondary weapons but may do so at their discretion. All firearms shall be fully concealed when the nature of the assignment requires that the weapon be concealed.

DEFINITIONS

Off-Duty: Time during which an employee is authorized to be free from the responsibility of performing routine ALE duties

A. CARRYING A WEAPON

1. While fulfilling official duties, agents shall carry firearms; except:

   a. When governing authority prohibits wearing a weapon (prison, jail); or

   b. When, in the personal judgement of the agent working in an undercover or covert capacity, wearing a weapon would jeopardize his/her safety or the safety of others.

2. An agent who is off-duty or not fulfilling official duties of the Division may carry ALE issued firearms. Any agent electing to carry an ALE issued firearm while off-duty must have his/her official badge and identification holder identifying him/her as a sworn agent of the ALE Division in his/her possession at all times.

3. Agents, in conformance with General Statute 14-269, are authorized to possess and carry a concealed firearm throughout the State of North Carolina while off-duty. This statute applies to issued service weapons as well as authorized personal firearms. An agent is not authorized to carry a Division-issued or approved handgun pursuant to a Concealed Carry Permit unless the weapon has been approved and he/she has successfully qualified with it. Non-approved firearms may not be carried at any time; agents are not authorized to carry non-approved handguns pursuant to a concealed carry permit.

4. Agents shall not use or handle weapons at any time in a careless or imprudent manner. Weapons shall be used in accordance with local, state, and federal laws.

5. Agents shall not consume or have remaining in his/her body any alcohol previously consumed or be under the influence of any alcoholic beverage or other impairing substance (prescription medication or otherwise) while possessing a firearm away from his/her own premises. The exception to this policy would be undercover agents under the supervision of a cover agent while conducting undercover operations.

6. Off-duty use of force incidents with any firearm shall be reported immediately to the District Supervisor with the same reporting procedures as with an on-duty use of force incident.

7. Prior to issuance of a Division firearm, agents shall be presented with and instructed on all directives and policies related to the use of a firearm.

B. WEAPON STORAGE AND MAINTENANCE

1. All agents shall keep their issued and approved weapons clean and in excellent working condition. Any defects or malfunctions shall be reported immediately to a supervisor. Carrying a defective weapon is strictly prohibited. Agents shall immediately replace any ammunition that is suspected of being faulty.

2. If issued or personally owned approved handguns are stored in an ALE vehicle during non-working hours, the weapon shall be locked with the rifle with the cable through the trigger guard. If the cable will not fit through the trigger guard, the weapon is to be handcuffed through the trigger guard and around the rifle locking cable. If practical, both handcuffs should be locked around the weapon and cable and the weapon should be covered so as to hide it from general view.

3. Issued rifles or personally owned approved shotguns or rifles must be secured in the trunk of the issued ALE vehicle with the provided lock. The shotgun or rifle may be unlocked and available for use when an agent is on duty or for training, inspections, cleaning, or maintenance purposes. If an agent will be off duty for an extended period of time, any issued rifle or shotgun shall be secured in the district office safe or, with approval of the District Supervisor or Assistant Supervisor, secured at home.

4. While on-duty, an agent shall not remove any handgun from the holster or rifle from the vehicle except for authorized use, inspection, or other authorized purpose. While off-duty, agents shall not make a display of a firearm or remove it from the holster or vehicle except for lawful purposes. An agent shall not permit any person, other than another agent, to use an ALE issued firearm.

5. Firearms should be stored securely and away from children, in compliance with applicable NC Statutes, when agents are at home and off-duty.

C. APPROVED WEAPONS AND AMMUNITION

1. Any weapon, ammunition, holster, or rifle accessories not provided by the Division shall be approved by a certified firearms instructor with concurrence from the Assistant Director for Training. The weapon must comply with Division caliber requirements and shall be inspected for proper mechanical operation by a certified firearms instructor or armorer. The inspection and approval/denial of the weapon shall be documented on a Form AL-23a, Request for Authority to Carry Personally Owned Weapons, and filed according to the Division file plan.

