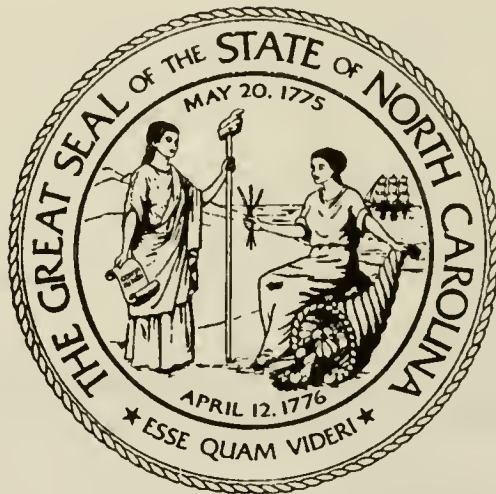


**LEGISLATIVE
RESEARCH COMMISSION**

HISTORIC PRESERVATION



**REPORT TO THE
1989 GENERAL ASSEMBLY
OF NORTH CAROLINA
1989 SESSION**

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STATE OF NORTH CAROLINA
LEGISLATIVE RESEARCH COMMISSION
STATE LEGISLATIVE BUILDING
RALEIGH 27611

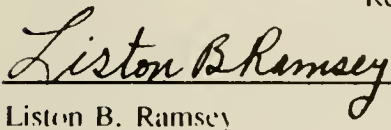


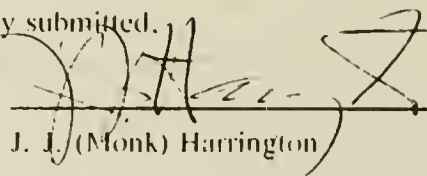
December 14, 1988

TO THE MEMBERS OF THE 1989 GENERAL ASSEMBLY:

The Legislative Research Commission herewith submits to you for your consideration its final report on historic preservation. The report was prepared by the Legislative Research Commission's Committee on Historic Preservation pursuant to Section 2.1(19) of Chapter 873 of the 1987 Session Laws (H.J.R. 1257; S.J.R. 874).

Respectfully submitted,


Liston B. Ramsey


J. I. (Monk) Harrington

Cochairmen

Legislative Research Commission

PREFACE

The Legislative Research Commission, established by Article 6B of Chapter 120 of the General Statutes, is a general purpose study group. The Commission is co-chaired by the Speaker of the House and the President Pro Tempore of the Senate and has five additional members appointed from each house of the General Assembly. Among the Commission's duties is 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" (G.S. 120-30.17(1)).

At the direction of the 1987 General Assembly, the Legislative Research Commission has undertaken studies of numerous subjects. These studies were grouped into broad categories and each member of the Commission was given responsibility for one category of study. The Co-chairs of the Legislative Research Commission, under the authority of G.S. 120-30.10(b) and (c), appointed committees consisting of members of the General Assembly and the public to conduct the studies. Co-chairs, one from each house of the General Assembly, were designated from each committee.

The study of historic preservation was authorized by Section 2.1(19) of Chapter 873 of the 1987 Session Laws (1987 Session). That act states that the Commission may refer to H.J.R. 1257; S.J.R. 874, in determining the scope of its study. The resolutions state, in pertinent part, that historic preservation issues to be studied include the need to modernize the State and local laws affecting historic preservation and the need to combine historic preservation and economic concerns, including those of travel and tourism, to the betterment of the whole State. The relevant portions of Chapter 873 and of H.J.R.

1257; S.J.R. 874, are included in Appendix A. The Legislative Research Commission grouped this study in its Buildings and Disadvantaged Businesses area under the direction of Representative John T. Church. The Committee was chaired by Senator Russell Walker and Representative John C. Hasty. The full membership of the Committee is listed in Appendix B. of this report. A committee notebook containing the committee minutes and all information presented to the committee is filed in the Legislative Library.

COMMITTEE BACKGROUND

Existing North Carolina law for historic preservation has been largely written and adopted between 1973 and 1979. This body of legislation, excellently crafted under the leadership of Robert E. Stipe, is still functional for the 1980's and has served the State and cause of historic preservation well. But some changes are necessary to this body of law because the times have changed, and several changes require addressing.

- (1) Federal preservation programs and funding have declined in relative importance compared to that of State and local governments. Since 1980, federal funding to North Carolina declined from \$1.6 million to \$473,000 in 1987. Federal acquisition and development grants ceased in 1981, the national rate of annual National Register listings dropped by half between 1983 and 1987, and applications nationally for federal rehabilitation tax certifications declined 47% in the past year because of the reduced incentives of the Tax Reform Act of 1986. Administratively, federal legislative changes in 1980 further shifted the preservation burden and impetus towards State and local government through the certified local government program. The federal preservation preserve will not disappear altogether. It will continue as a national unifying force with national standards and programs. It just will not highlight State and local programs as much as in the past. Accordingly, the greater burden of preservation program funding, organizational structure, and support now falls on State and local government. Our State legislation, written

during a period of federal dominance needs revision to reflect the greater importance, growth and self sufficiency of North Carolina State and local programs.

- (2) With the growth and maturation of State programs, the role of the State Historic Preservation Office (SHPO) has assumed greater proportions. Not even mentioned in the National Historic Preservation Act of 1966 and obliquely mentioned in the State law, written in 1973 by the now obsolete term "State liaison officer," the position and responsibilities of the SHPO as the implementor of the national program on the State level were finally written into the National Historic Preservation Act Amendments of 1980. However, the 1973 reference to the State liaison officer in G.S. 121.8, restricted to the nomination of properties to the National Register, has remained unchanged.

As the state program has expanded its range of services the SHPO has become central to the state's own non-federal preservation programs as well. This is natural since the same agency and staff undertake both federal and state preservation programs and these are to a large degree intertwined. The role of the SHPO is important to the continued success of the state preservation program. It needs to be recognized and described in State law.

- (3) At the same time that national leadership has waned, greater public acceptance and institutionalization of historic preservation has occurred on the state and local level. In addition to fostering a sense of history, historic preservation has gained respectability in the public arena as a means of enhancing the quality of life and economic strength of the state and its communities. the number of local historic district and properties

commissions has proliferated at the combined rate of about 3-4 per year for a total of 58 as of September 30, 1987. Certified local governments in North Carolina now stand at 18, up from 10 in 1986.

Concordantly, a six year decrease in state preservation office staff, caused largely by federal funding cuts, was turned around in 1987 by state legislation which expanded the regionalization of the technical services of the Archaeology and Historic Preservation Section. And more significantly, the General Assembly of North Carolina in its 1987 Session, authorized the Legislative Research Commission to study historic preservation, including its economic impact, the need to update state and local preservation laws, and the need to develop more effective private sector economic incentives. In a word, it now appears politically possible to secure and strengthen state and local preservation programs and to more effectively encourage private sector participation in preserving North Carolina's cultural heritage.

COMMITTEE PROCEEDINGS

The Legislative Research Commission Study Committee on Historic Preservation met ⁶ times, on November 16, 1987, on January 4, 1988, on March 14, 1988, on April 25, 1988, on October 27, 1988, and on November 16, 1988. The March 14, 1988 meeting was a public hearing held in New Bern. The April 25, 1988 meeting was a public hearing, held in Asheville. The minutes of all the meetings are included in the official Committee records, on file in the Legislative Library.

The Committee early identified a number of issues to be addressed, all of which would be likely to require legislation of some sort. A list of all people who attended Committee meetings and a list of all who testified before the Committee are attached as Appendix C of this report. Copies of all testimony are included in the official Committee records, on file in the Legislative Library. Most of these issues centered on finding ways to hone and polish existing historic preservation laws to make them more effective in effecting their purpose and to work with existing State, local, and private agencies and individuals to find ways to bring those involved in historic preservation endeavors and those involved in travel and tourism and in State and local economic development endeavors together in identifying innovative ways to work together. It was clear to the Committee from the beginning of the onset of its study that tourism and historic preservation were affecting each other greatly and, that with planned cooperation, both the economic and cultural growth of the State and its localities would be greatly benefitted. The Committee discovered that it would be feasible to rework the historic preservation laws both to bring them up to date and to build in mechanisms of coordination and cooperation among all the State agencies that have an impact on historic

preservation, including those primarily concerned with tourism and economic growth, and among local governments and agencies, and private agencies and individuals.

