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**Report of
North Carolina
Commission on Interstate Cooperation
1967-69**



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NORTH CAROLINA
COMMISSION ON INTERSTATE COOPERATION

Representative Joe E. Eagles, Chairman

Senate Members

Lieutenant-Governor Robert W. Scott
Senator Herman A. Moore
Senator Adrian L. Shuford, Jr.
Senator Sam L. Whitehurst

House Members

Representative Earl W. Vaughn,
Speaker of the House
Representative Thorne Gregory
Representative Marcus Short

Executive Members

G. Andrew Jones, State Budget Officer
Claude E. Caldwell, State Director of Personnel
Dan E. Stewart, Director of Conservation and Development

Charles L. Wheeler, Secretary to Commission

LETTER OF TRANSMITTAL

To:
The Honorable Robert W. Scott
Governor of North Carolina
and
Members of the 1969 Session of the General Assembly

In accordance with Section 143-185 of the General Statutes of North Carolina, I have the privilege of submitting, on behalf of the members, the report of the North Carolina Commission on Interstate Cooperation for the 1967-69 biennium. The report describes commission activities during the biennium and recommends five items of proposed state legislation to the Governor and General Assembly.

I wish to express my appreciation to the other members of the commission for their diligent application to the responsibilities of the commission during the past two years. The commission also commends Charles L. Wheeler, Secretary to the Commission, for his assistance in arranging for meetings of the commission, drafting minutes of its proceedings, and assisting in the preparation of this report. Finally, the commission would like to express a debt of gratitude to the staff of the Council of State Governments for its fine assistance throughout the biennium.

Respectfully submitted,

Joe E. Eagles
Chairman

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Introduction

The North Carolina Commission on Interstate Cooperation was established by the General Assembly in 1937. The commission's basic responsibilities are to carry forward the participation of the state as a member of the Council of State Governments; to assist all branches of the state government in establishing helpful contacts with the personnel of other state governments, as well as those of the federal and local governments; to participate in meetings and conferences on problems of interest to the states; and to make recommendations to the Governor and General Assembly on problems of interstate concern. The statute under which the commission operates appears as Attachment A.

Council of State Governments

Since much of the commission's work is carried out in conjunction with the Council of State Governments, an explanation of the Council's role is appropriate. The Council of State Governments was organized in 1933 as a joint agency of all of the state governments---created, supported, and directed by them. The reasons for its existence are stated in its Articles of Organization:

The purpose of the Council shall be to strengthen state government and its public services and to preserve its role in the American federal system; to assist the states in improving their legislative, administrative and judicial practices; to promote state-local and interstate cooperation; and to facilitate federal-state relations.

The states direct council activities through the Governing Board, the great majority of whom are the individual state delegates chosen according to the law or practice of each state. Most of the other members are chosen by groups of state officials.

The Council contributes to its stated purposes by:

1. Conducting research on state programs and problems and reporting the results to the states;
2. Maintaining an information service which is available to state legislators, officials, and agencies;
3. Holding national and regional meetings in which legislators and other state officials consider and deal with common problems;
4. Issuing publications, for use in the states, on many aspects of state affairs;
5. Assisting in liaison, at the direction of the states, with federal officials and Congressional committees on matters of federal-state concern;
6. Providing staff for eight affiliated organizations of key state officials; and
7. Cooperating with a number of other important state organizations.

Interstate Positions Held by Members

Several members of the North Carolina Commission on Interstate Cooperation held key positions in the Council of State Governments and other interstate agencies during the biennium.

Chairman Joe E. Eagles served as a member of the Governing Board of the Council of State Governments and as a member of the Southern Regional Conference Advisory Committee of the Council. Representative Eagles also was chairman of the Southern Regional Conference Committee on Agriculture.

Speaker Earl W. Vaughn was chairman of the Southern Conference Advisory Committee. Charles L. Wheeler, Secretary to the Commission, served as vice-chairman of the Committee of State Officials on Suggested State Legislation of the Council of State Governments. He also was a member of the Subcommittee

on Scope and Agenda of the Committee on Suggested State Legislation.

Representative Thorne Gregory was a member of the National Highway Policy Committee. He also served as a member of the Rules Committee of the National Legislative Conference and as a member of the Subcommittee on Interstate Highways after 1972. In addition, he was a member of the Atlantic States Marine Fisheries Commission.

Max R. Sproles, Planning and Research Engineer, North Carolina Highway Commission, was chairman of the Highway Beautification Subcommittee of the Southern Conference of the Council of State Governments.

Participation in Interstate Conferences

Commission members attended a number of important national and regional meetings called to discuss legislative issues during the biennium. Chairman Eagles established a policy that each member attending such meetings would report to the full Commission at its next meeting on the matters discussed and conclusions reached.

No effort will be made in this report to summarize the work of the individual conferences and meetings. The reports made by commission members, however, do appear in the minutes of the Commission.

Chairman Eagles, as a member of the Governing Board of the Council of State Governments, attending a number of meetings of that board to plan the overall work of the Council. Representative Gregory and Mr. Sproles were active in several national and regional meetings dealing with highway safety, highway beautification, extension of the interstate highway system beyond 1972, and other interstate highway matters.

Chairman Eagles also attended several meetings as Chairman of

the Southern Conference Committee on Agriculture. This important committee considered practically the whole gamut of regional and national agricultural issues. Some of the specific matters which they discussed and investigated were meat and poultry inspection, tax assessment of agricultural lands, marketing of agricultural products, regulation of milk marketing, pest control, sale and use of pesticides, and livestock diseases.

Southern Conferences of Council

The Southern Conference of the Council of State Governments annually brings together legislators and other state officials from fifteen southern states for a discussion of mutual problems.

Chairman Eagles, Senators Shuford and Whitehurst, Speaker Vaughn, and Representatives Gregory and Short attended the 1967 meeting in Louisville, Kentucky. Major items on the program were intergovernmental relations, air and water pollution, the role of the states in public health, recent developments in the legislative process, and crime control.

The 1968 conference was held in Biloxi, Mississippi, with Chairman Eagles, Speaker Vaughn, and Representatives Gregory and Short in attendance. This session was concerned with legislative staffing, consumer protection in the field of agricultural commodities, industrial bond financing, and organization of and bargaining by public employees.

National Legislative Conference

The National Legislative Conference is an annual meeting of legislators and key legislative staff from all of the states. Major legislative policy issues and matters of legislative staffing and procedures are considered at these sessions.

The 1967 meeting, in San Antonio, Texas, was attended by Chairman

Eagles, Speaker Vaughn, Senator Whitehurst, and Representatives Gregory and Short. Some of the major subjects considered were urban problems, constitutional revision, the role of legislative fiscal staff, statutory revision, applying industrial management techniques in state government, and new technological developments applicable to legislative research.

The conference met in Miami Beach, Florida, in 1968. In attendance were Chairman Eagles, Speaker Vaughn, Senator Whitehurst, and Representatives Gregory and Short. Among the important matters discussed were crime in the streets, legislative publications, continuous statutory revision, legislative post-audit, federal-state tax relations, legislative staff training, and bill drafting services.

Committee on Suggested State Legislation

The Committee of State Officials on Suggested State Legislation is a committee of the Council of State Governments created during World War II to review the proposals for state legislation which began to originate in large numbers from various federal agencies. The committee continues to analyze proposed state legislation recommended by federal agencies as well as suggested state legislation developed by a variety of national organizations.

Mr. Wheeler serves as North Carolina's member of the Committee on Suggested State Legislation and is vice-chairman of the committee. He attended meetings of the committee and of its Subcommittee on Scope and Agenda during each year of the biennium. His report for 1968 appears as Attachment B.

Legislative Recommendations of Commission

A major function of the commission is to recommend to the Governor and General Assembly proposed legislation dealing with problems of interstate concern. The following sections constitute the recommendations of the commission

to the Governor and the 1969 session of the General Assembly. Drafts of the recommended legislation appear as attachments to this report.

Interstate Agreement on Qualification of Educational Personnel

The commission recommends this agreement, which is in the form of an interstate compact. Merely a facilitating instrument, the agreement authorizes the state to enter into agreements with one or more other states regarding recognition of the certification of educational personnel.

As of March 27, 1969, the agreement had been adopted in eight states: California, Indiana, Maryland, Massachusetts, Minnesota, New York, Vermont, and West Virginia. It was also at that time under consideration in the legislatures of at least 35 states.

The agreement was recommended by the North Carolina State Advisory Council on Teacher Education on January 17, 1969. Dr. A. Craig Phillips, State Superintendent of Public Instruction, endorsed the agreement by letter of March 13, 1969, to Mr. Wheeler, Secretary to the Commission.

The need for the agreement can be stated as follows:

Teaching is one of the licensed or certified professions in all states. Likewise, many types of auxiliary professional personnel such as school social workers, speech therapists, guidance counselors, etc. must have licenses or certificates before they can be considered for employment in school systems. Since each state has its own educational system, personnel having qualified in one state are not automatically qualified for employment in the schools of other jurisdictions.

Nevertheless, professional school personnel do move from state to state in large numbers. This fact is true of both men and women, but this circumstance has special significance for teaching manpower because so large a part of

the teacher force is female. Usually, married teachers move more for family reasons than for reasons of economic advancement. In any case, however, unnecessary impediments to the orderly and easy qualification of properly trained and experienced teachers and other school professionals reduces the supply of persons available to operate our school systems. Needless to say, it also produces injustice ranging from inconvenience to outright denial for many persons who have qualified as educators in states other than the ones in which they now live.

Each state now has its own system of law and administrative practice governing the process of licensing or certifying teachers. In varying degrees, these systems are based on detailed prescriptions of course requirements attached to teacher training programs, and a miscellaneous list of other statutory and administrative requirements. It cannot be said that all of the many differences found among the states in these respects are whimsical. But it is also true that many of them are not single requirements that should be considered determinative of satisfactory teacher performance. In brief, with only very rare and limited exceptions, a person who is well prepared as a teacher or other school professional in one state can function well in any state.

The Interstate Agreement on Qualification of Educational Personnel is designed to provide an efficient means of bridging differences in substantive and procedural arrangements for the qualification of teachers and other educators, without affecting the autonomy of individual state educational systems. The results flowing from proper use of the Agreement should be to reduce or eliminate duplication of administrative effort in checking teacher records already evaluated by competent authorities in other states; improve teacher morale by removing irritants now identified with the certification process, and increase the supply of qualified educational personnel available in all jurisdictions.

The Agreement is in the form of an interstate compact. Consequently, it is legally similar to many other instruments of interstate cooperation that have operated in virtually all fields of state government responsibility. However, this Agreement is less elaborate than many interstate compacts. It sets up no new administrative body and requires no new appropriations to become effective. Its sole function is to provide the necessary legal authority for state education agencies to work out systems that would ease the recognition by many states of decisions on teacher qualifications already made in another state. At the same time safeguards are provided to assure each participating state that the system will not produce interstate acceptance of substandard educational personnel.

The heart of the Agreement is its provisions authorizing the making of contracts by designated state education officials. These contracts would have the force of law and would provide for the conditions under which the determinations made as to teacher qualifications in one state could be accepted by other states, without the necessity for re-examination of the determinations already made. The Agreement specifies the minimum contents of such contracts in such a way as to assure the contracting states that standards employed for passing on qualifications in all the states concerned will be sufficiently high.

Enactment of the Agreement would be merely facilitating in character. States could then make agreements with as few or as many other states as seemed appropriate. This could be done either on a regional or a nationwide basis.

The materials in Attachment C consist of two instruments: one, the text of the Interstate Agreement on Qualification of Educational Personnel, and two, a Suggested Enabling Act. The first instrument must be enacted in identical form in each

of the participating states because in addition to being a statute it is also a contract among the participating jurisdictions. Consequently, variant versions could destroy the necessary element of agreement. On the other hand, the only purpose of the suggested Enabling Act is to fit the Interstate Agreement into the existing pattern of state law and to make certain provisions of an implementing character. It is suggested that the Enabling Act in every state cover all the subjects dealt with in the model, but the precise nature and content of these provisions may be accommodated to individual state needs and preferences. The only essential is that no provision of an Enabling Act be inconsistent with provisions of the Agreement.

National Guard Mutual Assistance Compact

Events of the past several years have demonstrated the need for flexibility and coordination in the use of National Guard forces to meet emergencies. While an emergency normally arises within a single State, the trained and equipped personnel necessary to deal with it may not be present in sufficient numbers within that State. This may be true either because of the seriousness of the single emergency, or because several emergencies develop simultaneously.

The compact is designed to provide for the deployment of National Guard units across State lines upon the request of a Governor of a party State, and with the agreement of the Governor of a responding State. The Governor of the responding State would not have to send National Guard units into another jurisdiction, if he believed it inappropriate to do so. Consequently, the provisions of the compact deal principally with the distribution of responsibilities in those circumstances where requests result in the interstate use of National Guard personnel and equipment.

The point should be emphasized that the Compact in no way increases the powers of the governor or the National Guard in dealing with emergencies. The Compact would only empower the governor of one state to request additional troops

from another State.

Each party State would continue to bear the primary responsibility for pay, allowances, and compensation for injury or death on the same basis as though the units were operating within the home State. In addition, the requesting State would bear the cost of equipment and supplies. All of the foregoing liabilities would be subject to reimbursement by the aided State.

The basic principles embodied in the National Guard Mutual Assistance Compact are not new. They are similar to those employed in the several forest fire compacts for many years, and also similar to those found in the civil defense and military aid compacts.

