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# LEGISLATIVE RESEARCH COMMISSION

REPORT  
TO THE  
1977

GENERAL ASSEMBLY OF NORTH CAROLINA



## INTERGOVERNMENTAL RELATIONS

RALEIGH, NORTH CAROLINA

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JANUARY 12, 1977

TO THE MEMBERS OF THE 1977 GENERAL ASSEMBLY:

The Legislative Research Commission herewith reports to the 1977 General Assembly of North Carolina on the matter of Intergovernmental Relations. The report is made pursuant to Senate Joint Resolution 576 of the 1975 General Assembly.

This report was prepared by the Legislative Research Commission Committee on Intergovernmental Relations, and it is transmitted by the Legislative Research Commission to the members of the 1977 General Assembly for their consideration.

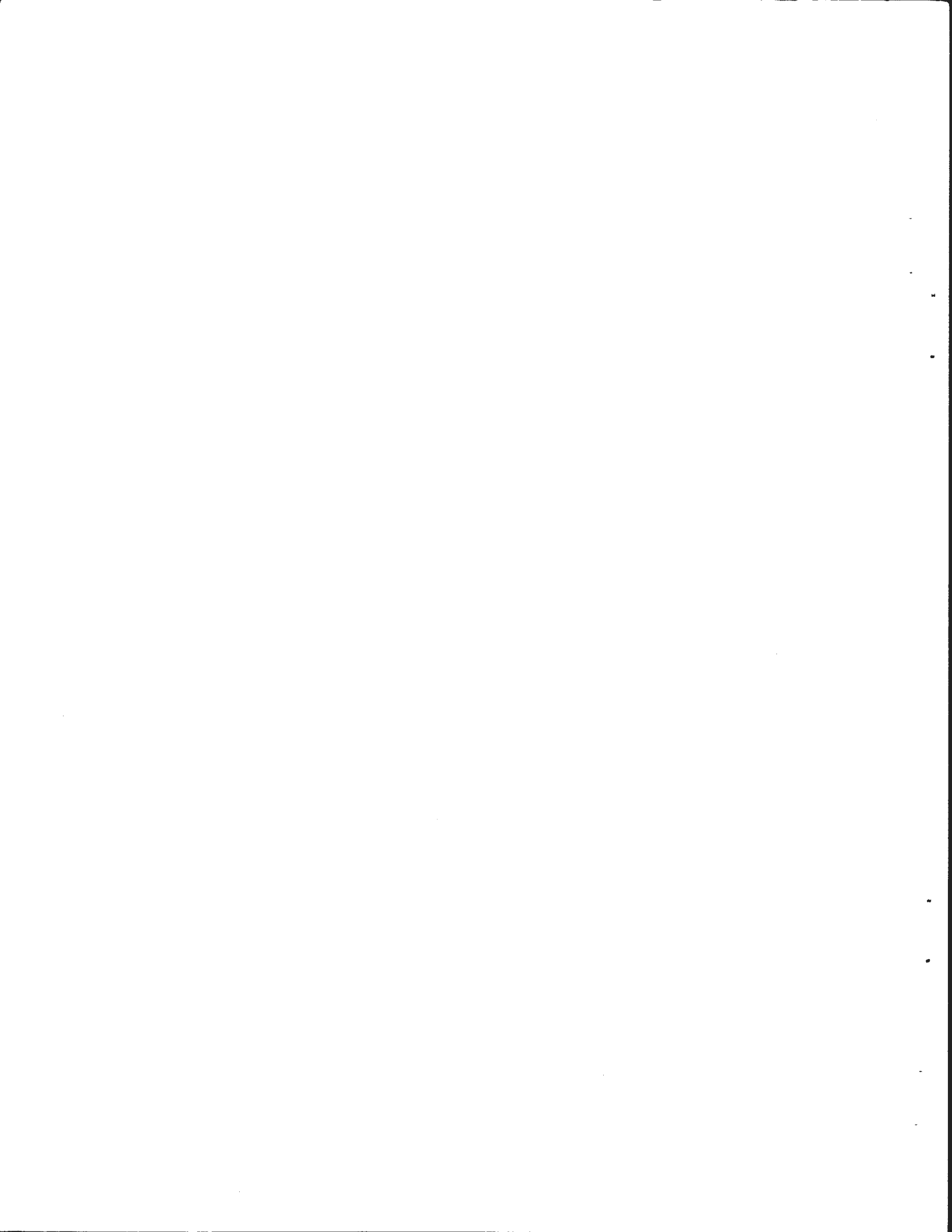
Respectfully submitted,

  
John T. Henley

  
James C. Green

Co-Chairmen

Legislative Research Commission



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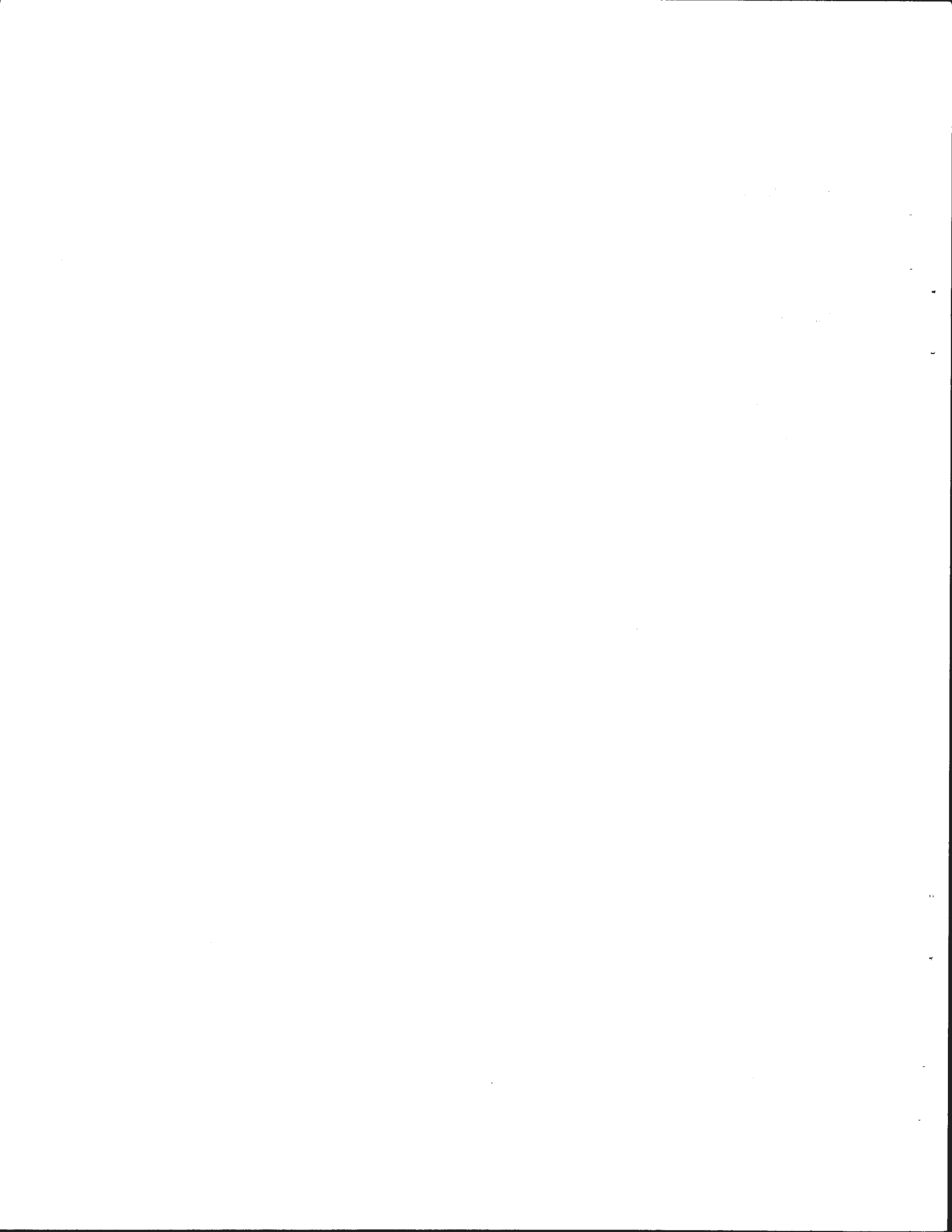
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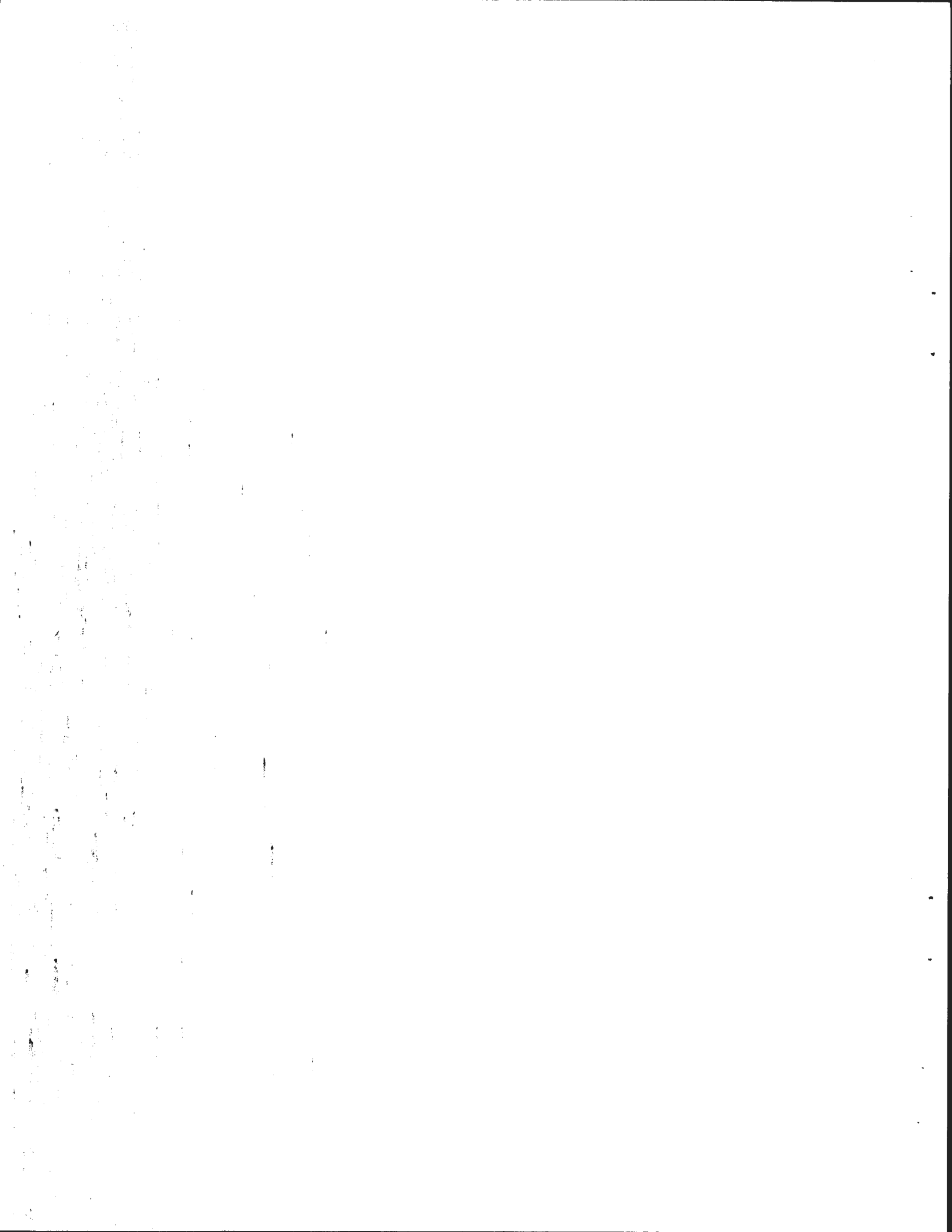
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## INTRODUCTION





## INTRODUCTION

The Legislative Research Commission, established by Article 6B of Chapter 120 of the General Statutes of North Carolina, is a general purpose study group composed of legislators. The 1975 North Carolina General Assembly directed the Legislative Research Commission to study a variety of issues, including three topics under the general category of local government matters: local building inspectors, local mass transit, and - the subject of this report - intergovernmental relations.

Representative Hector Ray, a Legislative Research Commission member, was appointed Chairman of all studies relating to local government matters. Pursuant to G.S. 120-30.10(6), several additional legislators were selected to perform these studies. The following members were appointed to carry out both the study on intergovernmental relations and the study on local mass transit: Co-Chairman Senate E. Lawrence Davis and Co-Chairman Representative Allen Barbee; and Representative Jeff Enloe, Representative Leo Heer, Senator James McDuffie, Representative Marcus Short, Senator Charles Vickery, and Mr. Vardell Godwin of Fayetteville, North Carolina. (Mr. Godwin was appointed in accordance with G.S. 120-30.10(c).) Co-Chairman Senator Davis was assigned to

direct this study of intergovernmental relations and Co-Chairman Representative Barbee was assigned to direct the local mass transit study. Appendix A contains the full membership list.

Staff assistance was provided to the Committee through the Legislative Services Office and the Fiscal Research Division.

Resolution 102 of the 1975 Session Laws, First Session 1975 (Senate Joint Resolution 576) contains the guidelines for the study. The Resolution identified six appropriate areas for the Committee's focus:

"(1) To examine the current distribution of jurisdictional responsibilities and service functions among governments in North Carolina relative to the increased needs of its citizens and to recommend improvements in the distribution of such responsibilities and service functions among governments;

(2) To review boundaries and powers of regional councils of government and to review COG legislation;

(3) To examine the system of and flow of intergovernmental funds with respect to their impact on priority public services at the local and State levels, and to recommend improvements in policy formulation, administration, distribution, and use of such funds;

(4) To examine the experience with home rule legislation and make recommendations for improvements;

(5) To review the use and sources of science and technology which are needed by State and local governments for modern management of government; and

(6) To identify and examine emerging public policy problems that involve intergovernmental responsibilities and that call for intergovernmental solutions, and to make recommendations with respect to such solutions(.)"

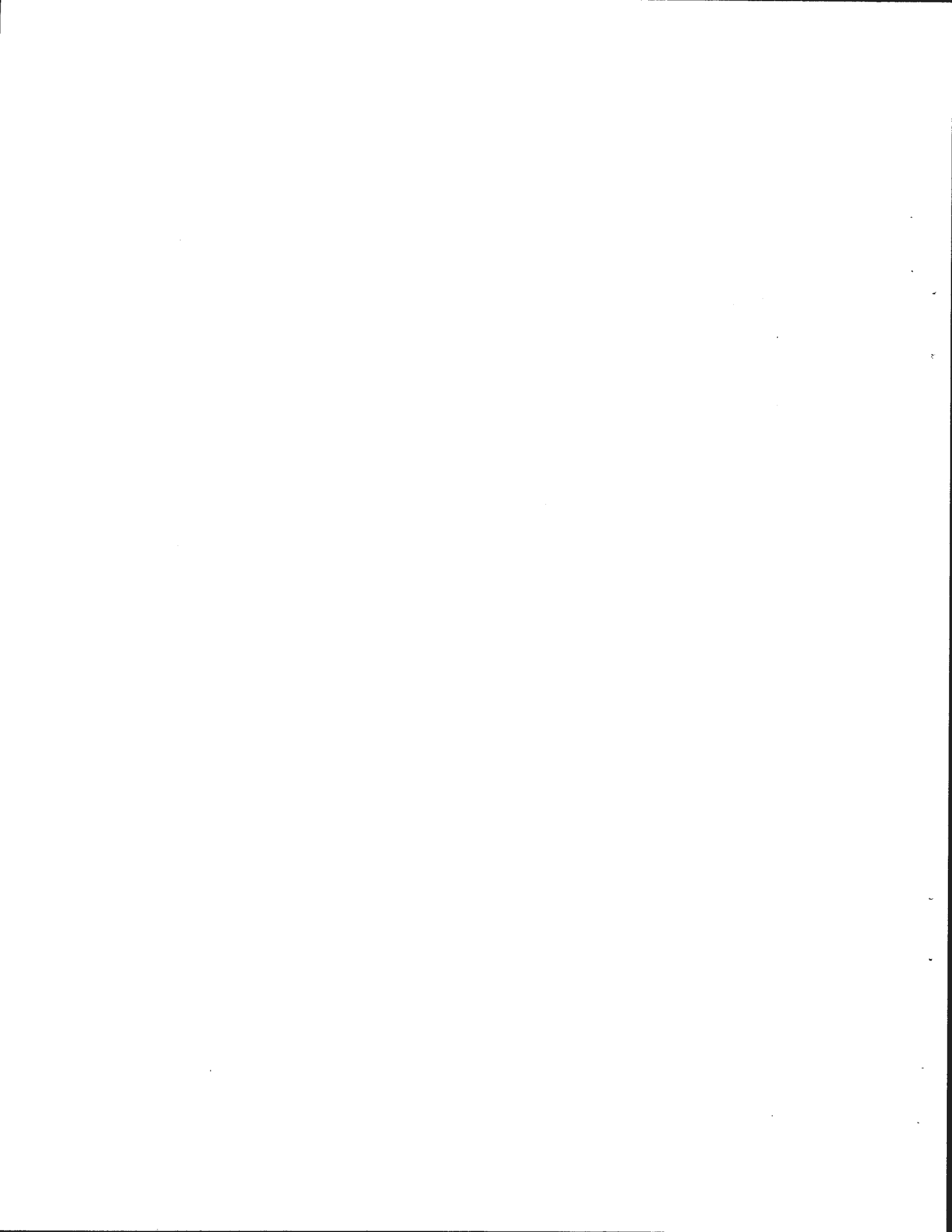
The full text of Resolution 102 appears in Appendix B.

Pursuant to the mandate in Resolution 102, the Committee has carried out the study within the limitations of its budget and presents this report as a summary of its work. The report is divided into three parts: COMMITTEE PROCEEDINGS\*, FINDINGS, and RECOMMENDATIONS.

\* One complete set of Committee Minutes (prepared in summary form) and other resource materials are on file in the Legislative Library.



COMMITTEE PROCEEDINGS



## COMMITTEE PROCEEDINGS

The Committee held five meetings to examine the subject of intergovernmental relations. The first meeting was held on October 14, 1975. Co-chairman Senator Davis discussed the broad mandate of Resolution 102, noting that problem areas recognized by the General Assembly's standing local government committees have provided a major impetus for the study. Senator Davis pointed out that the mandate is much broader than an interim legislative study committee can hope to analyze, particularly with the budget limitations which are necessary during this interim due to the large number of studies created. He suggested that the Committee seek a focus from among the items listed in the charge. It was agreed first to examine the matter of intergovernmental flows of funds from the federal to the state and local levels of government.

Mr. Ed Deckard, Director of the Office of Intergovernmental Relations in the Department of Administration (OIR), spoke to the Committee concerning the flow of funds. To highlight the magnitude of the problem, he explained that there are approximately 1,000 federal assistance programs in the Federal Assistance Catalogue (about 500 are for financial assistance programs, and about the same number for technical assistance programs). Potential applicants for the 500 financial assistance programs include

state agencies, the 100 counties, the 463 cities and towns, hundreds of non-profit organizations, and private citizens. OIR's role is to consolidate the state government effort in requesting federal funds and to give technical assistance to cities and counties through regional organizations. The A-95 Clearinghouse Review process is also operated within OIR with regional clearinghouses in each of the 17 regional organizations. Two general problems with regard to the State's reaction to federal assistance programs are the lack of stability in the structure that the federal agencies prescribed for their programs and the need for more local decision-making in these problems.

Mr. George Hearn appeared on behalf of the Local Government Commission. He indicated that the Commission's function is to help local governments plan and use available resources efficiently, while keeping in mind long-range planning.

Mr. Joe Grimsley, special Assistant to Lt. Governor James Hunt, stated that the Lt. Governor hoped the study group would examine the possibility of proposing a permanent institution which continuously studies federal-state and local-state government relations. Also, an examination of multi-county regions is needed. A third area for attention is the clearinghouse review process [discussed by Mr. Deckard] which mandates that many federal



grants be reviewed and commented on by local governments, regional councils of government, and state agencies, before final federal decisions are reached. This same system might be appropriate for all state grants.

Mr. John Morrissey, Executive Director of the North Carolina Association of County Commissioners, stated that his organization would like to see established a state advisory commission on intergovernmental relations rather than to attempt to perform such functions through an interim legislative committee.

The afternoon session of the meeting dealt with a single topic: the flow of federal Law Enforcement Assistance Administration (LEAA) funds into North Carolina to establish a comprehensive Criminal Justice Information System (CJIS). Several officials were present to discuss the matter: Mr. Rufus Edmisten, State Attorney General and a member of the Governor's Law and Order Commission; Dr. Howard Livingston, Director of the Police Information Network (PIN); Mr. Sam Long, the Governor's Legal Counsel; and Mr. Don Nichols, Administrator, Law and Order Section (Department of Natural and Economic Resources).

The Governor's Law and Order Commission, the administrative agency which is authorized to accept and administer the LEAA program in North Carolina, has developed the plan for CJIS. Some questions have been raised about whether the legislative branch of government should be more actively involved in the development of this plan. From the point of view of the Attorney General

and the PIN director, the North Carolina General Assembly established PIN in 1969 to be the State's criminal justice information center. Any program utilizing federal funds to improve criminal justice information in North Carolina should recognize that PIN is already doing this function, is growing and improving its operations on a planned basis subject to continuous legislative scrutiny, and should be centrally involved in the development of a "comprehensive" criminal justice information system. The Attorney General believes that PIN is not really being perceived by the Governor's Law & Order Commission as the in-place system to be built around. The Attorney General is concerned that the CJIS effort, if continued on its present course, will be duplicating the PIN function and thus undermining the legislature's intent in creating PIN.

From the point of view of the Governor's Legal Counsel, the Governor's Law and Order Commission, in order to obtain federal funding for any criminal justice information program, had the responsibility first to develop a master plan that would comply with the complex of federal regulations and would consider all aspects of criminal justice information: law enforcement, courts, corrections, and the Division of Motor Vehicles. PIN is an integral part of the process and is already in-place. The CJIS plan is designed to expand on the present capacity and fashion a whole system, which the federal government expects each

state to do prior to spending federal money. The Governor's Law and Order Commission does not intend to run CJIS but to propose the creation of an independent policy-making board with by-partisan representation and appointments confirmed by the State Senate.

The Committee's second meeting was held on November 6, 1975. James Pinor from the State Budget Office discussed the volume of federal monies allocated to North Carolina, including the way in which such monies are administered.\* For fiscal year 1973-74, North Carolina received \$760 million in federal grants, plus \$156 million in revenue sharing, plus \$4.34 million in other federal outlays. All of the federal grants dollars coming to North Carolina are reflected in the recommended budget of the Governor and the Advisory Budget Commission. No federal receipts appear in the Appropriations Act that the General Assembly approves, but the details for federal and other receipts are in the Budget Document. For example, the \$14 million in LEAA funds available to North Carolina for the fiscal year appear in the budget under "Resource Development and Preservation", which shows a total of \$28.4 million. (See Appendix D, Exhibit A (2).)

\* Appendix D contains exhibits supplied to the Committee from the State Budget Office.

The budget document does not reflect federal funds distributed directly to local governmental units unless the funds go to a state agency and "flow through" to the locals. It is not possible to get a precise figure about the amount of federal funds that go directly to local governments; it appears the federal government does not even have an accurate idea.

There are three principal categories of federal funds. First, general revenue sharing, which the General Assembly allocates as it chooses, amounts to approximately \$51 million a year. The General Assembly has used revenue sharing mainly for capital projects. The second category is money that comes to state agencies and is subject to the budgeting process in the General Assembly. And, third is money that goes directly to local governmental units.

Part of the money that comes to state departments is allocated through an administrative process. Two major examples are Manpower and Law and Order. Manpower alone is receiving and spending about \$200 million in employment and training money in the period from January 1, 1976, to December 31, 1977.

During the time when the General Assembly is not in session, the federal government may notify the State that more money is available for a specific program. The State department affected will request from the State Budget Officer authorization to reflect a higher level of support in its authorized budget. (The original

authorized budget approved by the General Assembly contains a federal dollar figure that is only an estimate at the beginning of the fiscal year.) The General Assembly gets back into the picture only when it reconvenes and considers a new budget.

Mr. Mike Karpinski from the Office of Intergovernmental Relations stated that his office is trying to compile an annual report on the flow of federal money into North Carolina. The problem is that there is a great deal of conflicting information; OIR is trying to reconcile at least seven different sources of information. He offered an approximate breakdown of federal funds flowing to State government alone. About 55% of these funds is in the form of formula grants or block grants (example: LEAA and Manpower). Approximately 33% comes in the form of reimbursement (example: Medicaid or public assistance programs). Approximately 11% is for project grants which are competitive nationwide (example: most HEW programs and some research training programs). Approximately 2% of these funds is in the form of discretionary grants, which comes from a small "kitty" available to many federal agencies and allocated at the discretion of the agency's director.

During the afternoon session, the Committee toured the PIN facilities located adjacent to the State Legislative Building. The PIN director outlined the agency's development from 1968 to the present.

On February 12, 1976, the Committee participated in the City and County Managers' Seminar at the Institute of Government at Chapel Hill. Senator Davis summarized the Committee's assigned functions and work-to-date. He noted that one charge is to review the operation, function, and scope of Councils of Government (COGs) and to recommend needed changes. The 1975 General Assembly passed legislation in session Law Chapter 517 to make clear that COGs shall have the powers of local governments only to the extent that these powers are specifically delegated to them by each local unit involved. See G.S. 160A-475(8). The Committee has focused on the intergovernmental flow of funds. One concern is the increasing dependence on "grantsmanship" as the determining factor in awarding certain federal monies to local government units. A substantial amount of money goes directly from the federal government to locals; estimates range from \$75 million to \$150 million in the last fiscal year depending on the information source. Apparently local units with the best grant writers get a disproportionate share (meaning larger cities and counties which can pay the best salaries). Senator Davis asked for the managers' thoughts on these and related subjects.

The City Manager of Granite Falls stated that HUD categorical block grants were originally designed to help small towns in rural areas but no longer do so. The grantsmanship factor

has intervened. Mr. Doug Taylor, representing a COG, noted that part of the problem results from the fact that federal programs have become increasingly designed so that 75% to 80% of the funds go to urban counties or cities. Mr. Bob Cantine, Burke County Manager, stated that the General Assembly should become aware of the problem in the mental health area, particularly the "area board" concept and the change in the funding ratio. Mr. Tom Baines of Beaufort County, said the General Assembly should clarify the relationship between local governments and the quasi-state agencies such as mental health, health, and social services. Mr. H. L. Jenkins indicated that the State should consider changing its fiscal year to coincide with that of the federal government, which begins on October 1.

The Director of Social Services from Guilford County, stated that managers are concerned about legislation passed by the General Assembly to create programs with no money appropriated to finance the programs. Some recent examples are the food stamp program, Title XX, and child support enforcement. The Bertie County manager said law enforcement officers throughout the state are concerned about the allocations and distribution of LEAA funds. The General Assembly should investigate guidelines placed on these funds by the Governor's Law and Order Commission. Mr. Dave Taylor of Tarboro suggested that the General Assembly examine the Law and Order Commission membership. Another

manager noted that the General Assembly addressed the problem in 1975 and put more local government officials onto the Commission. Mr. Tom Baines suggested the General Assembly find a way to keep sheriffs' departments from working for the court system, particularly in areas where the sheriff department is the major law enforcement agency. ;

On July 15, 1976, Mr. Richard Davis, Assistant County Manager and Personnel Director of Cumberland County, presented a well-documented report entitled INTERGOVERNMENTAL RELATIONS IN NORTH CAROLINA: A Local Perspective, a copy of which is included as Appendix E. Principal conclusions by Mr. Davis were: (1) the findings and recommendations of the State-Local Task Force of 1973 have not yet been fully implemented, particularly with regard to the establishment of a Local-State Service Office with direct access to the Governor to serve as a means of assisting local units of government to gain information and action from unresponsive state agencies; (2) the A-95 Clearinghouse Review Process has become a check-off procedure and is not performing its intended purpose of ensuring local government input and state government coordination; (3) the Office of Intergovernmental Relations, created by Governor Holshouser, has not effectively performed its functions as a communications network providing direct relationships between state departments and general purpose



local governments, because OIR has utilized the Lead Regional Organizations as the communication "link" rather than dealing directly with the local units; (4) direct grants by the federal government to local governments and to certain state agencies, especially CETA and LEAA grants, have not been properly coordinated in order to ensure comprehensiveness and not piecemeal solutions; (5) there is insufficient coordination with regard to discretionary competitive grants which has allowed competition among agencies in the same county for the same funds; (6) there is duplication of function among the Office of Intergovernmental Relations, the LRO's, and the Division of Community Assistance in the Department of Natural and Economic Resources; and (7) the State has had little input into proposed federal legislation which is likely to have great impact on the flow of funds to and through governmental units in this State.