The Committee also discovered a need to rework local enabling legislation to make it easier to work with, more efficient, and more meaningfully enforceable. But, it also decided that this increased enforceability should not be effected to the detriment of the private property-owner. Rather, that owner needed to be provided further economic incentives to work with local historic preservation attempts. The Committee also decided that the whole area of neighborhood preservation needed to be addressed in specific legislation that would encourage the preservation of neighborhoods without forcing them to seek historic district status to be protected at all. Again, the Committee decided that this action would encourage the cooperation of private landowners, not force them, to aid in preserving neighborhoods that are not truly "Historic" but that are worth preserving. Healthy, stable neighborhoods are economically as well as socially worth encouraging.

The Committee was encouraged by the Mainstreet Program. This program is aimed at the economic revitalization of small cities' and towns' downtowns. But, as was recognized earlier, economic revitalization is most effective when historic preservation interests are also worked toward. The Mainstreet Program is a good example of the type program that needs not only to be encouraged by preservationists but also to be coordinated with in historic preservation planning. The Committee heard testimony that the Mainstreet program could be even more effective if more design staff could be made available to more small cities, especially in rural areas.

The Committee went to the east, New Bern, and to the west, Asheville, to hear directly from the individuals most affected by historic preservation. These public hearings provided some of the most rewarding aspects of its study. All the issues it had decided were worthy of study were addressed spontaneously and most effectively by private individuals and agencies and by local governmental officials. Its major concern, that

preservation be examined in its economic growth aspects as well as in its more traditional, separate aspects, was underscored by excellent testimony concerning the vital role local businesses were playing in preserving and restoring local properties and district, to the benefit of the businesses and the local economy as well as to the more traditional preservation interests.

FINDINGS AND RECOMMENDATIONS

RECOMMENDATION 1. THE COMMITTEE RECOMMENDS THAT THE LAW REGARDING HISTORIC PRESERVATION BE AMENDED TO INCLUDE SPECIFIC PROVISIONS THAT WILL NOT ONLY STRENGTHEN THE PROTECTION OFFERED BY THE STATE OF HISTORIC PROPERTIES BUT ALSO STRENGTHEN THE VITAL COOPERATIVE ROLES PLAYED BY TOURISM AND HISTORIC PRESERVATION IN BENEFITTING THE ECONOMY OF THE STATE. THE COMMITTEE RECOMMENDS THAT THESE SPECIFIC PROVISIONS INCLUDE CREATION OF THE NORTH CAROLINA ADVISORY COUNCIL ON HISTORIC PRESERVATION, A MANDATE THAT ALL AGENCIES AFFECTING HISTORIC PROPERTIES COORDINATE THEIR EFFORTS AND COOPERATE WITH THE COUNCIL, AND A MANDATE THAT ALL AGENCIES AFFECTING HISTORIC PRESERVATION ESTABLISH PRESERVATION OFFICERS. (See Legislative proposal 1.)

The Committee finds that the creation of an Advisory Council that works with all agencies and entities affecting historic preservation is the most efficient way to make more effective the historic preservation protection offered by the State and to ensure that all involved cooperate with one another. The Committee finds that such cooperation is essential in order to bring historic preservation and the economic well being of the State together into a joint, cooperative concern. The Committee finds that tourism and historic preservation, in particular, are mutually beneficial, that the one can no longer be addressed without the other. The Committee further finds that all affected agencies, in addition to cooperating and consulting with the Advisory Council, should be required to

put preservation officers in place in each agency, so that preservation would always be considered in concert with the agency's primary responsibility, and so that allied but different interests from preservation, such as road construction will always be considered, and not overlooked by preservationists.

RECOMMENDATION 2. THE COMMITTEE RECOMMENDS THE ESTABLISHMENT OF A NORTH CAROLINA REGISTER OF HISTORIC PLACES, TO ENSURE STATE PROTECTION OF HISTORIC PROPERTIES THAT ARE VALUABLE TO THE PEOPLE OF THE STATE EVEN THOUGH THEY MAY NOT BE LISTED ON THE NATIONAL REGISTER OF HISTORIC PLACES AND, THUS, NOT BE PROTECTED FROM HARMFUL STATE UNDERTAKINGS. (See Legislative Proposal II.)

Along with the findings expressed above, the Committee finds that recognition needs to be given to the increased role of the State in historic preservation, and to the increased local, regional, and Statewide concerns to provide protection similar to that provided for properties on or eligible for the national Register for properties that are not on the National Register but that are nonetheless of vital aesthetic, historic, and economic value to localities, regions, or the State. The Committee finds that the establishment of A North Carolina Register of Historic Properties is the best mechanism both to recognize these properties and to offer them protection. The Committee finds that, in the future, when this Register is established, it may also offer a rational and consistent vehicle for State legislators and policy makers in determining how to appropriate funds to individual properties that are of value to the locality, the region, or the State and are in need of preservation or restoration. The Committee finds that the establishment of a State register will assure that the unifying structure of North Carolina's preservation program is State-based and protected against federal policy swings or repeals.

RECOMMENDATION 3. THE COMMITTEE RECOMMENDS THAT LOCAL ENABLING LEGISLATION BE REVISED AND STRENGTHEN TO ENSURE THAT HISTORIC PROPERTIES OF LOCAL AS WELL AS OF STATE SIGNIFICANCE BE PRESERVED. THE COMMITTEE RECOMMENDS THAT THE REVISION OF THE LOCAL LEGISLATION INCLUDE A REWRITING OF THE TWO STATUTES REGARDING HISTORIC DISTRICTS AND HISTORIC PROPERTIES TO CREATE ONE SINGLE BODY OF LAW DEALING WITH "LOCAL DISTRICTS AND LANDMARKS," THUS AVOIDING PAST CONFUSION BETWEEN HISTORIC PROPERTIES LAW AND HISTORIC DISTRICTS LAW, AND THE EXTENSION OF ALLOWABLE DEMOLITION DELAY, TO PERMIT MORE TIME TO ALLOW INTERESTED INDIVIDUALS AND PRESERVATION GROUPS TO WORK WITH THE PROPERTY OWNER TO SAVE THE PROPERTY FROM DEMOLITION, IF AT ALL POSSIBLE. (See Legislative Proposal III, and Legislative Proposal IV.)

The Committee finds that local enabling legislation is currently split between local historic districts law and local historic properties law in the statutes, that the distinctions are confusing and that it is no longer necessary to have two separate bodies of law deal with local enabling legislation. The Committee finds that a rewriting of these two bodies of law to combine them into one, dealing with local districts and landmarks, will remove the unnecessary confusion for local governments and for private landowners and agencies attempting to preserve and restore local properties to the benefit of their community and to the inevitable benefit of the economic and social health of the State. The Committee also finds, that along with the combining and simplifying of the two bodies of local enabling legislation, the time allowed for demolition delay must be increased, from half to a full year, in order to permit an adequate amount of time for

local preservationists to work with the property owners to resolve their conflicting interests and to preserve more properties.

RECOMMENDATION 4. THE COMMITTEE RECOMMENDS THAT THE STATE INCREASE THE FINANCIAL INCENTIVES IT MAKES AVAILABLE TO INDIVIDUALS WORKING TO PRESERVE AND RESTORE HISTORIC PROPERTIES, AS THE STATE HAS A VITAL AND GROWING INTEREST IN THE POSITIVE ECONOMIC AND SOCIAL IMPACT THAT RESTORED AND PRESERVED HISTORIC PROPERTIES ARE PROVIDING TO COMMUNITIES, AND TO THE STATE IN TERMS OF INCREASED TOURISM APPEAL. THE COMMITTEE RECOMMENDS THAT THESE FINANCIAL INCENTIVES INCLUDE A REVISED PROPERTY TAX LAW THAT, BY SPECIFYING PROPERTY OWNER'S RESPONSIBILITIES, SHOULD ENCOURAGE LOCAL GOVERNMENTS TO GRANT COMPLYING OWNERS FAVORABLE TAX TREATMENT AND A STATE INCOME TAX CREDIT FOR OWNERS WHO PRESERVE OR RESTORE HISTORIC PROPERTIES THAT ARE NOT INCOME PRODUCING AS WELL AS FOR THOSE THAT ARE. (See Legislative Proposals V and VI.)