2. Approved personally-owned handguns shall be no smaller than .38 caliber and no larger than .45 caliber. They shall be produced by a reputable manufacturer and be in excellent working order. The internal and external mechanisms shall not be altered or tampered with except as provided in the manufacturer's owner's manual. Custom grips are permitted.

3. Personally owned rifles and shotguns shall be produced by a reputable manufacturer and be in excellent working order.

4. Personally owned shotguns and rifles may be carried in the Division vehicle and used in compliance with the appropriate approval, registration, and qualification process. Shotguns must be of pump or semi-automatic action, firing 12-gauge ammunition. Rifles must be bolt action or semi-automatic.

5. Ammunition for qualifying with weapons that are not ALE issued must be supplied by the agent if the ammunition caliber for that weapon differs from that issued by the Division. Personal ammunition must be approved by the Assistant Director for Training and must be from a commercial manufacturer.

6. Prior to qualification with a firearm, the firearm will be inspected by a certified firearms instructor to ensure the weapon is safe for use. Any weapon deemed unsafe will not be approved for qualification or use. The Firearms Training Coordinator, a certified firearms instructor, or armorer shall take possession of any unsafe Division-owned weapon and coordinate the replacement or repair of that weapon. When a personally-owned weapon is deemed unsafe, the authority to carry that weapon shall be revoked until such time as a certified firearms instructor and/or armorer deems the weapon fit for use.

D. WEAPON QUALIFICATION

1. Agents, who wish to carry authorized personal firearms, on-duty or off-duty, must register the weapon by submitting a written request to the Assistant Director for Training on the Form AL-23a, Request for Authority to Carry Personally Owned Weapons. If the Assistant Director for Training approves the request, it is forwarded to the Division Firearms Training Coordinator. Agents may register one weapon for each category of weapons (pistol, rifle, and shotgun) and may not carry a personally owned firearm until he/she has successfully qualified with that firearm according to Division standards.

2. Agents must qualify with any approved personally owned firearm on at least an annual basis. The course for qualifying will be the same (or as similar in nature as the type of firearm will allow) as currently required for the ALE issued firearm. Failure to qualify shall automatically suspend the agent's authorization to carry the personally-owned firearm until a satisfactory score has been achieved and the agent obtains a receipt of approval from the Division Firearms Training Coordinator.

3. Agents must receive a minimum qualification score of 75% to be deemed proficient in each firearm. Agents scoring lower than 75% must participate in the remedial training process outlined below. The proficiency training and firearm qualification shall be observed by a certified firearms instructor and documented on the form F-9A, Firearms Qualification Record. All ALE firearms qualification sessions must be attended by two (2) certified firearms instructors and approved by the Assistant Director for Training or the Division Firearms Coordinator.

4. Pursuant to rules promulgated by the NC Criminal Justice Education and Training Standards Commission, agents shall qualify with ammunition of the same caliber and being the ballistic equivalent of the ammunition approved for duty use by the ALE Division. Agents shall not use, for any on-duty purpose, any ammunition type that he/she has not used for qualification.

5. Pursuant to regulations promulgated by the NC Criminal Justice Education and Training

Standards Commission, agents shall be given three (3) opportunities to qualify with each weapon. If an agent fails to qualify with a weapon during an assigned firearms range period, the agent must return for a re-qualification process. Regardless of an agent's firearms re-qualification scores on the second attempt, the agent is required to attend remedial training. If the agent fails to qualify on the second attempt, the agent must attend further remedial training and return for a third re-qualification process. If the agent fails on this qualification attempt, the agent's authority to carry that weapon will be revoked. Any agent who fails to qualify shall surrender the weapon and shall not be allowed to carry the weapon under law enforcement authority until he/she is able to achieve a qualifying score. A notice of revocation should be forwarded through the chain of command to the Director as soon as possible and remedial training should be scheduled as soon as possible.

6. All remedial firearms sessions and qualification attempts shall be attended by two (2) certified firearms instructors.