Mr. Robert Ewing, Director of the Division of Community Assistance, Department of Natural and Economic Resources, pointed out the need for coordination between his Division, the Office of Intergovernmental Relations and the Lead Regional Organizations, particularly with respect to competition for federal HUD "701" funds. Many states have established Community Affairs Departments, with better coordination than is present in North Carolina. Thirteen states insist on budgeting federal funds

flowing into those states; and this is a course which North Carolina may wish to pursue.\*

Mr. Joe Balak, Director, Office of Employment and Training, which supervises CETA in North Carolina, explained the various types of federal funds available for job training in North Carolina. These funds totaled \$110,773,171 in fiscal year 1976, not counting \$162,009,580 available for public works. The cost effectiveness of the job training programs has been very low, with an average cost of \$87,000 per placement in the local programs for fiscal year 1975, and an average cost of \$26,000 per placement in the State program for fiscal year 1975 and \$11,000 per placement in fiscal year 1976. It is hoped the cost will eventually be reduced to \$1,500 per placement. An audit of the CETA program by Touche Ross is underway.\*\*

Mr. Don R. Nichols, Law and Order Section (Department of Natural and Economic Resources), explained that a new directive now requires state agencies applying for federal funds to notify the State Budget Officer in order that he can alert the Advisory Budget Commission. The Procedure does not necessarily require

\* See Appendix G summarizing recent developments in several states which have attempted to deal with this issue.

\*\* Subsequent to the date of Mr. Balak's testimony, the contract between the Office of Employment & Training and Touche Ross was cancelled. OE&T has made a new contract with Seedman & Seedman to perform audits in the local agencies dispersing CETA funds. This audit will not be public until Fall, 1977. Although substantial auditing work has been performed by Touche Ross in exchange for payment by the State in the amount of \$25,955.70, efforts to obtain information about the results of such work have thus far been unsuccessful.

Advisory Budget Commission action, nor does it necessarily bring the matter to the attention of the General Assembly. In Florida all state agencies must obtain legislative approval for all federal funds applications. The delay in obtaining federal funds is already so long that the inclusion of time for review by a State Legislative Committee would not appear to create an insurmountable problem. Mr. Nichols also assured the Committee that the Governor's Law and Order Commission was not going to commit the State for new computer equipment for the CJIS program with the idea of dumping future expenditures on the General Assembly, without prior consultation and approval.

Mr. Mercer Doty presented a study of federal outlays in North Carolina compiled by the Fiscal Research Division. The report showed that federal outlays in North Carolina for fiscal 1975 were more than 6.2 billion dollars, which is many times over the amount of the State's general fund for that year. Mr. Doty's analysis also showed that federal outlays per capita tend to be higher in the metropolitan counties than in the rural counties.

The Committee's fourth regular meeting was held on September 15, 1976. The topic for consideration was the Comprehensive Employment and Training Act (CETA), including comments about certain problems connected with CETA from the perspective of an individual employee. Participants during this portion of the meeting included: Mrs. Pat Carone, an employee of the Employment Security Commission under the CETA program; Mr. John

Fleming and Mr. Melvin Starnes, two representatives from the Employment Security Commission; and Mr. Bob Griffith from the Manpower Office. Mrs. Carone explained that the problem for the last few months has been delays in receiving pay checks for employment. She assumed that these delays were emanating from the state level--the Employment Security Commission's office in Raleigh.

Mr. Fleming responded that the ESC contracted with Winston-Salem for the emergency job positions (EJP), such as Mrs. Carone's, for employment in ESC. Although ESC pays the employees, the money actually comes from the City of Winston-Salem, the prime sponsor. In Mrs. Carone's case and in the case of others, the prime sponsor has not provided the money and thus caused the delays in pay checks.

Mr. Starnes indicates that ESC is extremely sensitive that its employees get paid on time, but the money has to pass through many hands and the process is tedious. The funds come down from the federal Department of Labor to the prime sponsor who then puts together a plan and subcontracts with program operators. Mr. Fleming noted that an additional problem is a federal fiscal control regulation which allows a prime sponsor only a three-day advance of funds. This is designed to prohibit anyone receiving money from the federal government under this program from drawing interest on money received.

In response to questions about whether the State will be expected to pick up funding for salaries of CETA employees, Mr. Fleming stated that in the case of ESC, it receives no state funds but only federal CETA funds. When these funds expire (current expiration date is January 31, 1977, but there may be an extension) employment will be discontinued. These EJP jobs are not filling any of the normal vacancies in state government; rather, the CETA funds have allowed ESC to provide services that would not have been otherwise provided.

Commenting on how the cut-off of CETA funds may affect certain regions, Mr. Griffith said he was especially concerned at the county and small municipality level because they have been provided with services not previously available, and the county commissioners and town boards will be forced to make some tough decisions when the funds cease.

The second matter considered by the committee was the subject of Medicaid, which represents another major example of federal funds flowing into North Carolina. Mr. John Young, Special Counsel to the North Carolina Senate Human Resources Committee, presented a general overview of Medicaid. Title IX of the Social Security Act provides a program of medical assistance to certain low income individuals and families. This program, known as Medicaid, became federal law in 1965.

The program began in North Carolina in 1969 with a total federal-state-county appropriation of \$50 million. Medicaid is financed jointly with federal and state funds, with the federal contribution being 68%. The program is basically administered by each state but within certain broad federal guidelines. Medicaid is designed to provide medical assistance to those groups or categories of people eligible to receive cash payments under one of the existing welfare programs established for Medicaid. In addition, the state may provide Medicaid to medically needed.

Mr. Young noted that at the present time approximately 340,000 persons are eligible for Medicaid in North Carolina. However, Medicaid does not provide medical assistance for all poor people, low income is only one of the tests for eligibility. Resources are also tested, and most importantly, one must belong to one of the groups designated for welfare eligibility to be covered.

Mr. Jim Johnson, a staff member with the Fiscal Research Division, discussed a feature of the Medicaid program which is of current concern: the contract between the State and Health Applications Systems (HAS). Prior to 1973, North Carolina had contracted with Blue Cross/Blue Shield for that company to act as fiscal intermediary in the Medicaid program; the State would

pay the company and the administrative fees, and the company would pay all the bills. In 1972, a study indicated that the State could make money by taking over the function that Blue Cross had served. In 1974, the Department of Administration conducted a review to determine whether it would be better for the State to retain administration of the program or to go to some type of prepaid contract. Prepaid means that for a given number of dollars every month, the company would take over the administration of the program, pay out all claims, and if more claims dollars were paid out in a given month than the State had paid to the company, then the company would absorb the loss. It was decided in late 1974 for the State to follow this plan, and the proposal was prepared and sent out to approximately 33 companies. Only HAS responded and in April of 1975, after the Legislature had passed a bill allowing the state to enter into prepaid contracts, the state signed a contract with HAS to administer the Medicaid program excluding drugs. Contract costs for the first fiscal year were \$14.6 million a month. The figure increased to about \$16.6 million per month for the second fiscal year.

From the outset, HAS began to experience problems. There were backlogs of claims, and hospital and nursing homes were not getting paid on time. In May, 1976, HAS notified the state that

it was considering cancelling the risk portion of the contract (the fixed fee portion). Costs were accelerating faster than had been anticipated. After a long series of negotiations over a three-month period, the two parties agreed to a mutual termination of the agreement and contracted a number of amendments which will result in giving HAS more money to administer the program or cover its losses. Under the new contract amendments HAS is committed to operate as a fiscal intermediary through June of 1977 or such earlier date as the state can find a new contractor.

The federal General Accounting Office (GAO) investigated the circumstances surrounding the contract with HAS and issued a report which was not favorable regarding the State's procedure in entering into the contract.

Mr. Johnson indicated that the Medicaid program will approach a total state-county-federal cost over the next biennium of \$600 million. The State's share will be about \$170 million; the expansion portion of this will total about \$32-\$33 million.

On November 29, 1976, the Committee held its fifth meeting. Mr. Bob Daughtrya staff member in the Fiscal Research Division, outlined the federal Title XX program as it has affected North Carolina. Title XX is a block of money allocated to each state based on criteria of need established by the federal government.



The federal legislation identifies five general goals and objectives which Title XX money must be addressed to: 1) receiving and maintaining economic self-support; 2) achieving and maintaining self-sufficiency; 3) preventing or remedying the abuse or exploitation of children or adults unable to protect their own interests; 4) reducing or preventing inappropriate institutional care; and 5) securing appropriate institutional care when applicable.

Title XX is essentially an executive program, with the governor being named as the responsible coordinating official within each state. The governor names state agencies to control the use of the money, and in North Carolina the agency is the Division of Social Services. State legislatures generally have not had much responsibility or authority in the Title XX program.

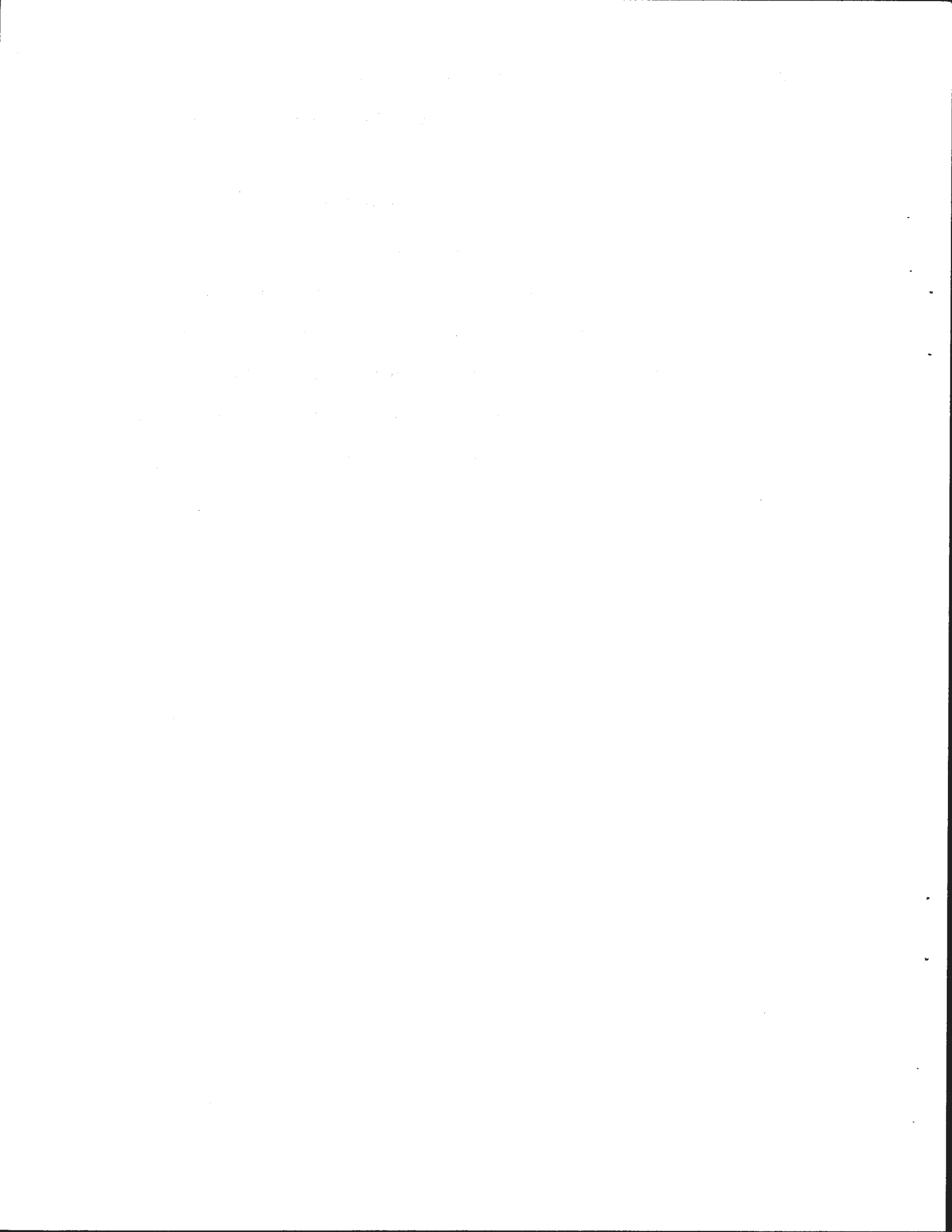
North Carolina's share of Title XX money for the last fiscal year was \$62.5 million. One problem during the past fiscal year was that more than \$20 million in available federal money was not spent because the local government could not raise the local match necessary to obtain the federal money. This money reverted back to the federal government. The match ratio is 75% federal and 25% non-federal; in North Carolina the non-federal share has been split so that the local government share is 12½% and the state share is 12½%. Two basic obstacles encountered by the state in dealing with Title XX funds are the short-term problem of how to

spend the total federal allocation and the long-term problem of equitable allocations of the funds. In response to committee questions, Mr. Daughtry identified three options which the State might consider. First, change the method of allocating State aid money to counties so that areas with larger portions of poverty level income people would receive a larger share of the State's matching money. The result would be that areas with higher percentages of poverty would get more state money and areas with more wealth would have to provide a higher local share. A second possibility would be to allocate, either in the appropriations bill or through a special division of the appropriations bill, a separate amount of money to counties based on some type of criteria of need; this would cost the State more than one half of the non-federal share. A third possibility would be to take almost the total Title XX funds and put them in a Statewise program. This would take the funds out of the counties altogether; such funds would need to be placed in an agency that was not otherwise competing for Title XX funds.

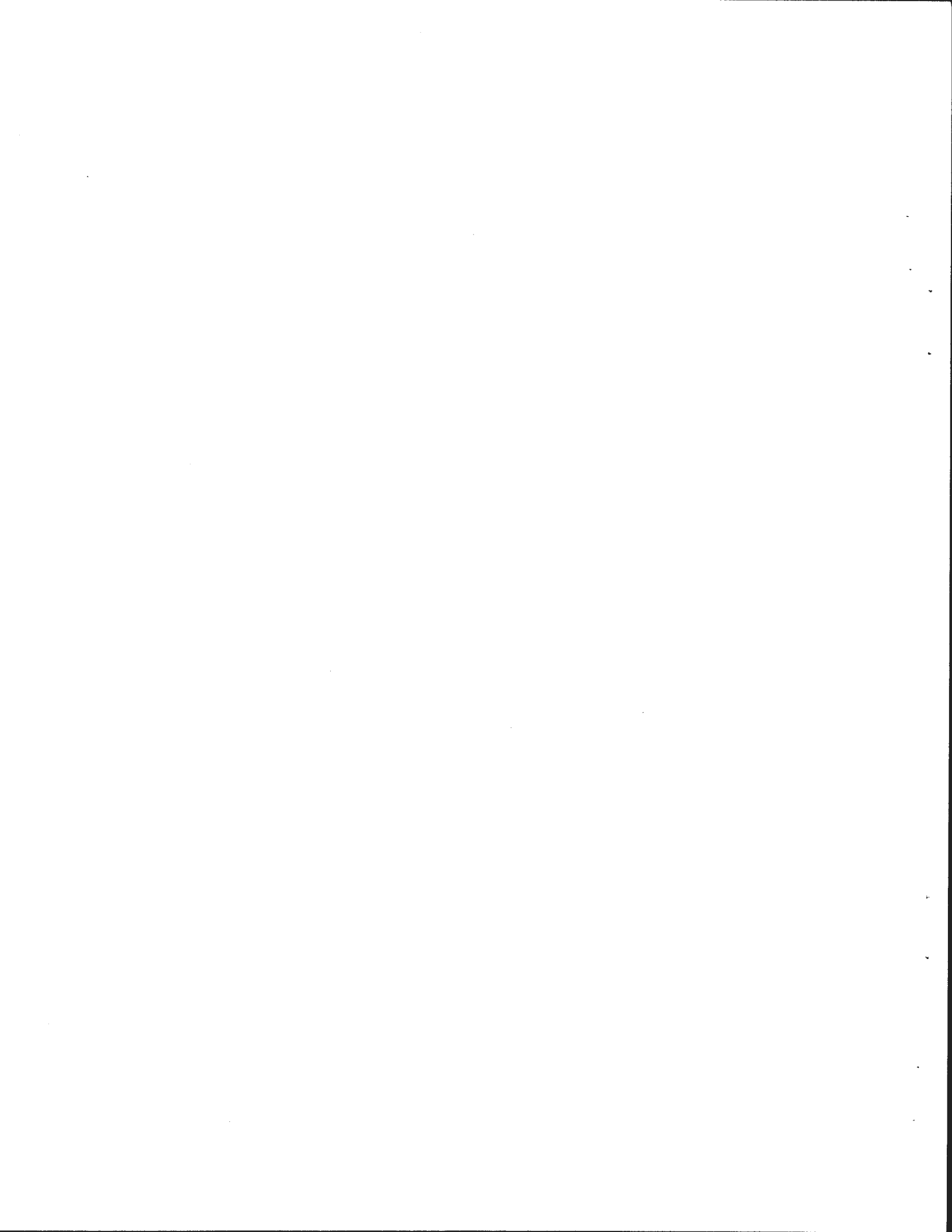
Mr. Don Nichols, Administrator, Law and Order Section, discussed the recently enacted federal law extending the LEAA program for three years. It makes special provisions requiring additional judicial membership on the Law and Order Commission and inviting legislative involvement in the review of LEAA plans. Mr. Nichols indicated that he is preparing a document on the changes that would

be required in the General Statutes to provide for the participation of the Chief Justice and also for the appointment of the additional membership for the judiciary.

Committee members discussed the possible inclusion of legislators on the membership of the Law and Order Commission. It was agreed that the chairman of the Appropriations Committee and a vice-chairman, or a designee, from each house should represent the General Assembly. It was also suggested that the Law and Order Commission be required to submit a two-year plan containing long-range goals, objectives and allocations, by March 31 of each odd-numbered year.



**FINDINGS**



## FINDINGS

1. The subject of intergovernmental relations is so vast and complex, and at the same time so important to the citizens of North Carolina, that it requires study, monitoring and review on a continual basis. It is simply beyond the capacity of an interim legislative study committee meeting five times to examine carefully the broad issues involved in federal-state-local relations. For example, it has been difficult to obtain accurate information concerning the total amount of federal money that goes directly to local units of government each fiscal year without "passing through" a State-level department. A spokesman for the State Office of Intergovernmental Relations indicated that the Office of Intergovernmental Relations (OIR) is attempting to compile an annual report which would include the above information; problems have been encountered because the available sources for data are incomplete or even markedly contradictory. This appears to be a trend in many states which are trying to develop an accurate picture of the flow of federal funds in their direction.

In spite of its complexity, intergovernmental relations is a subject that demands attention in order to promote the fair distribution and intelligent application of funds made available to state agencies and local units of government by

the federal government. The amount of money coming into the state from the federal level has increased at a fantastic rate. And accompanying every new federal dollar is a "guideline" which identifies and restricts the way in which the state agency or local government can spend the dollar. The state must begin to develop the capacity to evaluate these federal dollars, programs, and guidelines on a continuing and comprehensive basis in order to decide on the extent of its participation in an individual program and in order to communicate with the federal government about inappropriate and unsatisfactory guidelines.

2. Elected officials at the state and local levels of government should serve together in order to make an examination of intergovernmental relations optimally beneficial. Significantly, this interim legislative study committee had only one non-legislator (Mr. Vardell Godwin) among its membership. Although the Committee sought and received input from state agency heads and other employees, local government employees (including notably participants at the City and County Managers Seminar), and others, the study's perspective was somewhat narrowed due to the lack of a variety of local elected officials. John Morrissey, Executive Director of the North Carolina Association of County Commissioners, noted this limitation in remarks he made during the first meeting. A



true "partnership" approach seeking solutions to intergovernmental relations problems must bring together local and state officials representing a thorough cross-section of points of view.

3. The General Assembly has been unable to examine on a comprehensive basis the flow of intergovernmental funds. There is no mechanism to permit the General Assembly to gain a general overview of federal funds flowing into North Carolina and keep legislators updated on such issues as: (1) amount and purposes of federal funds bypassing state agencies and going directly to locals; (2) trends in federal funding of programs, and new federal programs and guidelines; (3) the extent to which the General Assembly may become directly involved in the continued funding of programs initiated with federal "seed" money; and (4) the policies, goals, and plans of State executive agencies authorized to administer large amounts of federal money, without any significant accountability to the General Assembly.

This is not intended as a criticism of the General Assembly's Fiscal Research Division. Its staff members are assigned according to the organization of state government, each one studying one or more state departments. An individual staff member is usually concerned only with federal programs that "flow through" his assigned state department. Additional staff

assistance will be necessary before Fiscal Research can reasonably be expected to develop the capability to evaluate comprehensively the intergovernmental flow of funds.

The Committee notes that state legislatures throughout the country are beginning to address this question and answer it in a variety of ways. An article by Walter H. Plosila entitled "State Legislative Involvement in Federal-State Relations," gives an excellent summary of what state legislatures are moving towards in the area of federal-state relations. This article is set out in Appendix F.

4. The General Assembly frequently has only a token involvement in approving federal funds flowing to the state level. The appropriations process calls for the approval of large lump sums of federal money in a given program area, and even these lump sums are estimates made at the beginning of a fiscal period. There is little or no review of the uses to which the funds will be put by the State department authorized to administer the money throughout North Carolina. Additionally, the federal funding picture changes not in conjunction with the period when the General Assembly is in session. Oftentimes, a state agency is contacted by a federal agency who has more money available than originally anticipated. In order not to "hamstring" the state agency if the General Assembly is not in session, the State Budget Officer is

authorized to approve the additional funding. But this procedure heightens the General Assembly's sense of non-involvement with federal funds.

One major example of this general problem has been studied by the Committee at several meetings. Federal LEAA funds flowing into this state are administered by the Governor's Law and Order Commission. It appears a large portion of these funds is being used to plan, develop and implement a comprehensive Criminal Justice Information System (CJIS) under the direction and supervision of the Law and Order Commission. The State Attorney General commented that CJIS might represent a duplication of the already-existing Police Information Network (PIN), which the General Assembly created in 1969. Regardless of whether CJIS offers wasteful duplication or intends to expand upon and build around PIN, it seems that the General Assembly has not generally been made aware of the proposed CJIS and may not find out until State funding is necessary.

This example is indicative of a trend in recent years. Federal funds are offered as "seed" money designed to promote states' acceptance of programs identified as important by the federal government. The feds then require a state "conformance plan" to obtain uniformity. Once the program is in motion, each state is expected to take up the financial

burden. At this point, each state legislature is forced to determine whether and to what extent the program should be continued. In general this means evaluating whether the public's interest is served best by continuation of the program. But, as a practical matter, it means deciding about the loss of jobs and removal of equipment in communities throughout the State. Under such circumstances, it is hard to discontinue a program unless its negative factors are numerous.

Several state legislatures have attempted to increase their awareness of and/or control over federal funds flowing into the State by using various procedures and mechanisms. A recent information bulletin from the national Advisory Commission on Intergovernmental Relations summarizes significant developments in many states. This bulletin is set out in Appendix G.

5. From a local perspective, the present multiplicity of State and federal regions offering services results in confusion and duplication of effort. At the State level, several departments have established regional offices in an attempt to provide for better coordination of their functional services to all areas of North Carolina. As examples, the Local Planning and Management Services Section in the Division of Community Assistance (DNER) has seven field offices; the Department of Human Resources has four regional offices;

the Veterans Affairs Division in the Department of Military and Veterans Affairs has 15 regional offices; and, the Department of Transportation has 14 regional division offices. However, these regions are not congruent. In addition to the regional approach presented by these and other functional agencies, the 17 multi-county regions known as Councils of Government were started in 1971. To some extent the grouping of counties within a region has been random and has added to the confusion in intergovernmental relations.

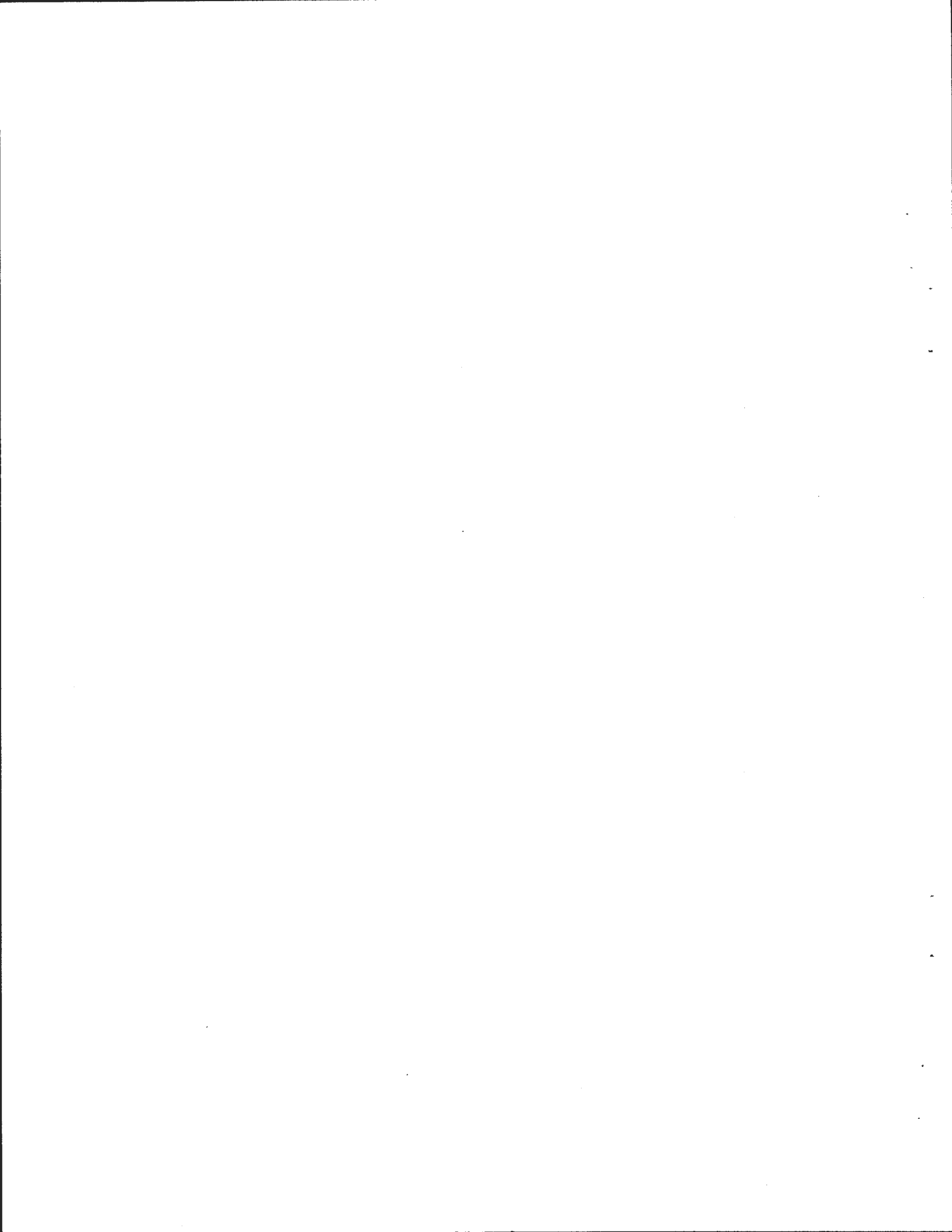
6. From a local perspective, two distinct state agencies deal with local government to provide information and assistance concerning available federal programs and funds. The Local Planning and Management Services Section in the Division of Community Assistance (DNER) is responsible for administering grants and services designed to improve the planning and management capabilities of local units of government. Local Planning and Management Services Section has seven field offices which allow it to deal directly with locals.

More recently, the Office of Intergovernmental Relations has been created in the Department of Administration. It has a Local and Regional Affairs Section which is also designed to make locals aware of federal programs. The A-95 Clearinghouse Review process is supervised at the state level through OIR. However, OIR apparently communicates directly with the various

lead regional organizations rather than with general purpose local governments. Additionally, OIR is also responsible for improving the state's position in federal-state relations - a function which locals believe lessens the agency's commitment to working with them in a concentrated effort to improve local-state communication and services.