The Committee finds that, as it recommends strengthening the laws protecting historic properties, it also must recommend providing financial incentives to private property owners to preserve and renovate their properties. Currently, few municipalities can afford to adjust the property tax base of very many properties so the privileged status of "historic property" is awarded to few properties. The Committee finds that, if this status is tied to more strict conforming standards, the municipalities, faced with fewer but more meaningful applications, may be more willing to grant this status to more property owners. The Committee also finds that private property owners who are living in the properties they are preserving or renovating have no financial incentives currently

provided. The Committee finds that a State income tax credit should be granted to all owners, regardless of whether they have renovated income-producing or non-income producing property. Federal tax credits are only available for those owners who preserve and renovate income producing properties.

RECOMMENDATION 5. THE COMMITTEE RECOMMENDS THAT LEGISLATION BE ESTABLISHED THAT WOULD ENABLE LOCAL GOVERNMENTS TO CREATE NEIGHBORHOOD PROTECTION DISTRICTS TO ENCOURAGE, NOT MANDATE, THE PROTECTION OF NEIGHBORHOODS THAT ARE NOT TRULY HISTORIC, BUT THAT ARE WORTHY OF PROTECTION FROM UNNECESSARY OR PRECIPITOUS CHANGE OR DESTRUCTION. (See Legislative Proposal VII.)

The Committee finds that there is currently no law that addresses appropriately the need to recognize and encourage the preservation and stabilization of neighborhoods that are not truly historic. The Committee finds that such neighborhoods are presently forced to lobby to get classed as historic districts and that this inappropriate classifications brings property owners under restrictions that are unfair because they are inappropriate. The Committee finds that legislation acknowledging and encouraging neighborhood awareness and preservation, without regulations and property restrictions, is a positive beginning to protecting and stabilizing neighborhoods, to the great benefit not only of the locality but of the ongoing economic well-being of the State.

RECOMMENDATION 6. THE COMMITTEE RECOMMENDS THAT THE LAW REGARDING THE PROTECTION OF THE STATE'S VALUABLE ARCHAEOLOGICAL RESOURCES BE AMENDED TO STRENGTHEN ENFORCEMENT OF THE LAW, TO MAKE NECESSARY TECHNICAL CHANGES

**IN THE TITLE OF THE ARCHAEOLOGIST THAT HEADS THE STATE'S
ARCHAEOLOGICAL ACTIVITIES. (See Legislative Proposal VIII.)**

The Committee finds that the State law regarding State archaeology needs to be brought up to date and given effective enforcement tools uniformly. The Committee finds that proper and appropriate penalty and endorsement mechanisms needed to be included.

**RECOMMENDATION 7. THE COMMITTEE RECOMMENDS THAT THE LAW
REGARDING SURVEYS OF HISTORIC PROPERTIES BE AMENDED TO MAKE
CERTAIN TECHNICAL CORRECTIONS. (See Legislative Proposal IX.)**

The Committee finds that there are several archaic expressions in current law, such as the designation of the "State's liaison officer for historic preservation," that need to be corrected, in this case, to the "State Historic Preservation Officer."

**RECOMMENDATION 8. THE COMMITTEE RECOMMENDS THAT THE
GENERAL ASSEMBLY SUPPORT THE MAINSTREET PROGRAM'S BUDGET
REQUEST FOR ADDITIONAL DESIGN STAFF.**

The Committee finds that the Mainstreet Program's budget request for two additional design professionals and one additional program assistant has been accepted into the Department of Natural Resources and Community Development's budget request. The Committee further finds that these additional staff would greatly enable the Mainstreet program to expand its aid to small cities and towns. The Committee finds that the General Assembly would do very well to pass the budget request in its appropriations actions.

The Committee finds also that encouragement should be given to the Mainstreet Program to expand into smaller rural towns and communities.

APPENDIX A

Relevant Portion of Chapter 873 of the 1987 Session Laws
and H.J.R.1257

Chapter 873

"Sec. 2.1 The Legislative Research Commission may study the topics listed below. Listed with each topic is the 1987 bill or resolution that originally proposed the issue or study and the name of the sponsor. The Commission may consider the original bill or resolution in determining the nature, scope and aspects of the study. The topics are:

...

(19) Historic Preservation (H.J.R. 1257-Colton; S.J.R. 874-Walker)."

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1987

H

1

HOUSE JOINT RESOLUTION BILL 1257

Sponsors: Representative Colton.

Referred to: Appropriations.

May 5, 1987

1 A JOINT RESOLUTION TO AUTHORIZE THE LEGISLATIVE RESEARCH
2 COMMISSION TO STUDY HISTORIC PRESERVATION.

3 Whereas, 1989 marks the fiftieth anniversary of the
4 founding of the Historic Preservation Foundation of North
5 Carolina; and

6 Whereas, the historic preservation movement has a
7 significant economic and social impact on the lives of the
8 citizens of this State; and

9 Whereas, the industry of restoration and preservation of
10 historic buildings enhances economic growth in this State; and

11 Whereas, studies indicate as much as one hundred sixty
12 million dollars (\$160,000,000) in commercial historic
13 preservation projects has been generated in recent years, partly
14 encouraged by federal tax credits, and millions more have been
15 invested in residential projects; and

16 Whereas, restoration of historically and architecturally
17 significant structures in business districts can help cities and
18 towns revitalize their downtown areas and increase their property
19 tax base; and

1 Whereas, the preservation of beautiful historic centers
2 and neighborhoods is necessary if we are to maintain the high
3 quality of life that is so important in attracting new businesses
4 and industries to the State; and

5 Whereas, North Carolina's historic properties and
6 attractions also contribute tremendously to the growth of tourism
7 in this State; and

8 Whereas, historic preservation efforts have steadily
9 increased in recent years while, at the same time, there have
10 been important technical developments in the field; and

11 Whereas, in recent years, the rapid and often
12 uncoordinated growth in North Carolina's urban centers has led to
13 the destruction of many of the State's cultural resources and
14 historic landscapes; and

15 Whereas, the need for greater efforts to protect
16 historic properties is now particularly acute as North Carolina
17 continues to lose hundreds of architecturally and historically
18 significant buildings and areas which are priceless and
19 irreplaceable assets of the State;

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

22 Section 1. The Legislative Research Commission may
23 study historic preservation in North Carolina, including the
24 following issues:

- 25 (1) The need to revise Chapter 121 of the General
26 Statutes, relating to Archives and History, to
27 modernize the law in light of significant changes
28 and developments in the field of historic
29 preservation since the law was enacted;
- 30 (2) The impact of historic preservation and restoration
31 projects on economic growth and how this impact can
32 be enhanced;
- 33 (3) The contribution of historic buildings, sites, and
34 attractions to the expansion of tourism in the
35 State and how to maximize this contribution;

- 1 (4) Whether the laws granting local governments
2 authority to undertake or regulate historic
3 preservation projects need to be expanded or
4 clarified;
- 5 (5) The fiscal impact of existing property tax
6 deferrals for owners of locally registered historic
7 properties, considering the effect of enhanced
8 property values on tax collections;
- 9 (6) Whether other incentives would be more effective or
10 efficient in encouraging historic preservation on
11 the local level;
- 12 (7) What programs are currently being operated on the
13 local and State level to enhance historic
14 preservation and revitalization, how effective
15 these programs are, and whether changes are needed
16 to improve or coordinate these programs;
- 17 (8) How to encourage local governments to undertake
18 innovative, non-regulatory programs to maintain the
19 vitality of areas that are not old enough to
20 qualify as historic districts but are nonetheless
21 historically, culturally, and aesthetically
22 important; and
- 23 (9) Any other issue relating to historic preservation
24 in this State.

25 Sec. 2. The Legislative Research Commission may obtain
26 the assistance and support of the Historic Preservation
27 Foundation of North Carolina, the State Historic Preservation
28 Officer, the Institute of Government, the Attorney General, and
29 any other recognized experts in this field as it deems
30 appropriate in conducting the study authorized by this
31 resolution.

32 Sec. 3. The Commission shall report its findings and
33 recommendations to the 1989 General Assembly. The report shall
34 include any proposed legislation necessary to implement the
35 Commission's recommendations.

