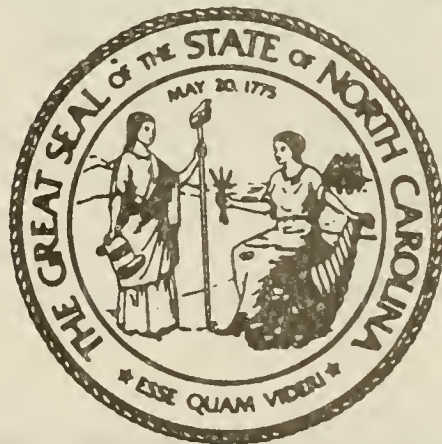


**LEGISLATIVE  
RESEARCH COMMISSION**

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**REPORT  
TO THE  
1979**

**GENERAL ASSEMBLY OF NORTH CAROLINA**



**AGING**

RALEIGH, NORTH CAROLINA

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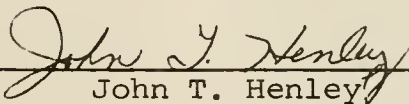


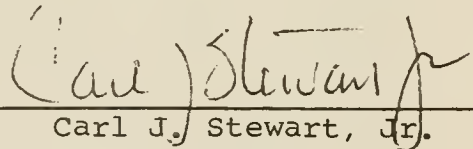
TO THE MEMBERS OF THE 1979 GENERAL ASSEMBLY:

The Legislative Research Commission herewith reports to the 1979 General Assembly of North Carolina on the matter of Aging. The report is made pursuant to Senate Joint Resolution 927 (1977 Session Laws /Second Session 1978/ Resolution 106).

This report was prepared by the Legislative Research Commission Committee on Aging, and it is transmitted by the Legislative Research Commission to the members of the 1979 General Assembly for their consideration.

Respectfully submitted,

  
John T. Henley

  
Carl J. Stewart, Jr.

Co-Chairmen

LEGISLATIVE RESEARCH COMMISSION



ARTICLE 6B.

*Legislative Research Commission.*

§ 120-30.10. **Creation; appointment of members; members ex officio.** — (a) There is hereby created a Legislative Research Commission to consist of five Senators to be appointed by the President pro tempore of the Senate and five Representatives to be appointed by the Speaker of the House. The President pro tempore of the Senate and the Speaker of the House shall be ex officio members of the Legislative Research Commission. Provided, that when the President of the Senate has been elected by the Senate from its own membership, then the President of the Senate shall make the appointments of the Senate members of the Legislative Research Commission, shall serve ex officio as a member of the Commission and shall perform the duties otherwise vested in the President pro tempore by G.S. 120-30.13 and 120-30.14.

(b) The cochairmen of the Legislative Research Commission may appoint additional members of the General Assembly to work with the regular members of the Research Commission on study committees. The terms of the additional study committee members shall be limited by the same provisions as apply to regular commission members, and they may be further limited by the appointing authorities.

(c) The cochairmen of the Legislative Research Commission may appoint persons who are not members of the General Assembly to advisory subcommittees. The terms of advisory subcommittee members shall be limited by the same provisions as apply to regular Commission members, and they may be further limited by the appointing authorities. (1965, c. 1045, s. 1; 1975, c. 692, s. 1.)

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§ 120-30.17. **Powers and duties.** — The Legislative Research Commission has the following powers and duties:

- (1) Pursuant to the direction of the General Assembly or either house thereof, or of the chairmen, to make or cause to be made such studies of and investigations into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner.
- (2) To report to the General Assembly the results of the studies made. The reports may be accompanied by the recommendations of the Commission and bills suggested to effectuate the recommendations.
- (3), (4) Repealed by Session Laws 1969, c. 1184, s. 8. (1965, c. 1045, s. 8; 1969, c. 1184, s. 8.)

MEMBERSHIP

House Speaker Carl J. Stewart, Jr. Chairman	Senate President Pro Tempore John T. Henley, Chairman
Representative Chris S. Barker, Jr.	Senator Dallas L. Alford, Jr.
Representative John R. Gamble, Jr.	Senator Russell Walker
Representative A. Hartwell Campbell	Senator Cecil J. Hill
Representative H. Parks Helms	Senator Robert B. Jordan, III
Representative Lura S. Tally	Senator Vernon E. White



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## INTRODUCTION

The Legislative Research Commission, authorized by Article 6B of Chapter 120 of the General Statutes (G.S. 120-30.17(6)), is a general purpose study group whose duties are that of making or causing to be made, upon the direction of the General Assembly, "such studies of and investigations into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner."

By Senate Joint Resolution 927 (1977 Session Laws 2nd Session 1978<sup>7</sup>, Resolution 106) the Legislative Research Commission was authorized to continue its study of the problems of aging. (See Appendix A.) In order to accomplish these tasks, Representative John R. Gamble, Jr., as a member of the Legislative Research Commission was appointed to coordinate and oversee the Study on the Problems of Aging. Senator Joe B. Raynor and Representative Ernest B. Messer were appointed Co-Chairmen. The Committee elected Representative Messer as presiding member. The other members appointed were Senators Ollie Harris, James D. Speed, Ralph H. Scott and Rachel G. Gray; Representatives James McClure Clarke, Gus N. Economos, Edd Nye, and Janet Pickler; and public members Mrs. Louise Saunders, Mr. A. B. Swindell IV, Mr. John T. Denning, Mr. Claude H. Farrell, Jr., Mrs. Mable Claire Maddrey,

and Mrs. S. Cooper Smith. The Legislative Services Office provided staff assistance to the Committee for this study.

The minutes of the Committee meetings reflect the statements and discussions of each meeting. All of this information is included in the Committee files.