Some effort should be made to consolidate the apparently duplicative functions of these two agencies in order for local officials to readily identify a single responsible source of aid at the state level. Such consolidation would also eliminate whatever competition between the two agencies has resulted as a by-product of their co-existence and would perhaps permit the single agency to develop a greater capacity for monitoring federal programs, including the most recent trends, in order to improve the opportunities of all local applicants to obtain available moneys and other resources.

**RECOMMENDATIONS**





## RECOMMENDATIONS

1. The 1977 General Assembly should enact legislation establishing a permanent body with membership composed of state legislators, elected local government officials, and state executive department officials, to function as a state level " advisory commission on intergovernmental relations." Either as an alternative or an addition to this recommendation, the General Assembly should consider enacting legislation to establish a joint legislative commission on intergovernmental relations, in order for the legislative branch to begin to develop a thorough, ongoing understanding of the subject. The study committee has drafted proposed legislation to create such a commission; it is set out in Appendix H. As presently drafted, the bill offers an alternative to the "state ACIR", because the membership of the joint legislative commission includes several non-legislators. If such commission is more suitable as an addition to the "state ACIR", the membership provision (§ 120-111) of the bill should be severed and placed in a new bill establishing the "state ACIR". Membership on the legislative commission should then be limited to legislators, perhaps with a provision that certain members of the commission would also serve on the "state ACIR".

2. The 1977 General Assembly should consider providing additional staff assistance to its Fiscal Research Division, specifying that the additional personnel shall be responsible primarily for providing information on the subject of intergovernmental flows of funds, particularly from the federal level to the State and local levels.
3. The 1977 General Assembly should enact legislation to include among the membership of the Governor's Law and Order Commission representatives from the legislative branch of government. The study committee has drafted proposed legislation to accomplish this objective. The bill would add to the Commission the Chairman of the Appropriations Committee of each house and a Vice-chairman from each Appropriations Committee. The proposed bill would also add certain judicial officials, including the Chief Justice of the State Supreme Court, which is required by the recent federal legislation extending LEAA funding to the states. The draft bill is set out in Appendix I.
4. The 1977 General Assembly should consider dividing the State into several regions, with each region responsible for coordinating all state government services within its area. Local officials would then be able to identify and work with one regional office in local-state matters.
5. The 1977 General Assembly should consider enacting legislation to require all state agencies to include in their budget preparations anticipated federal funding and to require the

Director of the Budget to include this same information in the budget submitted to the General Assembly. The study committee has drafted legislation amending the Executive Budget Act (Article 1 of G.S. Chapter 143) to add these requirements. The proposal also presents another issue for consideration by the General Assembly: whether or not the legislature should appropriate all funds coming into North Carolina and prohibit state agency spending of any funds not considered during the regular appropriations process, except upon specific approval by the Advisory Budget Commission. See the two alternative drafts of "Sec. 3" of the proposed legislation which is set out in full as Appendix J.

6. The 1977 General Assembly should consider consolidating in some manner the Office of Intergovernmental Relations in the Department of Administration and the Local Planning and Management Services Section, Division of Community Assistance, in the Department of Natural and Economic Resources, in order for local officials to be able to contact one state level agency to find out about available federal programs and obtain technical assistance in preparing applications and plans to receive federal funds and services. Appendix K contains proposed legislation which would accomplish this purpose by transferring OIR to the Div. of Community Assistance.

7. Due to the vast amount of funds involved in the CETA program and the waste and inefficiency suggested in testimony before the Committee, it is strongly suggested that the General Assembly take immediate steps to see to it that audit results are obtained as soon as possible in order that the General Assembly may consider appropriate legislative action to ensure that the CETA program is run efficiently and effectively in North Carolina.

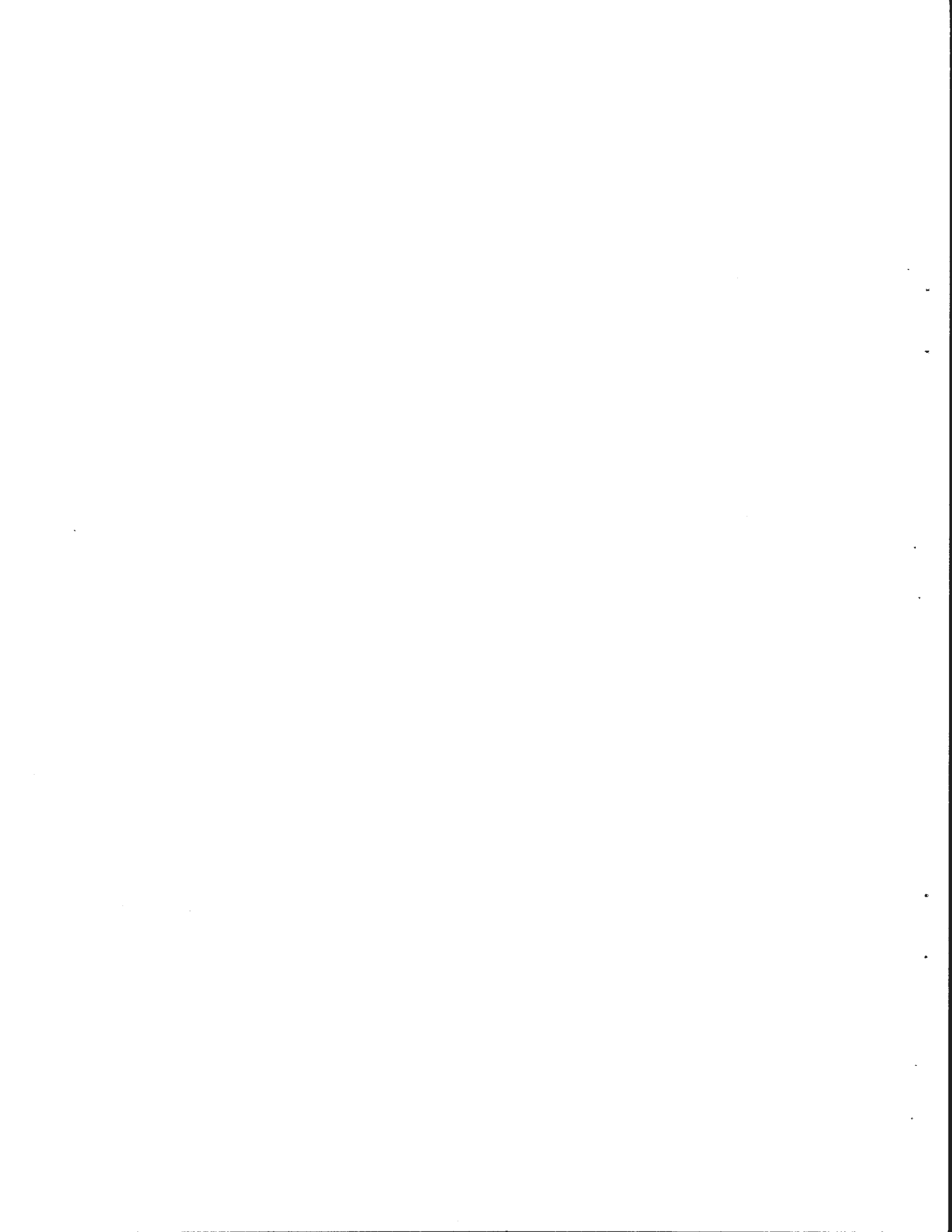
**APPENDICES**

## APPENDICES

### INTERGOVERNMENTAL RELATIONS

- Appendix A - Membership list
- Appendix B - Resolution 102 (S.L. 1975) directing the study on Intergovernmental Relations
- Appendix C - Outline of subjects considered and participants at Committee meetings
- Appendix D - Materials from State Budget Office on federal funds coming into North Carolina
- Appendix E - Report entitled Intergovernmental Relations in North Carolina: A Local Perspective, presented to Committee by Mr. Richard Davis
- Appendix F - Article entitled "State Legislative Involvement in Federal-State Relations", in State Government, Summer, 1975, by Walter H. Plosila
- Appendix G - Information Bulletin by Advisory Commission on Intergovernmental Relations entitled "State Legislatures and Federal Grants"
- Appendix H - Draft bill: Establish a Joint Legislative Commission on Intergovernmental Relations
- Appendix I - Draft bill: Additional members on Governor's Law and Order Commission
- Appendix J - Draft bill: Require state agencies to include anticipated federal funding in budget preparations
- Appendix K - Draft bill: Transfer Office of Intergovernmental Relations to Department of Natural and Economic Resources

APPENDIX A

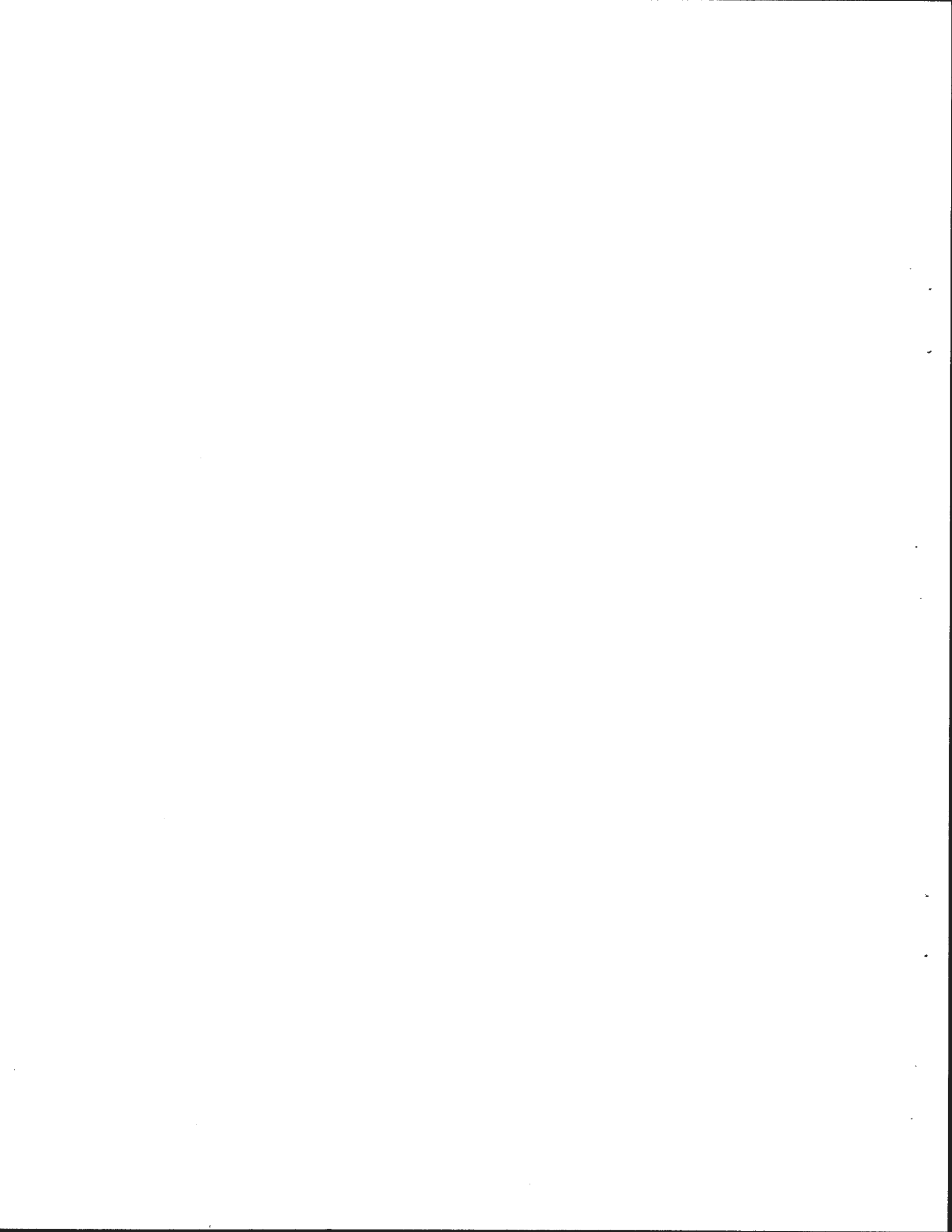




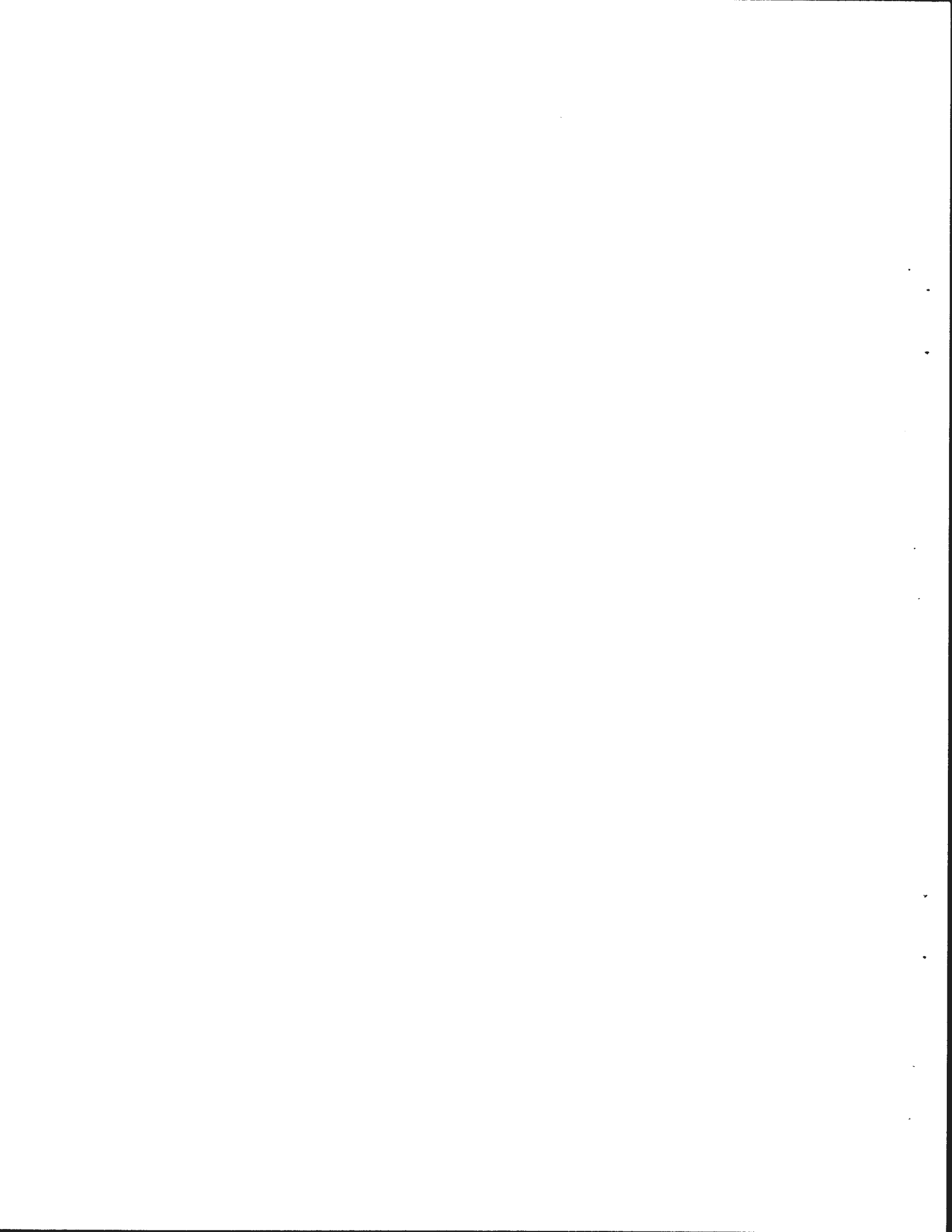
LEGISLATIVE RESEARCH COMMISSION  
Study on  
LOCAL GOVERNMENT MATTERS

LOCAL MASS TRANSIT - INTERGOVERNMENTAL RELATIONS

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Representative Allen Barbee, <u>Co-Chairman</u> Barbee Building Spring Hope, N. C. 27882	(919) 478-3146
Senator E. Lawrence Davis, <u>Co-Chairman</u> P. O. Drawer 84 Winston-Salem, N. C. 27102	(919) 725-1311
Representative Jeff H. Enloe, Jr. Route 1 Franklin, N. C. 27834	(704) 524-2632
Mr. Vardell Godwin McPherson Church Road Fayetteville, N. C. 28303	(919) 867-3161
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Senator James D. McDuffie 4409-C North Tryon Street Charlotte, N. C. 28200	(704) 597-0600
Representative W. M. Short Suite 319, Southeastern Building Greensboro, N. C. 27400	(919) 273-9457
Senator Charles E. Vickery Suite 20, Plaza Building, Franklin Street Chapel Hill, N. C. 27514	(919) 929-7151



APPENDIX B



GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 1975  
RATIFIED BILL

RESOLUTION 102

SENATE JOINT RESOLUTION 576

A JOINT RESOLUTION DIRECTING THE LEGISLATIVE RESEARCH COMMISSION  
TO STUDY INTERGOVERNMENTAL RELATIONS.

Whereas, the complexity of modern society and the changing role of the federal and State governments necessitate broader responsibilities for local governments; and

Whereas, these broader responsibilities for local governments call for a reassessment of their respective roles and their relationships with each other and State and federal governments; and

Whereas, the present capacities of local government will be severely strained if their resources and operational frameworks are not more quickly modernized and expanded; and

Whereas, lead regional organizations have been in operation in North Carolina for five years and there is a need to thoroughly review the local experience of these organizations; and

Whereas, it is well recognized that continuing attention should be given to basic aspects of local government by an appropriate body if the system of State and local government is to remain vital and effective; and

Whereas, the Local Government Study Commission, established by resolution in 1967 and continued by resolution in 1969 and 1971, has expired and is no longer functioning;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The Legislative Research Commission is directed to produce a study on Intergovernmental Relations, and:

(1) To examine the current distribution of jurisdictional responsibilities and service functions among governments in North Carolina relative to the increased needs of its citizens and to recommend improvements in the distribution of such responsibilities and service functions among governments;

(2) To review boundaries and powers of regional councils of government and to review COG legislation;

(3) To examine the system of and flow of intergovernmental funds with respect to their impact on priority public services at the local and State levels, and to recommend improvements in policy formulation, administration, distribution, and use of such funds;

(4) To examine the experience with home rule legislation and make recommendations for improvements;

(5) To review the use and sources of science and technology which are needed by State and local governments for modern management of government;

(6) To identify and examine emerging public policy problems that involve intergovernmental responsibilities and that call for intergovernmental solutions, and to make recommendations with respect to such solutions;

Sec. 2. The Cochairmen of the Legislative Research Commission are authorized to appoint additional members of the General Assembly to study committees to assist the regular

members of the Research Commission in conducting this study, and they are authorized to appoint members of the public to advisory subcommittees. The President Pro Tempore of the Senate shall consult with the President of the Senate when he considers these additional appointments.

Sec. 3. This act shall become effective July 1, 1975.

In the General Assembly read three times and ratified, this the 23<sup>rd</sup> day of June, 1975.

**JAMES B. HUNT, JR.**

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James B. Hunt, Jr.

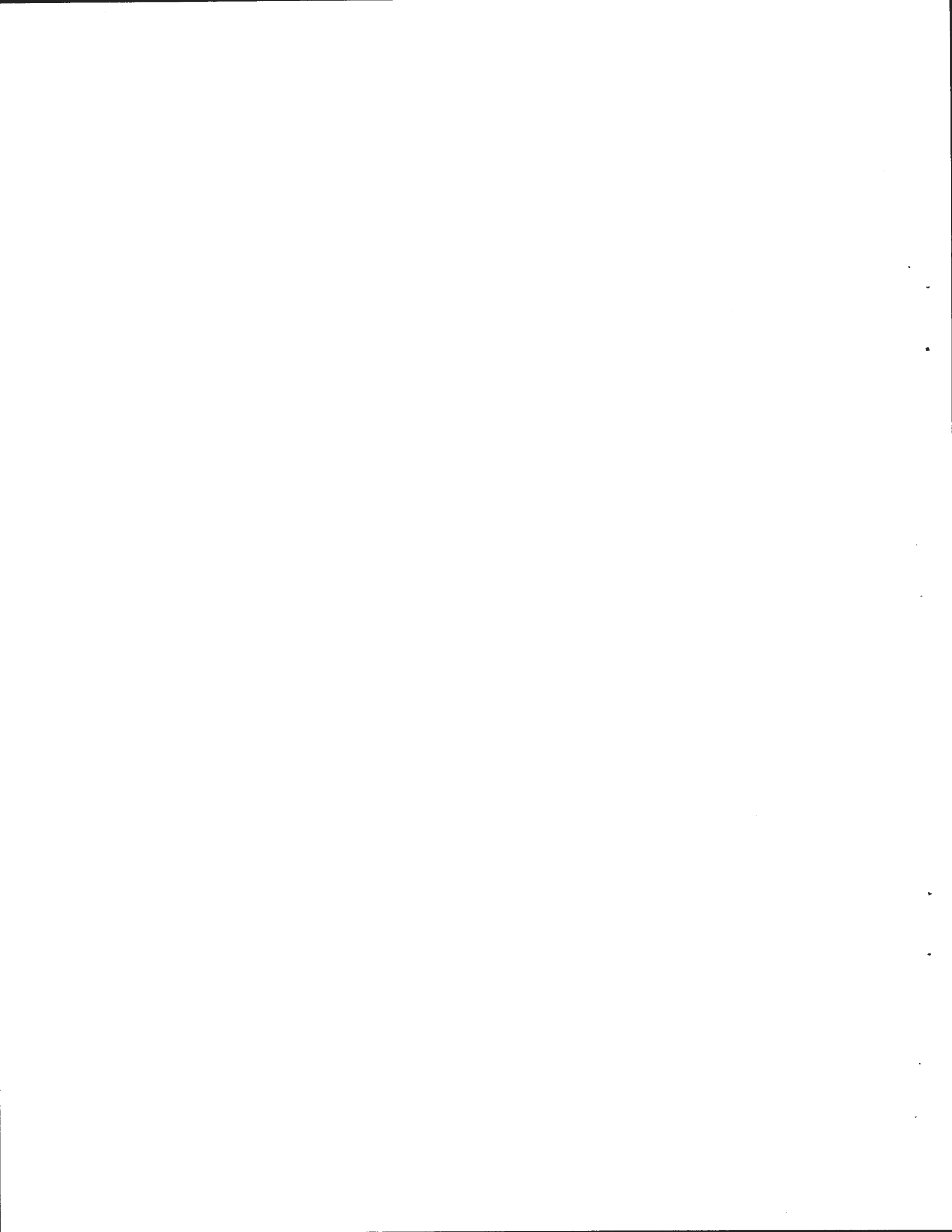
President of the Senate

**JAMES C. GREEN, SR.**

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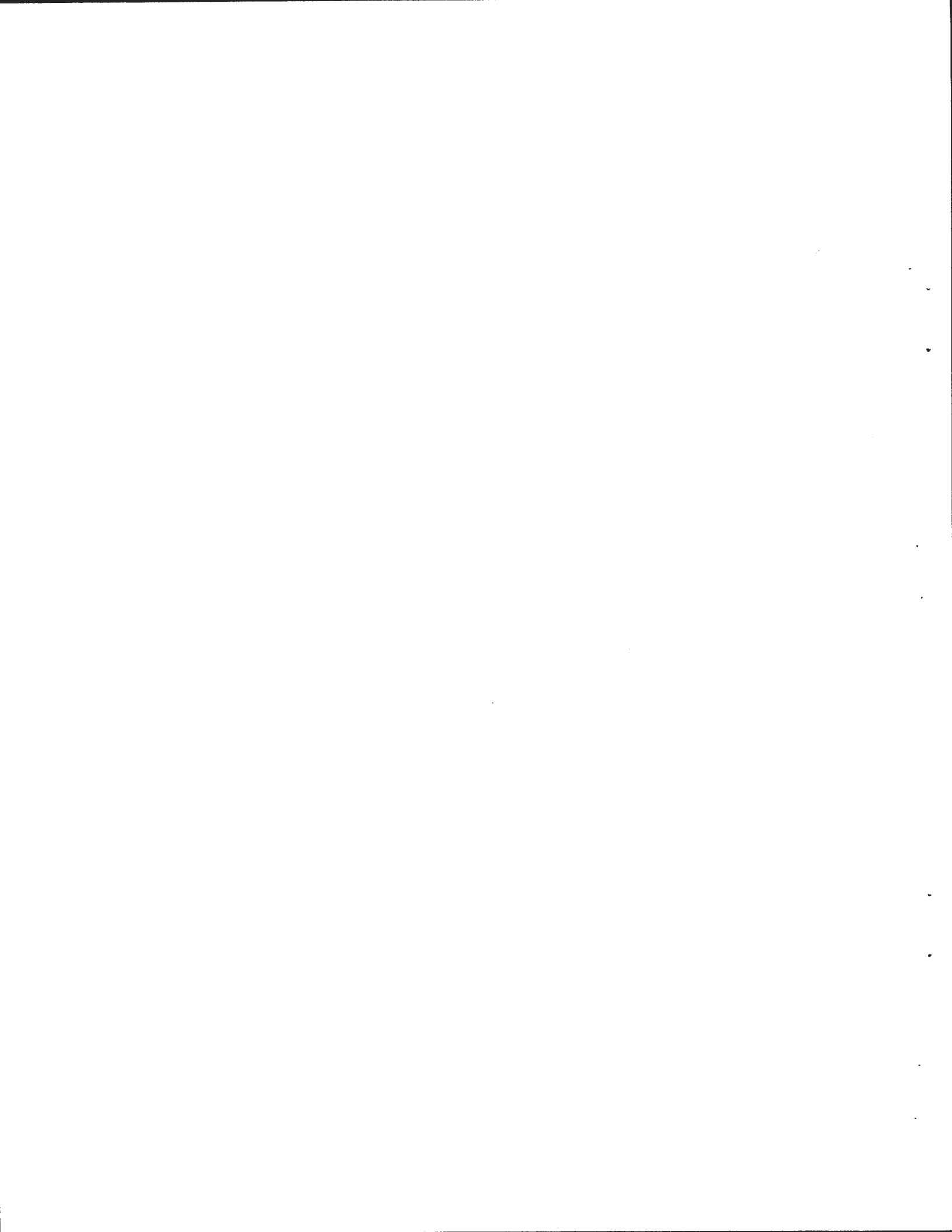
James C. Green, Sr.