7. Agents whose authorization to carry a weapon has been revoked will be reassigned to administrative duty for a maximum of thirty (30) days. Within that time period, the agent must arrange with Division Firearms Training Coordinator for remedial training.

8. If after the thirty (30) day period the agent has not achieved a qualifying score, he/she shall be terminated from employment for failing to maintain certification standards.

Revised: 7/20/09

North Carolina Department of Crime Control and Public Safety
Law Enforcement Support Services

Beverly Eaves Perdue, Governor

Reuben F. Young, Secretary

March 25, 2010

Value of Inventory Donated to Local Law Enforcement Agencies

Fiscal Year	Number of Items Donated	Total Value
FY 2006 – 2007	7,602	$ 10,251,032
FY 2007 – 2008	14,500	$ 4,952,268
FY 2008 – 2009	3,779	$ 3,056,044
July 2009 – Feb 2010	1,209	$ 2,452,909
Totals:	27,090	$ 20,712,253

- **Contact: Mr. Robert Minish, 1200 Transport Drive, Raleigh NC, 27603 (919) 773-2823, rminish@nccrimecontrol.org**

LAW ENFORCEMENT SUPPORT SERVICES
MAILING ADDRESS:
4710 Mail Service Center
Raleigh, NC 27699-4710
E-mail: less@NCCrimeControl.org

www.NCCrimeControl.org

An Equal Opportunity/Affirmative Action Employer

LOCATION:
1200 Transport Drive
Raleigh, NC 27603-4147
Telephone: 919-773-2823
Fax: 919-773-2845

CURRENT STATUTE as amended by the 2009 Appropriations Act:

LAW ENFORCEMENT SUPPORT SERVICES FEES

SECTION 17.5. Effective September 1, 2009, Article 11 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"**§ 143B-475.2. Fees for services.**

A fee in the amount set by the Department is imposed on the entities listed in this section. The fees are departmental receipts and are applied to the Department's costs in providing services to these entities. The fees apply to the following:

(1) A local law enforcement agency that employs more than 25 officers and that receives equipment from the Department, whether by transfer, loan, or procurement under an agreement with the United States Department of Defense.

(2) A person for whom the Department stores evidence."

Contact for Law Enforcement Support Services:

Mr. Robert Minish
Law Enforcement Support Services
1200 Transport Drive
Raleigh, NC 27603
(919) 773-2823
rminish@nccrimecontrol.org

North Carolina Department of Crime Control and Public Safety
Law Enforcement Support Services

Beverly Eaves Perdue, Governor

Reuben F. Young, Secretary

Fee Schedule as of December 1, 2009

Agency Type	# of Agencies	Annual Fee
Local LEA w/Over 1000 Officers	1	$1,000.00
Local LEA w/500-999 Officers	3	$750.00
Local LEA w/250-499 Officers	9	$500.00
Local LEA w/100-249 Officers	41	$250.00
Local LEA w/50-99 Officers	58	$100.00
Local LEA w/25-49 Officers	89	$50.00
Local LEA w/10-24 Officers	165	$0.00
Local LEA w/5-9 Officers	72	$0.00
Local LEA w/1-4 Officers	95	$0.00
State Agencies	60	$0.00
Total Number of Agencies:	593	

- **In addition to this schedule, any law enforcement agency that purchases new equipment through the federal 1122 Program (GSA/DoD) will be charged a .5% surcharge upon delivery.**
- **Per Section 17.5 of S.L. 2009-451, agencies with fewer than 25 sworn positions will not be charged any fees.**
- **Contact: Mr. Robert Minish, (919) 773-2823, rminish@nccrimecontrol.org**

LESS
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North Carolina Department of Crime Control and Public Safety
Law Enforcement Support Services

Beverly E. Perdue, Governor
Reuben F. Young, Secretary

Neil R. Woodcock, Director

December 1, 2009

Chief Brian J Curran
Chapel Hill Police Department
828 Martin Luther King Jr., Blvd
Chapel Hill, NC 27514