#### BACKGROUND

Many persons have begun to consider the Legislative Research Commission's Committee on the Problems of Aging as a major forum for those concerned with aging in North Carolina. This Committee has been devoted entirely to aging, its problems, goals and aspirations. This process began in 1977 with the establishment of a House Committee on Aging. Out of this came the Legislative Research Commission's Committee on the Problems of Aging which began to meet between the two sessions of the 1977 General Assembly.

The language establishing the initial Committee (House Bill 533 [1977 Session Laws, Resolution 86]) was so stated that the Committee went out of existence at the beginning of the 2nd Session of the 1977 General Assembly. This was changed and the Committee was reconstituted for the period between the 2nd Session of the 1977 General Assembly and the convening of the 1979 General Assembly.

Notwithstanding this fragmented legislative history, the Committee is essentially the same and its leadership has been ongoing. Therefore, much of the initial work and background has already been reported. For those interested, this information can be found in The Legislative Research Commission Report to the 1977 General Assembly Second Session 1978 on Aging. This report will detail only the findings of the Committee from the initial Report to this date.

#### PROCEEDINGS

The Legislative Research Commission's Committee on the Problems of Aging held three meetings during the course of its deliberations. Again many groups and persons were heard and many issues were brought to the attention of the Committee. The following section is a compilation of those problems which need immediate attention by the 1979 General Assembly.

#### FINDINGS AND RECOMMENDATIONS

- (1) CONTINUE THE WORK OF THE LEGISLATIVE RESEARCH COMMISSION'S STUDY OF THE PROBLEMS OF AGING AS BEGUN UNDER RESOLUTION 86 OF THE 1977 SESSION (1ST SESSION 1977) AS AMENDED BY RESOLUTION 106 OF THE 1977 SESSION (2ND SESSION 1978). (See Appendix B.)

It is quite evident to the Committee that much more time and effort are needed to adequately define the problems of aging

and propose possible solutions. Even though having made two reports, the Committee recommends that aging needs be given additional time. Although some have proposed a special study commission with permanent staff, it is the feeling of the Committee that the best interest of aging will be served by placing the study under the direction of the Legislative Research Commission.

- (2) AMEND STATE LAW TO CONFORM TO CHANGES MADE BY CONGRESS IN THE AGE DISCRIMINATION IN EMPLOYMENT ACT, RAISING THE MINIMUM PERMISSIBLE MANDATORY RETIREMENT AGE FROM 65 TO 70 FOR MOST STATE EMPLOYEES EFFECTIVE JULY 1, 1979. (See Appendix C.)

Many people have contended that mandatory retirement at 65 was a cruel anachronism in an era when medical advances allowed many people to remain active and productive. Congress agreed and so passed the Age Discrimination in Employment Act. The proposed legislation brings North Carolina into compliance.

There was some general concern as to whether this change would cost the retirement system more money. Letters from actuaries seem to say that "under the proposed legislation we would expect the cost of the Retirement Systems to remain about the same or decrease somewhat." (See Appendix D.)

- (3) MODIFY BY STATUTE THE ONE EXAMPLE OF MAXIMUM AGE LIMITATION IN LICENSING. (See Appendix E.)

The Committee asked the staff to research the General Statutes specifically in the area of licensing to determine if there were any barriers for the maximum age for employment. The graying of America dictates that we encourage larger numbers of the elderly into the productive effort.

One example was found in the area of child day-care licensing - whose maximum age for employment is 70. The Committee recommends that this be eliminated since these persons are required to take a yearly physical.

(4) FOR EXPANSION OF SERVICES, INCREASE STATE APPROPRIATIONS FOR IN-HOME SERVICES FOR THE ELDERLY AS REQUESTED IN THE 1980-82 BIENNIAL BUDGET REQUESTS.

The Committee has examined in its meetings the critical need, particularly of older persons, for alternatives to institutionalization. People want to be left in their homes. They dread leaving familiar settings where they live in dignity, self-respect and independence. From a financial point of view the Committee believes that increased appropriations in this area could help stem the ever-rising Medicaid costs.

The Department of Human Resources has requested from the Governor and the Advisory Budget Commission an expansion budget of \$8,077,636 and \$8,301,248 for fiscal years of the next biennium. This Committee supports expansion items entitled "In-Home Services for the Elderly, Home-

maker Home-Health Aides, and Nutrition for the Elderly" in the Department of Human Resources' Fiscal Year 1980-81 Biennial Expansion request. (See Appendix F.)

As of the date of this report, the Committee does not know the amount to be recommended by the Governor and the Advisory Budget Commission. But the Committee strongly suggests to the General Assembly that it give special consideration to this need.

(5) APPROPRIATE SUFFICIENT MONIES TO FUND A PROGRAM OF GERIATRIC MEDICINE IN THE SCHOOL OF MEDICINE, UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL.

Each of our citizens should have the opportunity to live the later years of life with dignity and enjoyment, free of preventable hardships which so many now experience. There is reason to believe that such a goal can be reached through a well-balanced program of research, education and service. In addition to these humanitarian considerations, there are valid economic reasons for suggesting that a major investment be made in such a program. It is more efficient to prevent functional dependency as long as possible so that the individual may live at home than to provide institutional care for preventable problems.

There is a great need for the development and support of a statewide program of comprehensive health and medical



care in North Carolina. The Committee believes that the Schools of Medicine should be the ones providing leadership in this area. Therefore, the Committee supports the budget request of the UNC School of Medicine in the expansion budget for funds to start such a program and highly recommends it to the General Assembly. (See Appendix G.)