In developing the present agreement, consideration was given to the desirability of limiting interstate use of the National Guard to adjoining States and to civil disorders. While it seems most likely that logistic considerations and the increased costs involved in calling on distant forces will severely limit employment of the compact by noncontiguous States, it was thought unwise to place such an absolute restriction in the document itself. Under the compact, requests for aid and responses to those requests are in the discretion of the Governors concerned, and it is thought that they should be able to call for help and supply it as the circumstances of each case require. Similarly, there appeared to be little reason for limiting the compact to civil disorders. Consequently, the compact merely limits the interstate use of forces to those situations in which National Guard units may lawfully be employed.

The most desirable command structure in cases of interstate use of the National Guard also was considered. In order to preserve existing types of relationship, it is provided that guard units may be commanded only by military or guard personnel with the qualifications to command them under existing laws, other than the compact.

Multistate Tax Compact

For a number of years Congress has shown an interest in state and local taxation of multistate business firms and activities. Supporters of federal enactments in this field have alleged local tax laws and the burdens imposed upon taxpayers by requirements for paying taxes to many jurisdictions raise serious problems and produce inequities.

State and local officials have almost unanimously opposed federal legislation on this subject. They contend that the taxing power and discretion in exercising it is at the root of our system of government. If Congress undertakes to limit the state and local revenue raising capacity or to determine which taxpayers these governments may reach, a serious blow will have been dealt to the independence of state and local public institutions. Also, inroads will have been made on the ability of nonfederal units of government to finance and provide the multitude of services for which demand is constantly rising.

Certainly, there are problems in the area of multistate taxation. Uniformity or substantial similarity in some aspects of state and local tax law and administration have been promoted for years by such organizations as the National Conference of Commissioners on Uniform State Laws and the National Association of Tax Administrators. These efforts have met with growing success.

The Multistate Tax Compact was developed by a widely representative group of State officials, including a Special Committee of the Council of State Governments, tax administrators, Attorneys General, and State legislators. The Compact was put into final form in December 1966. Eighteen states have now enacted the compact, and the Commission recommends that the North Carolina General Assembly enact the compact. The text of the compact appears as Attachment E.

The Multistate Tax Compact deals primarily with those types of taxes paid by business firms, but in addition all other kinds of state and local tax laws and

administration could be covered to some extent by research and recommendatory provisions of the compact. On the whole, the basic justification for the Multistate Tax Compact is that the states themselves are the most appropriate instruments for the determination of their own tax laws and policies. The compact is a means by which the states can cooperatively work out any problems which may exist, or which may arise in the future, because businesses function in more than one state. Further, the record of activity in Congress over the past few years appears to make it likely that if the states do not take cooperative action to deal with the problems alleged to exist, federal legislation restricting the jurisdiction of the states and their local governments to tax will ensue. This may be true whether or not allegations that serious problems and inequities exist are actually covered.

In 1959, the United States Supreme Court decided the Northwest Portland Cement and Stockham Valve cases. The net effect of these decisions, and of that in the Scripto case of 1961, was to make it absolutely clear that state and local jurisdiction to tax could rest on sales activity of the taxpayer within the jurisdiction, even if the taxpayer had no physical property or full-time employees within the jurisdiction. This conclusion was not at all surprising, because it was in support of the general proposition that a taxpayer's benefiting from economic activity in a jurisdiction makes him liable for taxes there. However, the final judicial determination that such was the case led some elements of the multistate business community to press for federal legislation that would establish a contrary result. Within months of the Northwest and Stockham decisions, this pressure succeeded in securing enactment of Public Law 86-272, a statute which removed many sales activities of out-of-state firms from state and local taxing jurisdiction. One of its consequences has been to place at a tax disadvantage local firms and those multistate firms that cannot organize their activities to take advantage of the statute.

Also authorized by Public Law 86-272 and amendments to it was a study of state and local taxation of multistate businesses. On the last day of the first session of the 89th Congress, the Willis Subcommittee presented its bill, H. R. 11798. Briefly stated, H. R. 11798 would have limited drastically the jurisdiction of state and local governments in the fields of income, sales and use, gross receipts and capital stock taxation. It would have injected the federal government into the administration of state and local tax laws and adjudication of tax disputes. Finally, it would have prohibited certain practices complained of.

The several more recent Congressional bills, like H. R. 11798, prevent overlapping or nonuniform state and local taxation by the simple expedient of exempting certain multistate businesses from such taxation. Obviously, this would relieve the favored taxpayers of any compliance burdens or from any concern with nonuniformity of state and local laws. But it would do so at the expense of state and local revenue raising capacity, and without attempting to determine whether the favored taxpayers actually do owe any obligation of support to the jurisdictions affected.

The basic objective of the compact is to provide solutions and additional facilities for dealing with a number of tax problems of multistate businesses, notably the ones identified by the Willis Subcommittee of the House Committee on the Judiciary. Perhaps even more important in the long run, the compact would provide mechanisms for dealing with multistate tax problems on a continuing basis and for solving future problems as well as those presently known to exist. Like the recent proposals for federal legislation, the compact deals most immediately with income, capital stock, gross receipts, sales and use taxation. Also the compact is designed to provide for study, recommendatory and certain service features that could be applied to other state and local taxes as well.

One of the principal measures for improvement---i. e. , simplification of taxpayer compliance and elimination of the possibility of double taxation---in the income tax field is the Uniform Division of Income for Tax Purposes Act. The compact permits any multistate taxpayer, at his option, to employ the Uniform Act for allocations and apportionments involving party states or their subdivisions. Each party state may retain its existing division of income provisions, but it is required to make the Uniform Act available to any taxpayer wishing to use it. North Carolina enacted substantially the uniform act provisions in 1967.

While the availability of the uniform act should prevent disputes or minimize their number, the compact also provides for an arbitration procedure for the settlement of such disputes as may remain. This is also at the option of the taxpayer, who may pursue a judicial remedy if he prefers.

The compact further aids uniformity by providing for the making of advisory administrative regulations applicable to any uniform provisions of statutory law.

A number of reforms already adopted widely are made universal among the party states by the compact. For example, credits for sales taxes paid to other jurisdictions, provision for a small taxpayer to elect to pay a tax on gross sales in lieu of net income and relief of vendors from collection of sales or use taxes upon good faith acceptance of an exemption certificate are assured.

The matter of efficiency of audits, with concomitant convenience to taxpayers, long has been a subject of interest. The compact makes single audits possible on a multistate basis, in those states choosing to become parties to a cooperative audit article.

While many of the compact's provisions are self-executing, some require the conduct of research, informational, and implementing activities. For these purposes, the compact has established a Multistate Tax Commission composed of representatives of the party states having responsibility in multistate tax matters. Although an interstate administrative agency is new in the tax field, there are a number of interstate administrative agencies, some with many years of successful operation.

Uniform Anatomical Gift Act

The problem of this Act, which is recommended by the Commission, was most dramatically brought home to the public during the past year in the numerous references in the public news media concerning heart transplants. Thirteen states have now enacted the Uniform Act. The problem of the use of all or part of the human body is much broader than the problem of transplants of hearts, kidneys, and livers. Parts of human bodies are used in many aspects of medical science including teaching, research, therapy, and transplantation. Under existing surgical and medical procedures transplants may involve skin grafts, bones, blood, corneas, kidneys, livers, hearts, and arteries. Kidney transplants are becoming commonplace; over 1100 have been successfully performed in the last dozen years. Given the level of research in biology and medicine, it may be expected that this subject will continue to expand medically.

The legal aspects of transplants are involved in both transplants from one living person to another living person, but also from a dead person to the living. In a transplant, such as a blood transfusion, from one living person to another living person, all that is required is appropriate written informed consents authorizing removal of the portion of the body and the implantation in the other. If utilization of all or any part of the body after death is involved, the legal problems have been much more complicated. Part of the complication arises from the variety of interest in the dead body. The deceased had an interest during his lifetime which can be given post-mortem effect. After his death, his survivors, such as a surviving spouse, have certain

interests that must be recognized and dealt with. Finally, the public has an interest in such matters as finding the cause of death and in the availability of a sufficient number of human bodies and parts thereof to satisfy the needs of the living and of medical science. Absent statute, existing law is in a state of confusion as to these various rights. The English ecclesiastical courts from which our law has been inherited, for example, provided that there were not any "property rights" in the dead human body and that the private rights covered only the matter of a "decent burial." Thus, it was not clear whether the deceased could direct disposition of his body.

Over time a large number of statutes have been passed concerning various aspects of the law of disposition of bodies. More recently, as medical science has progressed specialized statutes have been passed authorizing disposition by the deceased of portions of his body. Thus, some States have a law dealing with transplants of cornea, kidney, and the like. While thirty States or more have, since 1950, adopted statutes dealing with this subject, most of them are less than comprehensive and adequate. Many of the statutes authorizing a gift, for example, fail to provide for revocation of gifts before its execution. Many statutes authorizing gifts executed in the enacting State do not make provision for recognition of gifts executed in another State but to be used in a State other than the place of execution.

The proposed Act is a comprehensive treatment of the problem of gifts of all or portions of a body. It answers the following questions: By whom may a gift of parts of the body be made? To whom may a gift be made? What provision should be made for revocation? What should be the effect of the donor's gift upon rights of surviving relatives and upon civil and criminal liability of the surgeon or other medical officer involved in removal of the parts? The proposed statute covers all of these questions.

Not only is there a need for uniformity because of the great diversity of statutory provisions on the subject today, but because of the high mobility of the American population. Although a gift may be executed in State A to an institution in State A, death may occur in State B and given scientific problems of timing of removal of the part of the body and the difficulty of transportation of the body or part, the most effective and socially desirable use of the gift may be in State B or even State C. It is desirable, therefore, to provide for uniformity of law in order to take care not only of the patient who moves from one place to another but also to take care of the accident of the place of death.

The proposed Uniform Act is comprehensive in its applicability to parts of the body for which science currently makes transplants possible, but also for foreseeable developments in medical science.

Unsolicited Merchandise

The delivery of unsolicited merchandise as a sales technique has become a widespread practice generating considerable consumer protest. Unordered merchandise is sent to a recipient forcing him to either act to return it or else pay for it.

This practice has increased due to the expanded use of the postal system for merchandising. Consumers who have been most seriously injured are those usually least able to pay for unsolicited merchandise.

The Commission recommends legislation which would give the recipient the right to refuse to accept delivery of unsolicited goods, and relieving him of any duty to return such goods to the sender. The proposed bill appears as Attachment G.

Additional Policy Recommendation

The Advisory Commission on Intergovernmental Relations, established under federal law, is a joint agency of the federal, state, and local governments to study

problems of mutual interest to these levels of government. The membership includes United States Senators and Representatives, federal department heads, state legislators, governors, mayors, and elected county officials. Both Senator Sam J. Ervin, Jr. and Representative L. H. Fountain of North Carolina serve on the commission.

The Advisory Commission requested in 1968 that the states and larger units of local government assist in funding its activities. The proposed appropriation per state is \$1,000 a year. Governor Dan K. Moore in 1968 allocated funds to provide the North Carolina contribution. The Commission on Interstate Cooperation recommends that the General Assembly appropriate \$1,000 per year for the 1969-71 biennium to assist in financing the research activities of the Advisory Commission on Intergovernmental Relations.

Other Proposals Considered

The Commission reviewed a large number of other legislative proposals during the biennium. The bills and other proposals listed in this section are ones on which the Commission took some formal action short of recommending them to the General Assembly.

Uniform Consumer Credit Code

The Uniform Consumer Credit Code is a comprehensive proposal, drafted by the National Conference of Commissioners on Uniform State Laws, to bring state law into conformity with the federal Consumer Credit Protection Act (P. L. 90-321).

The final draft of this code was approved on July 30, 1968, and copies were not available for some time after that date. As a result, the commission had inadequate time for thorough consideration of legislation of this scope and complexity prior to the convening of the 1969 session of the General Assembly. The commission did not wish to duplicate the work of standing committees during the session. Accordingly,

the Uniform Consumer Credit Code was transmitted to the chairmen of the House Banks and Banking Committee and the Senate Banking Committee and to the Attorney General.

The Pest Control Compact

Each year pests do approximately seven billion dollars in damage to the country's agricultural and forest crops and products. The Pest Control Compact applies the insurance principle to pest control. Each state would pay annually into a fund, administered by a board consisting of a representative of each party state.

The board would then allocate funds to control a pest in one state which would also constitute a menace to agricultural or forest crops and products in one or more additional states. In most cases, federal funds would be available to match these expenditures.

Eight states have joined the compact, and four others have enacted it contingent upon certain neighbor states becoming parties. West Virginia is the only southern state to have enacted the compact.

The commission endorses the principles and purposes of the compact. In light of the facts that an appropriation of \$38,000 a year would be required and no neighboring state is a party, the action of the commission was to refer the compact to the chairmen of the Senate and House committees on agriculture for further consideration.

Uniform Traffic Law Research

The National Committee on Uniform Traffic Laws and Ordinances developed the Uniform Motor Vehicle Code in 1926 and has maintained and updated it since that time. Financial support for the National Committee in recent years has come largely from national organizations interested in highway safety and some grants from federal agencies for specific projects.