Dear Chief Curran

The 2009 State Budget Bill provides only one year of funding for the Law Enforcement Support Services Division of the Department of Crime Control and Public Safety. It also requires LESS to adopt a fee structure to charge local law enforcement agencies with more than 25 officers for services so that LESS will become receipt supported by Fiscal Year 2010-11.
LESS has developed the attached fee schedules for participation in the Excess Property Program and Loan Program with estimates of annual income. I have also attached the fee schedule for our compliance reviews. We will add an additional ½% fee to all purchased items.
We intend to implement these charges beginning January 1, 2010. We will continue to send you an agreement renewal package upon expiration of your current agreement, as we have in the past, along with an invoice for your participation fee. We will invoice you for loaned items after you return them. We'll add the ½% to your proforma invoice when you purchase items. For the compliance reviews, we'll invoice you when we send you the completed report on the review.
I regret that we have to place this additional burden on you at this particular time but feel that you need as much notice as possible so that you can take appropriate action during your budget cycle to meet this requirement.
Please call me if you have any questions concerning this change in our policy.

We look forward to continue serving you.

Sincerely

Neil R. Woodcock

Attachments:
As stated

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Raleigh, North Carolina 27699-4710
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North Carolina Department of Crime Control and Public Safety
Law Enforcement Support Services

Beverly E. Perdue, Governor
Reuben F. Young, Secretary

Neil R. Woodcock, Director

December 1, 2009

The Honorable Daniel E Bailey Jr.
Sheriff of Mecklenburg County
700 East 4th Street
Charlotte, NC 28202

Dear Sheriff Bailey

The 2009 State Budget Bill provides only one year of funding for the Law Enforcement Support Services Division of the Department of Crime Control and Public Safety. It also requires LESS to adopt a fee structure to charge local law enforcement agencies with more than 25 officers for services so that LESS will become receipt supported by Fiscal Year 2010-11.
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112- 2009-2010
Customer Balance Summary
All Transactions