- (6) REQUIRE BY AN ACT OF THE GENERAL ASSEMBLY A TAX EXEMPTION FROM GROSS INCOME UP TO \$100,000 IN GAIN FROM THE SALE OR EXCHANGE OF THE RESIDENCE OF INDIVIDUALS WHO HAVE ATTAINED THE AGE OF 55. (See Appendix H.)

Many of the issues brought to the attention of the Committee on Aging have been economic problems. For instance, in many cases the majority of the financial resources of many elderly are contained in the equity in their home. In later years when family responsibility has diminished, the older homeowner may wish to sell and move to more convenient quarters. Because of inflation and other factors, the home is worth a substantial sum on the current market. Under current statutes, it is financially unattractive to sell the home and pay large income taxes.

The proposed bill addresses this problem. It provides that an individual who has attained the age of 55 may exclude from gross income on a one-time elective basis up to \$100,000 of gain from the sale of the principal residence. The exclusion would be available only in case of gain from the

sale of a principal residence which the individual owned and occupied as his or her residence for a period aggregating three out of the five years which precedes the sale. There is only one lifetime election.

The Committee asked Fiscal Research to estimate the reduction in General Fund revenue that would result from the adoption of such a provision. The estimate is approximately \$3.0 million. (For a more thorough explanation see Appendix I).

(7) ESTABLISH A COORDINATED HOMEMAKER-HOME HEALTH AIDE DELIVERY SYSTEM IN EACH COUNTY IN NORTH CAROLINA UNDER COORDINATED ADMINISTRATIVE UNITS, WHICH MEETS NATIONAL STANDARDS.

The Committee throughout its proceeding voiced concern that in-home services for the elderly were not being effectively coordinated. Therefore, Resolution 107, 1977 Session (Second Session, 1978) requested the Secretary of Human Resources to appoint a task force to study homemaker and home health services. This the Secretary did and a report was made to the Committee.

The charge to the Task Force was to investigate the development, integration and coordination of homemaker, home health and similar services into a delivery system. In carrying out its assigned responsibility, the Task Force explored basic principles involved in in-home care for the aging, definitions and practices in the home care field in North Carolina and elsewhere, the specifics of good quality

homemaker-home health aide services, assurance of quality through standards, cost effectiveness of this service as compared with other types of care for older adults, and the possible approaches to achieving the objectives of the Legislative Resolution.

This rapidly growing segment of our population should be provided with a complete range of service alternatives to meet varied needs to assure a high quality of life. That services to older adults must be reassessed is clearly evident from the population data on current and projected numbers of citizens sixty years of age and over in each county of the State. With older adults increasing in substantial numbers, the provision of appropriate services in adequate amounts becomes critical. There is a need for an effective and efficient continuum of services. The continuum extends from hospital and nursing home care at one end of the continuum to such supplementary services as transportation, meals delivery, and friendly visitors at the other. Because the situations of older persons change, they should be able to enter the continuum of services wherever necessary for whatever service or services are needed for whatever period of time. Homemaker-home health aide services must be viewed as a vital link in the continuum and should be a clearly delineated service available wherever older North Carolinians live.

Institutionalization is an extremely expensive service when one considers the total continuum of services. With increasing numbers of older adults requiring services, if the trend of institutionalization continues, the costs to the counties and the State will be insurmountable. A coordinated homemaker-home health aide delivery system will deter premature institutionalization, prevent inappropriate institutionalization, and have the effect of preventing the costly construction of unnecessary nursing home beds. The costs to the counties and State in the provision of homemaker-home health aide services are far less per client than expensive institutional costs. And, most importantly, the quality of life for our older adults will be far higher if they are allowed to remain in their own homes, cared for by families and friends within a familiar community setting.

There are multiple funding sources available to the counties and State which can be used to pay for services within the continuum of services. They include federal funds under Medicare (Title XVIII of the Social Security Act), a combination of federal and state funds under Medicaid (Title XIX) and Title XX of the Social Security Act, and, federal and state funds under Title III of the Older Americans Act. These diverse funding sources need to be coordinated at the local level to obtain the most efficient and effective use of each. A coordinated homemaker-home

health aide service system at the local level, possibly under a single administrative unit, would allow counties to make the most efficient use of each service dollar and would permit flexibility in meeting the particular needs of older adults in each county of North Carolina.

Recognizing that all 100 counties currently have in place one or another form of in-home service, and recognizing that all counties already use several sources of funding for these services, the real issues are quality services provided as economically as possible. (The full report of this Task Force is on file with the Committee.)

The Committee feels that, at this time, the most effective way to implement the findings of the Task Force is through a Joint Resolution endorsing in-home services to the aged as a viable and needed alternative to institutional care and requesting the Department of Human Resources to work with county governments to insure that a comprehensive, efficient system of in-home care is available throughout the State. (See Appendix J.)

- (8) REQUIREMENT BY AN ACT OF THE GENERAL ASSEMBLY THAT WOULD ALLOW COUNTY DEPARTMENTS OF SOCIAL SERVICES TO CHARGE FEES. (See Appendix K.)

The second Task Force proposal which the Committee recommends, is for a bill which would allow county Departments of Social Services to charge fees on a basis similar to

charges made by Health Departments, unless such fees are prohibited by statute or regulation. Under the proposed legislation the Department of Social Services may contract with a governmental agency, a private agency or an individual to render services in exchange for a fee covering such services, which must be voluntarily rendered and voluntarily received.

The fee schedule would be recommended by the County Director of Social Services and approved by the local Board of Social Services and the Board of County Commissioners. Fees would not exceed the cost of the service to the Department of Social Services and monies received from the fees would be deposited to the account of the Social Services Department to be expended for social services purposes. No individual employee could accept payment for services rendered in addition to his regular salary.