Speaker of the House of Representatives





APPENDIX C



APPENDIX C - HISTORY OF INTERGOVERNMENTAL RELATIONS COMMITTEE  
MEETINGS

Meeting 1 - October 14, 1975

Topics considered:

- (1) Organization of study
- (2) Function of Office of Intergovernmental Relations (Department of Administration)
- (3) Proposed Criminal Justice Information System
- (4) Work of Police Information Network (PIN) System
- (5) LEAA funds

Speakers:

Ed Deckard, Director, Office of Intergovernmental Relations  
Rufus Edmisten, Attorney General  
Howard Livingston, Director, PIN  
Sam Long, Counsel, Governor's Office  
Don Nichols, Administrator, Law & Order Section, DNER

Meeting 2 - November 6, 1975

Topics considered:

- (1) Federal moneys allocated to state
- (2) Tour of existing PIN facility

Speakers:

James Pinor, State Budget Office  
Mike Karpinski, Office of Intergovernmental Relations  
Howard Livingston, Director, PIN

Meeting 3 - July 15, 1976

Topics considered:

- (1) Present nature and status of intergovernmental relations in North Carolina from a local perspective

- (2) Functions of Local Planning & Management Services Section (LPMSS in Division of Community Assistance, DNER
- (3) Comprehensive Employment and Training Act (CETA)
- (4) Updating of CJIS matter

Speakers:

Richard Davis, Assistant County Manager & Personnel Director, Cumberland County  
Robert Ewing, Director, Division of Community Assistance, DNER  
Joe Balak, Director, Office of Employment & Training  
Don Nichols, Administrator, Law & Order Section, DNER  
Mercer Doty, Director, Fiscal Research Division

Meeting 4 - September 15, 1976

Topics considered:

- (1) Testimony of a CETA employee
- (2) An overview of Medicaid in North Carolina

Speakers:

Mrs. Pat Carone, CETA employee  
Jim Johnson, Fiscal Research Division  
John Young, Legislative Services Office

Meeting 5 - November 29, 1976

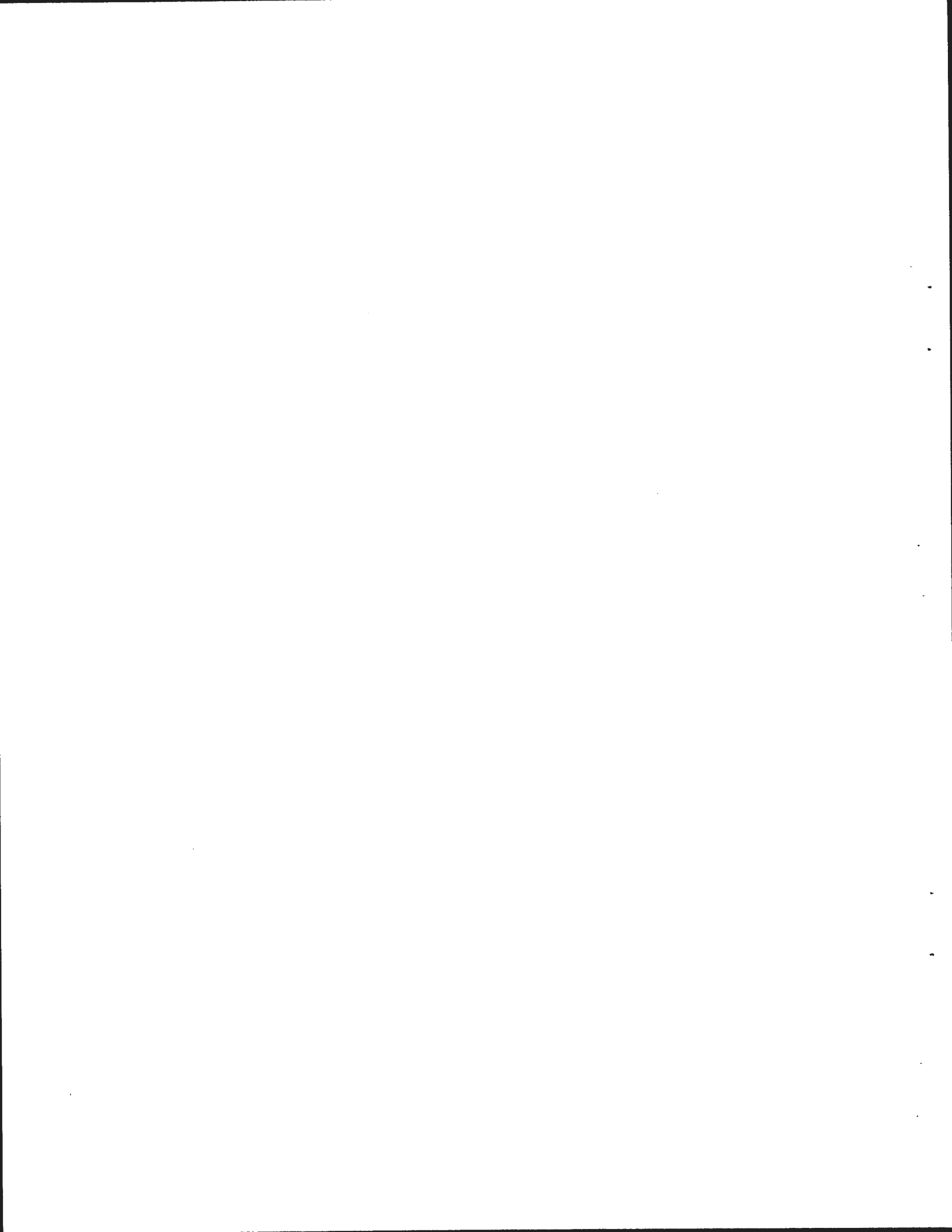
Topics considered:

- (1) Federal legislation extending LEAA program
- (2) Overview of Title XX program in North Carolina

Speakers:

Don Nichols, Law and Order Section, DNER  
Bob Daughtry, Fiscal Research Division

APPENDIX D



## APPENDIX D

## FEDERAL FUNDS

Apart from general revenue sharing, it is estimated that state departments, agencies, and institutions will receive federal grants totalling \$747.6 million in 1975-76 and \$769.3 million in 1976-77. These amounts account for about 23 percent of the total state budget each year. Forty-six percent of the federal funds received over the biennium will go to the Department of Human Resources for programs in public health, vocational rehabilitation, income maintenance, blind services, and other social or health services. Approximately 24 percent of the federal funds will support programs in the public schools, community colleges, and the university system. Transportation and highway safety activities are expected to receive about twenty percent of all federal funds in the next two years, primarily for interstate highway construction.

General federal revenue sharing allocations are not included in the above figures. The state expects to receive \$51.7 million from this source in 1975-76 and \$41.4 million in 1976-77. Unless renewed by Congress, the program will end on December 31, 1976. These receipts are treated as non-tax general fund revenues and are appropriated by the General Assembly for both current operations and capital improvements in the same manner as general fund revenues.

**TOTAL NORTH CAROLINA STATE BUDGET  
BY FUNCTIONS AND SOURCES OF FUNDS  
ACTUAL 1974-75**

	General Fund	Highway Fund	Other	Federal	Total Net
General Assembly	\$ 4,563,088	\$ -	\$ 117,388	\$ -	\$ 4,680,476
Judicial	39,385,118	-	7,407	-	39,392,525
General Government	56,142,189	2,041,049	23,466,086	40,149,769	121,799,093
Public Safety and Regulation	13,073,638	329,795	7,547,918	31,939,327	52,890,678
Correction	61,949,605	-	4,458,837	-	66,408,242
Education:					
Public Schools	772,145,444	3,778,810	16,580,480	147,854,609	940,359,343
Community Colleges	106,413,517	-	8,742,325	3,406,936	118,562,778
Higher Education	268,899,969	-	133,893,007	19,866,123	422,664,099
Cultural Resources	10,306,608	-	1,022,906	2,157,601	13,487,115
Total Education	1,157,765,538	3,778,810	160,243,718	173,285,269	1,495,073,335
Transportation	3,541,301	375,924,254	12,107,957	212,882,832	604,456,344
Human Resources	255,551,284	-	66,125,542	309,384,979	631,061,805
Resource Development and Preservation	22,920,378	-	11,796,673	28,453,681	63,170,732
Agriculture	11,939,756	849,612	6,557,762	1,463,481	20,810,611
Reserves and Transfers	970,000	-	-	-	970,000
Debt Service	(98,264)	24,415,610	-	-	24,317,236
Total Operating	\$1,627,703,831	\$ 407,339,020	\$ 292,429,088	\$ 797,559,348	\$3,125,031,077
Capital Improvements	93,365,337	370,000	2,865,000	803,750	97,404,087
Total	\$1,721,068,968	\$ 407,709,020	\$ 295,294,088	\$ 798,363,088	\$3,222,435,164

44



OFFICE OF STATE BUDGET

November 6, 1975

## The Impact of Revenue Sharing on the State of North Carolina

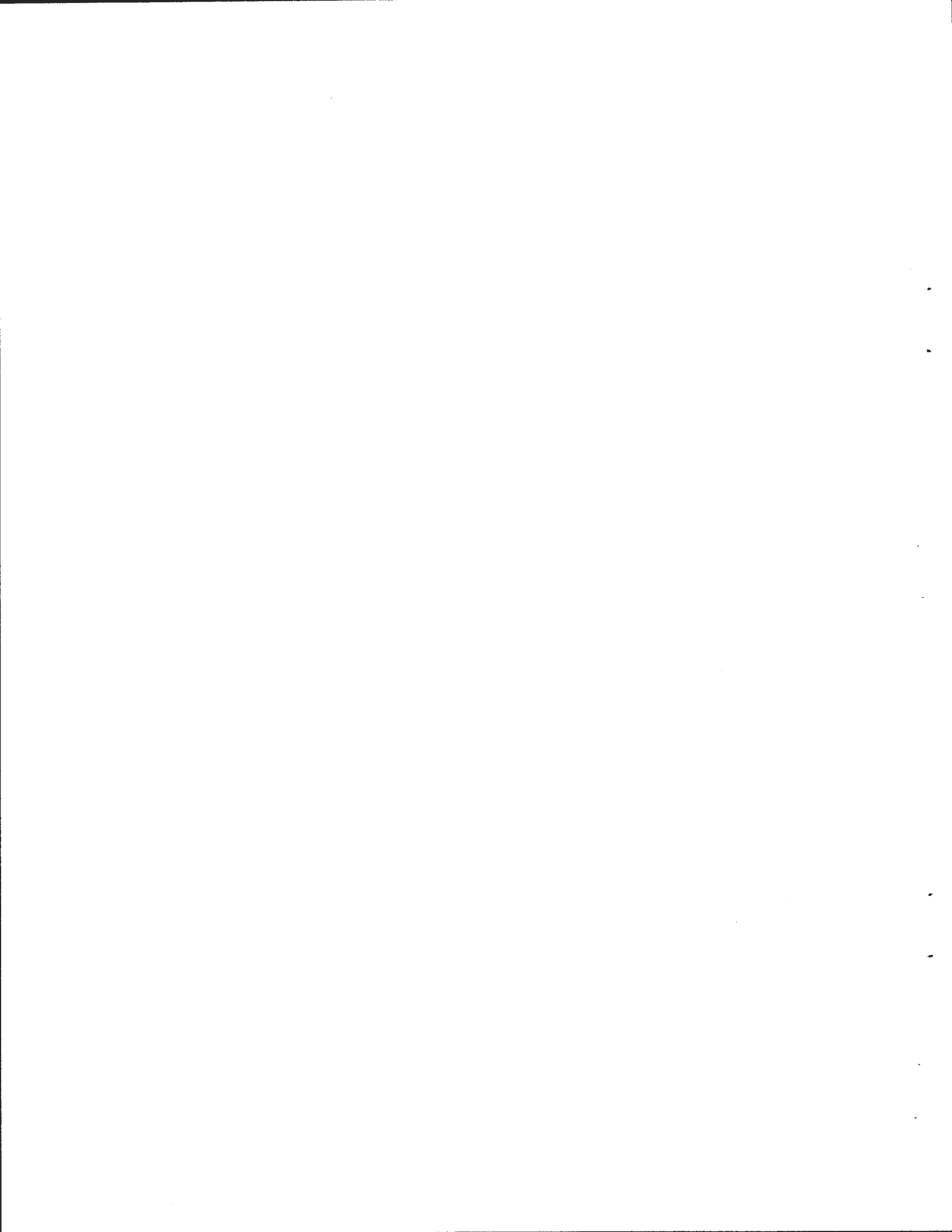
\* State government in North Carolina had received as of June 30, 1975 a total of \$162.4 million in General Revenue Sharing funds. In addition, the state's entitlement for Fiscal Year 1976 is \$51.7 million and the expected entitlement for Fiscal Year 1977 is \$41.4 million (assuming no extension of the General Revenue Sharing program).

Therefore, under provisions of the existing legislation, North Carolina is expected to receive a grand total of \$255.5 million over the duration of the current program -- approximately \$51.0 million each year.

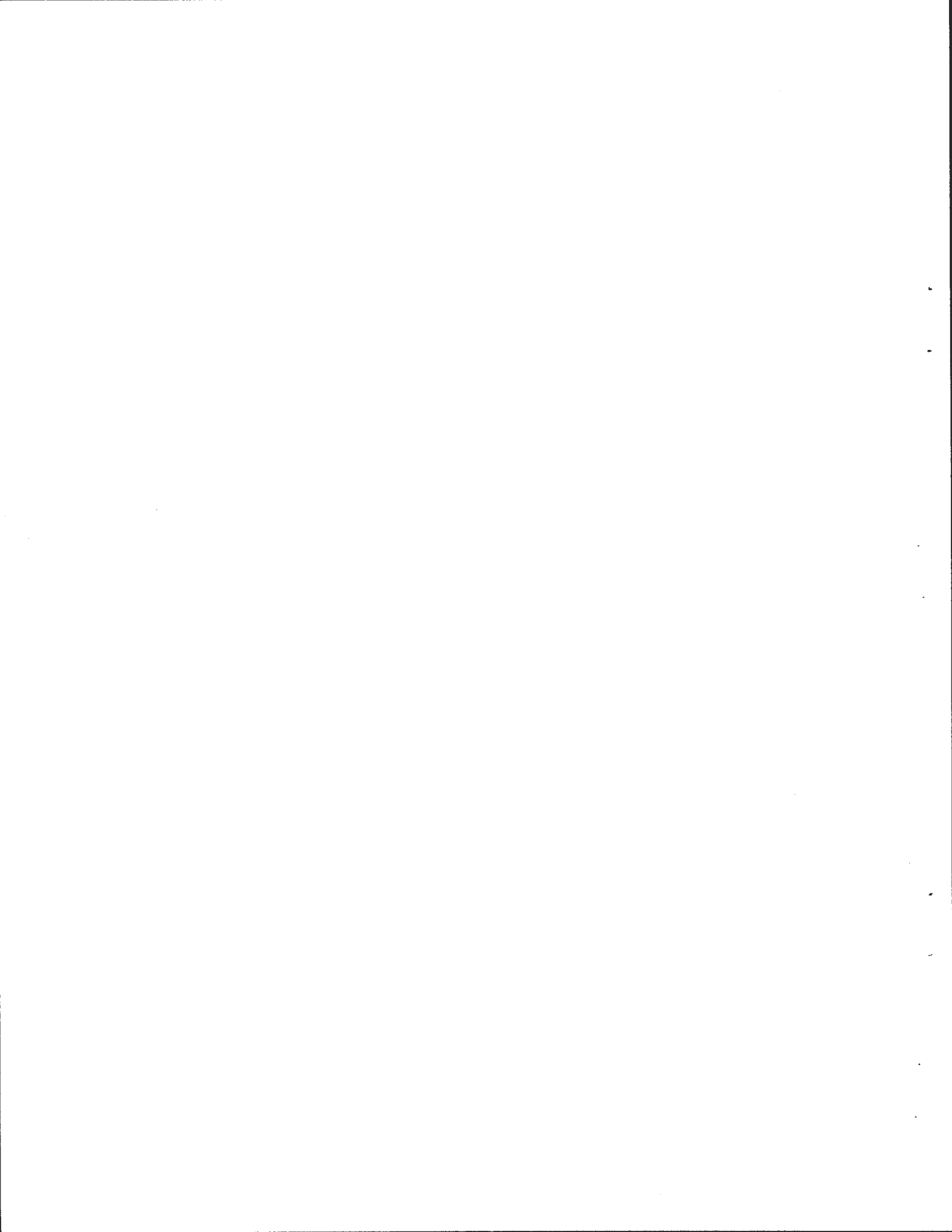
In North Carolina the state legislature has already appropriated the state's total entitlement of \$255.5 million. Of this amount, 47.2% was appropriated for education, a function heavily supported at the state level. A major effort in improving and upgrading corrections and mental health facilities has been undertaken with revenue sharing funds. These two categories accounted for 22% of the state's total entitlement. Other categories funded by General Revenue Sharing included general government land acquisition and construction (\$55.7 million) improvement of state port facilities (\$12.7 million), park land acquisition (\$5.0 million), and agricultural facilities (\$5.4 million).

Revenue sharing payments comprise 3.0 percent of the state's Fiscal Year 1976 General Funds resources, but they equal 35.9 percent of the available increased resources for that year. If the General Revenue Sharing program is not continued, North Carolina will lose approximately \$51.0 million of income per year under the current formula.

\* Note that State government gets  $\frac{1}{3}$  of the total revenue sharing funds available to North Carolina. The remainder goes directly to local units of government.



**APPENDIX E**



APPENDIX E

INTERGOVERNMENTAL RELATIONS IN  
NORTH CAROLINA: A Local Perspective

Comments prepared and presented

to the

Intergovernmental Relations Study Committee

by

J. Richard Davis

Cumberland County

July 15, 1976

## INTRODUCTION

In looking at Senate Joint Resolution 576 "directing the Legislative Research Commission to study intergovernmental relations" I can readily see the monumental task that this Committee has. This Resolution requires a comprehensive review of the entire spectrum of governmental operations on all three levels, federal-state-local. Such a review and study will hopefully result in a clearer understanding of the roles of the different actors in the intergovernmental process and what can be done to coordinate the efforts of these different actors and their respective agencies and departments. Essential as a starting point for the discussion of intergovernmental relations in North Carolina is a definition of the term Intergovernmental Relations (IGR) and its implication for this Committee as I see it.

## DEFINITION

One definition has it that "IGR is a term intended to designate an important body of activities or interactions occurring between governmental units of all types and levels within the (United States) federal system."<sup>1</sup> Another depicts IGR as the "effective cooperation and coordination of government at all levels of our federal system."<sup>2</sup> Interaction between the three levels of government, federal-state-local, depends on coordination and cooperation if it is to be fruitful and beneficial to all those involved in the operations of government and for all those affected by government, i.e., citizens at large and service clientele. It is this theme of coordination and cooperation that provides the basis for my discussion here today. In order for government to maximize its benefits and services to the citizens that it serves, each level must stop and examine its present role with

regard to each of the other levels. Hopefully this examination will then result in appropriate actions to be taken to reinforce and make more effective the "partnership" that the American political system is.

Daniel Elazor notes that "partnership implies the distribution of real power among several centers that must negotiate cooperative arrangements with one another in order to achieve common goals,"<sup>3</sup> i.e., these goals may reflect individual substantive efforts but are all oriented toward the provision of public service either directly or indirectly. Distribution of power presently in the federal system is held to be an equal distribution, that is, each level of government possesses power that is proportionate to its area of legal responsibility. Conflict and confusion develop in the intergovernmental process where power is disproportionately given to or taken by one level of government without the consent of the level that power is taken from. A delicate balance of power has been held to be essential to the successful operation of the federal system at all levels. This question of distribution of power is one that must be examined both from a horizontal perspective and a vertical hierarchical perspective. In North Carolina this balance of power question is quite important in the study of intergovernmental relations in that a belief on the part of either the local level or the state level that the other is usurping some of its power under the guise of "intergovernmental coordination and cooperation" will result in the "confusion and conflict" noted above and subsequent refusal to participate in the intergovernmental process.

#### PRESENT NATURE AND STATUS OF IGR IN NORTH CAROLINA

In order to make this discussion relevant to the task of this study committee I would like to now focus on the present nature and status of Intergovernmental

Relations in North Carolina as viewed from a local perspective. As noted before, my comments here today reflect my observation of federal-state-local relations during my tenure with Cumberland County as Assistant to the County Manager/Personnel Director. It was early in my experience in Cumberland County that I became aware of the confusion and lack of coordination between the local level and federal level as well as between the local level and the state level. The difficulty that I experienced initially in trying to understand the relationship between the different levels of government seemed to increase, rather than decrease, as I came to examine the IGR process more closely. In this part of my presentation I would like to provide you with some examples of intergovernmental relations in N.C. today. Again I must emphasize that this presentation may contain a bias, that bias being my position as a "localist" and as such, a representative of local government. But, I have made every attempt to make this report as factual and objective as possible given the limited information available to me and my possible personal bias, or rather, my local orientation.

#### A. STATE-LOCAL TASK FORCE - 1973

On May 4, 1972, Governor Robert W. Scott created the State-Local Task Force which was "charged with the responsibility to review the relationships between local governments and the state government as portrayed in the Model Cities/Planned Variations process in Winston-Salem."<sup>4</sup> Senator E. Lawrence Davis III of this Committee, then a State Representative, served as a member of this State-Local Task Force and his efforts there are to be commended. This Task Force provided Governor James E. Holshouser, Jr., with findings and recommendations in the following areas:



1. Directory of State Programs
2. Standardized Data Systems
3. Local-State Service Office
4. State Annual Arrangements
5. Federal Planning and Administrative Requirements
6. State Comprehensive Planning Process
7. Coordinated Functional Planning
8. Reverse State and Regional Clearinghouse Function
9. Department of Administration
10. Revenue Sharing Study
11. State Agency Communication With Local Governments
12. Instability of Federal Funding
13. Federal Staff Orientation
14. Federal Interagency Expediter
15. Governor's Presentation to Efficiency Study Commission

The summary of these findings and recommendations is attached to these comments as Appendix A.

I am quite sure that most of you are familiar with these findings but I would like to bring to your attention four of these findings that I find to be most germane to our discussion today. Those four being:

1. Directory of State Program: This has been accomplished by DNER.
2. Local-State Service Office: The Office of Intergovernmental Relations was established by Gov. Holshouser to accomplish this recommendation.
3. Reverse State and Regional Clearinghouse Function: This process is presently being carried out jointly by OIR and by appropriate Lead Regional Organizations.

I do have a serious question as to the effectiveness of the A-95 review process as a valid coordinator of state and local efforts in the Federal grant process.

4. State Agency Communication With Local Governments: It seems that the present Administration has followed somewhat closely a communications system which allowed for the flow of pertinent information to local governments through the appropriate Lead Regional Organization (COG), thereby, resulting in a information system that did not always funnel appropriate information to those local governments that needed it.

#### B. OFFICE OF INTERGOVERNMENTAL RELATIONS

As indicated above, Governor Holshouser did establish an Office of Intergovernmental Relations that had as its goal - "better coordination of federal and state activities in N.C." This goal was to be carried out through the use of the 17 LRO's already in operation in the state. Low visibility of the efforts of OIR was one result of this pattern of operation. Some Councils of Governments (LRO's) had been providing direct technical assistance to local governments in the area of grants management even before OIR came into existence. Regionalism in this state must be examined by this Committee I feel if it is to get a complete view of intergovernmental relations in North Carolina. Sub-state regionalism has long been the goal of the Federal government as a way of decreasing the number of units of local government that it has to deal with in the federal process. This question of regionalism will be examined briefly later in this presentation.

The location of this Office of Intergovernmental Relations in the Department of Administration is in keeping with the recommendations of the Advisory Commission on Intergovernmental Relations (ACIR) in its report "Unshackling Local Government" in April of 1968, that state governments consider the establishment of a state agency or office under the Governor that would have the responsibility "for providing technical assistance to local governments . . . to serve as a clearinghouse for

information, data, and other materials helpful to local governments, including data on available Federal and State technical and financial assistance."<sup>5</sup> It is difficult to evaluate completely the effectiveness of OIR in coordinating intergovernmental efforts in N.C. and in assisting local governments. From the local standpoint that I am most familiar with, it seems that the possible effectiveness of OIR has been lessened in its dependence on LRO's. Such an office located at the State level could serve as a point of federal contact with the local governments in the state. This approach would be comprehensive and would allow for coordination of efforts on a clearinghouse type basis. Unfortunately the low visibility of OIR has resulted in local governments by-passing the State and going to the Federal government directly to obtain needed information and technical assistance. Thus the dichotomy that marks IGR in N.C. becomes apparent. The lack of a strong State level coordinator results in the bypassing of the state creating Local-Federal relations rather than Local-State-Federal. Lack of awareness of the total gamut of Federal activities in N.C. follows this pattern of Local-Federal relations and makes statewide comprehensive planning impossible. The delicate balance of power begins to tilt when the State loses sight of the ongoing operations of those local government units that are its very essence.

Local-Federal relations come about in those situations where a local government has the staff capacity to seek out federal grant program monies for local use without having to depend on someone outside its government structure i.e., the LRO's. In this type situation the local government identifies its needs, seeks out appropriate and available Federal monies, makes application for money, follows the grant application through the Federal process, receives the grant and administers it without the involvement of the LRO's which results in Federal programs that are not always completely

effective due to lack of appropriate population base, lack of intergovernmental coordination and specific piecemeal efforts at solving problems that are broad in scope.

In total the program now being followed by the Office of Intergovernmental Relations reflects a piecemeal approach to a broadly based problem and need that prohibits the total coordination and cooperation of all the actors in the IGR process in N.C. At best the "partnership" is promised but is not promulgated effectively.

C. NORTH CAROLINA DEPARTMENT OF NATURAL AND ECONOMIC RESOURCES, Division of Community Assistance, Local Planning and Management Services Section (LPMSS).

In looking at IGR in N.C. another agency's efforts come into view. The Local Planning and Management Services Section (LPMSS) of DNER is "responsible for administering grants and services designed to improve the planning and management capabilities of local units of government."<sup>6</sup> In its pamphlet describing services offered to local government leaders the following information is provided:

"The structure of LPMSS is designed to assist you in locating and securing any federal or state aid (financial, technical, or other) which may be available for particular local problems, projects or activities. We can assist you in locating the appropriate state official or agency who can best serve your needs."<sup>7</sup>

The services of the LPMSS, as outlined here, match quite closely those services that are offered by the Local and Regional Affairs Division of OIR resulting in an apparent duplication of service efforts.

The significant difference between the present operations of these two agencies is the method and nature of delivery of the services that each offers. As noted in the previous discussion of OIR, most of its efforts are carried out utilizing the 17 LRD's in operation in the state. Direct technical assistance provided to

local governments under this system is mostly provided by the appropriate LRO utilizing its own staff, whereas the LPMSS provides direct technical assistance to local governments through contractual agreements utilizing its own staff members. These direct technical assistance efforts by LPMSS are carried out by individual employees of the Division of Community Assistance located in seven field offices throughout the state in the following areas:

- (a) Western Field Office, Asheville
- (b) Southern Piedmont Field Office, Mooresville
- (c) South Central Field Office, Fayetteville
- (d) Southeastern Field Office, Wilmington
- (e) Northeastern Field Office, Washington
- (f) North Central Field Office, Raleigh
- (g) Northern Piedmont Field Office, Winston-Salem

Seven field offices of DNER are in essence providing services for the same areas as covered by LRO's (seventeen in number). In addition to the apparent functional duplication of effort there is also a competition of sorts for operating funds between OIR (LRO's) and LPMSS. Both of these agencies depend somewhat heavily on HUD 701 money, i.e., Section 701 Planning Program and Aid for Community Facilities for small communities. For FY 74-75 HUD 701 GRANT funds accounted for 30% of the total budget for LPMSS with an additional 15% being local match to HUD 701 funds. At the same time OIR utilizes HUD 701 money on a regional basis to support the efforts of the LRO's in the IGR process. Also, receiving HUD 701 monies are large local governments in the state that have on-going full-time planning staffs. For example, in Region "M", which is comprised of Harnett, Cumberland and Sampson counties, HUD 701 money is being used by the LRO for regional planning and technical

assistance efforts, by the Cumberland County Planning Department for work in the County itself and by LPMSS for direct technical assistance for local governments in Harnett and Sampson counties. With this number of separate and independent agencies using the same source of funding to provide essentially like services, duplication of effort is inevitable.

Due to the dependence of OIR and LPMSS on HUD 701 funds for operations, competition is resultant. Competition in most situations proves to be quite beneficial in insuring that citizens get the best service possible but, in the area of IGR, where coordination and cooperation are necessary, such competition as apparently presently exists between these two state agencies can serve to only delay the complete partnership between the state government and local governments that is essential today in a complex governmental society. The old adage that "success results when people work together rather than apart" seems quite appropriate in this situation. Recommendation will be given later in this discussion as to possible resolution of the program of duplication of effort and competition for resources noted here.

D. REGIONALISM AND THE COORDINATION OF EFFORT

During the administration of Gov. Scott the state was divided into seventeen multi-county regions that were designated as COG's (Councils of Governments). These COG's were developed as a means of providing planning and technical assistance to local governments on a regional basis. Their goal was not one of functional operations but rather of advisory and technical assistance. The success of the efforts of these COG's is yet to be ascertained. Hopefully your committee will examine the structure and functions of these units as comprehensively as possible to make this determination.

I do feel that local officials must be given an opportunity to provide more extensive input into your examination of the COG's. In order for any multi-county agency to succeed as a coordinator and facilitator it must have the complete support and confidence of those local governments that it encompasses and the best way to secure this trust is to allow the participants an opportunity to provide input into the process of developing and rennovating them.

As to regionalism on a state-wide basis, many state agencies have their own regional structures. Examples of these agencies are:

- (a) Department of Natural and Economic Resources: 7 regions
- (b) Department of Human Resources : 4 regions
- (c) Department of Military and Veterans' Affairs, Area Coordinators: Civil Preparedness Division: 6 offices

These are but three examples of state agency regionalism in N.C. today. Each department seems to determine its regional boundaries without the involvement of local officials or even other State agency personnel. In the Department of Human Resources each regional office has a Personnel division that carries out work that formerly was the responsibility of the Office of State Personnel. Final approval for all personnel actions must still come from the Office of State Personnel. Thus what we at the local level are faced with is another level of government that we must push through to finally receive final approval of action that we desire to do for our own employees. Not only does the Office of State Personnel exert control over local employees, the regional offices of DHR do also. It was asserted when these regional offices were first established that the process of getting personnel actions approved would be expedited. This has not occurred and has forced many local leaders to bypass these regional offices whenever possible and secure approval directly from

State Personnel. Local leaders become frustrated when they are continually delayed in their efforts by the slow moving bureaucracy that is state government today.