Agency	# Sworn	Agreement Exp.	Date Rec'd	Invoiced	Fees Rec'd	Remarks
Aberdeen Police Department	26	12/3/2010		50.00	0.00	
Alamance County Sheriff's Office	75	2/15/2011	2/15/2010	100.00	100.00	Receipt of Fees and Agreement
Albemarle Police Department	52	5/27/2010	2/16/2010	100.00	100.00	Receipt of Fees, Agreement expires May 2010
Alexander County Sheriff's Office	41	3/2/2011	3/2/2010	50.00	50.00	Receipt of Fees and Agreement
Apex Police Department	55	12/7/2010	3/2/2010	100.00	100.00	Receipt of Fees, Agreement expires Dec 2010
Asheboro Police Department	68	11/13/2008		100.00	0.00	
Asheville Police Department	205	2/10/2011	3/10/2010	250.00	250.00	Receipt of Fees and Agreement
Beaufort County Sheriff's Office	52	12/3/2010		100.00	0.00	
Belmont Police Department	29	5/11/2006		50.00	0.00	
Black Mountain Police Dept	33	1/7/2009		50.00	0.00	
Bladen County Sheriff's Office	68	2/16/2011	2/16/2010	100.00	100.00	Receipt of Fees and Agreement
Boone Police Department	35	6/3/2010		50.00	0.00	
Brunswick County Sheriff's Office	110	12/2/2009		250.00	0.00	
Buncombe County Sheriff's Office	200	7/17/2004		250.00	0.00	
Burke County Sheriff's Office	86	1/21/2010		100.00	0.00	
Burlington Police Department	125	6/27/2009		250.00	0.00	
Cabarrus County Sheriff's Office	142	2/9/2007		250.00	0.00	
Caldwell County Sheriff's Office	80	6/2/2010	2/23/2010	100.00	100.00	Receipt of Fees, Agreement expires Jun 2010
Carolina Beach Police Department	26	2/13/2011	2/13/2010	50.00	50.00	Receipt of Fees and Agreement
Carteret County Sheriff's Office	36	2/22/2011	*2/22/2010	50.00	0.00	None Payment, Agreement in Suspece File
Cary Police Department	135	2/26/2011	2/16/2010	250.00	250.00	Receipt of Fees, Agreement expires Jun 2020
Caswell County Sheriff's Office	28	3/10/2011	3/10/2010	50.00	50.00	Receipt of Fees and Agreement
Chapel Hill Police Department	119	9/18/2010		250.00	0.00	
Charlotte-Mecklenburg Police Department	1540	3/13/2007	*2/26/2010	1,000.00	1,000.00	Receipt of Fees, No Agreement Received
Cherokee County Sheriff's Office	42	2/10/2011	2/10/2010	50.00	50.00	Receipt of Fees and Agreement
Cherokee Indian Reservation Police Dept.	26	10/27/2007		50.00	0.00	
Clayton Police Department	42	2/9/2011	3/2/2010	50.00	50.00	Receipt of Fees and Agreement
Cleveland County Sheriff's Office	83	5/26/2010	2/23/2010	100.00	100.00	Receipt of Fees and Agreement
Columbus County Sheriff's Office	63	3/27/2010		100.00	0.00	
Cornelius Police Department	52	10/10/2008		100.00	0.00	
Craven County Sheriff's Office	69	10/10/2008	*2/23/2010	100.00	100.00	Receipt of Fees, No Agreement Received
Cumberland County Sheriff's Office	415	6/16/2010		500.00	0.00	
Davie County Sheriff's Office	32	2/10/2011	2/10/2010	50.00	50.00	Receipt of Fees and Agreement
Duplin County Sheriff's Office	80	4/20/2004		100.00	0.00	
Durham Police Department	482	6/30/2010		500.00	0.00	
Eden Police Department	46	1/6/2011	1/6/2010	50.00	50.00	Receipt of Fees and Agreement
Edgecombe County Sheriff's Office	58	11/14/2008	3/16/2010	100.00	100.00	Receipt of Fees, No Agreement Received
Forsyth County Sheriff's Office	235	12/16/2009		250.00	0.00	
Gaston County Sheriff's Office	244	10/12/2008		250.00	0.00	
Goldsboro Police Department	116	2/15/2011	2/24/2010	250.00	250.00	Receipt of Fees and Agreement
Graham Police Department	40	2/11/2011	2/11/2010	50.00	50.00	Receipt of Fees and Agreement