This bill would allow the Department of Social Services to recover part of the expense of delivering some services. Middle and higher income families would benefit because they would be able to receive and pay for services now unavailable to them.

- (9) THE 1979 GENERAL ASSEMBLY SHOULD INVESTIGATE AND SOLVE IF POSSIBLE THE PROBLEM IN MEDICAID ELIGIBILITY DETERMINATION KNOWN AS "SPOUSAL DEEMING".

The State requires as a condition of granting Medicaid assistance to a nursing home patient, that the patient's spouse contribute a large part of his/her income for the patient's support. This contribution is what is called deeming. The contribution is deemed available to the patient without regard to the spouse's actual ability to pay.

Below is one example of how deeming would affect a hypothetical couple.

#### HYPOTHETICAL FACTS

N is the non-institutionalized spouse who remains in the home.

I is the institutionalized spouse who has to move into a nursing home.

N receives a Social Security check of \$350.00 each month.

I receives a Social Security check of \$210.00 each month.

#### DEEMING OF N's INCOME TO I

N is allowed to keep \$158.33 for his personal needs, and he is allowed a \$4.00 deduction = \$162.33

N's Income	\$350.00
------------	----------

N's Allowance	162.33
---------------	--------

Amount "deemed" available to support I's medical care. This amount is known as the family "contribution".	\$187.66
---	----------

## EFFECT ON N

N must give more than 50% of his income of \$350.00 to pay for I's care.

N is forced to live on \$162.33 each month.

## CHOICES FOR N

1. Pay all income except \$162.33 to the nursing home for I's care. Survive maybe.
2. Sign a separation agreement. All deeming will stop and N will have his income and I will have her income.
3. Refuse to pay and risk having I evicted from the nursing home.

The Secretary of Human Resources is presently investigating options to this situation which will balance fairness with State budget necessities. There is also a court suit pending. For these reasons, the Committee recognizes the problems but thinks more time is needed for a resolution. Therefore, this matter seems more appropriate for the attention of the 1979 General Assembly.



APPENDICES



APPENDIX A  
GENERAL ASSEMBLY OF NORTH CAROLINA

1977 SESSION (2nd SESSION, 1978)

RATIFIED BILL

RESOLUTION 106

SENATE JOINT RESOLUTION 927

A JOINT RESOLUTION TO EXTEND THE STUDY OF THE PROBLEMS AND NEEDS OF THE AGING POPULATION IN NORTH CAROLINA BY THE LEGISLATIVE RESEARCH COMMISSION, AND TO INCREASE PARTICIPATION ON THE STUDY COMMITTEE, SO AS TO IMPLEMENT THE RECOMMENDATIONS OF THE LEGISLATIVE RESEARCH COMMISSION'S COMMITTEE ON AGING.

Whereas, the complexities of the problems facing the aging population in North Carolina in the areas of inflation, rising taxes, increasing costs of medical care, inadequate institutional care facilities, insufficient pension income, and forced early retirement are sizeable and substantial in scope; and

Whereas, other avenues of approach in solving these problems are presently being studied by the Executive Branch of North Carolina State Government and the results of such studies are not yet available for consideration; and

Whereas, the Legislative Research Commission Study Committee on the problems of the aging needs additional time in its deliberations;

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

Section 1. Resolution 86 of the 1977 Session Laws is hereby amended by rewriting the last sentence of Section 1 to read as follows:

"The commission shall report to the First Session of the 1979 General Assembly."

Sec. 2. In addition to the current membership of the Committee on Aging of the Legislative Research Commission, under the authority of G.S. 120-30.10(c), the Speaker shall appoint two persons aged 60 or over, and the President Pro Tempore shall appoint two persons aged 60 or over.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of June, 1978.

JAMES C. GREEN, SR.

James C. Green

President of the Senate

CARL J. STEWART, JR.

Carl J. Stewart, Jr.

Speaker of the House of Representatives

APPENDIX B

A JOINT RESOLUTION TO CONTINUE THE WORK OF THE LEGISLATIVE RESEARCH COMMISSION'S STUDY ON THE PROBLEMS OF AGING AS BEGUN UNDER RESOLUTION 86 OF THE 1977 SESSION (1st Session 1977) AS AMENDED BY RESOLUTION 106 OF THE 1977 SESSION (2nd Session 1978).

Whereas, the aging population in North Carolina presently constitutes over fourteen percent (14%) of the total population and is increasing three times faster than the State population as a whole; and

Whereas, continued inflation, rising taxes, increasing costs of medical care, inadequate institutional care facilities, insufficient pension income, forced early retirement, and lack of public awareness, have compounded the problems of the elderly; and

Whereas, because these older citizens have contributed magnificently to the progress and general well-being of our State and nation, and it is our concern and desire that their retirement years be a time of fulfillment rather than frustration; and

Whereas, the Legislative Research Commission Study Committee on the Problems of Aging Authorized by Resolution 86 of the 1977 Session, having made two reports, recommends that aging needs be given additional study time;

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

Section 1. The Legislative Research Commission, as structured by G.S. 120-30.10 et seq., shall continue the study of the entire range of problems and needs of the older adults of this State and to make specific recommendations to the General Assembly on how these problems can be satisfactorily solved and

met by legislative action which is deemed necessary and appropriate. In its deliberations, the commission shall examine national trends and programs in other states as well as programs and priorities in North Carolina. For purposes of this study, "older adult" is defined as every person who is 60 years of age or older.

Sec. 2. The membership of the Committee on Aging of the Legislative Research Commission shall consist of ten members to be appointed as follows: three senators appointed by the President Pro Tempore, three representatives appointed by the Speaker, two persons of sixty years of age or older appointed by the President Pro Tempore, and two persons of sixty years of age or older appointed by the Speaker. The Commission shall report to the 1981 General Assembly and may submit an interim report to the 1979 General Assembly.