On a federal basis, this problem of a multitude of regional agencies dealing with local governments has been alleviated to a degree by the formation of 10 Federal Regional Councils which bring together in common locations all of the Federal efforts in that region. This common location provides the citizen, and local governments around it, direct access to all appropriate activities of the Federal agencies on a one-step basis preventing the confusion that had abounded in the IGR process before. Such a coordination attempt on the state government level in N.C. could hopefully remove a lot of the confusion that presently marks state-local relations.

#### RECOMMENDATIONS

Former Governor George Romney of Michigan in his message to the 74th Michigan Legislature stated that:

"An important test of State leadership is to provide new instruments of cooperation, coordination, and assistance so that local governments can do a better job of meeting today's urban challenges."<sup>8</sup>

I believe that we in N.C. have this "state leadership" in our Legislature as evidenced by the interest of the members of this committee with the intergovernmental process as it now stands in this state. Richard G. Lugar, Mayor of Indianapolis, in his paper, "Local Government Modernization," presented to the National Conference of American Federalism in Action in February, 1975 pointed out that . . .

". . . in the best of worlds, state governments would be sufficiently concerned about localities to provide more reasonable organizational statutes and a clear flow of authority and money in order that state government might produce a well woven governmental blanket rather than a torn and fragmented cloth."<sup>9</sup>

It is my belief, speaking from a local perspective, that a comprehensive approach to the question of intergovernmental relations in N.C. is essential if we are to



"have a well woven governmental blanket" that will result in optional services providing the most benefits to the citizens of the state. In order for this to occur, a "partnership" must be formed between state and local government with each sharing an equal amount of power. Without this sharing of power, overcentralization of administrative authority could easily ascribe to the state government and as U.S. Representative Al Ullman notes:

"I am concerned that overcentralization eventually may devour local autonomy. We will then have local and regional areas of administration, rather than local and regional areas of basic sovereignty."<sup>10</sup>

I do not believe that this committee wants to see this overcentralization happen in N.C.

My first recommendation concerns an evaluation of the efforts of the Office of Intergovernmental Relations. The Advisory Commission on Intergovernmental Relations has recommended that states develop agencies "whose specific function is to provide technical assistance to local units of government and to coordinate the services available for meeting community problems." "I do not feel that OIR as presently constituted is effectively accomplishing the goal of service to local governments. Much of the reason for this failure seems to lie with their policy of relying on LRO's to provide direct assistance and communication of information to local governments. In the area of local assistance LPMSS is doing much more but at the sacrifice of comprehensiveness. Joining these two operations into a single Community Affairs Agency would I feel eliminate duplication of effort and utilize most completely the funds presently being used for their support. This approach follows closely the model that James L. Sundquist in his book, Making Federalism Work, suggests for the federal level. Under this model, the following functions would be necessary for an agency to effectively coordinate intergovernmental activities and programs:

1. Communication
2. Promotion
3. Technical Assistance
4. Coordination of Projects
5. Expediting

Under the first function, communication, there does exist a definite need on the local level for information concerning federal programs. Richard Leach notes this need for information in his book American Federalism:

"There is a growing concern among city admin . . . that 'they may not be aware of all the opportunities' available to them to participate in federal programs. As a result, local participation in federal-aid programs is essentially haphazard; there is no guarantee at all that assistance goes where it is most needed. "Local officials, lacking large staffs, are often bewildered by the mass of Fed. programs which confront them, uninformed about the Fed. funds and projects they might obtain, and ill-equipped to determine which available Federal programs best meet their community needs. In short, we are faced with a crisis in communication.'"<sup>12</sup>

The federal government sector has begun to approach this problem of communication with the introduction of the Federal Assistance Program Retrieval System (FAPRS). This system was developed cooperatively by the U.S. Department of Agriculture's (USDA) Rural Development Service and Agricultural Stabilization and Conservation Service (ASCS). Many communities in N.C. have already begun to use this system as an information source for the securing of federal funds. In order to fulfill the function of communication and to overcome the "crisis of communication" noted by Leach, this system should be adopted for state wide use, by a state level agency that could centrally receive input from local governments as needed and then translate these needs into requests for federal assistance through the FAPRS and in return receive necessary information to pursue available federal funds. This agency thus would serve as a central point of contact for local governments with the federal government.

Tied closely into this communication function is promotion. Promotion of federal grants on the local level would take the form of direct contact with local communities about specific federal projects that would benefit individual communities and the encouraging of these communities to make appropriate application for funds.

Technical assistance is a most important function of an IGR agency on the state level. As has been proposed here, the combining of the efforts of the present OIR and LPMSS would allow for the provision of direct technical assistance to those local communities that were in need of such services. Quite possibly an individual staff member of this state agency could be assigned to one of the multi-county agencies in the state with responsibility for all IGR operations in that area in conjunction with local officials. The centralized provision of technical assistance is essential to a coordinated system of intergovernmental relations.

Another function of this "local assistance" state agency would be that of "coordination of projects" both on the state level and local level. The A-95 clearinghouse review process was intended to serve this purpose but has served rather as only a check-off procedure. With more direct involvement in the intergovernmental process itself this state agency would be able hopefully to review and coordinate projects statewide. This coordination would result in more effective use of federal (and state) money to meet the needs of the citizens. Local governments would be given the opportunity to give input into this function so that coordination would be maximized to the fullest extent possible.

A fifth function that this office could carry out would be that of expediting federal grant applications submitted by the state and local governments. This agency could perform follow-up tasks by contacting federal agencies and monitoring the

progress of the applications along the process.

Combining the efforts of the present state agencies providing IGR assistance into a single state agency responsible for assisting local governments and giving this agency the responsibility for carrying out the functions outline above will help to strengthen and streamline IGR in this state. Also, this agency could provide training for local officials in preparation of federal grant applications, administration of grants and so forth. Training of this type is absolutely necessary if the present "awareness" problem is to be corrected. Tied into the program of direct technical assistance to local governments these training efforts would have the result of equating need for fiscal assistance with ability to secure such assistance. "Grantsmanship" under this type of coordinated program would become less of a centralized and specialized skill.

A second recommendation concerning IGR in N.C. that I feel is appropriate to make to this Committee is that regional efforts presently being carried out in N.C. by various state agencies and the L.R.O.'s to be examined carefully. The need for a rational pattern of organization for state agency efforts on a regional basis is apparent. On a Federal level "at not one point in the entire nation did all of the agencies primarily concerned with federal grant programs and intergovernmental relations have their headquarters in the same city, and even when most of them were located together their regional jurisdictions differed."<sup>12</sup> In response to this situation of disorganization, President Nixon in May 1969, ordered that five federal agencies consolidate their efforts into a uniform ten-region pattern. This concept of bringing the efforts of different agencies together in a coordinated manner is one that I feel should be considered in N.C. for those agencies with regional responsibility. By using this approach the state would be able to provide services to its

citizens on a more effective, efficient and equitable basis. Attached to these comments are copies of maps of N.C. with appropriate regions outlined for several different state agencies. <sup>Also</sup> ~~Not~~ included is a map showing the 17 LRO's which have boundaries somewhat different from either of these. These maps are taken from the Directory of State Government Services for Local Government Officials and serve to show the reason for confusion among many local officials as to which region they are in and who they should contact for information.

A third recommendation is that this Committee become the starting point for the formation of the "partnership" between the Federal, State and Local governments that is necessary to remove the confusion that presently surrounds the IGR process in N.C. today. Your efforts as legislative representatives of the people of this state can go a long way toward unifying the governmental efforts of the three levels that are designed to have one end result: service to meet the needs of the citizens of this state. This responsibility I feel can be carried out by a rational and comprehensive review of the present IGR process in N.C. allowing for the input of local leaders.

#### SUMMARY

It has been my purpose here today, as I indicated at the start of my discussion, to present you with my thoughts on the IGR process in N.C. today as viewed from a local perspective. I am aware that this perspective may be somewhat narrow due to lack of information about present efforts in the IGR process that are going on in N.C. But, I do feel that my views and comments are representative of local administrators in the state. I appreciate this opportunity to meet with you today and discuss intergovernmental relations and would like to end my presentation with this quote from President Johnson in 1967 to the Congress on the working of the ACIR:

"We began as a nation of localities, and however changed in character those localities become, however urbanized we grow and however high we build, our destiny as a nation will be determined there."<sup>13</sup>

APPENDIX

Findings and Recommendations  
of the State-Local  
Task Force, 1973

## DIRECTORY OF STATE PROGRAMS

PROBLEM: Local units of government experience difficulty in determining what state and state administered federal programs are available to assist them in dealing with their problems, which state agencies administer these particular programs and whom to contact within an agency for information about such programs.

SOLUTION: A Directory of State Programs with a topical index that identifies the state and state-administered federal programs for which each state agency is responsible and the title and phone number of an individual in each agency to be contacted by local government officials for information regarding these programs.

RECOMMENDATION: The Governor should encourage the development of a Directory of State Programs and ask the Department Secretaries to gain the cooperation of their division administrators in its completion.

## STANDARDIZED DATA SYSTEMS

PROBLEM: Information is being collected and systemized by almost every state agency and local unit of government with no concern for standardization of sharing to reduce duplication of expenditure and effort.

SOLUTION: The Office of Management Systems in the Department of Administration could be assigned as the lead agency responsible for establishing and enforcing criteria for the standardization of the way in which the state collects, stores and retrieves information to reduce duplication and improve sharing between state agencies and with local units of government.

RECOMMENDATION: The Governor should provide the Office of Management Systems with the authority to coordinate the information systems of all state agencies to insure standardization of data collection and compatibility of data storage and retrieval.

## LOCAL-STATE SERVICE OFFICE

PROBLEM: Local governments are frequently unable to obtain adequate and timely response from state agencies to requests for information, action and assistance.

SOLUTION: Provide a mechanism with direct access to the Governor to serve as an extraordinary means of assisting local units of government to gain information and action from state agencies when they are unresponsive.

RECOMMENDATION: The Governor should establish a Local-State Services Office to improve state assistance to local governments.



## STATE ANNUAL ARRANGEMENTS

PROBLEM: Local governing bodies with very little advance knowledge of the amount of state or "federal pass-through" assistance available to them are asked to make decisions with limited opportunity to examine program alternatives, or consider the impact of these decisions on the community's resources, opportunities and goals.

SOLUTION: The state should establish a mechanism that provides the opportunity to negotiate an annual contractual arrangement with local units of government in advance of their budgeting cycle which sets the amount of aid to be received and under what conditions and for what purposes.

RECOMMENDATION: The Governor should establish an Annual Arrangements process between the state and its subdivisions.

## FEDERAL PLANNING AND ADMINISTRATIVE REQUIREMENTS

PROBLEM: Federal grant administration is fragmented, resulting in a multiplicity of requirements for planning and administration which create duplication on the state and local level and encourage narrow project planning.

SOLUTION: The development of a uniform system of federal grant administration which consolidates requirements for grants in broad program categories and encourages state and local comprehensive planning by providing for certification of a comprehensive planning process under state and local chief executives.

RECOMMENDATION: The Governor should support federal grant consolidation efforts and federal certification of comprehensive planning processes under state and local chief executives.

## STATE COMPREHENSIVE PLANNING PROCESS

PROBLEM: State government has not developed a comprehensive planning process to produce state goals, policies and priorities; nor has it linked planning with executive decision-making to ensure coordination.

SOLUTION: The state planning function should be viewed as a management tool to assist the chief executive in formulating goals and policies.

RECOMMENDATION: The Governor should redirect the responsibilities of the Office of State Planning to become his central planning arm, responsible for guiding the state's comprehensive planning process.

## COORDINATED FUNCTIONAL PLANNING

PROBLEM: Functional planning in state government has not been sufficiently coordinated, has lacked management direction, and has not provided adequate guidance for local governments or state agencies.

SOLUTION: Delineate functional areas and assign all activities, regardless of organizational placement, to these areas and assign to a department the lead responsibility for coordinating concerned agencies in the preparation of a plan for each functional area, which outline goals, priorities, allocation of resources and negotiated agency roles.

RECOMMENDATION: The Governor should establish a coordinated functional planning system and place behind that system the full authority of his office.

## REVERSE STATE AND REGIONAL CLEARINGHOUSE FUNCTION

PROBLEM: The A-95 Project Notification and Review Procedure is now serving federal purposes and not the needs of state and local government for intragovernmental and intergovernmental coordination.

SOLUTION: The A-95 mechanism, as implemented through the state and regional clearinghouses should be expanded to include review of all federal and state programs and reversed to provide for interagency and intergovernmental participation in developing plans, and to serve as a vehicle through which local officials can be informed of and influence state goals, policies, and plans.

RECOMMENDATION: The Governor should support the expansion of the A-95 mechanism and the use of the state and regional clearinghouse process to facilitate review and comment on all state plans by his office, state departments, and local units of government.

## DEPARTMENT OF ADMINISTRATION

PROBLEM: The Department of Administration has assumed a number of operating responsibilities which consume the Secretary's time and restrict his ability to coordinate the management functions of state government.

SOLUTION: The Department of Administration should concern itself with the management functions of planning, budgeting, governmental organization, systems management and intergovernmental relations as a staff service to the Governor and his Executive Cabinet.

RECOMMENDATION: The Governor should support the removal of all activities not related to the management function from the Department of Administration.

## REVENUE SHARING STUDY

PROBLEM: Considerable confusion exists regarding the legal authority of state and local government to use special revenue-sharing funds for a number of programs previously administered under federal categorical grants.

SOLUTION: The Governor in the exercise of his constitutional responsibility should be prepared to recommend appropriate courses of action to the legislature to facilitate state and local participation in special revenue sharing.

RECOMMENDATION: The Governor should initiate an immediate review of the State Constitution and the General Statutes to determine changes that may be needed to permit the full participation of state and local governments in special revenue-sharing programs.

## STATE AGENCY COMMUNICATION WITH LOCAL GOVERNMENTS

PROBLEM: State agencies frequently relate to local communities through semi-autonomous boards and local state offices without communicating with the general purpose local governments.

SOLUTION: To review communication networks and widen information distribution to include all local units of general purpose government to keep them informed about governmental activities affecting their communities.

RECOMMENDATION: The Governor should support the development of a communication network for direct relationships between state departments and general purpose local governments.

## INSTABILITY OF FEDERAL FUNDING

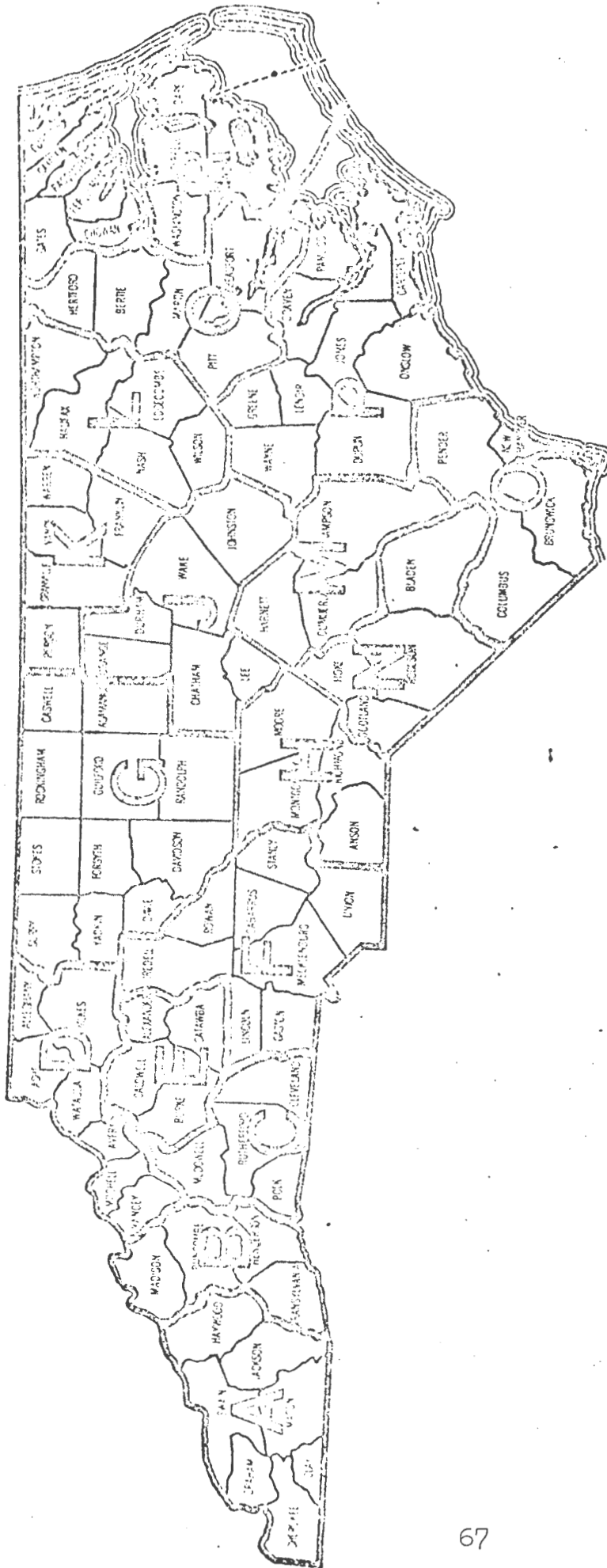
PROBLEM: Changes in, or termination of, federal assistance programs have forced local units to curtail, terminate, or find new financial support for projects initiated with federal funding.

SOLUTION: The Federal Regional Council and the State must develop a long term strategy whereby state and local governments can operate effectively in light of the instability of federal programs and work toward a solution of this problem.

RECOMMENDATION: The Governor should ask the Federal Regional Council to join him in working to alleviate the problems which the instability of federal program funding causes for state and local governments.

APPENDIX

Maps Outlining Sub-state  
Regions of State Agencies  
in N.C.



**NORTH CAROLINA MULTICOUNTY PLANNING REGIONS**  
 North Carolina has 17 planning regions as shown on this map.

FIGURE 1 - DEPARTMENT OF HUMAN RESOURCES  
REGIONAL OFFICES

WESTERN REGION (I)  
Western North Carolina Hospital  
Building 17  
Black Mountain, N. C. 28711  
Phone: (704) 669-6476

NORTH CENTRAL REGION (II)  
720 Colosseum Plaza West  
Winston-Salem, N. C. 27106  
Phone: (919) 727-2481

SOUTH CENTRAL REGION (III)  
Wachovia Building  
225 Greene Street  
Wayetteville, N. C. 28301  
Phone: (919) 323-0714

EASTERN REGION (IV)  
Apartment 49  
Country Club Apartments  
Greenville, N. C. 27834  
Phone: (919) 756-7812

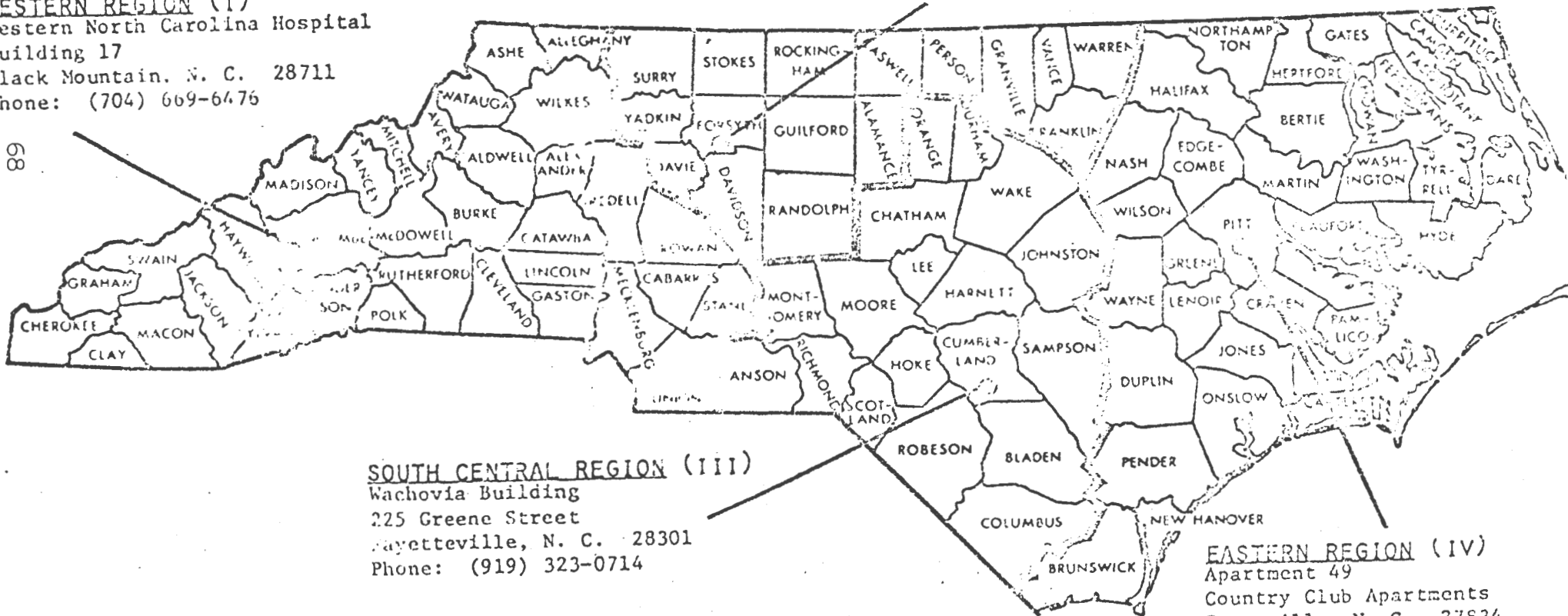
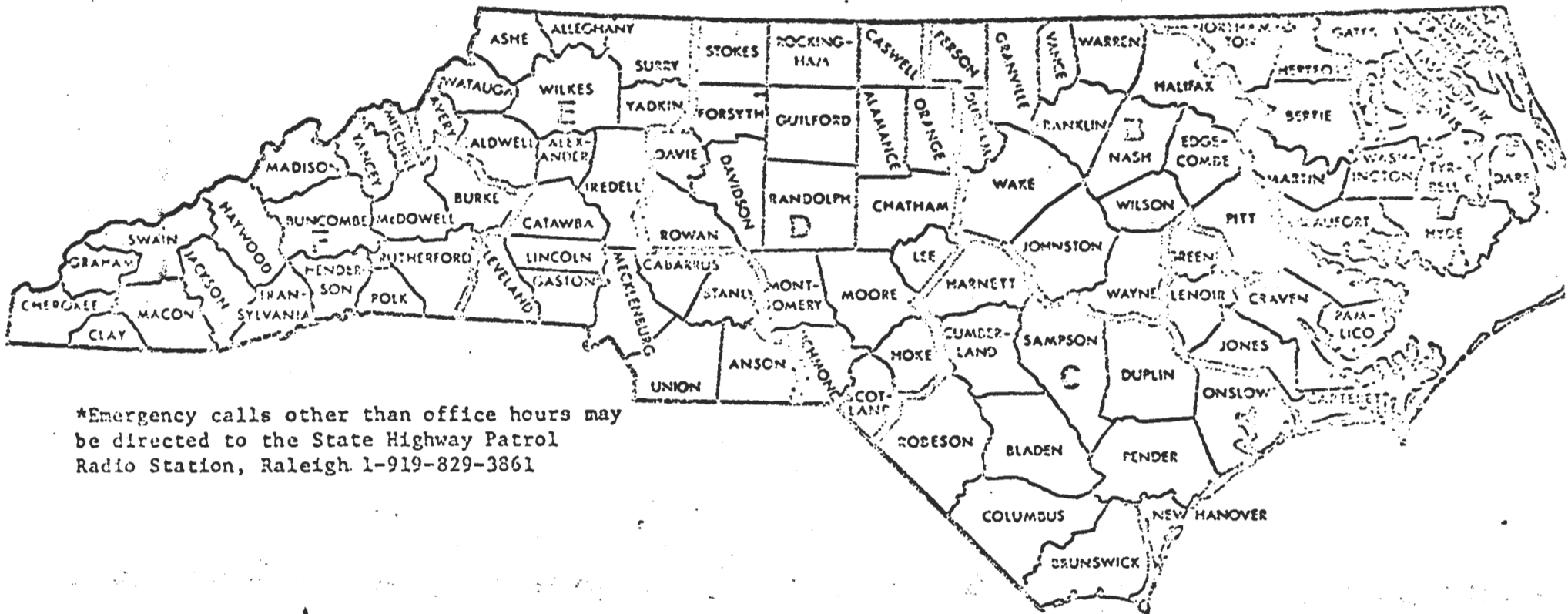


FIGURE 2 - DEPARTMENT OF MILITARY AND VETERANS AFFAIRS  
 CIVIL PREPAREDNESS DIVISION - AREA OFFICE \*

69



\*Emergency calls other than office hours may  
 be directed to the State Highway Patrol  
 Radio Station, Raleigh 1-919-829-3861

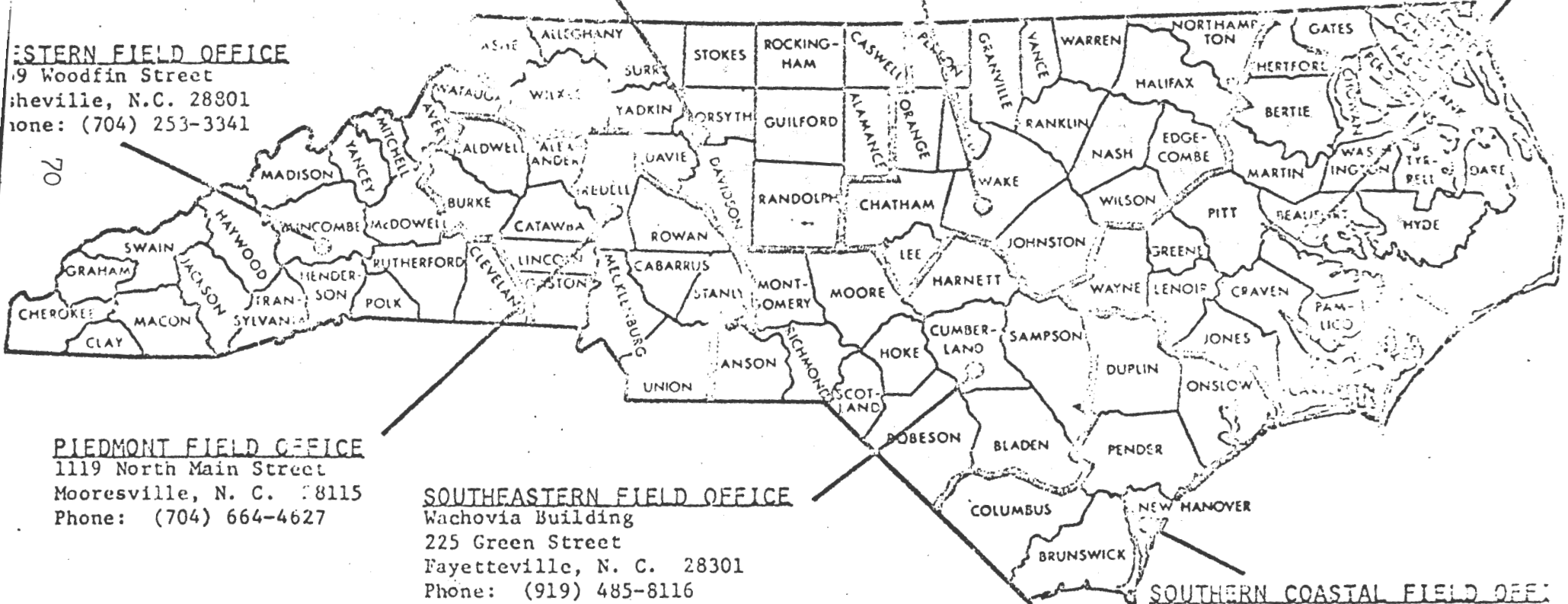
**FIGURE 4 - DEPARTMENT OF NATURAL AND ECONOMIC RESOURCES  
FIELD OFFICES**

**NORTHERN PIEDMONT FIELD OFFICE**  
3528 Vest Mill Road  
Winston-Salem, N. C. 27103  
Phone: (919) 765-6300

**CENTRAL FIELD OFFICE**  
310 North Blount Street  
Raleigh, N. C. 27611  
Phone: (919) 829-3174

**NORTHEASTERN FIELD OFFICE**  
1502 North Market Street  
Washington, N. C. 27889  
Phone: (919) 946-6481

**WESTERN FIELD OFFICE**  
19 Woodfin Street  
Asheville, N.C. 28801  
Phone: (704) 253-3341



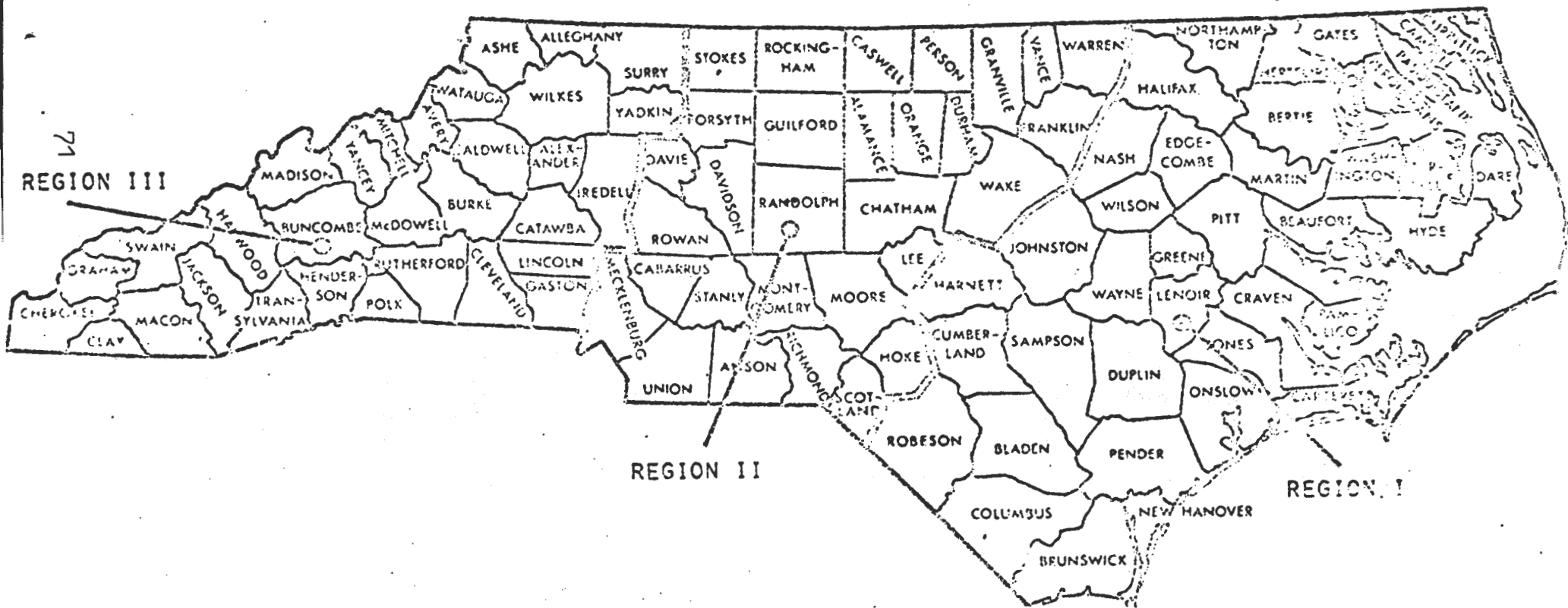
**PIEDMONT FIELD OFFICE**  
1119 North Main Street  
Mooresville, N. C. 28115  
Phone: (704) 664-4627