1 Sec. 4. This resolution is effective upon ratification.

APPENDIX B

Membership of LRC Committee on Historic Preservation

Membership of LRC Committee on Historic Preservation

| | |
|------------------------------|-----------------------------|
| Sen. Russell Walker, Cochair | Rep. John C. Hasty, Cochair |
| Mr. Bob F. Hill | Rep. Marie W. Colton |
| Sen. Mary P. Seymour | Rep. Joe H. Hege, Jr. |
| Sen. William W. Staton | Rep. Beverly M. Perdue, |
| Mr. John E. Tyler | Rep. Eugene Rogers |

APPENDIX C

Lists of Committee Visitors

VISITOR REGISTRATION SHEET

DATE March 14, 1980

Historic Preservation Study Commission - New Bern
(name of commission)

VISITOR: Please sign below and return to clerk.

| NAME | FIRM OR STATE AGENCY AND ADDRESS |
|------------------|----------------------------------|
| Kathy D Beckwith | New Bern Historical Society |
| Harry K Goodman | New Bern Hist Society |
| Mrs Anne C. ... | Tyngon Palace Commission |
| Bill G. ... | ... |
| Sylvia C. Nash | Preservation Fund & Educational |
| James ... | NB Preservation Foundation |
| Lyne Trifors | New Bern |
| Laura ... | ... |
| Valerie ... | ... |
| Thomas ... | ... |
| Pat ... | New Bern |
| Lynne Sigman | Div of Travel & Tourism |
| Dorothy Lindsey | Historic District Commission |
| Bill ... | ... |
| David Brook | N.C. DIV OF ARCHIVES & HISTORY |
| Mack & Freeze | City of New Bern (Old Town) |
| ... | 120 ... |
| George ... | Tyngon Palace Commission |
| ... | ... |
| ... | ... |
| ... | ... |

VISITOR REGISTRATION SHEET

DATE April 25, 1988

HISTORIC PRESERVATION STUDY COMMISSION

(name of commission)

VISITOR: Please sign below and return to clerk.

NAME FIRM OR STATE AGENCY AND ADDRESS

| | |
|-----------------------|---|
| Edward H. CLEMENT | 310 S. Ellis St. Salisbury, N.C. |
| George Williams | Historic Pres. Soc. of NC ^{PO Box} 9349 Hickory, NC 28603 |
| Mark C. McDonald | Historic Salisbury Fdn. P.O. Box 4221, Salisbury N.C. |
| Jim HALL | Private Citizen |
| John C. Larson | 448 Factory Row, Winston-Salem, N.C. 27101 |
| Donald A. Downs | David County Found. for Hist. Pres., P.O. Box 1062, Mocksville |
| Edward Ward | Biltmore Co. Commission, 109 |
| David Brook | N.C. Division of Archives and History, 109 East Jones St, Raleigh, N.C. 27611 |
| Myrick Howard | Historic Preservation Foundation of NC, Inc. PO Box 27644 Raleigh NC 27611 |
| William S. Price, Jr. | Division of Archives & History, Raleigh 27611 |
| Janet Babers | Hickory Landmarks Society, Hickory NC 28601 |
| Carney Walker | Hickory Landmarks Society, Box 2391 Hickory |
| DAVE PICKERING | Burton Co. Charlotte Smith Restoration, 1 N. Park Sq, Asheville |
| MARC HERRING | Black Mountain College |
| Betty A. Sherrill | Transylvania Co. Historical Society P.O. Box 2061, Steward, N.C. 28771 |
| Russell D. Basse | TRANS. CO. HISTORICAL SOCIETY P.O. Box 502, BREVARD, N.C. 28712 |
| Dottie W. Tinsley | Transylvania Co. Historical Society 125 Miner St. Brevard, N.C. 28712 |
| Emmett M. Hays | Transylvania Co. Historical Society, Inc. One Orange St. Brevard N.C. 28712 |
| Hal "Gus" Simard Jr. | Greene County Historical Society Rt. 1 Box 10, Potosi, N.C. 28766 |

VISITOR REGISTRATION SHEET

DATE April 25, 1988

HISTORIC PRESERVATION STUDY COMMISSION

(name of commission)

VISITOR: Please sign below and return to clerk.

NAME FIRM OR STATE AGENCY AND ADDRESS

| | |
|--------------------------|---|
| Jerrold Lee Brooks | N.C. HISTORICAL COMMISSION - PROFESSIONAL REVIEW COMMITTEE, P.O. Box 10, MONTREAT, N.C. 28758 |
| LEAH K. KARPEN | League of Women Voters 518 Ox Creek Rd, Weaverville NC 28787 (home) |
| JOE MICHEL | RICHMOND HILL 1410 MILL ST GREENSBORO, NC 27407 |
| Executive of Mt. Airy | 107 ... (with Jennings ...) Historic Preservation Commission of Asheville & ... |
| JOHN HORTON | DIV. OF ARCHIVES & HISTORY - RESTORATION 19 VETERANS DR., ASHEVILLE NC 28805 |
| Martha Walker Fullington | Div. of Archives & History - Preservation Specialist 15 Veterans Dr., Asheville, NC 28805 |
| LEAH SAND'S | 190 ... Asheville, NC 28805 |
| David ... | WICPS / Asheville |
| Richard ... | City of Asheville |
| Hal Mason | Director, Economic Development, City of Asheville P.O. Box 215, Asheville, NC 28805 |
| Sylvia ... | N.C. Dept. of Commerce - Div. of Trade & Tourism |
| JOHN G. WINKENWEDER | BUNCOMBE COUNTY TDA |
| HARRY GIEZENTANNER | Realtor with JD Jackson Assoc. Asheville |
| Jane Tibbitts | Realtor/CRAT Realty - 28 Montreat Ave 15 Veterans Dr. Asheville |
| David Moore | Div. of Archives & History - Archaeology Asheville |
| Betty ... | Public ... |
| Robert ... | N.C. Senate Asheville NC |
| SCOTT W. ROSEBUSH | HENDERSON COUNTY PRESERVATION RT. 3, BOX 135 Hendersonville 28634 |
| John ... | ... |
| J. Bayler | Asheville NC P.O. Box 311 28802 |
| BEUM FERRIS | Historic Preservation Foundation of N.C. Western ... P.O. Box 9349 Charlotte NC 28603 |

VISITOR REGISTRATION SHEET

DATE October 27, 1988

HISTORIC PRESERVATION STUDY COMMISSION

(name of commission)

VISITOR: Please sign below and return to clerk.

| NAME | FIRM OR STATE AGENCY AND ADDRESS |
|----------------------|--|
| Keith A. Daniel | 411 Oakwood Ave., Raleigh |
| [Signature] | 411 Oakwood Ave., Raleigh |
| Richard [Signature] | Fiscal Agent |
| William S. Pinn, Jr. | DCR - Div. of Archives & History |
| David Brooks | DCR Div. of Archives & History, State Historic Preservation Office |
| LORIS A HALL | DCR, ARCHIVES & HISTORY, OFFICE OF STATE ARCHAEOLOGICAL |
| L Honeycutt, Jr. | DCR, Div. of Archives & History, SHPO, Restoration Branch |
| Audie Brown | DCR, Archives & History, SHPO, Survey Planning B. |
| Langdon E. Oppermann | Consultant, Preservation Planning, 1500 Oakwood Ave., Raleigh |
| [Signature] | 130 Pine Lane, Chapel Hill 27514 |
| Art Jackson | Downtown Raleigh for Cons. P.P. 227, 276 |
| Lana [Signature] | 1500 Oakwood Ave., Raleigh |
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VISITOR REGISTRATION SHEET

DATE Nov. 16, 1988

HISTORIC PRESERVATION STUDY COMMISSION

(name of commission)

VISITOR: Please sign below and return to clerk.

| NAME | FIRM OR STATE AGENCY AND ADDRESS |
|-------------------|--|
| David Brook | Division of Archives and History State Historic Preservation Office |
| Dolores A. Hall | DIVISION OF ARCHIVES & HISTORY STATE HISTORIC PRESERVATION OFFICE, ARCHAEOLOGY |
| Bob Stipe | 100 Pine Lane Chapel Hill 27514 |
| Myrick Howard | Historic Preservation Foundation of NC P.O. Box 27644 Raleigh 27611 |
| Margaret L. Tyler | wife of John E. Tyler |
| Lana Kranfeld | NC League of Municipalities |
| Mary Ellen Brown | CITY OF GANFORD N.C. MAIN STREET DOWNTOWN REVITALIZATION DEPT. |
| Ted Alexander | Executive Director Uptown Shelby Assoc, Inc. NC Main St. Main Street Project Manager Community |
| Kirk Matton | City of Humberton |
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APPENDICES D-L

Legislative Proposals I-IX

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

H

D

89-LF-19

(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)

DRAFT

FOR REVIEW ONLY

Short Title: State Historic Properties (Public)

Sponsors: .