Sec. 3. This resolution is effective upon ratification.

A BILL TO BE ENTITLED AN ACT TO ENSURE COMPLIANCE BY STATE  
AND LOCAL GOVERNING UNITS WITH THE AGE DISCRIMINATION  
IN EMPLOYMENT ACT AMENDMENTS OF 1978.

The General Assembly of North Carolina enacts.

Section 1. G.S. 135-5(a)(2) is rewritten to read:

"(2) A member in service who attains age 70 shall make timely application for retirement, in accordance with (1) above, to be effective no later than the first of July coincident with or next following his 70th birthday: Provided that, upon the approval of his employer, any member may be continued in service on a year-to-year basis."

Sec. 2. G.S. 128-27(a)(2) is rewritten to read:

"(2) A member in service who attains age 70 shall make timely application for retirement, in accordance with (1) above, to be effective no later than the first of July coincident with or next following his 70th birthday: Provided that, upon the approval of his employer, any member may be continued in service on a year-to-year basis."

Sec. 3. The last sentence of G.S. 126-16 is rewritten to read:

"This section with respect to equal opportunity as to age shall be limited to individuals who are at least 40 years of age but less than 70 years of age."

Sec. 4. G.S. 135-5(1)(6) is amended by changing the period to a semicolon and adding the following new subdivision:

"(7) After December 31, 1978, and after he has attained age 70."

Sec. 5. The third paragraph of G.S. 135-5(1), as enacted by Chapter 561, Session Laws of 1977 is amended by

deleting the words:

"on or after January 1, 1974" and inserting in lieu thereof "on or after January 1, 1974, but before January 1, 1979".

Sec. 6. G.S. 128-27(1)(6) is amended by changing the period to a semicolon and adding the following new subdivision:

"(7) After December 31, 1978, and after he has attained age 70."

Sec. 7. The fourth paragraph of G.S. 128-27(1), as enacted by Section 7 of Chapter 1240, Session Laws of 1977, (Second Session 1978), is amended by deleting the words "on or after January 1, 1974" and inserting in lieu thereof "on or after January 1, 1974, but before January 1, 1979."

Sec. 8. G.S. 116-11 is amended by adding a new subdivision (5a.) to read:

"(5a.) Notwithstanding the provisions of G.S. 135(a)(2) and G.S. 126-16, the Board of Governors of the University of North Carolina may by resolution provide that, until July 1, 1982, an employee who is serving under a contract of unlimited tenure (or similar arrangement providing of unlimited tenure) at a constituent institution of the University of North Carolina shall retire on July 1, coincident with or next following his 65th birthday, provided that, upon approval of the Board of Trustees of the constituent institution, an employee may be continued in service on a year to year basis.

Sec. 9. The amendment made by Section 3 of this act, as it may affect seniority systems or employee benefit plans



which require or permit the involuntary retirement of any individual because of the age of such individual, shall not apply to employees covered by a collective bargaining agreement, which was in effect on September 1, 1977, and which was entered into by a labor organization (as defined by Section 6(d)(4) of the Fair Labor Standards Act of 1938) until the termination of such agreement or on January 1, 1980, whichever occurs first.

Sec. 10. This act is effective January 1, 1979, and Section 8 of this act shall expire on July 1, 1982.



APPENDIX D

September 8, 1978

BUCK  
CONSULTANTS

Mr. W. H. Hambleton, Director  
Teachers' and State Employees'  
Retirement System of North Carolina  
Albemarle Building  
325 N. Salisbury Street  
Raleigh, North Carolina 27611

Dear Mr. Hambleton:

Attached to your letter of September 1, was a memorandum from John L. Allen, Jr. to Harlan Boyles in regard to the change in mandatory retirement age for which an actuarial note was requested.

At the present time members of both the Teachers' and State Employees' Retirement System and the Local Governmental Employees' Retirement System may continue in service after age 65 on a year to year basis upon approval of their employers. Most members retire prior to age 65 but of those who remain in service until such age about one-half continue in service for various periods thereafter. Since the assumption is made in the valuation that members who stay in service to age 65 will retire at that time, the continuation of members in service after age 65 results in a gain to the Systems each year since expected retirement allowance payments from the funds are not being made to these members. At the present time if such a member dies in service during his continuation of employment no lump sum death benefit is payable.

Under the proposed legislation members will no longer need the approval of their employers to remain in service until age 70 and should any such member die in service between the ages of 65 and 70 the lump sum death benefit would be payable. This may encourage more members to remain in service which would generate more gains as far as expected retirement allowance payments are concerned if we continue the present assumption that all those who remain in service to age 65 will retire at that time. However, there would be a lump sum death benefit payable should such a member die in service between the ages of 65 and 70. Based on the membership of the Teachers' and State Employees' Retirement System as of December 31, 1977 and assuming members over age 65 will continue in service the next year the death benefit rate on a one year term cost method would increase by .01% of payroll. We would expect, however, that the gains from not having to pay retirement allowances during the period members continue in service after age 65 would cover the death benefits payable to those who die in service after age 65.

Mr. W. H. Hambleton

September 8, 1978

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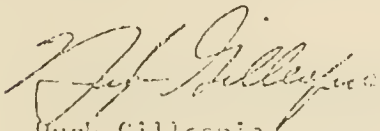
There would be a slight immediate decrease in the rate payable by employers for benefits other than the lump sum death benefit if we were to extend the retirement rates to age 70 on the basis of the experience during the recent past. We would suggest that on the basis of the next experience investigation this be done.