**SOUTHEASTERN FIELD OFFICE**  
Wachovia Building  
225 Green Street  
Fayetteville, N. C. 28301  
Phone: (919) 485-8116

**SOUTHERN COASTAL FIELD OFFICE**  
3143 Wrightsville Road  
Wilmington, N. C. 28401  
Phone: (919) 762-3394



FIGURE 5 - DEPARTMENT OF TRANSPORTATION AND HIGHWAY SAFETY  
HIGHWAY DIVISION REGIONS



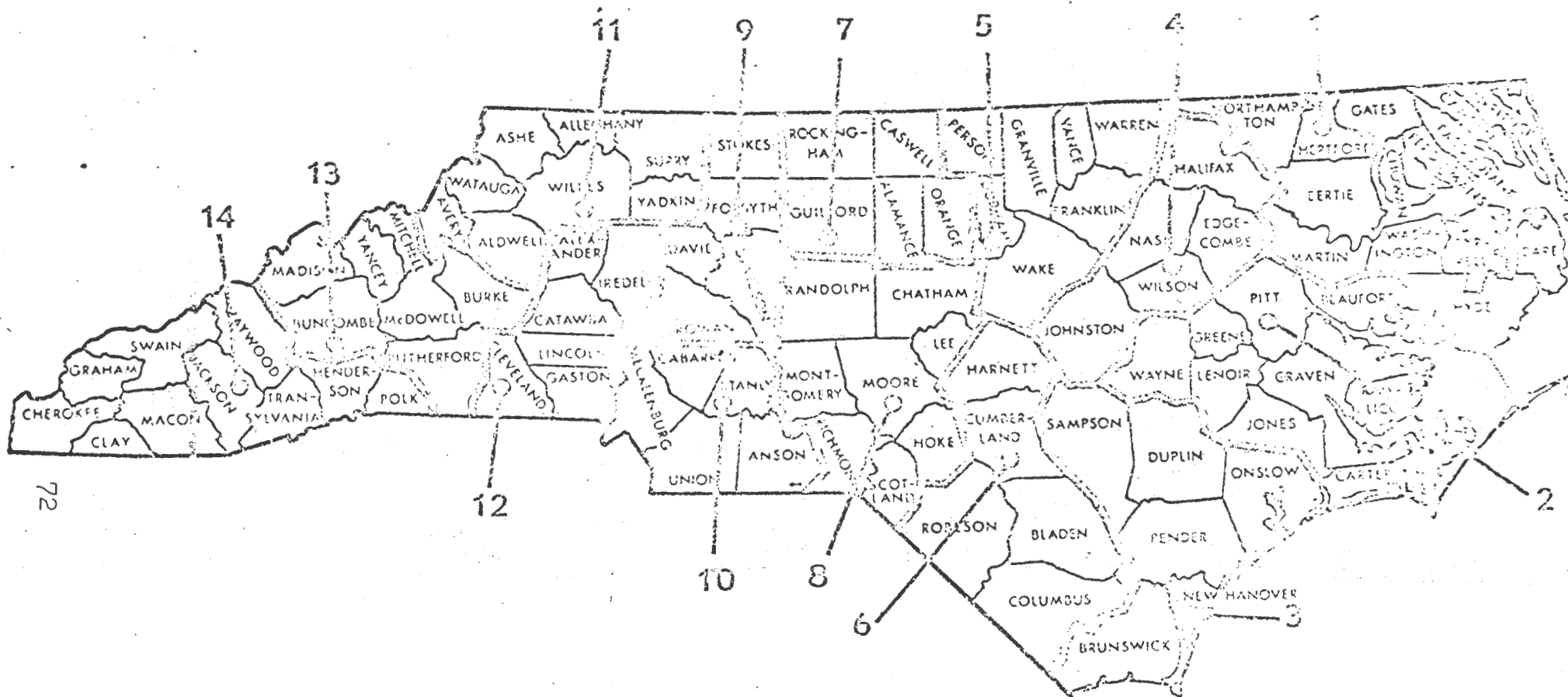


FIGURE 6 - DEPARTMENT OF TRANSPORTATION AND HIGHWAY SAFETY  
REGIONAL DIVISION OFFICES

## ENDNOTES

<sup>1</sup> Deil S. Wright, "Intergovernmental Relations: an Analytical Overview," The Annals of the American Academy, p. 2.

<sup>2</sup> "10-Year Record of the Advisory Commission on Intergovernmental Relations," Joint Hearing before the Intergovernmental Relations Subcommittees of the House and Senate Committees on Government Operations, Congress of the United States, (Washington, D.C., 1972), p. 4.

<sup>3</sup> Daniels, Elazar, American Federalism: A View from the States, (New York: Thomas Y. Crowell Company, 1972), p. 3.

<sup>4</sup> The N.C. State-Local Task Force, New Directions for State-Local Cooperation, An Intergovernmental Study, (Raleigh, N.C., 1973), Opening Letter.

<sup>5</sup> "Unshackling Local Government," Twenty Fourth Report by the Committee on Government Operations, (Washington, D.C., 1968), p. 40.

<sup>6</sup> Division of Community Assistance, Local Planning and Management Services Section, FY 74-75, Introduction.

<sup>7</sup> Ibid.

<sup>8</sup> "Unshackling Local Government," p. 16.

<sup>9</sup> "American Federalism: Toward a More Effective Partnership," A Report of, and Papers from the National Conference of American Federalism in Action, (Washington, D.C., 1975), p. 44.

<sup>10</sup> "10-Year Record of the ACIR," p.82.

<sup>11</sup> "Unshackling Local Government," p. 11.

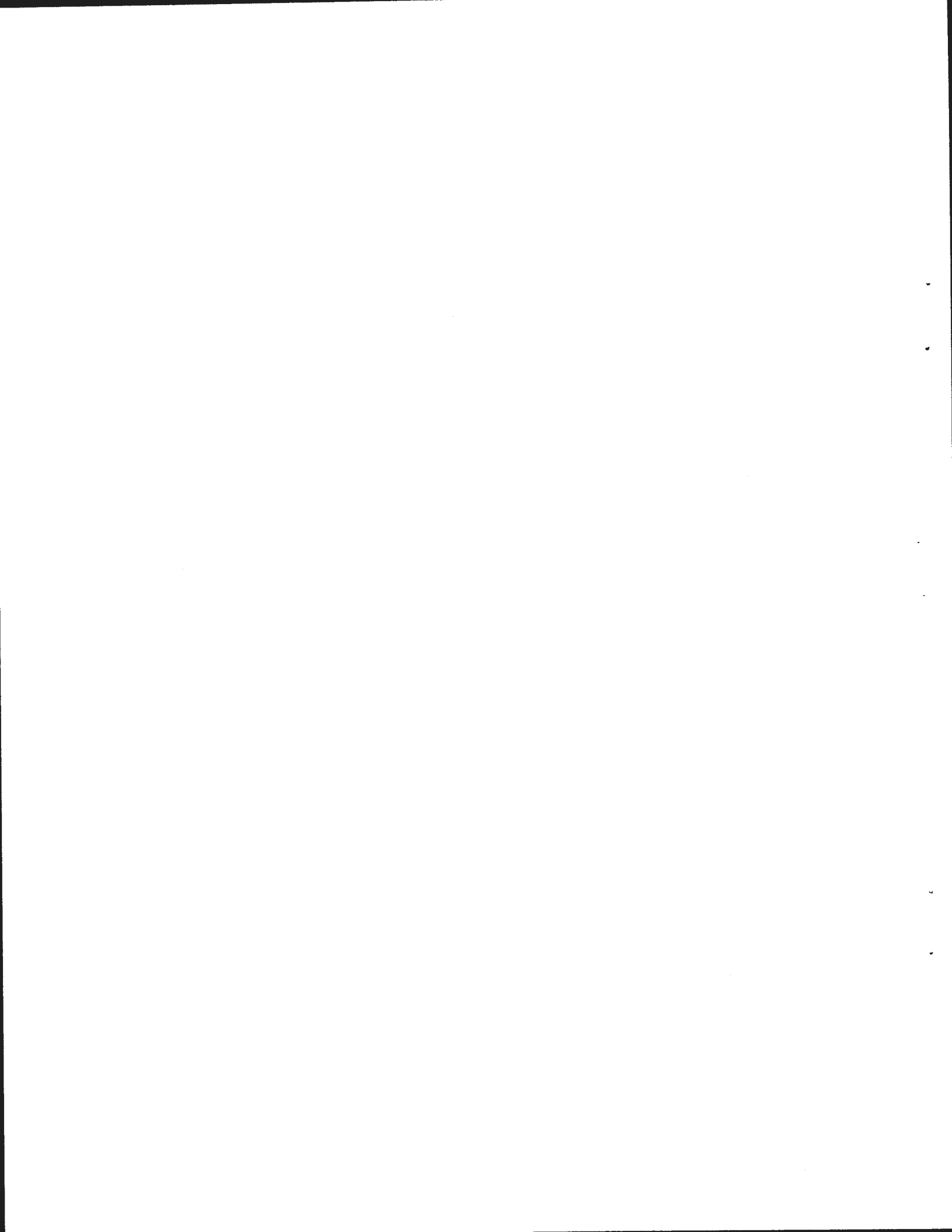
<sup>12</sup> James L. Sundquest, Making Federalism Work, (Washington, D.C.: The Brookings Institute, 1969), p. 276.

<sup>13</sup> "Unshackling Local Government," p. 15.

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APPENDIX F



# State Legislative Involvement in Federal-State Relations

by *Walter H. Plosila\**

THERE HAS BEEN considerable discussion in recent years of a need for State Legislatures to take a more active role in matters involving the federal government. Much of this interchange has been limited to calls for State Legislatures to become concerned and involved. Little is known, though, of what State Legislatures are doing now in federal-state relations. This article attempts to determine current legislative practices and contains recommendations to strengthen state legislative capabilities in this area.

In the late 1930s the Council of State Governments recommended that State Legislatures establish Commissions on Interstate Cooperation. A substantial number of States adopted this model which has remained intact in subsequent years with little modification. The standard duties of some commissions have included:

- ✓ Participate in the Council of State Governments;
- ✓ Encourage and assist state officials to develop and maintain communications with other States, the federal government, and local governments;
- ✓ Advance cooperation among States and other political units through compacts, uniform and reciprocal statutes, rules and regulations, etc.; and,
- ✓ Support and maintain contacts and liai-

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son concerning federal programs and activities and circulate data and information among state and local governments.

This traditional model usually included equal membership from each house of the Legislature and the executive branch.

Another model practiced most often in Legislatures has been use of Legislative Service Agencies' staff to provide coverage of federal-state issues. Usually this means that staff members assigned to respective functional standing committees are expected to monitor federal developments in their areas.

A third model used by a few Legislatures has been the establishment of a standing committee in either or both houses. For example, in Oregon and Kansas each house has a Committee on State and Federal Affairs.

A fourth model, again used by a few States, is to handle federal-state issues from a working subcommittee of the appropriations committees. New York and Indiana are examples of this approach.

The fifth model is that of a joint committee to handle intergovernmental relations. Massachusetts and Maryland both use such an approach.

Overall, however, very few States have established specific mechanisms within their Legislatures to handle federal-state issues.

## \* THE PENNSYLVANIA SURVEY

The Pennsylvania House of Representatives' Select Committee on Federal-State Affairs surveyed the other 49 State Legislatures as to their

experiences and approaches to dealing with intergovernmental issues. A questionnaire sent in the summer of 1974 brought response from 37 States.

It was not surprising to find in survey results that Legislatures spend the largest amount of their federal-state relations activities in the same areas which receive the largest amounts of federal aid—health, education, welfare, transportation, and manpower.

It has been asserted many times that it is in these "money" areas that the Legislature can exercise its authority since it controls the purse strings. It was apparent in the Select Committee's survey and our experiences in Pennsylvania, however, that Legislatures generally exercise little policy and program influence over appropriation of federal funds. For example, the general appropriations bill in Pennsylvania, year after year, appropriates state funds on a lump-sum basis and then states: "In addition to this amount, all moneys received from the Federal government or from any other source as contributions for this program shall be paid into the General Fund and credited to this appropriation."

Yet over 20 percent of the Commonwealth's budget is now accounted for by federal aid, even though it is not subjected to the same scrutiny as state funds in the appropriations process. Under such circumstances, state agencies have substantial flexibility to utilize federal funds to carry out policies and priorities that may have been originally turned down or limited by the Legislature in appropriating state funds. To continue to permit this to occur will legitimize potentially excessive executive branch discretion where a necessary and important legislative role should be exercised.

In the past, federal aid generally has been delivered through narrow, rigorously supervised categorical grants. In recent years there has been a trend toward establishing consolidated federal block grant programs whereby funds are allocated for broad purposes to States and localities with a minimum of requirements. Examples include the Comprehensive Employment and Training Act, Hous-

ing and Community Development Act, Partnership for Health Act, Omnibus Crime Control and Safe Streets Act, and general revenue sharing. In the past, Legislatures have permitted maximum discretion to state agencies and departments in receiving and expending these federal funds. Because many of these federal grants were constricted by federal rules, standards, and priorities, there was much less opportunity for the legislative branch to play any role in such grant programs.

Block grant programs represent a new opportunity for legislative involvement. As the size of these consolidated block grant programs grows, more discretion is being permitted to States to decide such aspects as:

1. The priorities within major functions where the funds will be expended (e.g., under LEAA, allocations for delinquency or corrections);
2. The criteria to be used in determining which applicants will receive the funds (e.g., allocation of funds according to need, income, population, etc.);
3. The eligibility standards for receiving funds (e.g., type of government, private groups, income tests, etc.);
4. The reporting and monitoring requirements (e.g., data recipients report on services provided); and
5. The utilization of past performance and evaluation in future allocations of block grant funds.

It should be noted that in the existing 69 federal formula grant programs, many in existence for half a century, State Legislatures could have affected the content and priorities for in-state distribution of federal funds. Rarely have they taken the initiative.

A structural mechanism within the legislative branch involved with intergovernmental relations could assist the appropriations committees in more precisely allocating federal funds within the State.

The Pennsylvania survey found a number of approaches being used by other Legislatures to appropriate federal funds, including:

1. Increased use of committees on intergovernmental relations to assist appropriations



committees in reviewing, analyzing, and making suggestions as to use, amounts, and purposes for which federal funds are appropriated;

2. Transmission of a report accompanying the general appropriations bill, or through language in the bill itself, establishing intent on use and level of federal funds, by program, that may be expended without further consideration by the Legislature;

3. Include the federal assistance impact of proposed legislation at the same time fiscal notes are prepared and to include such in the note;

4. Establish subprogram allocations of federal block grants such as LEAA in the general appropriations bill with indication of intent as to beneficiaries, geographic areas to be served, and performance reporting requirements to the Legislature on a quarterly basis;

5. Require that before a state agency can receive federal funds in excess of the amounts previously approved by the Legislature, the agency must first submit a copy of the application to the Legislature for approval or disapproval;

6. Require that a state agency shall receive or expend no federal funds in excess of those approved in the appropriations bill unless an equal amount of state dollars are placed in reserve status to be expended only with the approval of the Legislature; and

7. Require all applications, including state plans for federal aid, be reviewed by a joint committee on intergovernmental relations and appropriations committee for 60 days. If either one or both houses have objections, they shall be incorporated into the application or plan prior to submittal to the federal government.

#### ACTIVITIES IN THE LEGISLATIVE PROCESS

The results of the questionnaire suggest that the major current activities of State Legislatures in federal-state relations involve:

1. Review of proposed state legislation being considered by standing committees of the Legislature as to federal-state issues and problems involved;

2. Review and/or facilitation of state enabling legislation for participation in federal programs;

3. Formulation of new state legislation complementary to federal programs and regulations;

4. Provision of information on federal programs and legislation to standing committees of the Legislature;

5. Participation in the activities of the National Conference of State Legislatures and the Council of State Governments;

6. Consideration of appropriateness and need for state support, financial or otherwise, of interstate compacts; and

7. Review, analyze, hold hearings, and make recommendations for state legislative adoption of uniform or reciprocal statutes, rules, and regulations.

Most Legislatures appear to react to either the federal government or state executive branch initiatives. This rather narrow and traditional focus by Legislatures on federal-state issues is shown in listing those duties in the questionnaire which are being the least actively used:

✓ Operation of a Washington, D.C., office of the State Legislature;

✓ Participation in a commission, board, etc., responsible for the A-95 clearinghouse;

✓ Preparation of grant applications for federal funding directly to the Legislature;

✓ Review of state plans submitted to the federal government under federal formula grant programs; and

✓ Meeting on a continual basis with the state congressional delegation.

This listing involves activities in which the Legislature must be organized to exert initiative and involvement in federal-state matters. Very few Legislatures have so involved themselves. These duties, to be carried out successfully, require an organizational focus within the legislative branch. Such structures tend to be the exception.

Table 1 on the next page indicates the responses to the question of the organizational activities currently carried out on federal-state issues within Legislatures. It should be noted

that while many of these duties are being performed, in a large number of instances they are carried out in an ad hoc nature through a number of units, including service agencies, leadership, standing committees, etc.

The survey results suggest a number of areas of opportunity that Legislatures should

consider and better utilize, such as:

- ✓ Carrying out legislative oversight of federal funds received by the State;
- ✓ Establishment of linkages and involvement in state plans and applications for federal aid from State and localities through the A-95 process;

TABLE 1  
State Legislature Involvement in Federal-State Affairs

<i>Organizational activities</i>	<i>Number of States involved</i>	
	<i>Yes</i>	<i>No*</i>
a. Legislative oversight of federal funds received by the State.....	12	8
b. Review and analysis of federal funds proposed in the Governor's budget request .....	11	9
c. Participation in a commission, board, etc., responsible for the A-95 clearinghouse .....	5	15
d. Review and/or facilitation of state enabling legislation for participation in federal programs .....	17	3
e. Review of state plans submitted to the federal government under federal formula grant programs .....	6	14
f. Preparation of grant applications for federal funding directly to the Legislature .....	5	15
g. Provision of information on federal programs and legislation to standing committees of the Legislature .....	17	4
h. Analysis of congressional proposals and new legislation for impact on the State .....	14	6
i. Communication of legislative positions on current proposals in the Congress to the state congressional delegation .....	10	11
j. Formulation of new state legislation complementary to federal programs and regulations .....	16	3
k. Review of proposed state legislation being considered by standing committees of the Legislature as to federal-state issues and problems involved .....	17	3
l. Legislative oversight of the administration and implementation of federally funded, state-administered programs as to effectiveness and efficiency .....	12	8
m. Review of amendments to the U.S. Constitution for state ratification...	12	8
n. Maintaining of communications with the Federal Regional Council....	10	10
o. Consider appropriateness and need for state support, financial or otherwise, of interstate compacts .....	14	7
p. Review, analyze, hold hearings, and make recommendations for state legislative adoption of uniform or reciprocal statutes, rules, and regulations .....	13	7
q. Review of state matching of funds for federal grant programs.....	12	8
r. Liaison with the Washington Office of the National Conference of State Legislatures (NCSL) .....	15	5
s. Review and make recommendations on state support to the Council of State Governments and NCSL .....	12	9
t. Participation in the Intergovernmental Relations Committee of NCSL .....	15	5
u. Meeting on a sustained basis with the state congressional delegation..	6	13
v. Operation of a Washington, D.C., office of the State Legislature .....	0	19

\*Many States merely checked the "Yes" column and left the "No" column blank.

✓ Effective review and establishment of legislative intent as to objectives, priorities, funding guidelines, and evaluations of federal formula grant funds received by the State;

✓ Obtaining federal research and demonstration and planning and management funds directly by State Legislatures;

✓ Analysis and review of pending congressional legislation as to funding and policy impact on the State;

✓ Closer scrutiny and involvement in state planning and service delivery mechanisms to assure they are meeting state and local needs and priorities;

✓ Establishment of direct working ties between the Legislature and the Federal Regional Councils;

✓ Capability to link together and assess impact of combined federal and state grant assistance in meeting overall state objectives; and

✓ Development of working communication channels between the Legislature and its congressional delegation.

Depending on the subject matter, some of these methods for handling federal-state issues may be exercised by standing committees of the respective houses. Others may be better handled by legislative leaders in close contact with congressional offices. The Pennsylvania Select Committee's experience in its nearly two years of operation indicated that there are many issues and areas where a separate federal-state committee can make a contribution without duplicating other standing committees and leadership activities, including the activities mentioned above.

**OTHER SURVEY FINDINGS**

Only 12 of the legislative spokesmen responding to the questionnaire identified staffing and financial support for federal-state affairs, with costs ranging from \$100,000 in Washington State to \$3,300 in Wisconsin, and staff size ranging from four full-time to less than one.

The more informal the approach to handling federal-state issues in the Legislature, the more likely it is for little or no staff to be

assigned and/or financial support provided. For example, Kansas, Maryland, Massachusetts, and Illinois have more formal mechanisms and each tends to give more financial and staff support than the estimated average of \$7,500 for all States.

The survey respondents were asked to rank, based on their experience, the best ways to structure federal-state affairs within the legislative branch. The average rating on a four-point scale was:

<i>Alternative Structure</i>	<i>Average Rating</i>
Joint Committee (both houses) .....	3.0
Legislative Service Agency .....	2.7
Standing Committee (each house) ....	2.5
Subcommittee of appropriations committee .....	2.27

Based on their experience, the respondents were asked to rank seven alternative composition arrangements of the organization responsible for handling federal-state affairs. The alternatives were ranked in the following order:

<i>Alternative Composition</i>	<i>Average Rank</i>
Leadership and chairmen of key committees .....	6.23
Chairmen and minority ranking members of key committees .....	5.10
Leadership, chairmen, and general membership .....	5.07
Leadership only .....	5.00
Chairmen, minority ranking members, and general membership .....	4.94
Leadership and general membership ..	3.40
General membership .....	2.75

**FUTURE DIRECTIONS**

A number of Legislatures are beginning to consider ways in which they can improve their role in federal-state affairs. Some of these methods include:

1. Establishing a legislative liaison post in Washington, D.C. (Georgia, New York, California);
2. Improving staff capability of the Legislative Service Agency or committee on federal-

state affairs (Idaho, Maryland, Massachusetts, Minnesota, Oregon);

3. Establishing closer coordination with the Governor's Washington office (Maryland);

4. Establishing closer liaison with executive branch federal-state liaison personnel (Maryland, Massachusetts);

5. Increasing their role in review and evaluation of federal programs operating in the State (Maryland, Massachusetts, Washington);

6. Reorganizing committee structure (Massachusetts, New Jersey, Ohio, Washington);

7. Formalizing ongoing contacts with the state congressional delegation (Massachusetts); and

8. Studying reciprocity agreements and authority for entering them (Wisconsin).

The Pennsylvania Select Committee considered each of these alternatives. In examining the experiences of the Michigan and California legislative offices in Washington, D.C., the committee came to the conclusion that such offices would be of little benefit to the Pennsylvania legislative process until there was a structure directly in the Legislature that could fully and effectively utilize the services of a Washington representative. The committee recommended the formation of a Joint Committee on Intergovernmental Relations as the appropriate mechanism for structuring federal-state affairs in the Legislature. Until such time as agreement could be reached with the Senate, the committee recommended a standing house committee. The 1975 session of the Pennsylvania House, in January 1975, formally established a Standing Committee on Federal-State Relations.

The Select Committee's recommended legislation to establish a joint committee or standing house committee also would provide it with the duties mentioned previously that are and those that are not currently being performed by State Legislatures. The more significant duties of such a committee could be to:

1. Receive and have the opportunity to review and comment on all state plans and applications for federal aid done concurrently with the 45-day A-95 review and comment process

of the executive branch's state clearinghouse;

2. Review on request of any legislator proposed state legislation and file with the committee of substantive jurisdiction an "intergovernmental impact statement" as to the viability, feasibility, and relationship to existing intergovernmental patterns in which the state services are planned, allocated, and delivered;

3. Exercise legislative oversight through studies, hearings, and field investigations, the administration and coordination of federal and state grant programs;

4. Analyze and make recommendations as to the desirable allocation of governmental functions, responsibilities, and revenues among levels of government;

5. Research and analyze state and local performance in obtaining and expending federal aid;

6. Develop the statutory basis for a substate regional policy and process;

7. Monitor compliance with and review state and local participation in federal general revenue sharing and block grant programs; and

8. Maintain communications and participate in the intergovernmental policy processes of the Federal Regional Council.

While the new Pennsylvania Federal-State Relations Committee has not been given all these duties, they are being studied and legislation is being considered where appropriate (e.g., Numbers 1 and 2 above).

These duties involve a broad range of functions that are currently not being systematically conducted by Legislatures. Such duties should be construed as intergovernmental rather than strictly federal-state responsibilities. To deal with federal-state issues effectively, the total intergovernmental system must be considered. Responsibilities are shared as are powers, functions, and citizenship. What is required is a mechanism that considers the related activities of all governmental levels. State Legislature's legitimate role in federal-state affairs requires methods for continued and full awareness of all intergovernmental arrangements.

SUMMARY

This survey found little ongoing focus on intergovernmental relations in most Legislatures. At the same time it found a considerable degree of interest and concern that Legislatures become better informed and involved in the relationships between federal, state, regional, and local levels of government.

Most Legislatures remain structured on a subject matter, or functional basis, i.e., education, health, etc. Rarely have Legislatures attempted to develop ways to link the structures, administrative mechanisms, and planning and delivery systems in each subject matter committee to assure the needed intergovernmental cooperation for efficient and effective services.