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO INCREASE PROTECTION OF NORTH CAROLINA HISTORIC
3 PROPERTIES.
4 The General Assembly of North Carolina enacts:
5 Section 1. Chapter 121 of the General Statutes is
6 amended by adding a new Article to Read:
7 "ARTICLE 1A
8 Protection of North Carolina Historic
9 Properties.
10 "§ G.S.121-13.5. North Carolina Advisory Council on Historic
11 Preservation.--(a) There is established a North Carolina Advisory
12 Council on Historic Preservation ("Council"), which shall be
13 composed of 13 members, to be appointed as follows:
14 (1) A chairman appointed by the Governor from the
15 general public;
16 (2) The Chairman of the North Carolina Historical
17 Commission;
18 (3) The Secretaries of the Departments of
19 Administration, Commerce, Cultural Resources,

1 Natural Resources and Community Development, and
2 Transportation, or their designees;

3 (4) One elected head of a unit of local government,
4 appointed by the General Assembly, upon
5 recommendation of the Speaker of the House of
6 Representatives;

7 (5) Four experts in the field of historic preservation
8 from the disciplines of Architecture, History,
9 Archaeology, and other appropriate disciplines, two
10 of whom shall be appointed by the General Assembly
11 upon recommendation of the Speaker of the House of
12 Representatives and two of whom shall be appointed
13 by the General Assembly upon recommendation of the
14 President pro tempore of the Senate; and

15 (6) One individual from the general public, appointed
16 by the General Assembly upon recommendation of the
17 President pro tempore of the Senate.

18 All members are voting members. A majority constitutes
19 a quorum. The chairman shall vote in all issues requiring a
20 vote.

21 (b) All appointed members serve four year terms, except
22 for the member appointed pursuant to subdivision (4) of
23 subsection (a) of this section, who shall serve for the term of
24 elected office, but no longer than four years. Each member may
25 be reappointed to serve an additional consecutive term. After
26 being off the Council for a four year term, a member may be
27 reappointed. Vacancies in membership shall be filled under the
28 authority that the member leaving the vacancy was appointed. An
29 appointed member whose term has expired shall serve until the
30 member's successor has been appointed.

31 (c) The Council shall:

32 (1) Facilitate the protection of historic properties in
33 State planning and development pursuant to this
34 Chapter:

1 (2) Provide, in cooperation with the State Preservation
2 Officer, training and education in the field of
3 historic preservation to appropriate officials and
4 personnel of State agencies; and

5 (3) Encourage and develop in cooperation with the
6 Secretaries of the Departments of Administration
7 and Cultural Resources, and in consultation with
8 the Secretaries of the Departments of
9 Transportation, Commerce, and Natural Resources and
10 Community Development, and the League of
11 Municipalities and the Association of County
12 Commissioners, and the North Carolina Historic
13 Preservation Foundation, a central clearing house
14 for information on historic preservation for the
15 benefit and use of public and private agencies and
16 individuals in North Carolina.

17 (d) Financial and administrative services shall be
18 provided by the Department of Cultural Resources. The Council
19 shall submit its budget as a related agency of the Department of
20 Cultural Resources. The Executive Secretary of the Council shall
21 be the State Historic Preservation Officer.

22 (e) The North Carolina Historical Commission in
23 consultation with the Department of Administration shall adopt
24 rules to implement the provisions of this Article.

25 (f) Until such time as the North Carolina Advisory
26 Council on Historic Preservation is funded and in full force and
27 effect, its duties and responsibilities shall be undertaken by
28 the North Carolina Historical Commission, to the extent possible.

29 "§ 121-13.6. North Carolina Advisory Council on Historic
30 Preservation; agency cooperation, consultation.--The Council
31 shall, meeting at such times and according to such procedures as
32 it prescribes by rule, provide an advisory and coordinative
33 mechanism in and by which State undertakings of every kind that
34 are potentially harmful to the cause of historic preservation
35 within the State may be discussed. and when possible, resolved,

1 giving due consideration to the competing public interests that
2 may be involved. To this end, the head of any State agency
3 having direct or indirect jurisdiction over a proposed State or
4 state-assisted authorized undertaking, or the head of any State
5 department, board, commission, or independent agency, having
6 authority to build, construct, operate, license, authorize,
7 assist, or approve any undertaking, shall, prior to the approval
8 of any State funds for the undertaking, or prior to any approval,
9 license, or authorization, as the case may be, take into account
10 the effect of the undertaking on any district, site, building,
11 structure, or object that is listed in or eligible for the North
12 Carolina Register of Historic Places, established pursuant to
13 G.S. 121-4,1.

14 When, in the judgment of the Council, an undertaking
15 will have an effect upon any listed district, site, building,
16 structure, area, or object, the head of the appropriate State
17 agency shall afford the Council a reasonable opportunity to
18 comment with regard to the undertaking.

19 The Council shall act with reasonable diligence to
20 ensure that all State departments, boards, commissions, or
21 agencies potentially affected by the provisions of this section
22 be kept currently informed with respect to the name, location,
23 and other significant particulars of any district, site,
24 building, structure, or object listed or placed upon the North
25 Carolina Register of Historic Places. Each affected State
26 department or agency shall furnish, either upon its own
27 initiative or at the request of the Council such information as
28 may reasonable be required by the Council for the proper
29 implentation of this section.

30 "§ 121-13.7. State agencies' responsibilities for protection of
31 historic properties.--Consonant with G.S. G.S. 121-5 and
32 G.S.121-6, the heads of all State agencies shall:

33 (1) With the advice of the State Preservation Officer,
34 locate, inventory, and provide to the Department of
35 Cultural Resources a listing of all buildings,

1 structures, sites, districts, and objects under
2 their jurisdiction or control that qualify for
3 inclusion in the North Carolina Register of
4 Historic Places, established pursuant to G.S.
5 121-4.1. This listing shall be completed by July
6 1, 1992;

7 (2) Exercise caution during the interim period until
8 inventories and evaluations required by subdivision
9 (1) of this section are completed to assure that
10 any State owned property that might qualify for
11 listing is not inadvertently transferred, sold,
12 demolished, or substantially altered. The agency
13 shall refer any questionable actions to the State
14 Historic Preservation Officer for an opinion
15 respecting the property's eligibility for inclusion
16 in the North Carolina Register of Historic Places;

17 (3) Initiate measures to assure that, when as a result
18 of State action, assistance, or license, a property
19 listed in the North Carolina Register of Historic
20 Places is to be substantially altered or
21 demolished, timely steps be taken to make or have
22 made records, including measured drawings,
23 photographs, and maps of the property, and that
24 copies of these records then be deposited in the
25 State archives for future reference and use.

26 Agencies may call on the State Historic
27 Preservation Officer for advice and technical
28 assistance in the completion of these records;
29 (4) Initiate measures to assure that, when as a result
30 of State action, assistance, or license, as
31 archeological property listed in or eligible for
32 the North Carolina Register of Historic Places is
33 to be substantially damaged or destroyed, timely
34 steps be taken for data recovery and that a report
35 of this recovery be submitted to the North Carolina

1 SHPO. Agencies may call upon the North Carolina
2 SHPO for advice and technical assistance in the
3 completion of this data recovery and report.