In summary, under the proposed legislation we would expect the cost of the Retirement Systems to remain about the same or decrease somewhat.

If you have any questions please do not hesitate to contact us.

Sincerely yours,

GEORGE B. DUCK CONSULTING ACTUARIES, INC.



Hugh Gillespie  
Consulting Actuary

HG:PLB

CHARLES R. DILTS ASSOCIATES

CONSULTING ACTUARIES  
EMPLOYEE BENEFIT CONSULTANTS

GUARANTY STATE BANK BUILDING  
DURHAM, NORTH CAROLINA 27701

September 13, 1978

Mr. John L. Allen, Jr., Director  
Fiscal Research Division  
North Carolina General Assembly  
Legislative Building  
Raleigh, North Carolina 27611

Dear John:

Re: A BILL TO BE ENTITLED AN ACT TO ENSURE COMPLIANCE  
BY STATE AND LOCAL GOVERNING UNITS WITH THE AGE  
DISCRIMINATION IN EMPLOYMENT ACT AMENDMENTS OF 1978.

In response to your letters of August 28, 1978, and August 30, 1978,  
we have prepared the following note on the above proposed bill.

The Age Discrimination In Employment Act (ADEA) 1978 amendments were  
signed into law by President Carter in April, 1978. The ADEA was  
originally passed and signed into law in 1967. The 1978 amendments  
raise the mandatory retirement age from 65 to 70 for employees of public  
and private employers, excepting certain executives who will receive  
combined annual retirement benefits of \$27,000 or more attributable  
to employer contributions; tenured university professors until July 1, 1982;  
employees of private firms with fewer than 20 employees; and employees  
in jobs for which age would be a bona fide occupational requirement,  
such as policemen and firemen.

The amendments are effective January 1, 1979. They do not require  
accrual of further retirement benefits, nor do they require that amounts  
of insurance or other employee benefits be the same as for younger  
employees.

Regulations are expected momentarily from the Department of Labor  
on the ADEA amendments and will deal with questions of retirement  
benefit accrual and on maintenance of other employee benefits.

With regard to the above proposed bill, accrual of retirement benefits  
would be continued under the TSERS and the LGERS. There is no appreciable  
increase in costs to the State or to the local governmental units for  
continuing accrual of retirement benefits under the two systems until  
age 70, and there would be a savings from deferring benefit payments  
until age 70.

The costs of the death benefit in the Systems would increase if a general trend to retirement at age 70 develops.

The costs of providing a death benefit at age 70 are approximately 55% greater than the costs at age 65, according to recent experience. The savings in deferring payment of retirement benefits, however, over the long term could be expected to offset the additional death benefit costs.

There are areas in which additional costs would possibly be incurred by employers, but they are not in the province of the TSERS or the LGERS. The additional costs which may be incurred because of the 1978 ADEA amendments include the following:

1- Added costs to the employers of social security taxes, longer vacations, and additional sick leave time for higher paid older employees. The younger employees who would otherwise replace the older employees would have lower salaries and fringe benefit costs. These additional costs might be offset by the greater productivity of the more experienced employee.

2- The added expense of developing and applying effective criteria for retirement of marginally incompetent employees prior to age 70.

Please advise me if you would like to have any additional notes or information. I should be pleased to be present at the meeting on September 20, 1978, of the Committee on Aging.

Sincerely,



Charles R. Dilts

A BILL TO BE ENTITLED AN ACT TO REMOVE THE MAXIMUM AGE LIMIT ON DAY-CARE CENTER EMPLOYEES, SO AS TO IMPLEMENT THE RECOMMENDATIONS OF THE LEGISLATIVE RESEARCH COMMISSION'S COMMITTEE ON AGING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 110-91(7)a.1. is amended by deleting the words "between the ages of 16 and 70 years, inclusive," and inserting in lieu thereof the words, "who is at least 16 years of age".

Sec. 2. G.S. 110-91(8) is amended by deleting the words " , nor more than 70 years of age".

Sec. 3. This act is effective upon ratification.





APPENDIX F

A RESOLUTION SUPPORTING ESTABLISHMENT OF A GERIATRICS PROGRAM  
AT THE UNIVERSITY OF NORTH CAROLINA SCHOOL OF MEDICINE.

Whereas, the number of older persons is increasing dramatically, and

Whereas, older persons have special medical problems due to the aging process, and

Whereas, new knowledge in the field of geriatrics will permit the development of worthwhile preventive care programs as well as increase knowledge about medical problems of the elderly, and

Whereas, the University of North Carolina School of Medicine has proposed the establishment of a geriatrics program with a number 5 priority, and

Whereas, the Division on Health Affairs of the University of North Carolina at Chapel Hill has given the proposed program only its 17th priority, and

Whereas, this committee is concerned that the medical problems of older persons are not given adequate consideration in budget planning.

Now, therefore, BE IT RESOLVED BY THE LEGISLATIVE RESEARCH COMMISSION'S COMMITTEE ON AGING

Section 1. This committee gives its full support to a Geriatrics Program at the University of North Carolina School of Medicine.

Sec. 2. This committee requests that the University of North Carolina give careful consideration to giving the geriatrics program a higher priority in its budget proposals.

Sec. 3. Copies of this resolution be sent to UNC President William Friday and Chancellor N. Ferebee Taylor.