Indicating that additional funding was necessary for the National Committee to carry out its research and publications program, the Executive Director, on December 9, 1968, wrote Chairman Joe E. Eagles requesting that the North Carolina General Assembly appropriate \$1,000 a year for the work of the National Committee. This request was referred to the chairmen of the Senate and House Committees on Highway Safety.

ATTACHMENT A

Commission on Interstate Co-operation Statute

(North Carolina General Statutes 143-178 thru 143-186)

143-178. North Carolina Commission on Interstate Co-operation.-- There is hereby established the North Carolina Commission on Interstate Co-operation. This Commission shall be composed of eleven members as follows:

- (1) President of the Senate;
- (2) Speaker of the House of Representatives;
- (3) Three senators designated by the President of the Senate;
- (4) Three representatives designated by the Speaker of the House; and
- (5) Three administrative officials designated by the Governor. (1937, c. 374, s. 4; 1947, c. 578, s. 3; 1959, c. 137, s. 2; 1961, c. 1108; 1965, c. 866.)

143-179. Officers of the Commission.-- The Governor shall biennially designate the chairman of the Commission from among the legislative members of the Commission. The Commission shall biennially elect its secretary from its membership. (1937, c. 374, s. 4; 1947, c. 578, s. 3; 1959, c. 137, s. 2)

143-180. Senate Members on Interstate Co-operation. -- The President of the Senate shall, on or before July 1 of the year in which each regular session of the General Assembly is held, designate three members of the Senate as members of the Commission on Interstate Co-operation. (1937, c. 374, s. 1; 1947, c. 578, s. 1; 1959, c. 137, s. 2.)

143-181. House Members on Interstate Co-operation. -- The Speaker of the House of Representatives shall, on or before July 1 of the year in which each regular session of the General Assembly is held, designate three members of the House as members of the Commission on Interstate Co-operation. (1937, c. 374, s. 2; 1947, c. 578, s. 2; 1959, c. 137, s. 2.)

143-182. Terms of Office of Members. -- Each of the Senate and House members of the Commission shall serve until his successor as a member of the Commission is designated. Each administrative member of the Commission shall serve for a term of two years and until his successor is designated. (1959, c. 137, s. 2.)

143-183. Functions and Purpose of Commission.-- It shall be the function of this Commission:

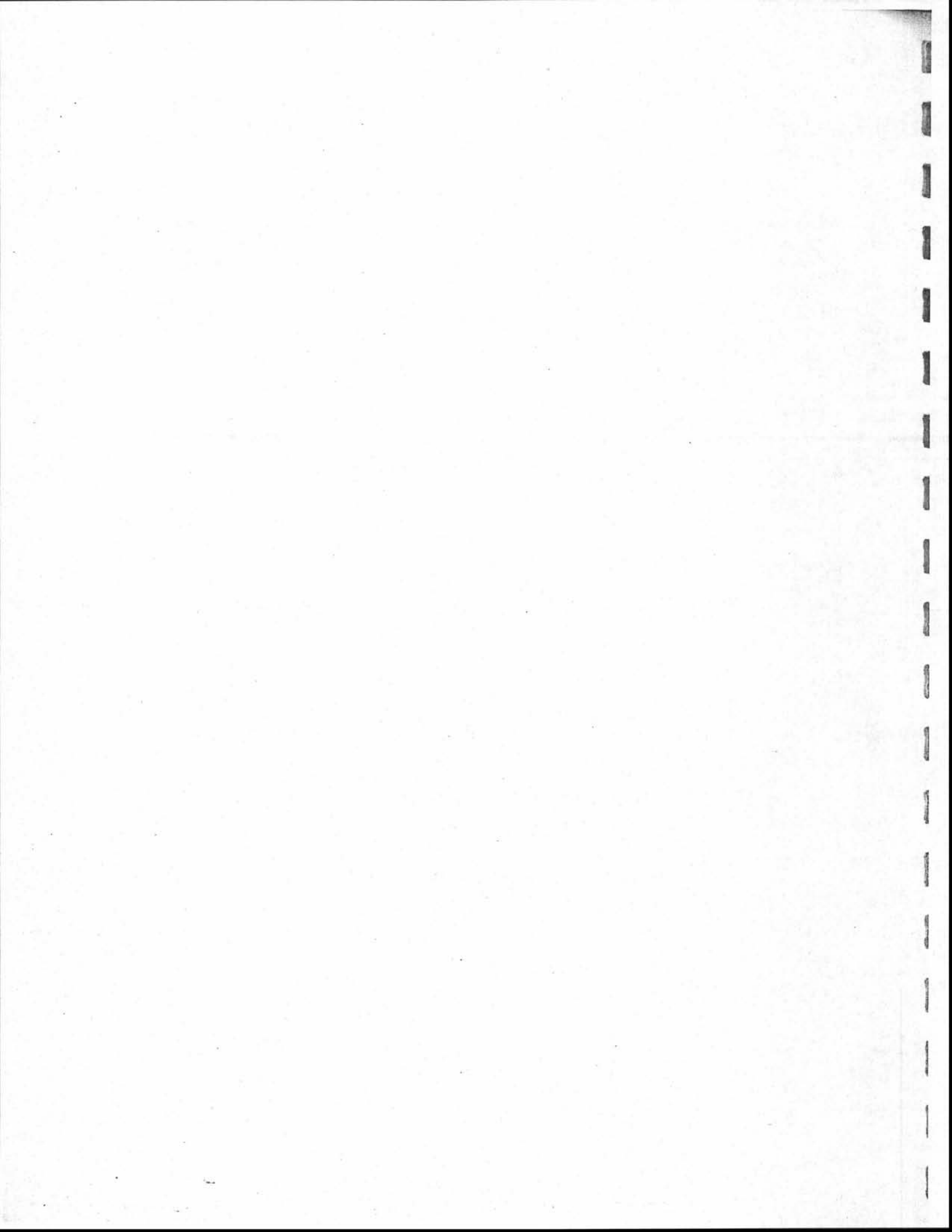
- (1) To carry forward the participation of this State as a member of the Council of State Governments.
- (2) To encourage and assist the legislative, executive, administrative, and judicial officials and employees of this State to develop and maintain friendly contact by correspondence, by conference and

- otherwise, with officials and employees of the other states, of the federal government, and of local units of government.
- (3) To endeavor to advance co-operation between this State and other units of government whenever it seems advisable to do so by formulating proposals for, and by facilitating:
- a. The adoption of compacts,
 - b. The enactment of uniform or reciprocal statutes,
 - c. The adoption of uniform or reciprocal administrative rules and regulations,
 - d. The informal co-operation of governmental offices with one another,
 - e. The personal co-operation of governmental officials and employees with one another, individually,
 - f. The interchange and clearance of research and information, and
 - g. Any other suitable process.
- (4) To study, analyze, and report to the Governor and the General Assembly its recommendations concerning interstate compacts affecting the interests of North Carolina and studies and reports prepared by the Council of State Governments and similar agencies; regularly to inform the members of the General Assembly and other State officials of the publications and services which the Council of State Governments makes available to them; and to attend appropriate national and regional conferences of State officials considering interstate problems of concern to North Carolina and report thereon to the Governor and the General Assembly.
- (5) In short, to do all such acts as will, in the opinion of this Commission, enable this State to do its part--or more than its part--in forming a more perfect union among the various governments in the United States and in developing the Council of State Governments for that purpose. (1937, c. 374, s. 6; 1959, c. 137, s. 3.)

143-184. Appointment of Delegations and Committees; Persons Eligible for Membership; Advisory Boards.--The Commission shall establish such delegations and committees as it deems advisable, in order that they may confer and formulate proposals concerning effective means to secure inter-governmental harmony, and may perform other functions for the Commission in obedience to its decisions. Subject to the approval of the Commission, the member or members of each such delegation or committee shall be appointed by the chairman of the Commission. State officials or employees who are not members of the Commission on Interstate Co-operation may be appointed as members of any such delegation or committee, but private citizens holding no governmental position in this State shall not be eligible. The Commission may provide such other rules as it considers appropriate concerning the membership and the functioning of any such delegation or committee. The Commission may provide for advisory boards for itself and for its various delegations and committees, and may authorize private citizens to serve on such boards. (1937, c. 374, s. 7.)

143-185. Reports to the Governor and General Assembly; Expenses; Employment of Secretary, etc.--The Commission shall report to the Governor and to the legislature within fifteen days after the convening of each regular legislative session, and at such other times as it deems appropriate. Its members and the members of all delegations and committees which it establishes shall serve without compensation for such service, but they shall be paid their necessary expenses in carrying out their obligations under this article. The Commission may employ a secretary and a stenographer, it may incur such other expenses as may be necessary for the proper performance of its duties, and it may, by contributions to the Council of State Governments, participate with other states in maintaining the said Council's district and central secretariats, and its governmental services. The Governor and the Council of State are authorized to allocate from the contingency and emergency fund such sums as they shall find proper to provide for the necessary expenses which said Commission is authorized to incur, as hereinbefore provided. (1937, c. 374, s. 8; 1947, c. 578, s. 5.)

143-186. Council of State Governments a Joint Governmental Agency.--The Council of State Governments is hereby declared to be a joint governmental agency of this State and of the other states which co-operate through it. (1937, c. 374, s. 10; 1959, c. 137, s. 4.)



ATTACHMENT B

Report on Suggested State Legislation

(Submitted by Charles L. Wheeler, North Carolina Delegate
to Committee of State Officials on Suggested State Legislation
of the Council of State Governments)

The Subcommittee on Scope and Agenda of the Committee of State Officials on Suggested State Legislation met in Washington, D. C. on April 24, 1968. Your delegate attended as a member of the subcommittee and vice-chairman of the full committee. The subcommittee considered about 60 proposals for state legislation, and 29 of these items were referred to the full committee.

The full Committee on Suggested State Legislation met in Washington, D. C. on June 26-27, 1968. In the absence of the chairman, your delegate presided over the plenary sessions and also chaired one of the three panels which gave detailed consideration to legislative proposals. He also was chairman of the committee which developed the weapons control proposal.

The report of the committee will be submitted to each of you as the 1969 volume of Suggested State Legislation. Your delegate undertook to ascertain the views of the concerned North Carolina State departments and agencies with respect to the major proposals. The remainder of this memorandum summarizes the state legislation and reports the results of such consultation.

Weapons Control

Because of the widespread national interest in weapons control legislation, the objective of the committee was to develop a comprehensive draft which would meet the needs of urban states desiring a high degree of regulation. At the same time, the committee members realized that states which were more rural in population distribution might desire a less stringent level of regulation.

The draft proposal prohibits the possession of firearms and other dangerous devices, except rifles, shotguns, and handguns. Law enforcement officers and personnel of the Armed Forces and National Guard while engaged on official duty are excepted from the provisions of the act. Neither would the proposed act extend to antique firearms or to other weapons possessed as curios, ornaments, or for their historical significance or value.

Specifically the suggested legislation would:

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1. require that an "identification card" be obtained by gun users;
2. establish adequate procedures to identify would-be purchasers of guns;
3. require a waiting period between application and receipt of identification card;
4. require that an identification card be presented when guns or ammunition are purchased;
5. make ineligible for identification cards those suffering from a physical or mental defect, condition, or illness; those addicted to alcohol or narcotics; and those who have been convicted of crimes of violence;
6. require a showing of need by one who seeks to be permitted to carry a handgun;
7. establish a central state registry of guns;
8. prohibit alteration of gun serial numbers and identification cards;
9. require licensing of gun dealers, manufacturers, and wholesalers, and
10. afford judicial review.

Unemployment Compensation for Retired Military Personnel

The unemployment compensation program for ex-servicemen and other employees separated from the federal service is established by federal law and financed entirely by federal appropriations. Serious difficulties have arisen in administration of the program because eligibility is established and payment made according to the unemployment compensation law of each individual state. At the present time, about 26 states exclude persons who are receiving retirement pay of certain types.

This statement suggests that the states review their unemployment compensation laws to remove this inequity, since retirement payments to such persons represent "deferred earned income." The Employment Security Commission indicates that retired pay of military personnel is not considered income for unemployment compensation purposes in North Carolina.

Snowmobile Regulation

A snowmobile is any engine-driven vehicle of a type which utilizes sled runners, skis, or an endless belt tread as a means of contact with the surface upon which it is operated. Such vehicles are becoming very popular in the colder areas of the country. This proposal prohibits operation of snowmobiles on highways and forbids hunting or driving game from them. It also prohibits operation by children under 12 years or persons under the influence of alcohol or narcotics.

The suggested state legislation was referred to the Department of Motor Vehicles for comment. Commissioner Ralph L. Howland indicates that snowmobiles may be operated in western North Carolina and suggests that such legislation might be advantageous.

Disposition of Property of Missing Servicemen and Government Employees

This statement does not include draft legislation. The statement recommends

that the federal definition of missing person status be incorporated by reference, as is done in G.S. 8-37.1 through 8-37.3. G.S., Chapter 28A, enacted in 1965, appears to meet most of the requirements of the statement regarding safeguarding and disposition of the estates of missing persons.

Provision of Special Educational Materials and Training

This draft provides for the establishment of state centers to provide educational materials and training in the education of handicapped and gifted children. It also provides enabling legislation for contracts between the states for the provision of such materials and services. Felix S. Barker, Supervisor for Special Education in the Department of Public Instruction, indicates that such a materials center is being established in North Carolina and that his department has adequate authority to contract for materials and services.

Liability of Housing Merchants

Because of the doctrine of caveat emptor, no warranties usually are implied in the sale of a completed house. A number of states, however, are moving in the direction of a doctrine of implied warranty.