4 (5) Initiate measures and procedures to provide for the
5 maintenance, through preservation, rehabilitation,
6 or restoration, of State owned and registered sites
7 to professional standards prescribed by the North
8 Carolina Historical Commission;

9 (6) Initiate measures and procedures to provide for the
10 maintenance, through preservation, rehabilitation,
11 or restoration, of State owned and registered
12 properties to professional standards prescribed by
13 the North Carolina Historical Commission:

14 (7) Designate a qualified official to be known as that
15 agency's 'Preservation Officer' who shall be
16 responsible for coordinating that agency's
17 activities under this section. Each agency's
18 preservation officer may, in order to be considered
19 qualified, satisfactorily complete an appropriate
20 training program established by the State Historic
21 Preservation Officer; and

22 (8) When appropriate, allocate funds appropriated for
23 their agency's authorized programs for the purposes
24 of activities carried out pursuant to this section,
25 except to the extent that appropriations
26 legislation expressly provides otherwise. Each
27 State agency may include the costs of preservation
28 activities under this section as eligible project
29 costs in all undertakings of that agency or
30 assisted by that agency. These eligible project
31 costs may also include amounts paid by a State
32 agency to any other State agency, corporation,
33 institution of higher education, of professional
34 education, to be used in carrying out the
35 preservation protection activities of that State

1 agency under this Article. These eligible project
2 costs may also include reasonable costs charged to
3 State licensees and permittees as a condition of
4 the issuance of the license or permit;

5 (9) In consultation with the North Carolina Historical
6 Commission, institute procedures to assure that
7 agency plans and programs (including those under
8 which any State assistance is provided or any State
9 license, permit, or other approval is required),
10 contribute to the preservation and enhancement of
11 non-State owned properties of historical,
12 architectural, or archaeological significance; and

13 (10) After consultation with the State Historic
14 Preservation Officer, withhold from public
15 disclosure information relating to the location or
16 character of historic resources whenever the head
17 of the agency or the State Historic Preservation
18 Officer determines that the disclosure of this
19 information may create substantial risk of harm,
20 theft, or destruction to these resources or to the
21 place or area where these resources are located.
22 Each agency that so withholds information shall
23 ensure that this information is shared on a
24 confidential basis with those people that require
25 it in order to participate in the review of
26 undertakings under G.S.121-44 and under this
27 Article."

28 Sec. 2. There is appropriated from the General Fund to
29 the Department of Cultural Resources the sum of fifteen thousand
30 dollars (\$15,000) for the 1989-90 fiscal year and the sum of
31 fifteen thousand dollars (\$15,000) for the 1990-91 fiscal year,
32 to fund the Council established by this act.

33 Sec. 3. This act shall become effective October 1,
34 1988.

35

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

H

D

89-LF-21

(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)

Short Title: State Historic Places Register. (Public)

Sponsors: .

Referred to:

**DRAFT
FOR REVIEW ONLY**

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE NORTH CAROLINA REGISTER OF HISTORIC
3 PLACES.
4 The General Assembly of North Carolina enacts:
5 Section 1. Article 1 of Chapter 121 of the General
6 Statutes is amended by adding a new section to read:
7 "§ 121-4.1. North Carolina Register of Historic Places.--(a)
8 The Department of Cultural Resources may establish, expand, and
9 maintain a North Carolina Register of Historic Places composed of
10 districts, sites, buildings, structures, and objects significant
11 in North Carolina history, architecture, archaeology,
12 engineering, and culture. Until such time as the North Carolina
13 Register of Historic Places is established, all references to it
14 in the General Statutes and in the rules adopted pursuant to it
15 shall be construed to mean properties and districts in North
16 Carolina that are listed in the National Register of Historic
17 Places.
18 (b) The North Carolina Historical Commission shall
19 establish criteria for properties to be included in the State

1 Register of Historic Places, and, within such criteria, shall
2 provide for levels of significance as necessary and appropriate."

3 Sec. 2. This act shall become effective October 1,
4 1988.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1989

H

D

89-LF-10

(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)

DRAFT

FOR REVIEW ONLY

Short Title: Historic Districts and Landmarks (Public)

Sponsors:.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REGULATE HISTORIC DISTRICTS AND LANDMARKS.
3 The General Assembly of North Carolina enacts:
4 Section 1. Part 3A and Part 3B of Chapter 160A of the
5 General Statutes are repealed.
6 Sec. 2. Chapter 160A of the General Statutes is amended
7 by adding a new Part to read:
8 "PART 3. HISTORIC DISTRICTS AND LANDMARKS
9 "§ 160A-400.1. Legislative findings.--(a) The historical
10 heritage of our state is one of our most valued and important
11 assets. The conservation and preservation of historic districts
12 and landmarks stabilize and increase property values in their
13 areas and strengthen the overall economy of the state. This part
14 authorizes cities and counties of the state within their
15 respective zoning jurisdictions and by means of listing,
16 regulation, and acquisition:
17 (1) to safeguard the heritage of the city or county by
18 preserving any district or landmark therein that

1 embodies important elements of its culture,
2 history, architectural history, or prehistory; and
3 (2) to promote the use and conservation of such
4 district or landmark for the education, pleasure
5 and enrichment of the residents of the city or
6 county and the state as a whole.

7 "§ 160A-400.2. Exercise of powers by counties as well as
8 cities.--The term 'municipality' or 'municipal' as used in G.S.
9 160A-400.1 through 160A-400.15 shall be deemed to include the
10 governing board or legislative board of a county, to the end that
11 counties may exercise the same powers as cities with respect to
12 the establishment of historic districts and designation of
13 landmarks.

14 "§ 160A-400.3. Character of historic district
15 defined.--Historic districts established pursuant to this part
16 shall consist of areas which are deemed to be of special
17 significance in terms of their history, prehistory, architecture,
18 and/or culture, and to possess integrity of design, setting,
19 materials, feeling, and association.

20 "§ 160A-400.4. Designation of historic districts.--Any municipal
21 governing governing board may, as part of a zoning or other
22 ordinance enacted or amended pursuant to this Article, designate
23 and from time to time amend one or more historic districts within
24 the area subject to the ordinance. Such ordinance may treat
25 historic districts either as a separate use district
26 classification or as districts which overlay other zoning
27 districts. Where historic districts are designated as separate
28 use districts, the zoning ordinance may include as uses by right
29 or as conditional uses those uses found by the Preservation
30 Commission to have existed during the period sought to be
31 restored or preserved, or to be compatible with the restoration
32 or preservation of the district.

33 No historic district or districts shall be designated until:

34 (1) An investigation and report describing the
35 significance of the buildings, structures,

1 features, sites or surroundings included in any
2 such proposed district, and a description of the
3 boundaries of such district has been prepared, and
4 (2) The Department of Cultural Resources, acting
5 through the State Historic Preservation Office or
6 his or her designee, shall have made an analysis of
7 and recommendations concerning such report and
8 description of proposed boundaries. Failure of the
9 department to submit its written analysis and
10 recommendations to the municipal governing board
11 within 30 calendar days after a written request for
12 such analysis has been received by the Department
13 of Cultural Resources shall relieve the
14 municipality of any responsibility for awaiting
15 such analysis, and said board may at any time
16 thereafter take any necessary action to adopt or
17 amend its zoning ordinance.

18 The municipal governing board may also, in its discretion,
19 refer the report and proposed boundaries to any local
20 preservation commission or other interested body for its
21 recommendations prior to taking action to amend the zoning
22 ordinance. With respect to any changes in the boundaries of such
23 district subsequent to its initial establishment, or the creation
24 of additional districts within the jurisdiction, the
25 investigative studies and reports required by subdivision (1) of
26 this section shall be prepared by the preservation commission,
27 and shall be referred to the local planning agency for its review
28 and comment according to procedures set forth in the zoning
29 ordinance. Changes in the boundaries of an initial district or
30 proposal for additional districts shall also be submitted to the
31 Department of Cultural Resources in accordance with the
32 provisions of subdivision (2) of this section.

33 On receipt of these reports and recommendations, the
34 municipality may proceed in the same manner as would otherwise be

1 required for the adoption or amendment of any appropriate zoning
2 ordinance provisions.

3 "§ 160A-400.5. Designation of landmarks; adoption of an
4 ordinance; criteria for designation.--Upon complying with G.S.
5 160A-400.6, the governing board may adopt and from time to time
6 amend or repeal an ordinance designating one or more historic
7 landmarks. No property shall be recommended for designation as a
8 historic landmark unless it is deemed and found by the
9 preservation commission to be of special significance in terms of
10 its historical, prehistorical, architectural, or cultural
11 importance, and to possess integrity of design, setting,
12 workmanship, materials, feeling and/or association.