APPENDIX G

WHEREAS the Committee on Aging has examined in its meetings the critical need of older persons for alternatives to institutionalization, and

WHEREAS, programs such as Chore Services, Home Health, Homemaker, Meals, and Adult Day Care enables older persons to remain in their home and in the community, and

WHEREAS, additional state funding in this area will enable relief of county budgets, as well as expansion of direct services, and

WHEREAS, Expansion of these programs can reduce state and local expenditures for nursing home expenditures in the Medicaid program, and

WHEREAS the Department of Human Resources has requested from the Governor and Advisory Budget Commission an expansion budget of \$8,077,636 and \$8,301,248 for the fiscal years of the next biennium in these areas,

NOW, THEREFORE, be it resolved by the Legislative Research Commission's Committee on Aging that

Section 1. This committee supports expansion items entitled "In-Home Services for the elderly, Homemaker Home-Health Aids, and Nutrition for the elderly," in the Department of Human Resources' Fiscal Year 80-81 Biennial Expansion requests. Such requests total \$8,077,636 in Fiscal Year 1979-80 and \$8,301,248 in Fiscal Year 1980-81.

Section 2. This resolution shall be sent to the Governor and the Advisory Budget Commission.

Adopted this the 20th day of September, 1978.

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Representative Ernest Messer,  
CO-Chairman

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Senator Joe B. Raynor,  
Co-Chairman



Appendix H

A BILL TO BE ENTITLED

AN ACT TO EXEMPT FROM GROSS INCOME ON A ONE TIME BASIS GAIN UP TO \$100,000 FROM SALE OR EXCHANGE OF RESIDENCE OF INDIVIDUAL WHO HAS ATTAINED AGE 55.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-141(b) is amended by adding the following new subdivision:

"(21) a. General rule. At the election of the taxpayer, gross income does not include gain from the sale or exchange of property if with respect to a sale or exchange of a residence on or after January 1, 1979.

1. the taxpayer has attained the age of 55 before the date of such sale or exchange, and

2. during the five-year period ending on the date of the sale or exchange, such property has been owned and used by the taxpayer as his principal residence for periods aggregating three years or more.

b. Limitation.

(1) The amount of the gain excluded from gross income under sub-subdivision a. shall not exceed one hundred thousand dollars (\$100,000).

(2) Sub-subdivision a. shall not apply to any sale or exchange by the taxpayer if an election by the taxpayer or his spouse under sub-subdivision a. with respect to any other sale or exchange is in effect.

c. Election. An election under sub-subdivision a. may be made or revoked at any time before the expiration of the period for making a claim for credit or refund if the tax imposed by this Chapter for the taxable year in which the sale or exchange occurred, and shall be made or revoked in such manner as the Secretary of Revenue shall prescribe. In the case of a taxpayer who is married, an election under sub-subdivision a. or a revocation thereof may be made only if his spouse joins in such election or revocation.

d. Special rules.

(1) For purposes of this subdivision, if

- i. property is held by a husband and wife as tenants by the entirety,
- ii. such husband and wife make a joint return under Section 6013 of the Internal Revenue Code for the taxable year of the sale or exchange, and
- iii. one spouse satisfies the age, holding, and use requirements of sub-subdivision a. with respect to such property, then both husband and wife shall be treated as satisfying the age, holding, and use requirements of sub-subdivision a. with respect to such property.

(2) For purposes of this subdivision, if property is held by a husband and wife as tenants by the entirety, they shall be treated as one person for

purpose of determining a gain under this subdivision. After such gain has been determined, one-half the gain shall be attributed as income to each spouse. In order to enjoy the benefits of the election with respect to entirety property, the husband and wife shall file a combined return.

- (3) For purposes of this subdivision, in the case of an unmarried individual whose spouse is deceased on the date of the sale or exchange of property, if
- i. the deceased spouse (during the five-year period ending on the date of the sale or exchange) satisfied the holding and use requirements of sub-subdivision a. 2. with respect to the property, and
  - ii, no election by the deceased spouse under subdivision a. is in effect with respect to a prior sale or exchange, then such individual shall be treated as satisfying the holding and use requirements of sub-subdivision a. with respect to the property.

- (4) For purposes of this subdivision, if the taxpayer holds stock as a tenant-stockholder (as defined in Section 216 of the Internal Revenue Code) in a cooperative corporation (as defined in that section), then

- i. the holding requirements of sub-subdivision a. shall be applied to the holding of the stock, and

- ii. the use requirements of sub-division a. shall be applied to the house or apartment which the taxpayer was entitled to occupy as such stockholder.
- (5) For purposes of this subdivision, the destruction, theft, seizure, requisition, or condemnation of property shall be treated as the sale of the property.
- (6) In the case of property only a portion of which, during the five-year period ending on the date of the sale or exchange, has been owned and used by the taxpayer as his principal residence for periods aggregating three years or more, this subdivision shall apply with respect to so much of the gain from the sale or exchange of such property as is determined, under regulations prescribed by the Secretary of Revenue, to be attributable to the portion of the property so owned and used by the taxpayer.
- (7) In the case of any sale or exchange, for purposes of this subdivision;
- i. the determination of whether an individual is married shall be made as of the date of the sale or exchange, and
  - ii. an individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.



(8) In applying G.S. 105-144.1 (relating to involuntary conversions) and G.S. 105-44.2 (relating to sale or exchange of residence), the amount realized from the sale or exchange of property shall be treated as being the amount determined without regard to this subdivision, reduced by the amount of gain included in gross income pursuant to an election under this subdivision."

Sec. 2. This act shall become effective for income tax years beginning on or after January 1, 1979.