This proposal was developed by the New York State Law Revision Commission. It imposes upon a builder-vendor of one-and two-family homes a liability for damages for personal injuries or death because of a defect in construction or materials. Warranties of freedom from faulty materials, construction according to sound engineering standards, construction in a workmanship manner, and fitness for habitation are implied in every sale. The builder-vendor is liable, however, only for defects that a reasonably diligent person or user would not have discovered in time to avoid injury.

Household Domestic Workers: Wages and Hours

The committee tabled this proposal, which would have extended minimum wage coverage to household domestic workers. The committee felt that technical assistance was not necessary for this simple amendment, and that the overtime provision of the draft was of much broader scope than the title indicated.

Mandatory State Animal Disease Reporting System

This statement urges all states to adopt a mandatory animal disease reporting system. The U. S. Department of Agriculture indicates that such a system would be a great aid to the export trade in livestock, since many foreign countries require certification that the point of origin is free of diseases which are non-existent or rare in this country. G.S. 106-307.2 constitutes such a reporting requirement in North Carolina.

Unfair Trade Practices and Consumer Protection Law

For a number of years the Federal Trade Commission has been suggesting that states prohibit in intrastate commerce those unfair trade practices which are

prohibited by the Federal Trade Commission Act in interstate commerce. Nine states, not including North Carolina, have enacted legislation of this type.

A Uniform Trade Practices and Consumer Protection Act appeared in the 1967 volume of Suggested State Legislation. This statement suggests more generalized language which would incorporate the body of Federal Trade Commission administrative and case law by reference.

Judicial Discipline and Removal

This proposal could be either a constitutional amendment or a statute, depending upon the situation in a particular state. A "Commission on Judicial Qualification" composed of judges, members of the bar, and public representatives, would make recommendations to the highest court of the state concerning the fitness of judges to continue to serve. The highest court of the state would make the actual disposition in each case.

This proposal was reviewed by Bert M. Montague, Director, Administrative Office of the Courts. He noted that the 1965 General Assembly enacted a removal provision relating to the judges of the District Court. This removal provision, however, was not extended to the other judges of the General Court of Justice. Mr. Montague considers the proposal a good guide for action in this area but doubts if North Carolina is ready for a constitutional provision of this type.

State Employee Interchange Act (Revision)

This proposal would permit departments and agencies of state and local governments to participate in employee interchange programs with the federal government as well as departments or agencies of the state and local governments within the state or other states. The draft was reviewed by Claude E. Caldwell, Director of Personnel, who questioned the need for such legislation at this time, since North Carolina is just beginning to work on the proposal of interchange of employees between agencies of the state government.

Interim Legislative Committees

This suggested act would make it possible for standing committees of the legislature to meet between sessions of the legislature. The proposal is not offered as a substitute for legislative service agencies. Rather, it is designed to enable standing committees to process legislation and inform themselves concerning its contents even though the legislature is not in session.

Certification of Real Property Appraisers

The committee tabled this proposal which would have provided for a state board to certify real property appraisers. The committee action was based on the feelings that present standards set by private associations are satisfactory, that there are presently no standard educational curricula for appraisers, and the private associations are not in agreement concerning desirable provisions of the legislation.

State Motor Fuel Tax Act

This draft was prepared by the Eastern Regional Commercial Vehicle Tax Committee. I. L. Clayton, Commissioner of Revenue, has compared the act with the North Carolina law. He finds that the suggested act is very similar to the present North Carolina legislation, but points out a number of technical differences. In several instances he feels that the draft act provisions may be preferable to the present North Carolina law.

Livestock Identification Act

This statement emphasizes the importance of being able to trace animals to the point of origin in the eradication of livestock diseases. G. S. 106-318 imposes a burden on the person transporting livestock to prove the origin, identity, and destination of the shipment.

State Boat Act Revision

Suggested State Legislation in 1959 carried a proposed "State Boat Act" to complement the Federal Boating Act of 1958. Forty-nine of the 53 jurisdictions now have state boating acts.

This draft, modeled on the earlier State Boat Act, was developed by special committees of the National Association of State Boating Law Administrators and the Advisory Panel of State Officials to the Merchant Marine Council. The draft act has been reviewed by the Wildlife Resources Commission staff. The most important changes from existing North Carolina law are:

1. brings equipment requirements up to current federal standards;
2. provides new section on uniform waterway markers;
3. requires that all vessels, not just "motor boats", be numbered;
4. requires that a boat pulling a skier always have an observer on board;
5. requires capacity plates on all vessels;
6. authorizes the state to make local boating regulations without a request from a local subdivision;
7. imposes more stringent penalties for violations; and
8. would eliminate the North Carolina registration fee exemption for commercial fishing boats.

Problem of Unsolicited Merchandise

The delivery of unsolicited merchandise as a sales technique has become a widespread practice generating much consumer protest. New York, Illinois, and Washington have recently enacted laws to control this practice. The recipient of any such goods may keep them without payment.

Solicitation in Guise of Bills or Statements of Account

Certain mailers have recently made a practice of sending to named addressees solicitations which appear to be in the form of invoices, bills, or statements of

account. California has recently enacted legislation making it unlawful to solicit payment through use of a statement or invoice for goods not yet ordered or services not yet performed. Any person who is damaged as a result of violations of the law may recover treble damages.

Licensing of Nursing Home Administrators

The 1967 Amendments to the Social Security Act require that commencing with 1972 a nursing home be administered by a licensed person in order to accept Medicare patients. This act provides for the licensure of nursing home administrators and for education, training, and experience qualifications in connection therewith.

This draft was reviewed by State Board of Health staff. They suggested that it should be modified to create a board of licensure involving individuals from the group to be licensed. Dr. Jacob Koomen, State Health Director, indicated that this proposal would be explored in greater detail.

Regulation of Clinical Laboratories and Their Personnel

This proposal provides for the licensing and regulation of clinical laboratories and their professional personnel. The act provides for qualifications, licensing procedures, suspension, revocation, and denial.

This proposal was reviewed by staff of the State Board of Health. They find that the draft is generally satisfactory and indicate that such legislation is needed in North Carolina. Dr. Koomen also stated that this proposal would be studied in greater detail in the months ahead.

Employment Records--- Racial and Ethnic Data

Nine states, not including North Carolina, have laws prohibiting the recording of racial or ethnic data on official records. The U. S. Department of Labor now feels that these laws are a hinderance to effective elimination of discrimination rather than an aid. This statement merely suggests that the nine states repeal this prohibition.

An Executive Branch Structure Act

This draft is a modification of a statute passed by the Wisconsin Legislature. It establishes specific statutory definitions for different kinds of operating agencies: department, commission, board, examining board, council, etc. The act establishes "principles of organization" as guidelines without prescribing the specific number of departments or other agencies.

Small Business Investment Companies

Suggested State Legislation for 1964 carried a statement on investment by banks in small business investment companies. Many states have adopted such permissive legislation. The purpose is to permit banks to invest in

federally licensed and assisted private companies set up to provide equity capital for small businesses.

The Small Business Investment Act of 1958 permitted national banks to invest up to two percent of their capital and surplus in such companies. At least 17 states enacting such legislation used this two percent figure. A 1967 amendment permits national banks to invest up to five percent in such companies, and this statement recommends that the states follow a similar course.

Chapter 53A of the General Statutes provides for the state incorporation of business development corporations for the same general purposes as the companies considered in this proposal. Section 53A-6 permits commercial banks and trust companies to invest a maximum of four percent of their capital and surplus in such business development corporations.

Discrimination Because of Age

Public Law 90-202 (1967) prohibits discrimination on the basis of age by an employer of more than 25 persons, a labor union of 25 members, or an employment agency. Twenty-three states have enacted legislation providing more complete coverage. As nearly as we can determine, North Carolina has not legislated in this area.

Federally Guaranteed Securities as Legal Investments

Suggested State Legislation for 1947 and 1951 contained proposals that fiduciary and financial institutions be permitted to invest in obligations of the International Bank for Reconstruction and Development (World Bank). In 1961, the Inter-American Development Bank was added. This proposal would include the Asian Development Bank. As nearly as we can determine, none of these investments are authorized in North Carolina.

Work Release From Prisons

This statement notes that the work release program has established a predominately favorable record in jurisdictions having experience with the program and points out that the federal provisions, 18U.S.C. 4082, is one of the most flexible forms of enabling legislation presently in effect. Section 148-33.1 of the General Statutes appears to be quite liberal in its provision for work release in North Carolina.

State Pest Control Laws

This statement points out that many state pest control laws are inadequate with regard to right of entry onto private lands and because of long required notice periods to the landowner. Section 106-421 of the General Statutes declares the uncontrolled existence of plant pests a nuisance and empowers the Commissioner of Agriculture, after reasonable notice, to take such measures as may be necessary to eradicate the pests. The North Carolina statute appears to meet the objectives of the statement.

Interstate Compacts

Two interstate compacts will appear in Suggested State Legislation for 1969. These items are summarized below:

National Guard Mutual Assistance Compact

This compact was approved by the National Governors' Conference at its 1967 meeting. The compact would provide flexibility and coordination in the use of National Guard Forces to meet any type of state emergency.

The compact provides for the movement of National Guard Units across state lines upon the request of a governor of a party state, and with the agreement of the governor of a responding state. A governor would not have to send troops into another state if he believed it inappropriate. Each party state would continue to bear responsibility for pay, allowances, and compensation for injury or death of its own National Guard personnel. The requesting state would be responsible for reimbursing the responding state for all costs.

Interstate Agreement on Qualification of Educational Personnel

Teaching is a licensed or certified profession in every state. Certification requirements in many states are so precise that they create real difficulties for qualified personnel in moving from one state to another. With perhaps only very rare and limited exceptions, a person who is well prepared as a teacher in one state would appear to be able to function effectively in any other state.

This agreement is designed as an efficient means to bring arrangements for certification of teachers into conformity, without affecting the autonomy of individual state school systems. The compact sets up no new administrative body and requires no new appropriations. Its sole function is to provide the legal authority for state education agencies to work out agreements which would ease the recognition by one state of decisions already made on teacher qualifications in another state. The agreement is merely facilitating in character, and its actual implementation would be by contracts between party states.

Uniform State Laws

The National Conference of Commissioners on Uniform State Laws this year promulgated seven acts for possible consideration by state legislators. These measures are typically "lawyer's bills", dealing with technical and complicated legal issues. A brief summary of each act follows:

Uniform Consumer Credit Code

This bill rivals the Uniform Commercial Code in size and took four years and over \$250,000 to produce. This code proposes to repeal all existing

usury laws and substitute for them a single rate ceiling applicable to all consumer credit transactions and to a very few non-consumer transactions. For almost all commercial credit transactions, there will be no limit, but the finance charge will be left to the competitive forces of the market.

Consideration of this act involves a certain degree of urgency, since the federal Truth-In-Lending Act goes into effect on July 1, 1969. This act provides that the Federal Reserve Board may exempt from regulation transactions which occur in states which the board certifies to have substantially identical laws. This code conforms to the federal act.

The federal act apparently will give the states a certain degree of flexibility in fixing interest rates. For example, the federal act imposes in one category an interest ceiling of 45 percent. In the Uniform Code, the basic ceiling is 18 percent with permission to charge up to 36 percent in transactions involving small sums of money.

Uniform Recognition of Acknowledgments Act

This act would require states which enacted it to recognize acknowledgments performed by certain designated officials out of the state, which, if performed in the state, would normally be done by a notary. Several previous uniform acts have recognized various military and other personnel for this purpose. This uniform act is more flexible in that it refers, in general terms, to the categories of personnel who have normally been empowered to take acknowledgments in the course of their official duties. The North Carolina statute, G. S. 47-2, is substantially the same as the model act.

Uniform Anatomical Gift Act

This act authorizes either the decedent or his survivors by a simple document to make a gift of all or part of his body to a recognized medical institution or to a particular individual for transplant in his body. The act does not purport to give a legal definition of "death." Everything under this act would date from a death certificate issued by a doctor who was not a member of the transplant team.

Revised Uniform Reciprocal Enforcement of Support Act

Since this act was originally drafted, the conference has approved several sets of amendments. This act is a complete revision, putting into place all of the amendments.

Uniform Juvenile Court Act

This act derives its importance from two developments in the federal field. The President's Crime Commission recommended that juvenile courts should be re-examined to determine whether their administrative and welfare functions, such as those concerning "dependent" children, could be separated from the duties of the juvenile court. Recent decisions of the

U. S. Supreme Court also have held that, if a juvenile court were proceeding in an area where the act would be a crime if committed by an adult, the normal standards of due process must be applied by the juvenile court. Since due process is a national unitary concept, the states' position will be enhanced if they have laws which require substantially identical treatment.

Uniform Child Custody Jurisdiction Act

"Jurisdiction shopping" reportedly has become a national scandal in connection with family breakdown disputes concerning the custody of children. The historic legal doctrine that jurisdiction of the court was based on the presence of the child has led to the use of kidnapping as a method of obtaining favorable jurisdiction. This act would establish a test which requires cooperation among judges of the states which have had substantial contacts with the child during his recent life history, and it makes conclusive the judgment of a court based on substantial contacts with the state.

Model Choice of Forum Act

This act, in commercial transactions, authorizes the parties to agree on the location of the court to hear any dispute concerning a commercial transaction. It directs the courts of the chosen state to hear the case in most circumstances, and it directs the courts of the other states which might have jurisdiction to abstain from acting contrary to the agreement of the parties.