112- 2009-2010
Customer Balance Summary
All Transactions

Greensboro Police Department	554	2/11/2011	2/24/2010	750.00	750.00	Receipt of Fees and Agreement
Greenville Police Department	171	12/15/2011	*12/15/2009	250.00	250.00	Receipt of Fees and Agreement
Halifax County Sheriff's Office	58	12/17/2010	3/16/2010	100.00	100.00	Receipt of Fees and Agreement
Havelock Police Department	29	12/18/2009		50.00	0.00	
Henderson County Sheriff's Office	63	5/1/2010		250.00	0.00	
Hendersonville Police Department	35	4/13/2004	*2/23/2010	50.00	50.00	Receipt of Fees, No Agreement Received
Hertford County Sheriff's Office	31	7/10/2009		50.00	0.00	
Hickory Police Department	106	6/5/2010	3/2/2010	250.00	250.00	Receipt of Fees and Agreement
High Point Police Department	225	2/26/2011	2/26/2010	250.00	250.00	Receipt of Fees and Agreement
Hillsborough Police Department	28	10/15/2008	3/9/2010	50.00	50.00	Receipt of Fees, No Agreement Received
Hoke County Sheriff's Office	39	6/25/2008	2/23/2010	50.00	50.00	Receipt of Fees, No Agreement Received
Holly Springs Police Department	45	2/19/2011	2/19/2010	50.00	50.00	Receipt of Fees and Agreement
Hope Mills Police Department	36	10/9/2008		50.00	0.00	
Huntersville Police Department	73	12/5/2008		50.00	0.00	
Iredell County Sheriff's Office	150	10/23/2003	3/2/2010	250.00	250.00	Receipt of Fees and Agreement
Jackson County Sheriff's Office	42	10/10/2008		50.00	0.00	
Jacksonville Police Department	115	7/9/2004	*2/26/2010	250.00	250.00	Receipt of Fees, No Agreement received
Johnston County Sheriff's Office	151	11/1/2008	*	250.00	0.00	2/15/10, Call from Sheriff opting out of program
Kannapolis Police Department	72	2/26/2011	2/26/2010	100.00	100.00	Receipt of Fees and Agreement
Kernersville Police Department	67	2/27/2010		100.00	0.00	
Kill Devil Hills Police Department	26	10/11/2008	3/2/2010	50.00	50.00	Receipt of Fees, No Agreement Received
Kings Mountain Police Department	31	2/22/2011	3/2/2010	50.00	50.00	Receipt of Fees and Agreement
Kinston Dept of Public Safety	80	10/15/2008		100.00	0.00	
Laurinburg Police Department	44	5/21/2010		50.00	0.00	
Lee County Sheriff's Office	55	10/8/2004	3/9/2010	100.00	100.00	Receipt of Fees and Agreement
Leland Police Department	28	5/20/2010		50.00	0.00	
Lexington Police Department	72	2/15/2011	2/9/2010	100.00	100.00	Receipt of Fees and Agreement
Lincoln County Sheriff's Office	101	7/7/2009		250.00	0.00	
Martin County Sheriff's Office	28	3/10/2011	3/10/2010	50.00	50.00	Receipt of Fees and Agreement
McDowell County Sheriff's Office	35	6/13/2006		50.00	0.00	
Mecklenburg County Sheriff's Office	384	3/17/2009	*3/3/2010	500.00	500.00	Receipt of Fees, No Agreement Received
Monroe Police Department	74	6/9/2006		100.00	0.00	
Moore County Sheriff's Office	64	1/4/2011	2/24/2010	100.00	100.00	Receipt of Fees and Agreement
Mooresville Police Department	63	7/22/2009		100.00	0.00	
Morehead City Police Department	34	3/11/2011	3/11/2010	50.00	50.00	Receipt of Fees, No Agreement Received
Morrisville Police Department	25	2/22/2007		50.00	0.00	
Mount Airy Police Department	42	3/15/2011	3/15/2010	50.00	50.00	Receipt of Fees and Agreement
Mount Holly Police Department	36	5/5/2006		50.00	0.00	
Nash County Sheriff's Office	67	9/23/2009		100.00	0.00	
New Bern Police Department	93	11/17/2009		100.00	0.00	
Newton Police Department	34	3/12/2009		50.00	0.00	
North Wilkesboro Police Department	36	2/16/2011	2/18/2010	50.00	50.00	Receipt of Fees and Agreement