NORTH CAROLINA GENERAL ASSEMBLY  
LEGISLATIVE SERVICES OFFICE  
2129 STATE LEGISLATIVE BUILDING  
RALEIGH 27611



JOHN L. ALLEN, JR.  
LEGISLATIVE SERVICES OFFICER

December 4, 1978

LEGISLATIVE SERVICES OFFICE  
TELEPHONE: 733-7044

The Honorable John R. Gamble, Jr.  
LRC Member  
LRC Committee on Aging  
P.O. Box 250  
Lincolnton, N.C. 28092

Dear Dr. Gamble

At its October 25 meeting the LRC Committee on Aging decided to recommend to the LRC the adoption of the provision in the new Federal Tax bill that allows a once-in-a-lifetime personal income tax exclusion for up to \$100,000 of the Capital gains from the sale of a principal residence by taxpayers who are 55 and over. At that time the Committee directed me to attempt to estimate the reduction in General Fund revenue that would result from the adoption of such a provision, effective for the 1979 tax year.

As you recall, I pointed out at the meeting that the N.C. Department of Revenue, in the Spring of 1977, estimated the revenue loss from the adoption of a provision that would allow a \$35,000 exclusion from the basis used in the calculation of a capital gain at \$1.5 million. I have estimated the revenue loss from the \$100,000 exclusion at \$3.0 million. This estimate is based upon the following information:

- (1) The Congressional Budget office has estimated that the expansion of the Federal provision will increase the Federal loss by approximately 40%.
- (2) Estimated personal income tax collections for the 1979-80 fiscal year will be 37% higher than those that were estimated for 1977-78 in the Spring of 1977.

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- (3) Since North Carolina never adopted the older Federal provision, the proposed legislation would be a completely new feature and thus the knowledge and utilization of such a law by elderly taxpayers would be relatively low the first couple of years.
- (4) The price of housing for the elderly, as well as the income of elderly homeowners in North Carolina, is much lower than the national average.
- (5) The average value of a residence for an elderly person in North Carolina, as well as their income, is fairly low.
- (6) North Carolina's tax rates are much lower than the Federal rates.

I hope that this information is helpful to the Committee.

Yours very truly,

  
David F. Crotts

DFC/dab

A JOINT RESOLUTION ENDORSING IN-HOME SERVICES TO THE AGED AS A VIABLE AND NEEDED ALTERNATIVE TO INSTITUTIONAL CARE AND REQUESTING THE DEPARTMENT OF HUMAN RESOURCES TO WORK WITH COUNTY GOVERNMENTS TO INSURE THAT A COMPREHENSIVE, EFFICIENT SYSTEM OF IN-HOME CARE IS AVAILABLE THROUGHOUT THE STATE.

Whereas, the General Assembly in Resolution 107, 1977 Session (Second Session, 1978) requested the Department of Human Resources to study coordination of homemaker home health and similar services into a homemaker-home health aide program, and report to the Legislative Research Commission; and

Whereas, the Legislative Research Commission has received the report of the Task Force of the Department of Human Resources in response to the Resolution; and

Whereas, the Task Force on Homemaker-Home Health Aide Services has determined that in-home services to the elderly form a cost-effective alternative to long-term institutional care for many elderly citizens; and

Whereas, the Task Force has determined that combined homemaker and home health aide services represent a desirable and efficient model for delivering in-home services; and

Whereas, the Task Force has determined that standards adopted by the National Council for Homemaker-Home Health Aide Service, Inc., for the provision of these services are reasonable and would insure quality services; and

Whereas, the Department of Human Resources administers or supervises several federal programs which can finance different portions of a comprehensive homemaker-home health aide program; and

Whereas, primary responsibility for establishing and operating programs of in-home care for the elderly rests with county governments; and

Whereas, the Task Force has encouraged development of such program;

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

Section 1. The General Assembly endorses in-home services to the aged as a viable and needed alternative to institutional care and requests the Department of Human Resources to work with county governments to insure that a comprehensive, efficient system of in-home care is available throughout the State.

Sec. 2. The Secretary of Human Resources should work with county governments to insure that homemaker and home health aide services are available throughout the State.

Further, the Secretary should insure that these services meet standards established by the National Council for Homemaker-Home Health Aide Services, Inc.

Further, the Secretary should encourage counties to coordinate and integrate homemaker and home health aide services, insuring that no obstacles to such coordination are created by state agency actions.

Sec. 3. The Secretary of Human Resources shall report to the Legislative Research Commission on the progress of implementing this resolution.

Sec. 4. This resolution is effective upon ratification.





Sec. 3. The Secretary of Human Resources shall report to the Legislative Research Commission on the progress of implementing this resolution.

Sec. 4. This resolution is effective upon ratification.



Appendix K

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR CHARGING OF FEES BY COUNTY DEPARTMENTS  
OF SOCIAL SERVICES ON A SIMILAR BASIS AS CHARGED BY HEALTH  
DEPARTMENTS.

The General Assembly of North Carolina enacts:

Section 1. The General Statutes are amended by adding  
a new section to Chapter 108, as follows:

"§108-15.1 Fees. The County Board of Social Services  
is authorized to enter into contracts with any governmental or  
private agency, or with any person, whereby the Department of  
Social Services agrees to render services to or for such agency  
or person in exchange for a fee to cover the cost of rendering  
such service. This authority is to be limited to services  
voluntarily rendered and voluntarily received, but shall not  
apply where the charging of a fee for a particular service is  
specifically prohibited by statute or regulation. The fees to be  
charged under the authority of this section are to be based upon  
a plan recommended by the county director of social services and  
approved by the local board of social services and the board of  
county commissioners, and in no event is the fee charged to exceed  
the cost to the department of social services.

The fees collected under the authority of this sub-  
section are to be deposited to the account of the social services  
department so that they may be expended for social services purposes  
in accordance with the provision of the Local Government

Budget and Fiscal Control Act. No individual employee is to receive any compensation over and above his regular salary as a result of rendering services for which a fee is charged."

Sec. 2. This act is effective upon ratification.