ATTACHMENT C

Interstate Agreement on Qualifications of Educational Personnel

A BILL TO BE ENTITLED

AN ACT PROVIDING FOR THE ENTRY OF THE STATE INTO AN INTERSTATE AGREEMENT ON CERTIFICATION OF EDUCATIONAL PERSONNEL.

The General Assembly of North Carolina do enact:

Section 1. The interstate agreement on qualifications of educational personnel is hereby enacted into law and entered into with all jurisdictions legally joining therein, in the form substantially as follows:

INTERSTATE AGREEMENT ON QUALIFICATIONS
OF EDUCATIONAL PERSONNEL

Article I. Purpose, Findings and Policy.

1. The States party to this Agreement, desiring by common action to improve their respective school systems by utilizing the teacher or other professional educational person wherever educated, declare that it is the policy of each of them, on the basis of cooperation with one another, to take advantage of the preparation and experience of such persons wherever gained, thereby serving the best interests of society, of education, and of the teaching profession. It is the purpose of this Agreement to provide for the development and execution of such programs of cooperation as will facilitate the movement of teachers and other professional educational personnel among the States party to it, and to authorize specific interstate educational personnel contracts to achieve that end.

2. The party States find that included in the large movement of population among all sections of the nation are many qualified educational personnel who move for family and other personal reasons but who are hindered in using their professional skill and experience in their new locations. Variations from State to State in requirements for qualifying educational personnel discourage such personnel from taking the steps necessary to qualify in other States. As a consequence, a significant number of professionally prepared and experienced educators is lost to our school systems. Facilitating the employment of qualified educational personnel, without reference to their States of origin, can increase the available educational resources. Participation in this Compact can increase the availability of educational manpower.

Article II. Definitions.

As used in this Agreement and contracts made pursuant to it, unless the context clearly requires otherwise:

1. "Educational personnel" means persons who must meet requirements

pursuant to State law as a condition of employment in educational programs.

2. "Designated State official" means the educational official of a State selected by that State to negotiate and enter into, on behalf of his State, contracts pursuant to this Agreement.

3. "Accept", or any variant thereof, means to recognize and give effect to one or more determinations of another State relating to the qualifications of educational personnel in lieu of making or requiring a like determination that would otherwise be required by or pursuant to the laws of a receiving State.

4. "State" means a State, territory, or possession of the United States; the District of Columbia; or the Commonwealth of Puerto Rico.

5. "Originating State" means a State (and the subdivision thereof, if any) whose determination that certain educational personnel are qualified to be employed for specific duties in schools, is acceptable in accordance with the terms of a contract made pursuant to Article III.

6. "Receiving State" means a State (and the subdivisions thereof) which accepts educational personnel in accordance with the terms of a contract made pursuant to Article III.

Article III. Interstate Educational Personnel Contracts.

The designated State official of a party State may make one or more contracts on behalf of his State with one or more other party States providing for the acceptance of educational personnel. Any such contract for the period of its duration shall be applicable to and binding on the States whose designated State officials enter into it, and the subdivisions of those States, with the same force and effect as if incorporated in this Agreement. A designated State official may enter into a contract pursuant to this Article only with States in which he finds that there are programs of education, certification standards or other acceptable qualifications that assure preparation or qualification of educational personnel on a basis sufficiently comparable, even though not identical to that prevailing in his own State.

2. Any such contract shall provide for:

(a) Its duration.

(b) The criteria to be applied by an originating State in qualifying educational personnel for acceptance by a receiving State.

(c) Such waivers, substitutions, and conditional acceptances as shall aid the practical effectuation of the contract without sacrifice of basic educational standards.

(d) Any other necessary matters.

3. No contract made pursuant to this Agreement shall be for a term longer than five years but any such contract may be renewed for like or lesser periods.

4. Any contract dealing with acceptance of educational personnel on the basis of their having completed an educational program shall specify the earliest date or dates on which originating state approval of the program or programs involved can have occurred. No contract made pursuant to this Agreement shall require acceptance by a receiving State or any persons qualified because of successful completion of a program prior to January 1, 1954.

5. The certification or other acceptance of a person who has been accepted pursuant to the terms of a contract shall not be revoked or otherwise impaired because the contract has expired or been terminated. However, any certificate or other qualifying document may be revoked or suspended on any ground which would be sufficient for revocation or suspension of a certificate or other qualifying document initially granted or approved in the receiving State.

6. A contract committee composed of the designated State officials of the contracting States or their representatives shall keep the contract under continuous review, study means of improving its administration, and report no less frequently than once a year to the heads of the appropriate education agencies of the contracting States.

Article IV. Approved and Accepted Programs.

1. Nothing in this Agreement shall be construed to repeal or otherwise modify any law or regulation of a party State relating to the approval of programs of educational preparation having effect solely on the qualification of educational personnel within that State.

2. To the extent that contracts made pursuant to this Agreement deal with the educational requirements for the proper qualification of educational personnel, acceptance of a program of educational preparation shall be in accordance with such procedures and requirements as may be provided in the applicable contract.

Article V. Interstate Cooperation.

The party States agree that:

1. They will, so far as practicable, prefer the making of multi-lateral contracts pursuant to Article III of this Agreement.

2. They will facilitate and strengthen cooperation in interstate certification and other elements of educational personnel qualification and for this purpose shall cooperate with agencies, organizations, and associations interested in certification and other elements of educational personnel qualification.

Article VI. Agreement Evaluation.

The designated State officials of any party State(s) may meet from time to time as a group to evaluate progress under the Agreement, and to formulate recommendations for changes.

Article VII. Other Arrangements.

Nothing in this Agreement shall be construed to prevent or inhibit other arrangements or practices of any party State or States to facilitate the interchange of educational personnel.

Article VIII. Effect and Withdrawal.

1. This Agreement shall become effective when enacted into law by two States. Thereafter it shall become effective as to any State upon its enactment of this Agreement.

2. Any party State may withdraw from this Agreement by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the Governor of the withdrawing State has given notice in writing of the withdrawal to the Governors of all other party States.

3. No withdrawal shall relieve the withdrawing State of any obligation imposed upon it by a contract to which it is a party. The duration of contracts and the methods and conditions of withdrawal therefrom shall be those specified in their terms.

Article IX. Construction and Severability.

This Agreement shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Agreement shall be severable and if any phrase, clause, sentence, or provision of this Agreement is declared to be contrary to the Constitution of any State or of the United States, or the application thereof to any Government, agency, person, or circumstance is held invalid, the validity of the remainder of this Agreement and the applicability thereof to any Government, agency, person, or circumstance shall not be effected thereby. If this Agreement shall be held contrary to the Constitution of any State participating therein, the Agreement shall remain in full force and effect as to the State affected as to all severable matters.

Sec. 2. For the purposes of the Agreement set forth in Section 1 of this Act, the "designated State official" for this State shall be the State Superintendent of Public Instruction. He shall enter into contracts pursuant to Article III of the agreement only with the approval of the specific text thereof by the State Board of Education.

Sec. 3. All laws and clauses of laws in conflict with this Act are hereby repealed.

Sec. 4. This Act shall be full force and effect from and after July 1, 1969.

ATTACHMENT D

National Guard Mutual Assistance Compact

A BILL TO BE ENTITLED

AN ACT ENACTING AND ENTERING INTO THE "NATIONAL GUARD MUTUAL ASSISTANCE COMPACT", AND FOR RELATED PURPOSES.

The General Assembly of North Carolina do enact:

Section 1. The National Guard Mutual Assistance Compact is hereby enacted into law and entered into by this State with all other States legally joining therein, in the form substantially as follows:

NATIONAL GUARD MUTUAL ASSISTANCE COMPACT

Article I. Purposes.

The purposes of this Compact are to:

1. Provide for mutual aid among the party States in the utilization of the National Guard to cope with emergencies.
2. Permit and encourage a high degree of flexibility in the deployment of National Guard forces in the interest of efficiency.
3. Maximize the effectiveness of the National Guard in those situations which call for its utilization under this Compact.
4. Provide protection for the rights of National Guard personnel when serving in other States on emergency duty.

Article II. Entry Into Force and Withdrawal.

(a) This Compact shall enter into force when enacted into law by any two States. Thereafter, this Compact shall become effective as to any other State upon its enactment thereof.

(b) Any party State may withdraw from this Compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the Governor of the withdrawing State has given notice in writing of such withdrawal to the Governors of all other party States.

Article III. Mutual Aid.

(a) As used in this Article:

1. "Emergency" means an occurrence or condition, temporary in nature,

in which police and other public safety officials and locally available National Guard forces are, or may reasonably be expected to be, unable to cope with substantial and imminent danger to the public safety.

2. "Requesting State" means the State whose Governor requests assistance in coping with an emergency.

3. "Responding State" means the State furnishing aid, or requested to furnish aid.

(b) Upon request of the Governor of a party State for assistance in an emergency, the Governor of a responding State shall have authority under this Compact to send without the borders of his State and place under the temporary command of the appropriate National Guard or other military authorities of the requesting State all or any part of the National Guard forces of his State as he may deem necessary, and the exercise of his discretion in this regard shall be conclusive.

(c) The Governor of a party State may withhold the National Guard forces of his State from such use and recall any forces or part or member thereof previously deployed in a requesting State.

(d) Whenever National Guard forces of any party State are engaged in another State in carrying out the purposes of this Compact, the members thereof so engaged shall have the same powers, duties, rights, privileges and immunities as members of National Guard forces in such other State. The requesting State shall save members of the National Guard forces of responding States harmless from civil liability for acts or omissions in good faith which occur in the performance of their duty while engaged in carrying out the purposes of this Compact, whether the responding forces are serving the requesting State within its borders or are in transit to or from such service.

(e) Subject to the provisions of paragraphs (f), (g) and (h) of this Article, all liability that may arise under the laws of the requesting State, the responding State, or a third State on account of or in connection with a request for aid, shall be assumed and borne by the requesting State.

(f) Any responding State rendering aid pursuant to this Compact shall be reimbursed by the requesting State for any loss or damage to, or expense incurred in the operation of any equipment answering a request for aid, and for the cost of the materials, transportation and maintenance of National Guard personnel and equipment incurred in connection with such request: provided, that nothing herein contained shall prevent any responding State from assuming such loss, damage, expense or other cost.

(g) Each party State shall provide, in the same amounts and manner as if they were on duty within their State, for the pay and allowances of the personnel of its National Guard units while engaged without the State pursuant to this Compact and while going to and returning from such duty pursuant to this Compact. Such pay and allowances shall be deemed items of expense reimbursable under paragraph (f) by the requesting State.

(h) Each party State providing for the payment of compensation and death benefits to injured members and the representatives of deceased members of its National Guard forces in case such members sustain injuries or are killed within their own State, shall provide for the payment of compensation and death benefits in the same manner and on the same terms in case such members sustain injury or are killed while rendering aid pursuant to this Compact. Such compensation and death benefits shall be deemed items of expense reimbursable pursuant to paragraph (f) of this Article.

Article IV. Delegation.

Nothing in this Compact shall be construed to prevent the Governor of a party State from delegating any of his responsibilities or authority respecting the National Guard, provided that such delegation is otherwise in accordance with law. For purposes of this Compact, however, the Governor shall not delegate the power to request assistance from another State.

Article V. Limitations.

Nothing in this Compact shall:

1. Expand or add to the functions of the National Guard, except with respect to the jurisdictions within which such functions may be performed.
2. Authorize or permit National Guard units to be placed under the field command of any person not having the military or National Guard rank or status required by law for the field command position in question.