112- 2009-2010
Customer Balance Summary
All Transactions

Oak Island Department of Public Safety	25	5/27/2010	2/18/2010	50.00	50.00	Receipt of Fees and Agreement
Onslow County Sheriff's Office	97	6/9/2010		100.00	0.00	
Orange County Sheriff's Office	109	5/4/2010	3/16/2010	250.00	250.00	Receipt of Fees, No Agreement Received
Oxford Police Department	31	2/17/2007		50.00	0.00	
Pasquotank County Sheriff's Office	65	4/15/2004		100.00	0.00	
Pender County Sheriff's Office	60	3/13/2004	2/26/2010	100.00	100.00	Receipt of Fees, No Agreement Received
Person County Sheriff's Office	75	1/20/2010		100.00	0.00	
Polk County Sheriff's Office	45	1/8/2010		50.00	0.00	
Raleigh Police Department	764	3/16/2011	3/16/2010	750.00	750.00	Receipt of Fees and Agreement
RDU Airport Police Department	67	3/16/2008		100.00	0.00	
Reidsville Police Department	43	9/10/2009		50.00	0.00	
Richmond County Sheriff's Office	42	2/14/2006		50.00	0.00	
Robeson County Sheriff's Office	126	1/20/2011	2/23/2010	250.00	0.00	
Rockingham County Sheriff's Office	92	5/4/2010		100.00	0.00	
Rocky Mount Police Department	156	6/15/2010		250.00	0.00	
Rowan County Sheriff's Office	170	2/12/2011	2/17/2010	250.00	250.00	Receipt of Fees and Agreement
Rutherford County Sheriff's Office	55	12/10/2011	2/10/2010	100.00	100.00	Receipt of Fees and Agreement
Sanford Police Department	80	8/23/2007		100.00	0.00	
Scotland County Sheriff's Office	39	2/18/2011	2/18/2010	50.00	50.00	Receipt of Fees and Agreement
Shelby Police Department	90	3/2/2011	3/2/2010	100.00	100.00	Receipt of Fees, No Agreement Received
Southern Pines Police Department	31	7/16/2009		50.00	0.00	
Stanly County Sheriff's Office	48	2/11/2011	2/26/2010	50.00	50.00	Receipt of Fees and Agreement
Statesville Police Department	70	3/16/2011	3/16/2010	100.00	100.00	Receipt of Fees and Agreement
Stokes County Sheriff's Office	40	4/29/2010		50.00	50.00	Receipt of Fees, No Agreement Received
Thomasville Police Department	74	2/12/2011	2/24/2010	100.00	100.00	Receipt of Fees and Agreement
Transylvania County Sheriff's Office	43	8/14/2007		50.00	0.00	
Union County Sheriff's Office	172	3/16/2011	3/16/2010	250.00	250.00	Receipt of Fees and Agreement
Vance County Sheriff's Office	46	2/12/2011	3/2/2010	50.00	50.00	Receipt of Fees and Agreement
Village of Pinehurst Police Department	26	2/13/2011	2/23/2010	50.00	50.00	Receipt of Fees, No Agreement Received
Wake County Sheriff's Office	328	4/12/2010	3/9/2010	500.00	500.00	Receipt of Fees, No Agreement Received
Wake Forest Police Department	37	2/5/2011	2/10/2010	50.00	50.00	Receipt of Fees and Agreement
Watauga County Sheriff's Office	40	3/11/2011	3/11/2010	50.00	50.00	Receipt of Fees and Agreement
Wayne County Sheriff's Office	83	2/12/2011	2/9/2010	100.00	100.00	Receipt of Fees and Agreement
Waynesville Police Department	32	6/16/2010	3/2/2010	50.00	50.00	Receipt of Fees, No Agreement Received
Wilkes County Sheriff's Office	61	1/28/2011	2/19/2010	100.00	100.00	Receipt of Fees and Agreement
Wilson County Sheriff's Office	111	8/13/2008		250.00	0.00	
Wilson Police Department	115	2/25/2011	2/25/2010	250.00	250.00	Receipt of Fees and Agreement
Wrightsville Beach Police Department	31	3/2/2011	3/2/2010	50.00	50.00	Receipt of Fees and Agreement
Yadkin County Sheriff's Office	52	6/18/2010	2/23/2010	100.00	100.00	Receipt of Fees, No Agreement Received
TOTALS				**17,200.00**	**10,000.00**	

* MONEY REPORT *

Conference Report on the Continuation, Capital, and Expansion Budget

Crime Control and Public Safety

GENERAL FUND

	FY 09-10		FY 10-11	
Adjusted Continuation Budget	**$43,925,878**		**$44,067,870**	
Legislative Changes				
Administration				
83 Law Enforcement Support Services (LESS)	($430,336)	R	($430,336)	R
This recommendation makes funding for the Law Enforcement Support Services (LESS) nonrecurring in FY 2009-10. The budget bill also includes a special provision that directs the program to develop a fee schedule to make the program fully receipt-supported by the FY 2010-11.	$430,336	NR	-5.00	

* SPECIAL PROVISION *

LAW ENFORCEMENT SUPPORT SERVICES FEES

SECTION 17.5. Effective September 1, 2009, Article 11 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"**§ 143B-475.2. Fees for services.**

A fee in the amount set by the Department is imposed on the entities listed in this section. The fees are departmental receipts and are applied to the Department's costs in providing services to these entities. The fees apply to the following:

(1) A local law enforcement agency that employs more than 25 officers and that receives equipment from the Department, whether by transfer, loan, or procurement under an agreement with the United States Department of Defense.