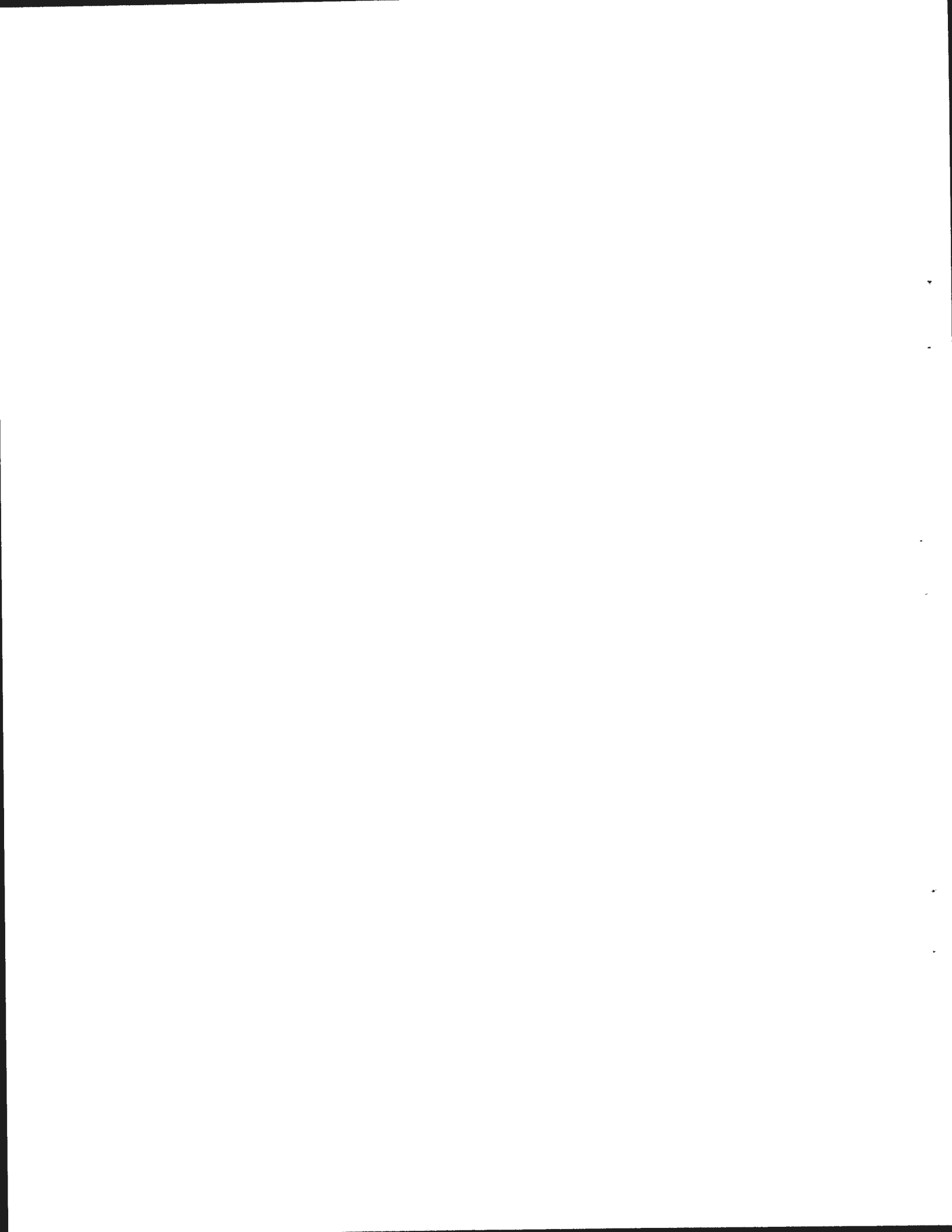
With the increasing desire shown by both the federal executive and legislative branches to permit greater discretion to state governments in setting priorities and allocating federal aid, it is even more timely that Legislatures be able to involve themselves in intergovernmental relations. With much of the federal block grant legislation moot on the question of state legislative involvement, it is necessary for Legislatures to take the initiative in establishing their roles and responsibilities in these discretionary federal aid programs.

Hopefully, the results of this survey will stimulate Legislatures across the country to begin to better exert their policy and oversight responsibilities on intergovernmental issues.

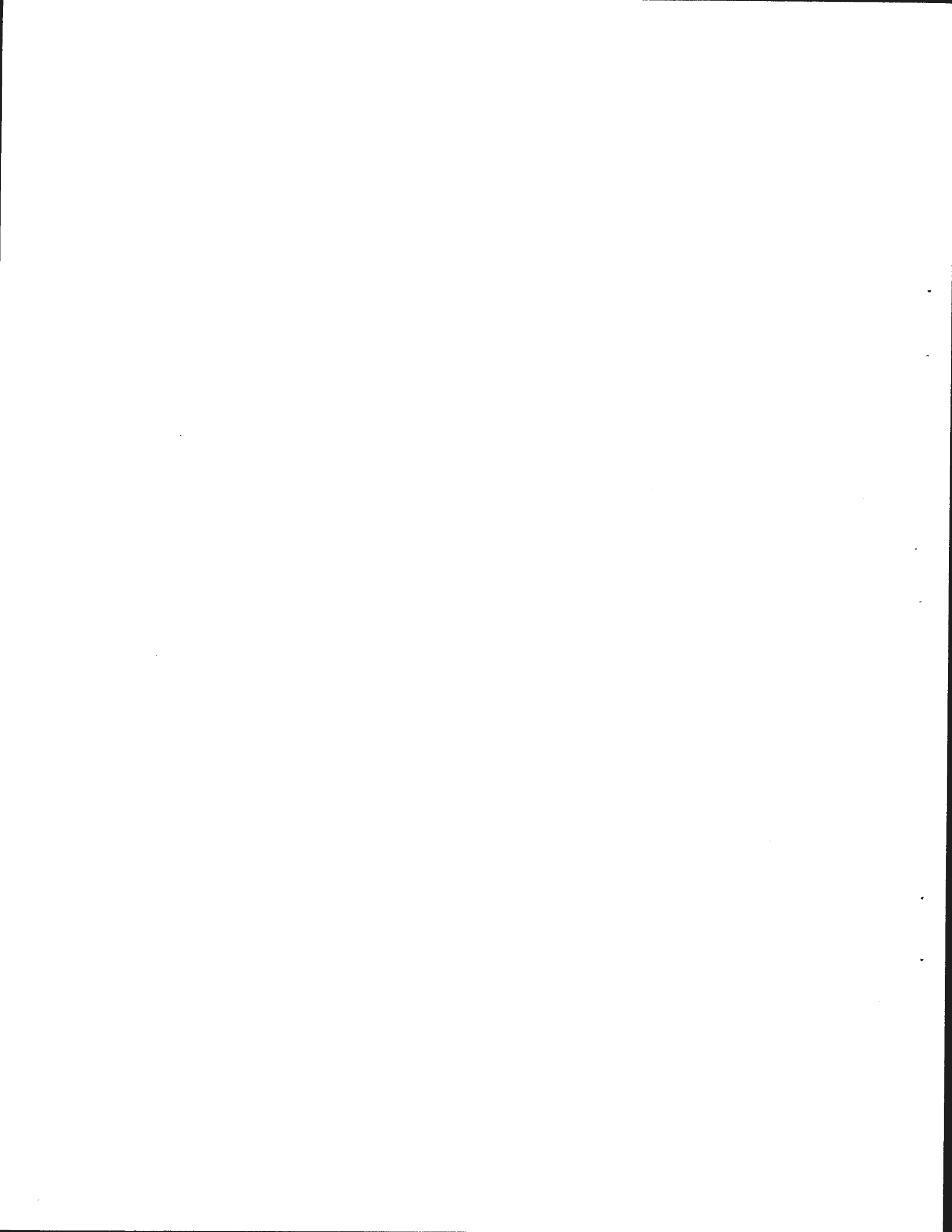
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APPENDIX G







# Information Bulletin

Advisory Commission on Intergovernmental Relations

Washington, D. C. 20575

BULLETIN NO. 76-4

November 1976

## STATE LEGISLATURES AND FEDERAL GRANTS

### IN BRIEF

In a recommendation passed in August, the Advisory Commission on Intergovernmental Relations urged greater state legislative involvement in the control of federal funds coming into state governments. Specifically, the Commission recommended that state legislatures include all federal aid in appropriations bills; prohibit spending of federal funds over the amount appropriated by the legislature; and set specific spending priorities by establishing sub-program allocations.

This Information Bulletin outlines the rationale behind the Commission recommendations and describes the activities of seven states in increasing state legislative involvement in the appropriation of federal funds.

In the past 25 years, federal aid to state and local governments has increased multi-fold. In 1954, total federal aid was \$2.9 billion; in 1976 it will top \$60 billion. Of this amount, approximately three quarters goes directly to states (including funds "passed through" to local governments).

With this increase has come a growing dependence of state and local governments on federal aid. In 1954, for instance, federal aid amounted to 21.5 percent of general revenue from own sources; in 1976 that total was 70.0 percent. In many states federal aid makes up over 20 percent of the total state budget.

Yet many state legislatures do not consider federal aid in their budgetary deliberations. When a state match is required for the aid programs, it is often absorbed into appropriations bills for state agencies and is not separately designated as a "match" for federal funds. In addition, approximately 13 percent of the federal-state grant dollars require no state match - thus these dollars can circumvent the state appropriations process completely.

Along with the sharp increase in federal dollars over the past few years has come a change in the form of the aid. In the early years, federal grants were almost always categorical. Even as late as 1966, 98 percent of the aid was in categorical grants, which are usually specific in scope, limited in discretion, and geared primarily to specialists in state and local government.

The passage of general revenue sharing and several key block grants in the late 1960s and early 1970s offered policymakers at state and local levels more discretion in determining their needs and goals. Although most federal aid is still in the form of categorical grants, the percentage of the total is down from near 100 percent to 75 percent with revenue sharing and block grants each absorbing roughly 12 percent.

Some legislatures recognized the shift both in amounts and in discretionary power and moved to become more involved in the decisions relating to the uses of those funds.

Michael Hershock, Executive Director of the House Appropriations Committee in Pennsylvania, described the interest in his state this way:

"In Pennsylvania, the leadership of the General Assembly finally concluded that the increased federal funding and the increased latitude in use of federal funds were undermining legislative control of state spending. These changes had occurred without a concurrent change in the way the General Assembly reviews the state's budget. The additional spending power and the additional flexibility which resulted from this growth in federal funds had been used almost exclusively to strengthen the hand of the executive branch in the budgetary process."

Still another factor crucial to the growing involvement by many states is the increased "professionalization" in state legislatures including expanded and better trained staffs, better paid legislators, and longer and more frequent sessions. These improvements have better equipped the states' legislative branches to deal with budgetary problems and decisions they had neither the time nor the expertise to handle in earlier years.

For some states, the interest in allocation of federal funds is an outgrowth of long traditions of fiscal conservatism. Typically these states tend to be small population states in the Northwest which have historically reflected a distrust of "federal money" through close examination of the amount and use of federal aid coming into their states. In two of these states, Montana and Utah, propositions were on the November ballot to phase out state acceptance of federal funds. In both states the propositions were defeated.

In other states, the increased legislative concern for more control over federal funds resulted from legislative-executive disagreements over use of funds. In several states, notably Pennsylvania and Illinois, charges were lodged that the executive had undue freedom to use federal funds to continue programs expressly rejected by the legislature.

In states with large and cumbersome budgets, there may be an additional problem that the increased paperwork required with closer supervision of federal aid may possibly prove unwieldy. Yet, Michigan and Pennsylvania are examples of large states which have moved to greatly increase the role of legislatures in appropriating federal funds.

Court decisions and attorney general rulings have also been pivotal in defining appropriate legislative involvement. At least two issues have been considered in the courts and in opinions: What constitutes public funds and can the legislature delegate appropriations functions to a committee? The first answer varies from state to state, even though most state constitutions have similar language clearly delineating the legislature's responsibility for "public funds." The second is more consistent. In most cases, the delegation has been termed unconstitutional.

In this Information Bulletin, we will look at the procedure in seven states. Only two of these states have separate laws outlining the appropriations procedures. Most are defined in head language in appropriations bills. The procedures in the states vary considerably in their scope and methods. The examples here are not meant to be definitive but are, we think, representative of large and small, geographically and politically diverse states which have dealt with a similar problem in a variety of ways.

Three of the states (Alaska, Montana, and Illinois) were chosen due to their recent court cases and attorney general rulings related to the appropriation of federal funds by the legislature. Colorado had an interesting court case several years ago which has led to increased involvement of the legislature in appropriating federal funds. South Dakota and Pennsylvania have statutory language outlining their appropriation of federal grants and both have representatives who are quite vocal on the need for legislative involvement. Michigan is included since its system represents one that seems to be working in a large highly populated state.

The procedures in many of these states are far from final. In at least four states, (Illinois, Montana, Alaska and South Dakota) efforts will be made in the 1977 legislative session to deal with refinements of these and related areas.

#### Montana

The Montana legislature appropriates all federal funds coming into the state government by program area but the amounts included in the appropriations bills are not binding. When the legislature is not in session, the governor may approve a budget amendment allowing state agencies to spend additional monies over appropriated amounts under certain conditions, including:

--to finance a new or expanded program from funds that were not available for consideration by the legislature but which have become available from another source;

--to approve an amendment to transfer appropriations between programs within a state agency; and

--to approve spending of remaining fiscal year appropriations, during the second fiscal year.

The standard language contained in all appropriations bills also provides, however, that where an agency receives more federal money than expected and appropriated, the state funds shall be decreased by the amount of the additional funds received (unless the budget amendment has been approved by the governor).

Since the Montana legislature is in session only 90 days every two years, the power granted to the governor in these exceptions is considerable. Therefore, in 1975, the legislature passed a law to provide more legislative control over federal funds coming into the state in the interim. The legislation set up a joint interim committee to approve by resolution appropriations coming into the state during the period of time the legislature was not in session.

In December 1975, the Montana Supreme Court ruled that the delegation of legislative authority to this budget committee was unconstitutional. The court did not question the authority of the full legislature to approve the funds--only the ability to delegate this authority.

The opinion, from State Rel. Judge v. Legislative Finance Committee, said, in part:

"There can be no doubt that the legislature, sitting in session, could determine whether or not to release money already appropriated from a source other than the general fund and not available for consideration by an earlier session of that same legislature. Such a determination is an integral part of the final appropriation decision. The power to appropriate is a long established, well-recognized power of the legislature."

"But," it continued, "the 1975 Montana Legislature, empowering the Finance Committee to approve budget amendments, delegated a power properly exercisable only by either the entire legislature or an administrative officer or agency, to one of its interim committees. Such a hybrid delegation does not pass constitutional muster."

According to John LaFaver, legislative fiscal analyst, the 1977 Montana Legislature will again look at the options available for increased legislative control. It might consider introduction of a constitutional amendment authorizing establishment of a joint interim committee. (Oregon has such a provision in its constitution allowing the "joint legislative committee to allocate emergency fund appropriations and to authorize expenditures beyond budgetary limits.")

Another option the legislature might consider is establishment of an interim committee to hear requests for additional funds from state agencies. If the committee members felt the requests were valid, they could agree to sponsor supplemental bills in the next legislative session, thus allowing potential recipients the "go ahead" to spend money in anticipation of upcoming appropriations.

Passage of the 1975 law was precipitated by legislative frustration, according to LaFaver. "The legislature simply got tired of being led around by the nose," he said. "They want to know more about what is coming in and where it is going."

## Colorado

In 1972, the governor of Colorado vetoed an item in the general appropriations bill providing "any federal or cash funds received by any agency in excess of the appropriations shall not be expended without additional legislative appropriation." The action was taken to court, with the plaintiffs complaining that the veto was in excess of the governor's veto power and the governor claiming that the provision was a breach of the separation of powers and thus unconstitutional.

The lower court found for the plaintiffs and said that the legislature did have the authority to appropriate the federal funds to which it applied. The state supreme court, however, said the vetoed item was "an attempt to limit the executive branch in its administration of federal funds to be received directly from agencies of the federal government and unconnected with any state appropriations."

The court did say that the legislature clearly had the power of appropriations as it "relates to state funds," but that it believed "federal contributions are not the subject of the appropriative power of the legislature."

Thus the Colorado Legislature currently only appropriates federal funds when there is a state match. Yet the legislature makes certain there is usually a state "match" by indicating in the appropriations language that the matching may be direct, in-kind, or indirect, but in each case it is the state contribution to the cost of the program."

All funds used for matching are indicated in the appropriations bills with the letter "M". The amount appropriated is the maximum amount of general fund monies that may be expended unless otherwise provided. The "M" provision, explained in the head note section of each appropriations bill, says that if federal funds are reduced from the amount indicated in the appropriations bill, state funds are automatically reduced by the same amount. Further if federal funds are increased by more than the amount indicated, state funds are automatically reduced by the same amount.

In cases involving federal funds for new programs requiring a state "direct" or "indirect" match not anticipated during the legislative session, state agencies must come to the Joint Budget Committee to obtain approval to receive the federal funds.

Programs with no direct, indirect, or in-kind state contribution can be pursued and obtained by the executive branch but the "general assembly accepts no obligation directly or indirectly for support or continuation of such programs."

## Michigan

The Michigan Legislature appropriates all federal funds coming into the state except those funds passed directly through to local governments.

Each program item is listed with state (general) revenue and amount of federal funds and funding source. State agencies cannot receive federal funds in amounts over the figure appropriated in the bill. If necessary, state agencies can come to the legislature to seek a supplemental appropriations bill.

Like Colorado and Montana, a provision in every Michigan appropriations bill provides that if federal revenues coming into a program are an amount less than the amount appropriated, the general funds portion of the appropriations are reduced in proportion to the amount of matching revenue reduced.

To insure that no programs escape legislative scrutiny, the head language of each appropriations bill also contains a provision that no state agency can establish new programs or expand programs including any federal or other funds beyond the scope of those already established, recognized and appropriated by the legislature, until the program and the availability of money is subjected by each agency to the budget director for recommendation to the legislature and until each program is authorized and funds appropriated by the legislature.

The Michigan appropriations process was implemented in 1976. Until fall of 1975, the state legislature gave agencies a blanket authorization to accept legislative federal funds on the condition that they come to the legislature and report that they had received those funds.

In a ruling in October 1975, the state's attorney general said that the language was unconstitutional: that once the legislature granted the agencies the authority to receive the funds, it could not expect them to come before the legislature again.

"The executive branch of government is responsible for the implementation of appropriations acts, not the legislative branch of government," the opinion said. "The legislature may impose funding controls through appropriation legislation but it cannot assume administrative controls..."

"The question never involved our control over appropriations," explained Eugene Farnum, director of the Senate Fiscal Agency. "It was only the technical provisions involved."

So, in January 1976, the legislature decided to take a more active role in appropriating the money--thus the new system.

The Michigan statute does not deal with measures to provide for supplemental appropriations in the interim since the legislature meets nearly full time and feels it can deal with the problem through regular processes.

## Alaska

The Alaska Legislature appropriates all federal funds by program in the state budget. Until recently, any additional federal funds coming into the state over the amount appropriated must be cleared by two revenue agents: the governor and the interim legislative Budget and Audit Committee.

In July 1976, the Alaska Attorney General determined that this delegation of power was unconstitutional and infringed upon the duties of the governor as key executive of the state. The opinion relegated the interim committee to an advisory role in the approval of the receipt and expenditure by state agencies of additional federal funds.

The new procedure will work like this: revised programs involving approval for receipts and expenditure of federal funds will be sent, as in past years, to the Division of Legislative Finance. If, within 30 days of receipt by legislative finance or at the next meeting of the Budget and Audit Committee (whichever comes first), the governor receives notification that the Budget and Audit Committee membership has by positive action voted in opposition to a proposed receipt of federal funds, he will consider the information given him prior to the committee's action inadequate and reconsider his approval.

But there is no commitment on the part of the governor to abide by the decision of the committee.

"This is not to say that I will never authorize expenditures of federal funds before the forementioned period is past; nor is it meant that I will consider myself bound in every instance by the Budget and Audit Committee's vote," said Governor Jay S. Hammond in a letter to the chairman of the interim committee. "In a situation where time is of such significance that it is in the best interest of the state to act, I will feel compelled to do so."

Gubernatorial authority was further clarified by the state's attorney general in another opinion. In it, the attorney general said "the governor may not increase any appropriation, but he may, without appropriations, expend federal funds and custodial funds received for specific programs in furtherance of duly authorized activities."

The Alaska Constitution, like most state constitutions, provides that "no money shall be withdrawn from the treasury except in accordance with appropriations made by the law." The attorney general, in reviewing various court decisions, determined that funds placed in the treasury are available for appropriations by the legislature for any purpose. If, however, the funds are kept separately, no appropriation is required.

"And indeed," he continued, "in the case of federal funds for specific programs, an attempt to control their administration would infringe upon the executive (or judiciary) in violation of the separation of powers doctrine."

## Pennsylvania

One of the most recent and widely-publicized legislative attempts to deal with appropriating federal funds came this summer in Pennsylvania.

In June, the Pennsylvania General Assembly passed two bills which greatly increase the legislature's involvement in use of federal funds. The legality of the bills is now being questioned in the courts.

Senate Bill 1542, which passed over the Governor's veto, said that federal funds coming into the Commonwealth of Pennsylvania must be deposited in the general fund account and thus be subject to appropriation by the legislature.

The bill also:

--requires that any person, when submitting any requisition to the state treasurer, must indicate whether any of the funds requested were derived from federal funds or whether any requested funds will be used as matching funds;

--prohibits the state treasurer from issuing any warrant for requisitioned funds which were derived from federal funds unless those funds have been specifically appropriated by the legislature (nor may he issue a warrant for any money to be used as matching funds unless specifically appropriated);

--says that in preparing the budget, the governor, secretary of revenue, and budget secretary must estimate revenues and receipts from all sources and that federal funds must be designated as to whether they are grants, augmentations, credits or others.

Senate Bill 1542 was followed by a 68-page house bill (1366) which specifically appropriates all federal funds coming into the state for the fiscal year. To draft the second bill, the legislature looked closely at how federal funds were being used in the state. Legislators met with state agency representatives and worked from the governor's recommended budget, although they did not necessarily appropriate similar amounts of money. The governor vetoed line items within this bill.

Court action resulting from the measures has been two pronged. The first action involved a petition for court order by the executive to allow the agencies to spend the moneys associated with the items vetoed in House Bill 1366. The Supreme Court allowed one agency to spend money left over from the previous fiscal year but no other funds were allowed spent.

The second action is a suit brought by the Attorney General based on the notion that the General Assembly does not have the power to appropriate federal funds. Arguments have been heard in Pennsylvania Commonwealth Court but an opinion has not yet been delivered. The state supreme court has agreed to hear appeals, whichever way the lower court rules.

Briefly, the two points of view in the second case follow.



The Attorney General says that:

--State Legislative authority to appropriate applies to state-generated funds and does not include federal funds;

--Senate Bill 1542 is an infringement upon the executive's function of administration;

--The bills in question violate the terms of various federal enabling laws and is therefore a breach of the Supremacy clause of the federal constitution.

The General Assembly argues that:

--The two bills do not "clearly, palpably, and plainly" violate the limitation on legislative power to control finance;

--Where federal and state enactments are exercises of power within their respective spheres, a state enactment will not be held in conflict unless the conflict is so direct the two enactments cannot be reconciled;

--Federal funds to the states are subject to the state's duty and power to control its own financial well being consonant with its own constitutional requirements.

The primary argument revolves around the question: Who has control of federal funds?

The governor, in his veto message, said, "It is my belief that federal funds can only be appropriated by the United States Congress and that those funds are earmarked directly for the agencies and programs embodied in federal legislation and regulations."

Pennsylvania House Majority Leader K. Leroy Irvis described the opposite view in debate on the bill in June. "Under provisions of the Pennsylvania Constitution and in accordance with the spirit of the tripartite system of government, the primary responsibility for all appropriations and other funds spent by the Commonwealth historically known as the power of the purse, vests with the general assembly."

#### South Dakota

Like Pennsylvania, South Dakota provides statutory authority for state legislative review of federal funds.

Unlike Pennsylvania, the statute sets up a special interim committee, composed of Senate and House Appropriations Committee members, to appropriate "all moneys and grants received from the United States or other grants or gifts or other funds in excess of the amounts appropriated in the general appropriation act."

The special committee vote is essentially a negative one. The law provides that the review shall be deemed appropriated unless the committee votes by majority vote of the full membership to specifically forbid acceptance of the funds.

In addition, the legislature appropriates all federal funds by program. State agencies wishing to accept any amount over the figure set in the general appropriations bill must go before the joint committee. The appropriations committee then acts only on recommendations made to it by the Governor.

The history of the legislative involvement goes back to the early 1970s when the legislature included language in the general appropriation act of 1971 that members of the Joint Appropriations Committee serve as a special committee to dispose of contingency fund requests (the contingency fund was set up to provide some flexibility for expenditures arising from or subject to unforeseen conditions for which a general fund appropriation was not provided). Prior to this time, the fund had been controlled by the governor.

The following year, the general appropriations bill contained language extending the role of that committee: giving it the right to review and approve other funds, particularly federal funds, which were not appropriated in the general appropriations act.

In 1975, the provision was put into permanent law.

In November 1976, the voters considered a constitutional amendment which would have included this provision in the state's constitution, thus alleviating any potential adverse ruling by the state's attorney general regarding the delegation of authority by the full legislature to a committee. The amendment was defeated.

Although the South Dakota legislature currently does have a say in dispensation of funds, several legislators including 1975-76 Appropriations Committee co-chairman Senator Harold Schreier, believe the legislature should be involved in the preappropriation stages.

"The problem is that these federal grants are still originating in the bowels of the federal and state client agencies and serve the needs of the people as conceived in the bureaucracy, rather than in the legislature," Senator Schreier told a session on state legislatures and federal grants at the National Conference of State Legislatures Annual Meeting in September. "This cannot be corrected by merely vetoing the federal grant, but it can be attacked at its source if we get to the grant soon enough."

In 1974 a law was passed which called for the consultation and review by the legislature of applications processed through the state A-95 clearinghouse. If one-third of the members of any standing committee have a comment or make a request, the chairman is required to call a committee meeting for the purpose of holding a hearing on the grant application.

Yet, according to Senator Schreier, no committee has called a hearing and no individual legislator has filed a grant objection. But he is optimistic.

"We are going to keep trying until we find a responsible manner for legislative participation in this grant origination process," he said. "If we cannot, we are admitting that we are a useless appendage of the

executive branch. Authority and responsibility must be equal and if we are not responsible, the people will eventually eliminate our authority."

### Illinois

Article VII, Section 2(b) of the Illinois Constitution says that: "The General Assembly by law shall make appropriations for all expenditures of public funds by the state."

Section 2(b) was added to the state's 1970 constitution and although there have been court cases and other attempts made to fully clarify the meaning of "public funds", the meaning is still vague as to whether public funds includes federal funds.

In 1974 two separate actions attempted to clarify the language. The first case involved use of Safe Streets funds.

In response to a request from the Illinois Law Enforcement Commission (the state planning agency), LEAA General Counsel Tom Madden said that an Illinois appropriations bill which eliminated funding for programs approved by the state planning agency was inconsistent with the Omnibus Crime Control and Safe Streets Act of 1968 "because it would vest in the legislature ultimate discretion over the distribution of LEAA funds, which, under Section 203 of the act must be vested in a state planning agency created or designated by the governor and subject to his jurisdiction and control."

The opinion continued: "The legislature..may not..substitute its own judgment for that of the governor and the Illinois Law Enforcement Commission with respect to the allocation of LEAA funds among the various components of law enforcement and the development of programs and projects to be supported by such funds."

Thus, continued Madden, the Illinois Law Enforcement Commission would become ineligible to receive block planning and action grants from LEAA because of the nonconforming nature of the legislation.

Nevertheless, the appropriations bill was approved by the General Assembly and the state has not lost LEAA funds.

Also in the summer of 1974, the Illinois Supreme Court dealt with the appropriation issue in People ex rel. Kirk v. Lindberg. In this case Frank Kirk, Director of the Department of Local Government Affairs, filed suit against George Lindberg, Comptroller, seeking release of some monies which the Comptroller had refused to spend on the grounds that they had not been appropriated as required by Article VII, Section 2(b).

The court ordered the release of the funds, but its decision was not based on a narrow interpretation of the meaning of "public funds," but rather related to the wording contained in the appropriations bills.

Specifically, the court seemed to feel that inclusion of non-appropriations language (specifically a clause which prohibited the expenditure of any federal funds in excess of the amounts appropriated) in an appropriations bill was not lawful.

Therefore, the legislature felt it should attempt to make a more general statement of legislative intent in a non-appropriations bill.

In 1975 and 1976, legislation was introduced to require that no agency of state government may make expenditure of any funds furnished to the State of Illinois by the United States Government whether such funds are furnished directly or as reimbursement, unless such expenditure is pursuant to a specific appropriations authorized by the General Assembly.