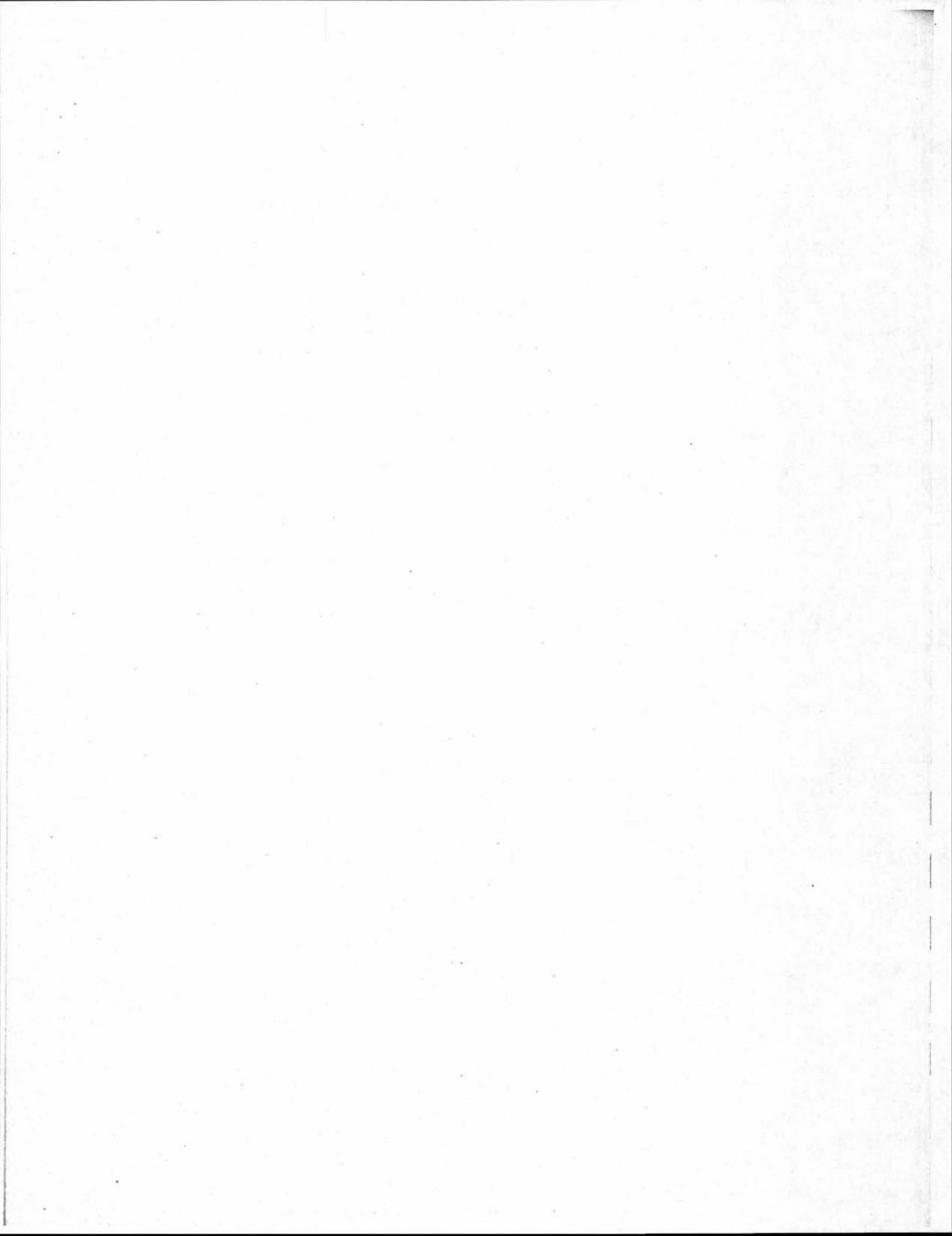
Article VI. Construction and Severability.

This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is declared to be contrary to the constitution of any State or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any State participating herein, the Compact shall remain in full force and effect as to the remaining party States and in full force and effect as to the State affected as to all severable matters.

Section 2. Upon presentation of a claim therefor by an appropriate authority of a State whose national guard forces have aided this State pursuant to the Compact, any liability of this State pursuant to Article III (f) of the Compact shall be paid out of the General Fund.

Section 3. In accordance with Article III (h) of the Compact, members of the national guard forces of this State shall be deemed to be in State service at all times when engaged pursuant to this Compact, and shall be entitled to all rights and benefits provided pursuant to the laws of this State.

Section 4. (Insert effective date.)



ATTACHMENT E

Multistate Tax Compact

A BILL TO BE ENTITLED

AN ACT ENACTING AND ENTERING INTO THE "MULTISTATE TAX COMPACT",
AND FOR RELATED PURPOSES.

The General Assembly of North Carolina do enact:

Section 1. The "Multistate Tax Compact" is hereby enacted into law and entered into with all jurisdictions legally joining therein, in the form substantially as follows:

MULTISTATE TAX COMPACT

Article I. Purposes

The purposes of this compact are to:

1. Facilitate proper determination of State and local tax liability of multistate taxpayers, including the equitable apportionment of tax bases and settlement of apportionment disputes.
2. Promote uniformity or compatibility in significant components of tax systems.
3. Facilitate taxpayer convenience and compliance in the filing of tax returns and in other phases of tax administration.
4. Avoid duplicative taxation.

Article II. Definitions.

As used in this compact:

1. "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any Territory or Possession of the United States.
2. "Subdivision" means any governmental unit or special district of a State.
3. "Taxpayer" means any corporation, partnership, firm, association, governmental unit or agency or person acting as a business entity in more than one State.
4. "Income tax" means a tax imposed on or measured by net income including any tax imposed on or measured by an amount arrived at by deducting expenses from gross income, one or more forms of which expenses are not specifically and directly related to particular transactions.

5. "Capital stock tax" means a tax measured in any way by the capital of a corporation considered in its entirety.

6. "Gross receipts tax" means a tax, other than a sales tax, which is imposed on or measured by the gross volume of business, in terms of gross receipts or in other terms, and in the determination of which no deduction is allowed which would constitute the tax an income tax.

7. "Sales tax" means a tax imposed with respect to the transfer for a consideration of ownership, possession or custody of tangible personal property or the rendering of services measured by the price of the tangible personal property transferred or services rendered and which is required by State or local law to be separately stated from the sales price by the seller, or which is customarily separately stated from the sales price, but does not include a tax imposed exclusively on the sale of a specifically identified commodity or article or class of commodities or articles.

8. "Use tax" means a nonrecurring tax, other than a sales tax, which (a) is imposed on or with respect to the exercise or enjoyment of any right or power over tangible personal property incident to the ownership, possession or custody of that property or the leasing of that property from another including any consumption, keeping, retention, or other use of tangible personal property and (b) is complementary to a sales tax.

9. "Tax" means an income tax, capital stock tax, gross receipts tax, sales tax, use tax, and any other tax which has a multistate impact, except that the provisions of Articles III, IV and V of this compact shall apply only to the taxes specifically designated therein and the provisions of Article IX of this compact shall apply only in respect to determinations pursuant to Article IV.

Article III. Elements of Income Tax Laws.

Taxpayer Option, State and Local Taxes.

1. Any taxpayer subject to an income tax whose income is subject to apportionment and allocation for tax purposes pursuant to the laws of a party State or pursuant to the laws of subdivisions in two or more party States may elect to apportion and allocate his income in the manner provided by the laws of such State or by the laws of such States and subdivisions without reference to this compact, or may elect to apportion and allocate in accordance with Article IV. This election for any tax year may be made in all party States or subdivisions thereof or in any one or more of the party States or subdivisions thereof without reference to the election made in the others. For the purposes of this paragraph, taxes imposed by subdivisions shall be considered separately from State taxes and the apportionment and allocation also may be applied to the entire tax base. In no instance wherein Article IV is employed for all subdivisions of a State may the sum of all apportionments and allocations to subdivisions within a State be greater than the apportionment and allocation that would be assignable to that State if the apportionment or allocation were being made with respect to a State income tax.

Taxpayer Option, Short Form.

2. Each party State or any subdivision thereof which imposes an income tax shall provide by law that any taxpayer required to file a return, whose only activities within the taxing jurisdiction consist of sales and do not include owning or renting real estate or tangible personal property, and whose dollar volume of gross sales made during the tax year within the State or subdivision, as the case may be, is not in excess of \$100,000 may elect to report and pay any tax due on the basis of a percentage of such volume, and shall adopt rates which shall produce a tax which reasonably approximates the tax otherwise due. The Multistate Tax Commission, not more than once in five years, may adjust the \$100,000 figure in order to reflect such changes as may occur in the real value of the dollar, and such adjusted figure, upon adoption by the Commission, shall replace the \$100,000 figure specifically provided herein. Each party State and subdivision thereof may make the same election available to taxpayers additional to those specified in this paragraph.

Coverage.

3. Nothing in this Article relates to the reporting or payment of any tax other than an income tax.

Article IV. Division of Income.

1. As used in this Article, unless the context otherwise requires:

(a) "Business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations.

(b) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(c) "Compensation" means wages, salaries, commissions and any other form of remuneration paid to employees for personal services.

(d) "Financial organization" means any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, credit union, cooperative bank, small loan company, sales finance company, investment company, or any type of insurance company.

(e) "Nonbusiness income" means all income other than business income.

(f) "Public utility" means any business entity (1) which owns or operates any plant, equipment, property, franchise, or license for the transmission of communications, transportation of goods or persons, except by pipe line, or the production, transmission, sale, delivery, or furnishing of electricity, water or steam; and (2) whose rates of charges for goods or services have been established or approved by a Federal, State or local government or governmental agency.

(g) "Sales" means all gross receipts of the taxpayer not allocated under paragraphs of this Article.

(h) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any Territory or Possession of the United States, and any foreign country or political subdivision thereof.

(i) "This State" means the State in which the relevant tax return is filed or, in the case of application of this Article to the apportionment and allocation of income for local tax purposes, the subdivision or local taxing district in which the relevant tax return is filed.

2. Any taxpayer having income from business activity which is taxable both within and without this State, other than activity as a financial organization or public utility or the rendering of purely personal services by an individual, shall allocate and apportion his net income as provided in this Article. If a taxpayer has income from business activity as a public utility but derives the greater percentage of his income from activities subject to this Article, the taxpayer may elect to allocate and apportion his entire net income as provided in this Article.

3. For purposes of allocation and apportionment of income under this Article, a taxpayer is taxable in another State if (1) in that State he is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax, or (2) that State has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the State does or does not.

4. Rents and royalties from real or tangible personal property, capital gains, interest, dividends or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in paragraphs 5 through 8 of this Article.

5. (a) Net rents and royalties from real property located in this State are allocable to this State.

(b) Net rents and royalties from tangible personal property are allocable to this State: (1) if and to the extent that the property is utilized in this State, or (2) in their entirety if the taxpayer's commercial domicile is in this State and the taxpayer is not organized under the laws of or taxable in the State in which the property is utilized.

(c) The extent of utilization of tangible personal property in a State is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the State during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, tangible personal property is utilized in the State in which the property was located at the time the rental or

royalty payer obtained possession.

6. (a) Capital gains and losses from sales of real property located in this State are allocable to this State.

(b) Capital gains and losses from sales of tangible personal property are allocable to this State if (1) the property had a situs in this State at the time of the sale, or (2) the taxpayer's commercial domicile is in this State and the taxpayer is not taxable in the State in which the property had a situs.

(c) Capital gains and losses from sales of intangible personal property are allocable to this State if the taxpayer's commercial domicile is in this State.

7. Interest and dividends are allocable to this State if the taxpayer's commercial domicile is in this State.

8. (a) Patent and copyright royalties are allocable to this State: (1) if and to the extent that the patent or copyright is utilized by the payer in this State, or (2) if and to the extent that the patent or copyright is utilized by the payer in a State in which the taxpayer is not taxable and the taxpayer's commercial domicile is in this State.

(b) A patent is utilized in a State to the extent that it is employed in production, fabrication, manufacturing, or other processing in the State or to the extent that a patented product is produced in the State. If the basis of receipts from patent royalties does not permit allocation to States or if the accounting procedures do not reflect States of utilization, the patent is utilized in the State in which the taxpayer's commercial domicile is located.

(c) A copyright is utilized in a State to the extent that printing or other publication originates in the State. If the basis of receipts from copyright royalties does not permit allocation to States or if the accounting procedures do not reflect States of utilization, the copyright is utilized in the State in which the taxpayer's commercial domicile is located.

9. All business income shall be apportioned to this State by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three.

10. The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this State during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period.

11. Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals.

12. The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the tax administrator may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property.

13. The payroll factor is a fraction, the numerator of which is the total amount paid in this State during the tax period by the taxpayer for compensation and the denominator of which is the total compensation paid everywhere during the tax period.

14. Compensation is paid in this State if:

(a) the individual's service is performed entirely within the State;

(b) the individual's service is performed both within and without the State, but the service performed without the State is incidental to the individual's service within the State; or

(c) some of the service is performed in the State and (1) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the State, or (2) the base of operations or the place from which the service is directed or controlled is not in any State in which some part of the service is performed, but the individual's residence is in this State.

15. The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this State during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period.

16. Sales of tangible personal property are in this State if:

(a) the property is delivered or shipped to a purchaser, other than the United States Government, within this State regardless of the f. o. b. point or other conditions of the sale; or

(b) the property is shipped from an office, store, warehouse, factory, or other place of storage in this State and (1) the purchaser is the United States Government or (2) the taxpayer is not taxable in the State of the purchaser.

17. Sales, other than sales of tangible personal property, are in this State, if:

(a) the income-producing activity is performed in this State; or

(b) the income-producing activity is performed both in and outside this State and a greater proportion of the income-producing activity is performed in this State than in any other State, based on costs of performance.

18. If the allocation and apportionment provisions of this Article do not fairly represent the extent of the taxpayer's business activity in this State, the taxpayer may petition for or the tax administrator may require, in respect to all or any part of

the taxpayer's business activity, if reasonable:

- (a) separate accounting;
- (b) the exclusion of any one or more of the factors;
- (c) the inclusion of one or more additional factors which will fairly represent the taxpayer's business activity in this State; or
- (d) the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

Article V. Elements of Sales and Use Tax Laws.

Tax Credit.

1. Each purchaser liable for a use tax on tangible personal property shall be entitled to full credit for the combined amount or amounts of legally imposed sales or use taxes paid by him with respect to the same property to another State and any subdivision thereof. The credit shall be applied first against the amount of any use tax due the State, and any unused portion of the credit shall then be applied against the amount of any use tax due a subdivision.

Exemption Certificates, Vendors May Rely.

2. Whenever a vendor receives and accepts in good faith from a purchaser a resale or other exemption certificate or other written evidence of exemption authorized by the appropriate State or subdivision taxing authority, the vendor shall be relieved of liability for a sales or use tax with respect to the transaction.

Article VI. The Commission.

Organization and Management.