(2) A person for whom the Department stores evidence."

INCREASE CHARITABLE BINGO LICENSING FEE

SECTION 17.6. Effective September 1, 2009, G.S. 14-309.7(a) reads as rewritten:

"(a) An exempt organization may not operate a bingo game at a location without a license. Application for a bingo license shall be made to the Department of Crime Control and Public Safety on a form prescribed by the Department. The Department shall charge an annual application fee of ~~one hundred dollars ($100.00)~~two hundred dollars ($200.00) to defray the

VISITOR REGISTRATION SHEET

Corrections, Crime Control and Juv. Justice Oversight — March 25, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Phil Burr	NCBAA
Mark Black	NCBAA
Kelly Calabria	NCBAA
Barbara Walker	NCBAA
Richard Hayes	GCC
Gwendolyn Burrell	GCC
Doug Yearwood	GCC
Wes Walters	GCC
Tim Hinnett	GCC
Robin Jenkins	NC DJJDP
Pam Walker	NCEL

VISITOR REGISTRATION SHEET

Corrections, Crime Control and Juv. Justice Oversight — March 25, 2010

Name of Committee — **Date**

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Mike Garland	NCCL
Pam Walker	NCCL
Tom West	Eckerd Youth Alternatives
Melissa Radcliff	Our Children's Place
Michael Hough	ALEC 1101 Vermont Ave, Washington DC 20005
Gene Newman	Ms Bail Agent Assn
Dennis Barthelt	American Bail Coalition
Melissa Seiler	bailagent1969@yahoo.com
Theodis Beck	Raleigh, NC
Mark Garred	NCBAA
Larry Powell	NCBAA

VISITOR REGISTRATION SHEET

JT Cmte. Crime Control & Juvenile Justice Oversight — 3.25.2010

Name of Committee — Date

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NAME	FIRM OR AGENCY AND ADDRESS
W. Dacey Colpoys	Personal Interest
Erin McLaughlin	MHANC
Reggie Holley	LONGMIRE GROUP
Eugene Vardaman	Criminal Justice Information Network
Bob Brinson	Correction / CJIN
LaVonda Fowler	Criminal Justice Information Network

VISITOR REGISTRATION SHEET

Corrections, Crime Control and Juv. Justice Oversight — March 25, 2010

Name of Committee — **Date**

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Rhonda Raney	CCPS
Aaron	NCAJC
Mark Senter	NC Alcohol Law Enforcement
Annaliese Dolph	DRNC
Lad Rubert	CGPC
Chuck Johnson	NC Pretrial Services Assoc.
Mike Hodgson	NCSHP
Captain Robert West	NCSHP
Everett Clendenin	Highway Patrol
Kenneth Perry	NCLESS
David Farmer	NC LESS

VISITOR REGISTRATION SHEET

Corrections, Crime Control and Juv. Justice Oversight — March 25, 2010

Name of Committee — **Date**

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NAME	FIRM OR AGENCY AND ADDRESS
PATRICK C. RIDDICK	(LESS) NC Crime Control & Public Safety
Robert Minish	Crime Control + Public Safety
R. ALLEN PAGE	N.C. ALE CCPS
Bob Stocks	NC ALE CCPS
John LEDFORD	NC ALE CCPS
Thomas C. Caves, Jr.	NC Dept. of Crime Control & Public Safety
Rudy Rudisill	CCPS
Elizabeth Taylor	Cochaneck Law Group
Gary Robertson	AP