These bills have not been enacted, however.

Following the Kirk ruling and until further clarification of the term "public funds" is made, the state comptroller adopted a set of rules governing the appropriation of federal funds in Illinois. They are:

--He will release federal funds when they have been appropriated whether with a fixed limit or an open-ended basis;

--He will release the funds when the General Assembly has taken no action with respect to the program;

--He will refuse to release the funds when the General Assembly has considered but refused to appropriate federal funds.

Thus there are loopholes in the control of funds coming to state agencies, most notably through funds that do not come before the General Assembly. There are two primary loopholes: one is to have the governor claim the authority to allow state agencies to receive and spend federal funds for which it may become available; the other is in putting federal funds in accounts held outside the Treasury, with the State Treasurer acting as *ex officio* custodian of the funds.

One of the key problems, then, in Illinois relates to information concerning how much federal aid is coming into the state and how it is spent. Federal program money is sometimes comingled with state, sometimes separate; there are no federal sources to provide data on all federal grants awarded directly to state agencies and state agency sources are often incomplete and confusing.

One state agency has recommended that detailed fiscal information regarding federal funds be gathered through the state's central accounting procedures by requiring all new grant awards to be reported to the comptroller and that all expenditures, deposits, and transfers of federal monies be tagged with a code which identifies the original grant award, program and agency involved.

Commission Recommendation

Meeting in South Dakota August 31, the Advisory Commission on Intergovernmental Relations recommended that "state legislatures take much more active roles in state decision-making relating to the receipt and expenditure of federal grants to the states.

Specifically, the Commission recommended that legislatures take action to provide for:

--inclusion of anticipated federal grants in appropriation or authorization bills;

--prohibition of receipt or expenditure of federal grants above the amount appropriated without the approval of the legislature or its delegate; and

--establishment of sub-program allocation, where state discretion is afforded in formula-based categorical and block grants, in order to specify priorities.

In addition, the Commission urged a stronger state legislative role in use of federal funds passed through the state to local governments.

The Commission recommendations flowed from findings of an ACIR survey of state budget officers on state control of federal funds. This survey found:

--about one-fifth of the budget officers said their legislatures do not appropriate federal grant funds;

--another one-third said that legislatures include only some of the grants in appropriations bills;

--in those states where federal aid is appropriated--in whole or part--only one-third permit federal grants to be spent above the amount appropriated and three-fourths do not establish priorities for spending within the formula grant.

The survey also asked about the pattern of legislative involvement in the grant application process. To the question, "What proportion of state applications for aid must be submitted for review by a legislative committee or staff agency prior to transmission to the federal agency," twenty-eight percent said none. Four states said all; three said three.

In order to implement the Commission's recommendations in this area, the ACIR staff is now drafting model legislative language for use by legislatures wishing to become more involved in the appropriations of federal funds. The model language should be available from ACIR in early December.

## Conclusion

The nation-wide significance of legislative attempts to get some control over federal aid coming into the states has been highlighted by a policy position of the National Conference of State Legislatures calling on the President and the Congress to "recognize the inherent right" of the legislatures to control all spending from state treasuries.

"It is the position of the National Conference of State Legislatures," the resolution says, "that no federal domestic spending programs be enacted which would enable the executive branch of state government to spend any money which passes through the state treasury with state legislative approval."

Senator Harold Schreier of South Dakota expressed the importance of the issue this way at a session on the topic at the NCSL annual meeting:

"I feel certain that the topic of our panel today is the most important question facing the state legislatures if they wish to remain a viable part of the federal system and incidentally, if the country wishes to remain a bastion of democracy."

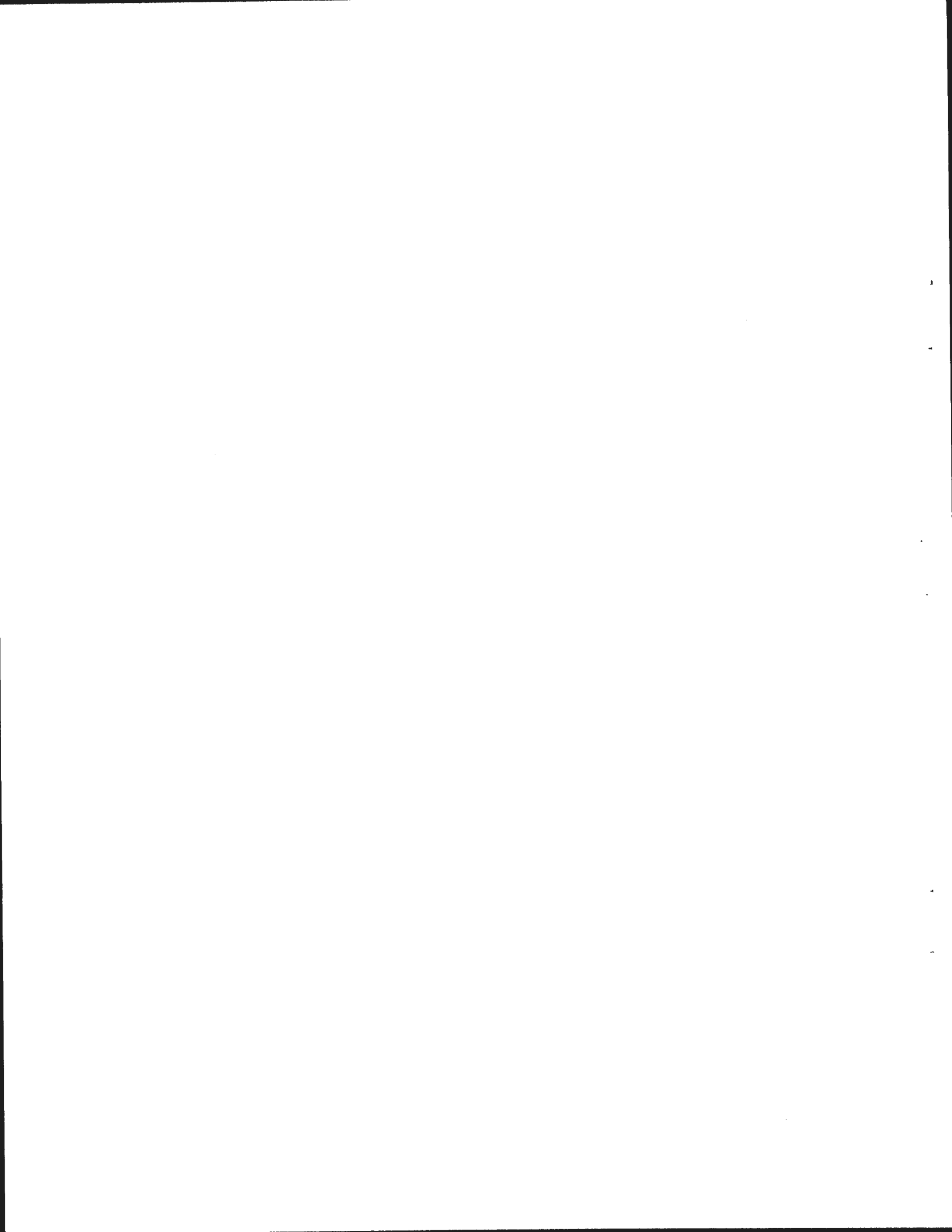
"What I have to say...is at the heart of the practical exercise of power at the state level. We are engaged in a struggle to keep the Madison check and balance system of three coequal branches of government, and the Legislatures of this country are losing. If we cannot control the purse strings, we are nothing."

Yet legislative reform of the appropriations process alone is not enough. Complementary to it is a strengthened gubernatorial role in the steps in the federal grant process leading to the commitment of state funds. There appears to be a great need for improvement in this area.

Of 34 states responding to an ACIR survey, only in 13 did the governor approve all state applications for federal grants. In 20, the governor approved some; in one he approve none. In accepting federal grants, only 12 governors approved all grants; 15, some; 4, none.

In strengthening the budgetary role of state government concerning federal funds, the two reforms must go hand in hand. With firmer gubernatorial control over the steps in the federal grant process leading to the commitment of state funds and a strengthened legislative role in the commitment decision, the states will be in a position to make responsible and informed decisions in the best use of millions of dollars coming into their states each year.

APPENDIX H





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**SESSION 197**7

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INTRODUCED BY:

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Referred to:

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1                   A BILL TO BE ENTITLED  
2 AN ACT TO ESTABLISH A JOINT LEGISLATIVE COMMISSION ON INTERGOVERN-  
3        MENTAL RELATIONS.

4 The General Assembly of North Carolina enacts:

5                   Section 1. North Carolina General Statutes Chapter 120  
6 is amended by adding a new article to be numbered 15 and to read  
7 as follows:

8                               "ARTICLE 15.

9                   Joint Legislative Commission on Intergovernmental Relations.

10                   §120-110. Creation, powers, duties.--There is hereby  
11 created the Joint Legislative Commission on Intergovernmental  
12 Relations, hereinafter referred to as the Commission. The  
13 Commission shall have the following powers and duties:

- 14                   (1) To examine the system of and flow of intergovernmental  
15                   funds with respect to their impact on priority public  
16                   services at the local and state level, and to  
17                   recommend improvements in policy formulation, adminis-  
18                   tration, distribution and the use of such funds;
- 19                   (2) To evaluate on a continuous basis the inter-relationships  
20                   among local, regional, state, interstate, and federal  
21                   agencies in the provision of public services to the  
22                   citizens of this State and prepare studies and  
23                   recommendations to improve organizational structure,  
24                   operational efficiency, the allocation of functional

- 1 responsibilities, and related matters;
- 2 (3) To analyze the structures and functions of this State  
3 and its political subdivisions and to make recommen-  
4 dations for their improvement;
- 5 (4) To examine existing and proposed federal and state  
6 programs and assess their impact on the State and its  
7 political subdivisions;
- 8 (5) To encourage and assist the legislative, executive, and  
9 judicial officials and employees of this State to  
10 develop cooperative relationships with their counter-  
11 parts in other states, with the Advisory Commission  
12 on Intergovernmental Relations and other agencies of  
13 the federal government, and with local units of govern-  
14 ment;
- 15 (6) To encourage interstate cooperation by formulating  
16 proposals for and by facilitating (i) the adoption of  
17 inter-state compacts, (ii) the enactment of uniform  
18 and reciprocal statutes, and (iii) the adoption of  
19 uniform or reciprocal administrative agreements;
- 20 (7) To encourage state-local and interlocal cooperation by  
21 formulating measures to give agencies of this State  
22 and its political subdivisions broad authority to  
23 enter into intergovernmental agreements and contracts,  
24 and to participate in conferences for these and  
25 related purposes;
- 26 (8) To review on a continuous basis the use and sources  
27 of science and technology which are needed by state  
28 and local government for modern management of

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## SESSION 197 7

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1 government;

2 (9) To identify and examine emerging public policy problems  
3 that involve intergovernmental responsibilities and  
4 that call for intergovernmental solutions, and to  
5 make recommendations with respect to such solutions;  
6 and

7 (10) To produce and distribute reports, recommendations  
8 and draft legislation for widespread governmental  
9 and public review and to make an interim report within  
10 30 days of the beginning of each legislative session.

11 §120-111. Selection of members; quorum; compensation.--

12 (a) The Commission shall consist of fourteen members selected  
13 as follows: four members appointed from the House of Represen-  
14 tatives by the Speaker of the House; four members appointed from  
15 the Senate by the President of the Senate; two members from among  
16 state executive department officials appointed by the Governor;  
17 two members appointed by the President of the Senate, one of  
18 whom shall be an elected municipal official and one of whom  
19 shall be an elected county commissioner; and two members  
20 appointed by the Speaker of the House of representatives, one  
21 of whom shall be an elected municipal official and one of whom  
22 shall be an elected county commissioner. Vacancies created by  
23 resignation or otherwise shall be filled by the original  
24 appointing authority. Resignation or removal from the General  
25 Assembly shall constitute resignation or removal from  
26 membership on the Commission. Members shall not be disqualified  
27 from completing a term of service on the Commission because  
28 they failed to run or are defeated for re-election. Members shall

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## SESSION 1977

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1 serve two-year terms beginning and ending on January 15 of the  
2 odd-numbered years, except that initial appointments shall begin  
3 on July 1, 1977. The terms of the initial members of the  
4 Commission shall expire January 15, 1979. Any appointment  
5 to fill a vacancy on the Commission created by the resignation,  
6 dismissal, death or disability of a member shall be for the  
7 balance of the unexpired term.

8 (b) The Chairman of the Commission shall be elected from  
9 among the membership of the Commission and shall serve for  
10 one year, ending on the first day of July each year. Other  
11 officers shall be elected by the Commission as required for  
12 orderly conduct of its business. The Commission shall meet at  
13 the call of the chairman. A majority of the Commission shall  
14 constitute a quorum.

15 (c) Members of the Commission who are present members of  
16 the General Assembly shall receive subsistence and travel  
17 allowances in accordance with G.S. 120-3.1. Members of the  
18 Commission who are officers or employees of the State shall  
19 receive subsistence and travel allowances in accordance with  
20 G. S. 138-6. Members of the Commission who are not officers  
21 or employees of the State shall receive per diem and  
22 necessary travel and subsistence expenses in accordance with  
23 G.S. 138-5.

24 (d) The office of a member may be held concurrently with  
25 other offices or elected positions under Article VI, Section 9  
26 of the Constitution of North Carolina.

27 §120-112. Funding; staffing; facilities.--(a) The  
28 Commission shall be funded by the Legislative Services Commission

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## SESSION 1977

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1 from appropriations made to the General Assembly for that purpose.

2 (b) The Commission shall use available secretarial  
3 employees of the General Assembly, or may employ, and may  
4 remove, such professional and clerical employees as the  
5 Commission deems proper. The chairman may assign and direct the  
6 activities of the employees of the Commission, subject to the  
7 advice of the Commission.

8 (c) The employees of the Commission shall receive salaries  
9 fixed by the Legislative Services Commission and shall receive  
10 travel and subsistence allowances fixed by G.S. 138-6 and 138-7  
11 when such travel is approved by the chairman, subject to the  
12 advice of the Commission. The employees of the Commission shall  
13 not be subject to the Executive Budget Act or to the State  
14 Personnel Act.

15 (d) Upon request, the Commission may use research services  
16 provided by the staff of the General Assembly, subject to  
17 approval by the Legislative Services Commission based on an  
18 assessment of available resources.

19 (e) The Commission shall assure that sufficient funds are  
20 available within its appropriation before employing professional  
21 and clerical employees.

22 (f) The Legislative Services Commission shall provide  
23 adequate office space for staff and for meetings of the  
24 Commission.

25 §120-113. Cooperation with Commission.---Every department,  
26 agency, institution, or officer of the State, and every unit  
27 of local government, shall provide the Commission, upon its  
28 request, with any information in the possession of the department,

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**SESSION 197\_7**

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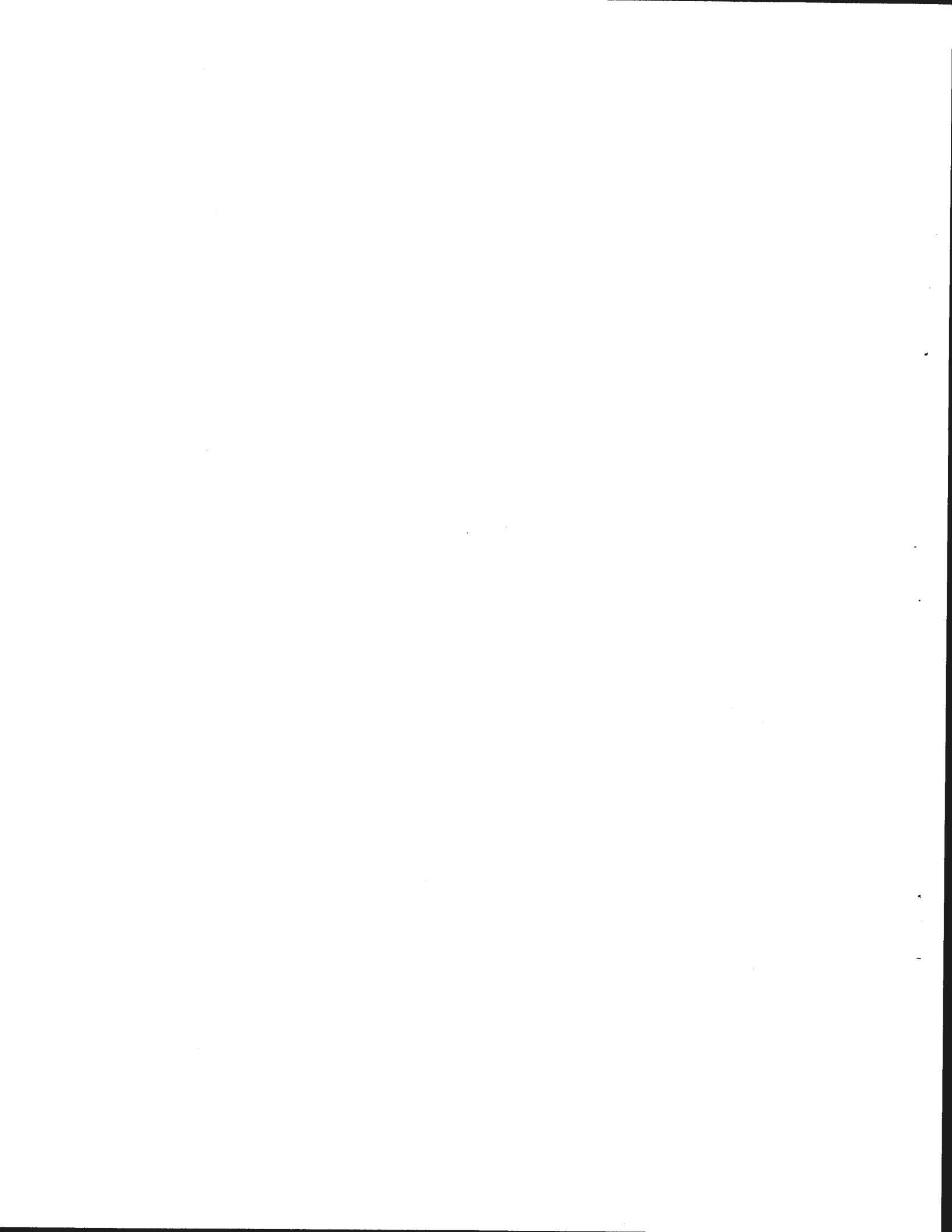
1 agency, institution, unit of local government, or officer which  
2 can serve the purposes of the Commission in its deliberations.

3 §120-114. Grants, donations, and appropriations.--The  
4 Commission may accept for any of its purposes and functions  
5 under this Article any and all donations, both real and personal,  
6 and grants of money of any governmental unit or public agency,  
7 or from any institution, person, firm or corporation, and may  
8 receive, utilize and dispose of the same. Any arrangement  
9 pursuant to this section shall be detailed in the annual report  
10 of this Commission. Such report shall include the identity of  
11 the donor, the nature of the transaction, and the conditions,  
12 if any. Any monies received by the Commission pursuant to this  
13 section shall be deposited in the State Treasury to the account  
14 of the Commission."

15 Sec. 2. This act shall become effective upon ratifi-  
16 cation.

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APPENDIX I





## A BILL TO BE ENTITLED

AN ACT TO AMEND G.S. 143B-337 TO PROVIDE FOR ADDITIONAL REPRESENTATION  
ON THE GOVERNOR'S LAW AND ORDER COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-337 as it appears in the 1975 Supplement to 1974 Replacement Volume 3C is amended in subsection (a) by adding a new subdivision to be numbered (3) and to read as follows:

"(3) Five additional members representing the judicial branch of State government consisting of the Chief Justice of the State Supreme Court, two judges of the superior court, and two judges of the district court. The Governor shall select the superior court and district court judges from a list of three nominees for each appointment submitted by the Chief Justice. If the Chief Justice does not choose to serve, the Governor shall select a replacement from a list of not less than three nominees who are Associate Justices of the State Supreme Court submitted by the Chief Justice. If the Director of the Administrative Office of the Courts, as appointed in subdivision (1), does not choose to serve, the Governor shall select a replacement from a list of three nominees who are judicial administrative officers of the State submitted by the Chief Justice."

Sec. 2. G.S. 143B-337(a) is further amended by adding a new subdivision to be numbered (4) and to read as follows:

"(4) Four members representing the legislative branch of State Government consisting of the Chairman and a Vice-chairman of the Appropriations Committee of the House of Representatives, and the Chairman and a Vice-chairman of the Appropriations Committee of the Senate. Each vice-chairman

shall be designated by the respective chairman. In his discretion, each chairman may designate another member of the Committee to replace him or the vice-chairman, or may designate two other members to replace him and the vice-chairman. The term of office for each chairman shall begin with his appointment as Chairman of the Appropriations Committee and shall expire when a successor is appointed as Chairman of the Appropriations Committee. The term of office for any other member designated in this subdivision shall begin when he is selected by the chairman and shall expire concurrently with the end of the chairman's term. The initial term of office for each member selected in this subdivision shall begin on \_\_\_\_\_, 1977, and shall expire at the time heretofore prescribed."

Sec. 3. G.S. 143B-337(b) is amended in line five (5) immediately after the language "those serving ex officio designated in subsection (a)(1)" by inserting the following language: "and subsection (a)(3), and other than those designated in subsection (a)(4)".

Sec. 4. G.S. 143B-337(a) is further amended in line three (3) by deleting the number "28" and inserting in its place the number "37".

Sec. 5. This act shall become effective upon ratification.

APPENDIX J



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**SESSION 197\_\_**

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INTRODUCED BY:

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Referred to:

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1                                   A BILL TO BE ENTITLED  
2 AN ACT TO REQUIRE STATE AGENCIES TO INCLUDE ANTICIPATED  
3 FEDERAL FUNDING IN THEIR BUDGET PREPARATIONS, TO REQUIRE  
4 THE DIRECTOR OF THE BUDGET TO INCLUDE THIS INFORMATION IN  
5 THE BUDGET SUBMITTED TO THE GENERAL ASSEMBLY , TO PROVIDE  
6 FOR LEGISLATIVE APPROPRIATION OF ALL FEDERAL FUNDING FOR  
7 NORTH CAROLINA, AND TO PROHIBIT SPENDING OF ANY FEDERAL  
8 FUNDS NOT CONSIDERED IN THE LEGISLATIVE APPROPRIATION  
9 PROCESS WITHOUT ADVISORY BUDGET COMMISSION APPROVAL .

10 The General Assembly of North Carolina enacts:

11                   Section 1. A new section 143-6.1 is added to  
12 Chapter 143 of the General Statutes to read as follows:

13           "§143-6.1. Departments and agencies to include anticipated  
14 federal funding.--State departments and agencies submitting  
15 information to the director under G. S. 143-6 shall include  
16 complete information concerning all anticipated federal funding  
17 for the budget period."

18           Sec. 2. The text of G. S. 143-12 as it appears in  
19 1974 Replacement Volume 3C of the General Statutes is designated  
20 as subsection (a) of G. S. 143-12, and a new subsection (b) is  
21 added to G. S. 143-12 to read as follows:

22           "(b) The proposed budget, or budgets if there is  
23           disagreement, shall as accurately as possible  
24           reflect anticipated federal funding to State

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**SESSION 197\_\_**

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1 agencies."

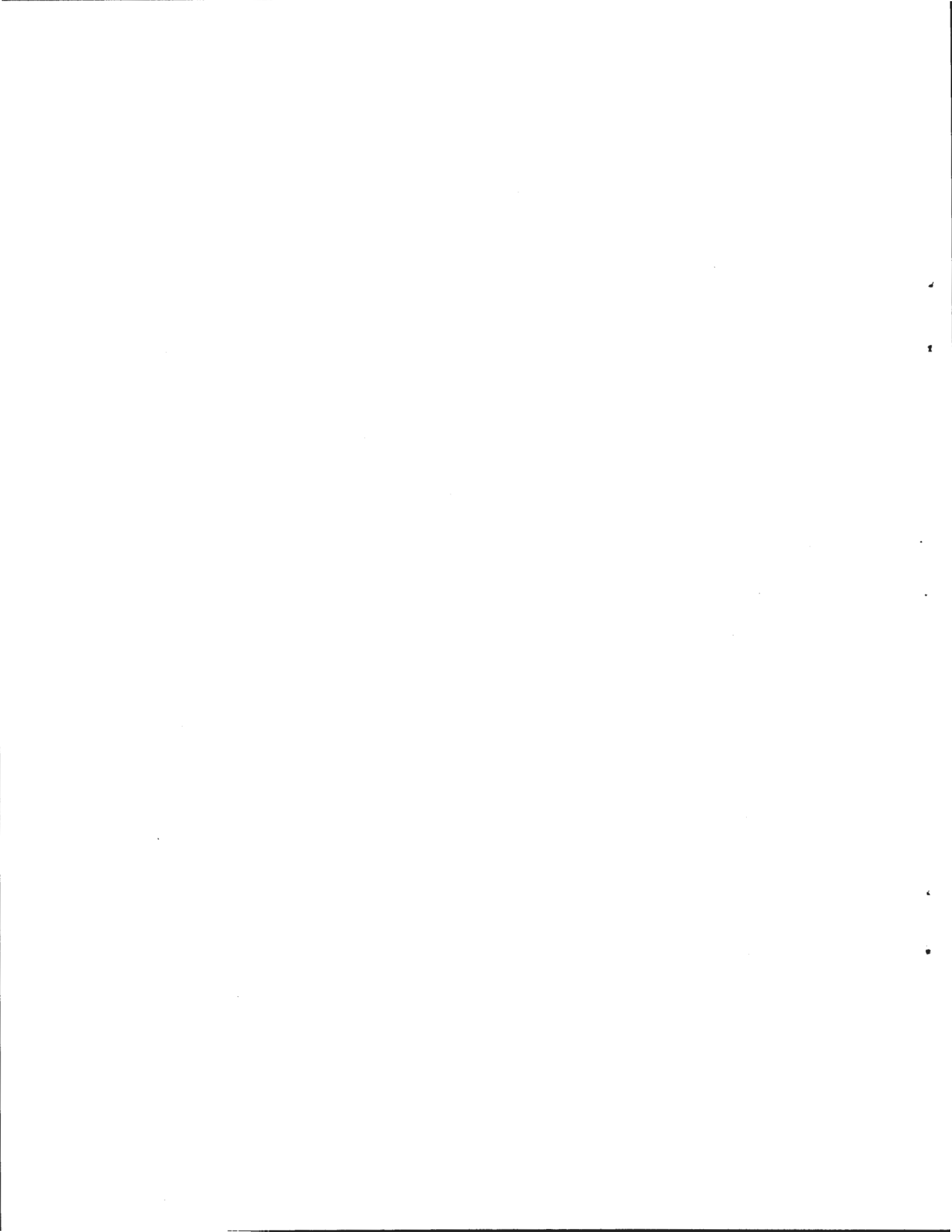
2 Sec. 3. A new section 143-15.1 is added to Chapter  
3 143 of the General Statutes to read as follows:

4 "§143-15.1. Legislative appropriation of federal funding;  
5 prohibition of expenditure over appropriation.--The appropri-  
6 ations by the General Assembly shall include specific reference  
7 to anticipated federal funding, and the appropriation of federal  
8 funds shall have the same limiting effect as the appropriation  
9 of other funds under this Chapter. The General Assembly shall  
10 have the responsibility of making decisions concerning the  
11 degree of certainty of receiving anticipated federal funding,  
12 and the appropriations shall reflect these decisions by con-  
13 tingent language in the Appropriations Bill where appropriate.  
14 An agency is prohibited from spending federal funds in excess  
15 of the amounts appropriated, except on specific approval by the  
16 Advisory Budget Commission. The effect of a violation of this  
17 prohibition by expenditure over appropriation without such  
18 approval shall be a reduction in state funding to the agency  
19 in violation in an amount equal to the overexpenditure; or,  
20 in the event such agency is not receiving state funds, an amount  
21 equal to the overexpenditure shall be held from the next  
22 received federal funds pending review by the Advisory Budget  
23 Commission."

24 Sec. 4. This act shall become effective on July 1, 1977.

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APPENDIX K





A BILL TO BE ENTITLED  
AN ACT TO TRANSFER THE OFFICE OF INTERGOVERNMENTAL RELATIONS  
TO THE DEPARTMENT OF NATURAL AND ECONOMIC RESOURCES.

The General Assembly of North Carolina enacts:

Section 1. The Office of Intergovernmental Relations in the Department of Administration is hereby transferred to the Division of Community Assistance in the Department of Natural and Economic Resources.

Sec. 2. This act shall become effective upon ratification.