1. (a) The Multistate Tax Commission is hereby established. It shall be composed of one "member" from each party State who shall be the head of the State agency charged with the administration of the types of taxes to which this compact applies. If there is more than one such agency the State shall provide by law for the selection of the Commission member from the heads of the relevant agencies. State law may provide that a member of the Commission be represented by an alternate but only if there is on file with the Commission written notification of the designation and identity of the alternate. The Attorney General of each party State or his designee, or other counsel if the laws of the party State specifically provide, shall be entitled to attend the meetings of the Commission, but shall not vote. Such Attorneys General, designees, or other counsel shall receive all notices of meetings required under paragraph 1(e) of this Article.

(b) Each party State shall provide by law for the selection of representatives from its subdivisions affected by this compact to consult with the Commission member from that State.

(c) Each member shall be entitled to one vote. The Commission shall not act unless a majority of the members are present, and no action shall be binding unless approved by a majority of the total number of members.

(d) The Commission shall adopt an official seal to be used as it may provide.

(e) The Commission shall hold an annual meeting and such other regular meetings as its bylaws may provide and such special meetings as its Executive Committee may determine. The Commission bylaws shall specify the dates of the annual and any other regular meetings, and shall provide for the giving of notice of annual, regular and special meetings. Notices of special meetings shall include the reasons therefor and an agenda of the items to be considered.

(f) The Commission shall elect annually, from among its members, a Chairman, a Vice Chairman and a Treasurer. The Commission shall appoint an Executive Director who shall serve at its pleasure, and it shall fix his duties and compensation. The Executive Director shall be Secretary of the Commission. The Commission shall make provision for the bonding of such of its officers and employees as it may deem appropriate.

(g) Irrespective of the civil service, personnel or other merit system laws of any party State, the Executive Director shall appoint or discharge such personnel as may be necessary for the performance of the functions of the Commission and shall fix their duties and compensation. The Commission bylaws shall provide for personnel policies and programs.

(h) The Commission may borrow, accept or contract for the services of personnel from any State, the United States, or any other governmental entity.

(i) The Commission may accept for any of its purposes and functions any and all donations and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any governmental entity, and may utilize and dispose of the same.

(j) The Commission may establish one or more offices for the transacting of its business.

(k) The Commission shall adopt bylaws for the conduct of its business. The Commission shall publish its bylaws in convenient form, and shall file a copy of the bylaws and any amendments thereto with the appropriate agency or officer in each of the party States.

(l) The Commission annually shall make to the Governor and legislature of each party State a report covering its activities for the preceding year. Any donation or grant accepted by the Commission or services borrowed shall be reported in the annual report of the Commission, and shall include the nature, amount and conditions, if any, of the donation, gift, grant or services borrowed and the identity of the donor or lender. The Commission may make additional reports as it may deem desirable.

Committees.

2. (a) To assist in the conduct of its business when the full Commission is not meeting, the Commission shall have an Executive Committee of seven members, including the Chairman, Vice Chairman, Treasurer and four other members elected annually by the Commission. The Executive Committee, subject to the provisions of this compact and consistent with the policies of the Commission, shall function as provided in the bylaws of the Commission.

(b) The Commission may establish advisory and technical committees, membership on which may include private persons and public officials, in furthering any of its activities. Such committees may consider any matter of concern to the Commission, including problems of special interest to any party State and problems dealing with particular types of taxes.

(c) The Commission may establish such additional committees as its bylaws may provide.

Powers.

3. In addition to powers conferred elsewhere in this compact, the Commission shall have power to:

(a) Study State and local tax systems and particular types of State and local taxes.

(b) Develop and recommend proposals for an increase in uniformity or compatibility of State and local tax laws with a view toward encouraging the simplification and improvement of State and local tax law and administration.

(c) Compile and publish information as in its judgment would assist the party States in implementation of the compact and taxpayers in complying with State and local tax laws.

(d) Do all things necessary and incidental to the administration of its functions pursuant to this compact.

Finance.

4. (a) The Commission shall submit to the Governor or designated officer or officers of each party State a budget of its estimated expenditures for such period as may be required by the laws of that State for presentation to the legislature thereof.

(b) Each of the Commission's budgets of estimated expenditures shall contain specific recommendations of the amounts to be appropriated by each of the party States. The total amount of appropriations requested under any such budget shall be apportioned among the party States as follows: one-tenth in equal shares; and the remainder in proportion to the amount of revenue collected by each party State and its subdivisions

from income taxes, capital stock taxes, gross receipts taxes, sales and use taxes. In determining such amounts, the Commission shall employ such available public sources of information as, in its judgment, present the most equitable and accurate comparisons among the party States. Each of the Commission's budgets of estimated expenditures and requests for appropriations shall indicate the sources used in obtaining information employed in applying the formula contained in this paragraph.

(c) The Commission shall not pledge the credit of any party State. The Commission may meet any of its obligations in whole or in part with funds available to it under paragraph 1(i) of this Article: provided that the Commission takes specific action setting aside such funds prior to incurring any obligation to be met in whole or in part in such manner. Except where the Commission makes use of funds available to it under paragraph 1(i), the Commission shall not incur any obligation prior to the allotment of funds by the party States adequate to meet the same.

(d) The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Commission.

(e) The accounts of the Commission shall be open at any reasonable time for inspection by duly constituted officers of the party States and by any persons authorized by the Commission.

(f) Nothing contained in this Article shall be construed to prevent Commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the Commission.

Article VII. Uniform Regulations and Forms.

1. Whenever any two or more party States, or subdivisions of party States, have uniform or similar provisions of law relating to an income tax, capital stock tax, gross receipts tax, sales or use tax, the Commission may adopt uniform regulations for any phase of the administration of such law, including assertion of jurisdiction to tax, or prescribing uniform tax forms. The Commission may also act with respect to the provisions of Article IV of this compact.

2. Prior to the adoption of any regulation, the Commission shall:

(a) As provided in its bylaws, hold at least one public hearing on due notice to all affected party States and subdivisions thereof and to all taxpayers and other persons who have made timely request of the Commission for advance notice of its regulation-making proceedings.

(b) Afford all affected party States and subdivisions and interested persons an opportunity to submit relevant written data and views, which shall be considered fully by the Commission.

3. The Commission shall submit any regulations adopted by it to the appropriate officials of all party States and subdivisions to which they might apply. Each such State and subdivision shall consider any such regulation for adoption in accordance with its own laws and procedures.

Article VIII. Interstate Audits.

1. This Article shall be in force only in those party States that specifically provide therefor by statute.

2. Any party State or subdivision thereof desiring to make or participate in an audit of any accounts, books, papers, records or other documents may request the Commission to perform the audit on its behalf. In responding to the request, the Commission shall have access to and may examine, at any reasonable time, such accounts, books, papers, records, and other documents and any relevant property or stock of merchandise. The Commission may enter into agreements with party States or their subdivisions for assistance in performance of the audit. The Commission shall make charges, to be paid by the State or local government or governments for which it performs the service, for any audits performed by it in order to reimburse itself for the actual costs incurred in making the audit.

3. The Commission may require the attendance of any person within the State where it is conducting an audit or part thereof at a time and place fixed by it within such State for the purpose of giving testimony with respect to any account, book, paper, document, other record, property or stock of merchandise being examined in connection with the audit. If the person is not within the jurisdiction, he may be required to attend for such purpose at any time and place fixed by the Commission within the State of which he is a resident: provided that such State has adopted this Article.

4. The Commission may apply to any court having power to issue compulsory process for orders in aid of its powers and responsibilities pursuant to this Article and any and all such courts shall have jurisdiction to issue such orders. Failure of any person to obey any such order shall be punishable as contempt of the issuing court. If the party or subject matter on account of which the Commission seeks an order is within the jurisdiction of the court to which application is made, such application may be to a court in the State or subdivision on behalf of which the audit is being made or a court in the State in which the object of the order being sought is situated. The provisions of this paragraph apply only to courts in a State that has adopted this Article.

5. The Commission may decline to perform any audit requested if it finds that its available personnel or other resources are insufficient for the purpose or that, in the terms requested, the audit is impracticable of satisfactory performance. If the Commission, on the basis of its experience, has reason to believe that an audit of a particular taxpayer, either at a particular time or on a particular schedule, would be of interest to a number of party States or their subdivisions, it may offer to make the audit or audits, the offer to be contingent on sufficient participation therein as determined by the Commission.

6. Information obtained by any audit pursuant to this Article shall be confidential and available only for tax purposes to party States, their subdivisions or the United States. Availability of information shall be in accordance with the laws of the

States or subdivisions on whose account the Commission performs the audit, and only through the appropriate agencies or officers of such States or subdivisions. Nothing in this Article shall be construed to require any taxpayer to keep records for any period not otherwise required by law.

7. Other arrangements made or authorized pursuant to law for cooperative audit by or on behalf of the party States or any of their subdivisions are not superseded or invalidated by this Article.

8. In no event shall the Commission make any charge against a taxpayer for an audit.

9. As used in this Article, "tax," in addition to the meaning ascribed to it in Article II, means any tax or license fee imposed in whole or in part for revenue purposes.

Article IX. Arbitration.

1. Whenever the Commission finds a need for setting disputes concerning apportionments and allocations by arbitration, it may adopt a regulation placing this Article in effect, notwithstanding the provisions of Article VII.

2. The Commission shall select and maintain an Arbitration Panel composed of officers and employees of State and local governments and private persons who shall be knowledgeable and experienced in matters of tax law and administration.

3. Whenever a taxpayer who has elected to employ Article IV, or whenever the laws of the party State or subdivision thereof are substantially identical with the relevant provisions of Article IV, the taxpayer, by written notice to the Commission and to each party State or subdivision thereof that would be affected, may secure arbitration of an apportionment or allocation, if he is dissatisfied with the final administrative determination of the tax agency of the State or subdivision with respect thereto on the ground that it would subject him to double or multiple taxation by two or more party States or subdivisions thereof. Each party State and subdivision thereof hereby consents to the arbitration as provided herein, and agrees to be bound thereby.

4. The Arbitration Board shall be composed of one person selected by the taxpayer, one by the agency or agencies involved, and one member of the Commission's Arbitration Panel. If the agencies involved are unable to agree on the person to be selected by them, such person shall be selected by lot from the total membership of the Arbitration Panel. The two persons selected for the Board in the manner provided by the foregoing provisions of this paragraph shall jointly select the third member of the Board. If they are unable to agree on the selection, the third member shall be selected by lot from among the total membership of the Arbitration Panel. No member of a Board selected by lot shall be qualified to serve if he is an officer or employee or is otherwise affiliated with any party to the arbitration proceeding. Residence within the jurisdiction of a party to the arbitration proceeding shall not constitute affiliation within the meaning of this paragraph.

5. The Board may sit in any State or subdivision party to the proceeding, in the State of the taxpayer's incorporation, residence or domicile, in any State where the taxpayer does business, or in any place that it finds most appropriate for gaining access to evidence relevant to the matter before it.

6. The Board shall give due notice of the times and places of its hearings. The parties shall be entitled to be heard, to present evidence, and to examine and cross-examine witnesses. The Board shall act by majority vote.

7. The Board shall have power to administer oaths, take testimony, subpoena and require the attendance of witnesses and the production of accounts, books, papers, records, and other documents, and issue commissions to take testimony. Subpoenas may be signed by any member of the Board. In case of failure to obey a subpoena, and upon application by the Board, any judge of a court of competent jurisdiction of the State in which the Board is sitting or in which the person to whom the subpoena is directed may be found may make an order requiring compliance with the subpoena, and the court may punish failure to obey the order as a contempt. The provisions of this paragraph apply only in States that have adopted this Article.

8. Unless the parties otherwise agree the expenses and other costs of the arbitration shall be assessed and allocated among the parties by the Board in such manner as it may determine. The Commission shall fix a schedule of compensation for members of Arbitration Boards and of other allowable expenses and costs. No officer or employee of a State or local government who serves as a member of a Board shall be entitled to compensation therefor unless he is required on account of his service to forego the regular compensation attaching to his public employment, but any such Board member shall be entitled to expenses.

9. The Board shall determine the disputed apportionment or allocation and any matters necessary thereto. The determinations of the Board shall be final for purposes of making the apportionment or allocation, but for no other purpose.

10. The Board shall file with the Commission and with each tax agency represented in the proceeding: the determination of the Board; the Board's written statement of its reasons therefor; the record of the Board's proceedings; and any other documents required by the arbitration rules of the Commission to be filed.

11. The Commission shall publish the determinations of Boards together with the statements of the reasons therefor.

12. The Commission shall adopt and publish rules of procedure and practice and shall file a copy of such rules and of any amendment thereto with the appropriate agency or officer in each of the party States.

13. Nothing contained herein shall prevent at any time a written compromise of any matter or matters in dispute, if otherwise lawful, by the parties to the arbitration proceedings.

Article X. Entry Into Force and Withdrawal.

1. This compact shall enter into force when enacted into law by any seven States. Thereafter, this compact shall become effective as to any other State upon its enactment thereof. The Commission shall arrange for notification of all party States whenever there is a new enactment of the compact.

2. Any party State may withdraw from this compact by enacting a statute repealing the same. No withdrawal shall affect any liability already incurred by or chargeable to a party State prior to the time of such withdrawal.

3. No proceeding commenced before an Arbitration Board prior to the withdrawal of a State and to which the withdrawing State or any subdivision thereof is a party shall be discontinued or terminated by the withdrawal, nor shall the Board thereby lose jurisdiction over any of the parties to the proceeding necessary to make a binding determination therein.

Article XI. Effect on Other Laws and Jurisdiction.