13 The ordinance shall describe each property designated in the
14 ordinance, the name or names of the owner or owners of the
15 property, those elements of the property that are integral to its
16 historical, architectural, or archaeological value, including the
17 area of the property so designated, and any other information the
18 governing board deems necessary. For each building, structure,
19 site, area, or object so designated as a historic property, the
20 ordinance shall require that the waiting period set forth in this
21 Part be observed prior to its demolition. For each designated
22 landmark, the ordinance may also provide for a suitable sign on
23 the property indicating that the property has been so designated.
24 If the owner consents, the sign shall be placed upon the
25 property. If the owner objects, the sign shall be placed on a
26 nearby public right-of-way.

27 "§ 160A-400.6. Required landmark designation procedures.--As a
28 guide for the identification and evaluation of landmarks, the
29 commission shall undertake, at the earliest possible time and
30 consistent with the resources available to it, an inventory of
31 properties of historical, architectural, archaeological, and
32 cultural significance within its jurisdiction. Such inventories
33 and any additions or revisions thereof shall be submitted as
34 expeditiously as possible to the Division of Archives and
35 History. No ordinance designating a historic building,

1 structure, site, area or object as a landmark nor any amendment
2 thereto may be adopted, nor may any property be accepted or
3 acquired by a preservation commission or the governing board of a
4 municipality, until all of the following procedural steps have
5 been taken:

6 (1) The preservation commission shall (i) prepare and
7 adopt rules of procedure, and (ii) prepare and
8 adopt principles and guidelines, not inconsistent
9 with this part, for altering, restoring, moving, or
10 demolishing properties designated as landmarks.

11 (2) The preservation commission shall make or cause to
12 be made an investigation and report on the
13 historic, architectural, archaeological,
14 educational or cultural significance of each
15 building, structure, site, area or object proposed
16 for designation or acquisition. Such investigation
17 or report shall be forwarded to the Division of
18 Archives and History, North Carolina Department of
19 Cultural Resources.

20 (3) The Department of Cultural Resources, acting
21 through the State Historic Preservation Officer
22 shall either upon request of the department or at
23 the initiative of the preservation commission be
24 given an opportunity to review and comment upon the
25 substance and effect of the designation of any
26 landmark pursuant to this part. Any comments shall
27 be provided in writing. If the Department does not
28 submit its comments or recommendation in connection
29 with any designation within 30 days following
30 receipt by the Department of the investigation and
31 report of the commission, the commission and any
32 city or county governing board shall be relieved of
33 any responsibility to consider such comments.

34 (4) The preservation commission and the governing board
35 shall hold a joint public hearing or separate

1 public hearings on the proposed ordinance.
2 Reasonable notice of the time and place thereof
3 shall be given. All meetings of the commission
4 shall be open to the public, in accordance with the
5 North Carolina Open Meetings Law, Chapter 143,
6 Article 33B.

7 (5) Following the joint public hearing or separate
8 public hearings, the governing board may adopt the
9 ordinance as proposed, adopt the ordinance with any
10 amendments it deems necessary, or reject the
11 proposed ordinance.

12 (6) Upon adoption of the ordinance, the owners and
13 occupants of each designated landmark shall be
14 given written notification of such designation
15 insofar as reasonable diligence permits. One copy
16 of the ordinance and all amendments thereto shall
17 be filed by the preservation commission in the
18 office of the register of deeds of the county in
19 which the landmark or landmarks are located. Each
20 designated landmark shall be indexed according to
21 the name of the owner of the property in the
22 grantee and grantor indexes in the register of
23 deeds office, and the preservation commission shall
24 pay a reasonable fee for filing and indexing. In
25 the case of any landmark property lying within the
26 zoning jurisdiction of a city, a second copy of the
27 ordinance and all amendments thereto shall be kept
28 on file in the office of the city or town clerk and
29 be made available for public inspection at any
30 reasonable time. A third copy of the ordinance and
31 all amendments thereto shall be given to the city
32 or county building inspector. The fact that a
33 building, structure, site, area or object has been
34 designated a landmark shall be clearly indicated on

1 all tax maps maintained by the county or city for
2 such period as the designation remains in effect.

3 (7) upon the adoption of the landmarks ordinance or any
4 amendment thereto, it shall be the duty of the
5 preservation commission to give notice thereof to
6 the tax supervisor of the county in which the
7 property is located. The designation and any
8 recorded restrictions upon the property limiting
9 its use for preservation purposes shall be
10 considered by the tax supervisor in appraising it
11 for tax purposes.

12 "§ 160A-400.7. Historic Preservation Commission.--Before it
13 may designate one or more landmarks or historic districts, a
14 municipality shall establish or designate a historic preservation
15 commission. The municipal governing board shall determine the
16 number of the members of the commission, which shall be at least
17 three, and the length of their terms, which shall be no greater
18 than four years. A majority of the members of such a commission
19 shall have demonstrated special interest, experience, or
20 education in history, architecture, archaeology, or related
21 fields. All the members shall reside within the territorial
22 jurisdiction of the municipality as established pursuant to G.S.
23 160A-360. The commission may appoint advisory bodies and
24 committees as appropriate.

25 In lieu of establishing a historic preservation commission, a
26 municipality may designate as its historic preservation
27 commission, (i) a separate historic districts commission or a
28 separate historic landmarks commission established pursuant to
29 this Part to deal only with historic districts or landmarks
30 respectively, (ii) a planning agency established pursuant to this
31 Article, or (iii) a community appearance commission established
32 pursuant to Part 7 of this Article. In order for a commission or
33 board other than the preservation commission to be designated, at
34 least three of its members shall have demonstrated special
35 interest, experience, or education in history, architecture, or

1 related fields. At the discretion of the municipality the
2 ordinance may also provide that the preservation commission may
3 exercise within a historic district any or all of the powers of a
4 planning agency or a community appearance commission.

5 A county and one or more cities in the county may establish or
6 designate a joint preservation commission. If a joint commission
7 is established or designated, the county and cities involved
8 shall determine the residence requirements of members of the
9 joint preservation commission.

10 "§ 160A-400.8 Powers of the Historic Preservation Commission-
11 -A preservation commission established pursuant to this Part may,
12 within the zoning jurisdiction of the municipality,:

13 (1) Undertake an inventory of properties of historical,
14 prehistorical, architectural, and/or cultural
15 significance;

16 (2) Recommend to the municipal governing board areas to
17 be designated by ordinance as 'Historic Districts';
18 and individual structures, buildings, sites, areas,
19 or objects to be designated by ordinance as
20 'Landmarks';

21 (3) Acquire by any lawful means the fee or any lesser
22 included interest, including options to purchase,
23 to properties within established districts or to
24 any such properties designated as landmarks, to
25 hold, manage, preserve, restore and improve the
26 same, and to exchange or dispose of the property by
27 public or private sale, lease or otherwise, subject
28 to covenants or other legally binding restrictions
29 which will secure appropriate rights of public
30 access and promote the preservation of the
31 property;

32 (4) Restore, preserve and operate historic properties;

33 (5) Recommend to the governing board that designation
34 of any area as a historic district or part thereof,
35 or designation of any building, structure, site,

1 area, or object as a landmark, be revoked or
2 removed for cause;

3 (6) Conduct an educational program with respect to
4 historic properties and districts within its
5 jurisdiction;

6 (7) Cooperate with the state, federal, and local
7 governments in pursuance of the purposes of this
8 part. The governing board or the commission when
9 authorized by the governing board may contract with
10 the state, or the United States of America, or any
11 agency of either, or with any other organization
12 provided the terms are not inconsistent with state
13 or federal law;

14 (8) Enter, solely in performance of its official duties
15 and only at reasonable times, upon private lands
16 for examination or survey thereof. However, no
17 member, employee or agent of the commission may
18 enter any private building or structure without the
19 express consent of the owner or occupant thereof;

20 (9) Prepare and recommend the official adoption of a
21 preservation element as part of the municipality's
22 comprehensive plan'

23 (10) Review and act upon proposals for alterations,
24 demolitions, or new construction within historic
25 districts, or for the alteration or demolition of
26 designated landmarks, pursuant to this part; and

27 (11) Negotiate at any time with the owner of a building,
28 structure, site, area, or object for its
29 acquisition or its preservation, when such action
30 is reasonably necessary or appropriate.