Nothing in this compact shall be construed to:

(a) Affect the power of any State or subdivision thereof to fix rates of taxation, except that a party State shall be obligated to implement Article III 2 of this compact.

(b) Apply to any tax or fixed fee imposed for the registration of a motor vehicle or any tax on motor fuel, other than a sales tax: provided that the definition of "tax" in Article VIII 9 may apply for the purposes of that Article and the Commission's powers of study and recommendation pursuant to Article VI 3 may apply.

(c) Withdraw or limit the jurisdiction of any State or local court or administrative officer or body with respect to any person, corporation or other entity or subject matter, except to the extent that such jurisdiction is expressly conferred by or pursuant to this compact upon another agency or body.

(d) Supersede or limit the jurisdiction of any court of the United States.

Article XII. Construction and Severability.

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any State or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any State participating therein, the compact shall remain in full force and effect as to the remaining party States and in full force and effect as to the State affected as to all severable matters.

Section 2. The Commissioner of Revenue shall represent this State on the Multistate Tax Commission.

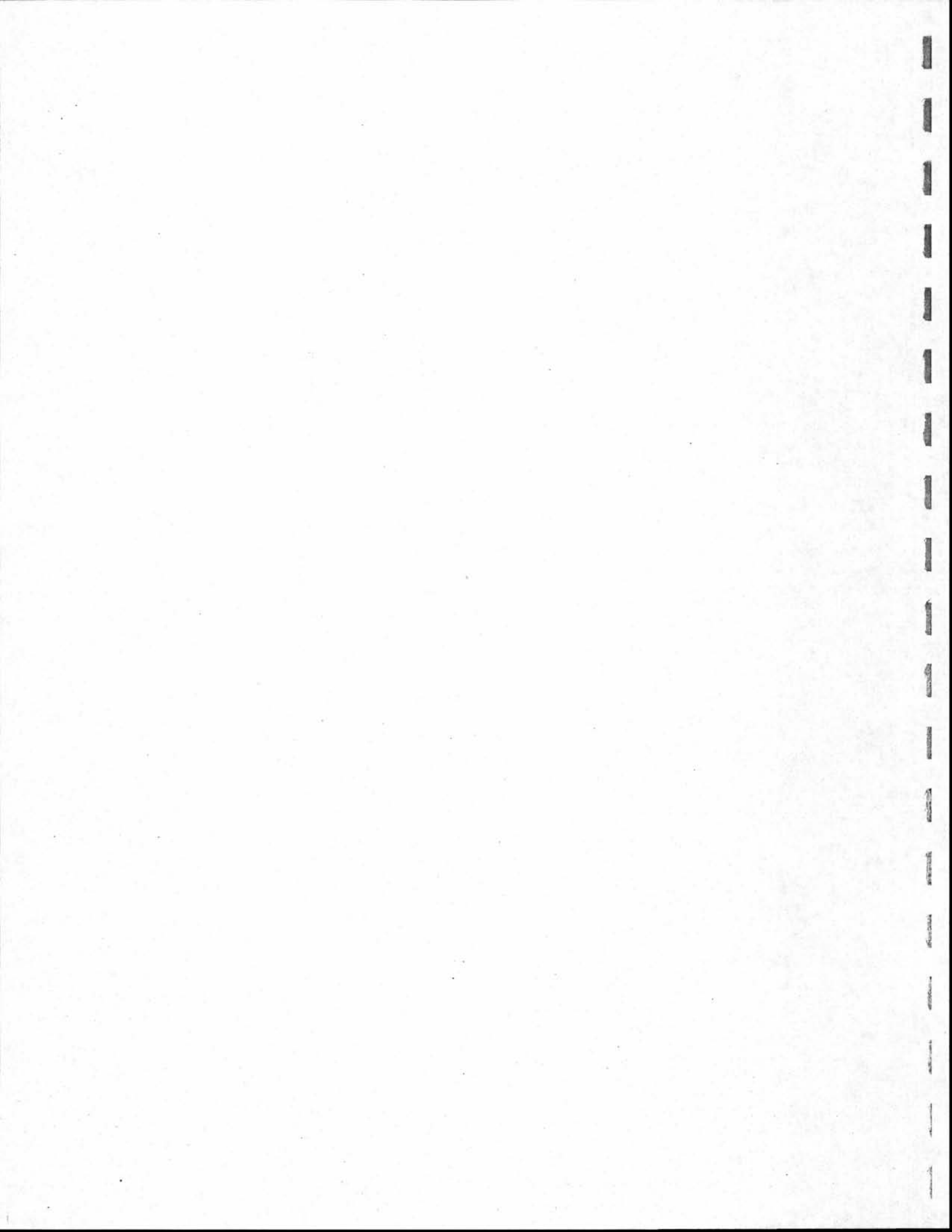
Section 3. The member representing this State on the Multistate Tax Commission may be represented thereon by an alternate designated by him. Any such alternate shall be a principal deputy or assistant of the member of the Commission in the agency which the member heads.

Section 4. There is hereby established the Multistate Tax Compact Advisory Committee composed of the member of the Multistate Tax Commission representing this State, any alternate designated by him, the Attorney General or his designee, and two members of the Senate, appointed by the President thereof and two members of the House of Representatives appointed by the Speaker thereof. The Chairman shall be the member of the Commission representing this State. The Committee shall meet on the call of its Chairman or at the request of a majority of its members. The Committee may consider any and all matters relating to recommendations of the Multistate Tax Commission and the activities of the members in representing this State thereon.

Section 5. Article VIII of the Multistate Tax Compact relating to interaudits shall be in force in and with respect to this State.

Section 6. There is hereby appropriated out of the General Fund the sum of \$37,000 to the Multistate Tax Commission for the biennium 1969-1971.

Section 7. This Act shall become effective July 1, 1969.



ATTACHMENT F

Uniform Anatomical Gift Act

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE AND MAKE UNIFORM THE PROCEDURE MAKING A GIFT OF ALL OR PART OF A HUMAN BODY AFTER DEATH FOR SPECIFIED PURPOSES.

The General Assembly of North Carolina do enact:

Section 1. Definitions.

(a) "Bank or storage facility" means a facility licensed, accredited, or approved under the laws of any state for storage of human bodies or parts thereof.

(b) "Decedent" means a deceased individual and includes a stillborn infant or fetus.

(c) "Donor" means an individual who makes a gift of all or part of his body.

(d) "Hospital" means a hospital licensed, accredited, or approved under the laws of any state; includes a hospital operated by the United States government, a state, or a subdivision thereof, although not required to be licensed under state laws.

(e) "Part" means organs, tissues, eyes, bones, arteries, blood, other fluids and any other portions of a human body.

(f) "Person" means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(g) "Physician" or "surgeon" means a physician or surgeon licensed or authorized to practice under the laws of any state.

(h) "State" includes any state, district, commonwealth, territory, insular possession, and any other area subject to the legislative authority of the United States of America.

Section 2. Persons Who May Execute an Anatomical Gift.

(a) Any individual of sound mind and 18 years of age or more may give all or any part of his body for any purpose specified in section 3, the gift to take effect upon death.

(b) Any of the following persons, in order of priority stated, when persons in prior classes are not available at the time of death, and in the absence of actual notice of contrary indications by the decedent or actual notice of opposition by a member

of the same or a prior class, may give all or any part of the decedent's body for any purpose specified in section 3:

- (1) the spouse,
- (2) an adult son or daughter,
- (3) either parent,
- (4) an adult brother or sister,
- (5) a guardian of the person of the decedent at the time of his death,
- (6) any other person authorized or under obligation to dispose of the body.

(c) If the donee has actual notice of contrary indications by the decedent or that a gift by a member of a class is opposed by a member of the same or a prior class, the donee shall not accept the gift. The persons authorized by subsection (b) may make the gift after or immediately before death.

(d) A gift of all or part of a body authorizes any examination necessary to assure medical acceptability of the gift for the purposes intended.

(e) The rights of the donee created by the gift are paramount to the rights of others except as provided by Section 7(d).

Section 3. Persons Who May Become Donees; Purposes for Which Anatomical Gifts May be Made. The following persons may become donees of gifts of bodies or parts thereof for the purposes stated:

- (1) any hospital, surgeon, or physician, for medical or dental education research, advancement of medical or dental science, therapy, or transplantation; or
- (2) any accredited medical or dental school, college or university for education, research, advancement of medical or dental science, or therapy; or
- (3) any bank or storage facility, for medical or dental education, research, advancement of medical or dental science, therapy, or transplantation; or
- (4) any specified individual for therapy or transplantation needed by him.

Section 4. Manner of Executing Anatomical Gifts.

(a) A gift of all or part of the body under Section 2(a) may be made by will. The gift becomes effective upon the death of the testator without waiting for probate. If the will is not probated, or if it is declared invalid for testamentary purposes, the gift, to the extent that it has been acted upon in good faith, is nevertheless valid and effective.

(b) A gift of all or part of the body under Section 2(a) may also be made by document other than a will. The gift becomes effective upon the death of the donor. The document, which may be a card designed to be carried on the person, must be signed by the donor in the presence of two witnesses who must sign the document in his

presence. If the donor cannot sign, the document may be signed for him at his direction and in his presence in the presence of two witnesses who must sign the document in his presence. Delivery of the document of gift during the donor's lifetime is not necessary to make the gift valid.

(c) The gift may be made to a specified donee or without specifying a donee. If the latter, the gift may be accepted by the attending physician as donee upon or following death. If the gift is made to a specified donee who is not available at the time and place of death, the attending physician upon or following death, in the absence of any expressed indication that the donor desired otherwise, may accept the gift as donee. The physician who becomes a donee under this subsection shall not participate in the procedures for removing or transplanting a part.

(d) Notwithstanding Section 7(b), the donor may designate in his will, card, or other document of gift the surgeon or physician to carry out the appropriate procedures. In the absence of a designation or if the designee is not available, the donee or other person authorized to accept the gift may employ or authorize any surgeon or physician for the purpose.

(e) Any gift by a person designated in Section 2(b) shall be made by a document signed by him or made by his telegraphic, recorded telephonic, or other recorded message.

Section 5. Delivery of Document of Gift. If the gift is made by the donor to a specified donee, the will, card, or other document, or an executed copy thereof, may be delivered to the donee to expedite the appropriate procedures immediately after death. Delivery is not necessary to the validity of the gift. The will, card, or other document, or an executed copy thereof, may be deposited in any hospital, bank or storage facility or registry office that accepts it for safekeeping or for facilitation of procedures after death. On request of any interested party upon or after the donor's death, the person in possession shall produce the document for examination.

Section 6. Amendment or Revocation of the Gift.

(a) If the will, card, or other document or executed copy thereof, has been delivered to a specified donee, the donor may amend or revoke the gift by:

- (1) the execution and delivery to the donee of a signed statement, or
- (2) an oral statement made in the presence of two persons and communicated to the donee, or
- (3) a statement during a terminal illness or injury addressed to an attending physician and communicated to the donee, or
- (4) a signed card or document found on his person or in his effects.

(b) Any document of gift which has not been delivered to the donee may be revoked by the donor in the manner set out in subsection (a), or by destruction, cancellation, or mutilation of the document and all executed copies thereof.

(c) Any gift made by a will may also be amended or revoked in the manner provided for amendment or revocation of wills, or as provided in subsection (a).

Section 7. Rights and Duties at Death.

(a) The donee may accept or reject the gift. If the donee accepts a gift of the entire body, he may, subject to the terms of the gift, authorize embalming and the use of the body in funeral services. If the gift is of a part of the body, the donee, upon the death of the donor and prior to embalming, shall cause the part to be removed without unnecessary mutilation. After removal of the part, custody of the remainder of the body vests in the surviving spouse, next of kin, or other persons under obligation to dispose of the body.

(b) The time of death shall be determined by a physician who tends the donor at his death, or, if none, the physician who certifies the death. The physician shall not participate in the procedures for removing or transplanting a part.

(c) A person who acts in good faith in accord with the terms of this Act or with the anatomical gift laws of another state (or a foreign country) is not liable for damages in any civil action or subject to prosecution in any criminal proceeding for his act.

(d) The provisions of this Act are subject to the laws of this state prescribing powers and duties with respect to autopsies.

Section 8. Uniformity of Interpretation. This Act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Section 9. Short Title. This Act may be cited as the Uniform Anatomical Gift Act.

Section 10. Repeal.

(a) Article 14A of Chapter 90 of the General Statutes is hereby repealed.

(b) All laws and clauses of laws in conflict with this Act are hereby repealed.

Section 11. Time of Taking Effect. This Act shall take effect October 1, 1969.

ATTACHMENT G

Unsolicited Merchandise

A BILL TO BE ENTITLED

AN ACT RELATING TO THE RECEIPT OF UNORDERED MERCHANDISE SO AS TO PROVIDE THAT THE RECIPIENT THEREOF IS NOT LIABLE FOR THE PAYMENT THEREOF.

The General Assembly of North Carolina do enact:

Section 1. Unless otherwise agreed, where unsolicited goods are delivered by mail or common carrier to a person, he has a right to refuse to accept delivery of the goods and is not bound to return such goods to the sender. If such unsolicited goods are addressed to and intended for the recipient, they shall be deemed a gift to the recipient, who may use them or dispose of them in any manner without any obligation to the sender.

Section 2. All laws and clauses of laws in conflict with this Act are hereby repealed.

Section 3. This Act shall be in full force and effect from and after July 1, 1969.