31 "§ 160A-400.9 Certificate of appropriateness required--(a)
32 From and after the designation of a landmark or a historic
33 district, no exterior portion of any building or other structure
34 (including masonry walls, fences, light fixtures, steps and
35 pavement, or other appurtenant features), nor above-ground

1 utility structure nor any type of outdoor advertising sign shall
2 be erected, altered, restored, moved, or demolished on such
3 landmark or within such district until after an application for a
4 certificate of appropriateness as to exterior features has been
5 submitted to and approved by the preservation commission. The
6 municipality shall require such a certificate to be issued by the
7 commission prior to the issuance of a building permit or other
8 permit granted for the purposes of constructing, altering,
9 moving, or demolishing structures, which certificate may be
10 issued subject to reasonable conditions necessary to carry out
11 the purposes of this part. A certificate of appropriateness
12 shall be required whether or not a building or other permit is
13 required.

14 For purposes of this part, 'exterior features' shall include
15 the architectural style, general design, and general arrangement
16 of the exterior of a building or other structure, including the
17 kind and texture of the building material, the size and scale of
18 the building, and the type and style of all windows, doors, light
19 fixtures, signs, and other appurtenant fixtures. In the case of
20 outdoor advertising signs, 'exterior features' shall be construed
21 to mean the style, material, size, and location of all such
22 signs. Such 'exterior features' may, in the discretion of the
23 local governing board, include historic signs, color, and
24 significant landscape, archaeological, and natural features of
25 the area.

26 Except as provided in (b) below, the commission shall have no
27 jurisdiction over interior arrangement and shall take no action
28 under this section except to prevent the construction,
29 reconstruction, alteration, restoration, moving, or demolition of
30 buildings, structures, appurtenant fixtures, outdoor advertising
31 signs, or other significant features in the district which would
32 be incongruous with the special character of the landmark or
33 district.

34 (b) Notwithstanding subsection (a) of this section,
35 jurisdiction of the commission over interior spaces shall be

1 limited to specified interior features of architectural, artistic
2 or historical significance in publicly owned landmarks; and of
3 privately owned historic landmarks that are routinely open and
4 accessible to the public; and of privately owned historic
5 landmarks for which consent for interior review has been given by
6 the owner. Said consent of an owner for interior review shall
7 bind future owners and other successors in title. The landmark
8 designation shall specify the interior features to be reviewed
9 and the specific nature of the commission's jurisdiction over the
10 interior.

11 (c) Prior to any action to enforce a landmark or historic
12 district ordinance, the commission shall (i) prepare and adopt
13 rules of procedure, and (ii) prepare and adopt principles and
14 guidelines not inconsistent with this part for new construction,
15 alterations, additions, moving and demolition. The ordinance may
16 provide, subject to prior adoption by the preservation commission
17 of detailed standards, for the review and approval by an
18 administrative official of applications for a certificate of
19 appropriateness or of minor works as defined by ordinance;
20 provided, however, that no application for a certificate of
21 appropriateness may be denied without formal action by the
22 preservation commission.

23 Prior to issuance or denial of a certificate of appropriateness
24 the commission shall take such steps as may be reasonably
25 required in the ordinance and/or rules of procedure to inform the
26 owners of any property likely to be materially affected by the
27 application, and shall give the applicant and such owners an
28 opportunity to be heard. In cases where the commission deems it
29 necessary, it may hold a public hearing concerning the
30 application. All meetings of the commission shall be open to the
31 public, in accordance with the North Carolina Open Meetings Law,
32 Chapter 143, Article 33B.

33 (d) All applications for certificates of appropriateness shall
34 be reviewed and acted upon within a reasonable time, as defined
35 by the ordinance or the commission's rules of procedure. As part

1 of its review procedure, the commission may view the premises and
2 seek the advice of the Division of Archives and History or such
3 other expert advice as it may deem necessary under the
4 circumstances.

5 (e) An appeal may be taken to the Board of Adjustment from the
6 commission's action in granting or denying any certificate, which
7 appeals (i) may be taken by any aggrieved party, (ii) shall be
8 taken within times prescribed by the preservation commission by
9 general rule, and (iii) shall be in the nature of certiorari.
10 Any appeal from the Board of Adjustment's decision in any such
11 case shall be heard by the superior court of the county in which
12 the municipality is located.

13 (f) All of the provisions of this Part are hereby made
14 applicable to construction, alteration, moving and demolition by
15 the State of North Carolina, its political subdivisions, agencies
16 and instrumentalities, provided however they shall not apply to
17 interiors of buildings or structures owned by the State of North
18 Carolina. The State and its agencies shall have a right of
19 appeal to the North Carolina Historical Commission or any
20 successor agency assuming its responsibilities under G.S.
21 121-12(a) from any decision of a local preservation commission.
22 The commission shall render its decision within 30 days from the
23 date that the notice of appeal by the State is received by it.
24 The current edition of the Secretary of the Interior's Standards
25 for Rehabilitation and Guidelines for Rehabilitating Historic
26 Buildings shall be the sole principles and guidelines used in
27 reviewing applications of the State for certificates of
28 appropriateness. The decision of the council shall be final and
29 binding upon both the State and the preservation commission.

30 "§ 160A-400.10 Conflict with other laws.--Whenever any
31 ordinance adopted pursuant to this part requires a longer waiting
32 period or imposes other higher standards with respect to a
33 designated historic landmark or district than are established
34 under any other statute, charter provision, or regulation, this
35 part shall govern. Whenever the provisions of any other statute,

1 charter provision, ordinance or regulation require a longer
2 waiting period or impose other higher standards than are
3 established under this part, such other statute, charter
4 provision, ordinance or regulation shall govern.

5 "§ 160A-400.11 Remedies.--In case any building, structure,
6 site, area or object designated as a historic landmark or located
7 within a historic district designated pursuant to this part is
8 about to be demolished whether as the result of deliberate
9 neglect or otherwise, materially altered, remodeled, removed or
10 destroyed, except in compliance with the ordinance or other
11 provisions of this part, the city or county, the historic
12 preservation commission, or other party aggrieved by such action
13 may institute any appropriate action or proceedings to prevent
14 such unlawful demolition, destruction, material alteration,
15 remodeling or removal, to restrain, correct or abate such
16 violation, or to prevent any illegal act or conduct with respect
17 to such building, structure, site, area or object. Such remedies
18 shall be in addition to any others authorized by this chapter for
19 violation of a municipal ordinance.

20 "§ 160A-400.12 Appropriations.--A city or county governing
21 board is authorized to make appropriations to a historic
22 preservation commission established pursuant to this part in any
23 amount that it may determine necessary for the expenses of the
24 operation of the commission, and may make available any
25 additional amounts necessary for the acquisition, restoration,
26 preservation, operation, and management of historic buildings,
27 structures, sites, areas or objects designated as historic
28 landmarks or within designated historic districts, or of land on
29 which such buildings or structures are located, or to which they
30 may be removed.

31 "§ 160A-400.13 Certain changes not prohibited.--Nothing in
32 this part shall be construed to prevent the ordinary maintenance
33 or repair of any exterior architectural feature in a historic
34 district or of a landmark which does not involve a change in
35 design, material or appearance thereof, nor to prevent the

1 construction, reconstruction, alteration, restoration, moving or
2 demolition of any such feature which the building inspector or
3 similar official shall certify is required by the public safety
4 because of an unsafe or dangerous condition. Nothing in this
5 part shall be construed to prevent a property owner from making
6 any use of his property that is not prohibited by other law.

7 "§ 160A-400.14 Delay in demolition of landmarks and buildings
8 within historic district.--(a) An application for a certificate
9 of appropriateness authorizing the demolition or destruction of a
10 designated landmark or a building, structure or site within the
11 district may not be denied except as provided in subsection (c).
12 However, the effective date of such a certificate may be delayed
13 for a period of up to 365 days from the date of approval. The
14 maximum period of delay authorized by this section shall be
15 reduced by the commission where it finds that the owner would
16 suffer extreme hardship or be permanently deprived of all
17 beneficial use of or return from such property by virtue of the
18 delay. During such period the preservation commission shall
19 negotiate with the owner and with any other parties in an effort
20 to find a means of preserving the building or site. If the
21 preservation commission finds that a building or site within a
22 district has no special significance or value toward maintaining
23 the character of the district, it shall waive all or part of such
24 period and authorize earlier demolition, or removal.

25 If the commission or planning agency has voted to recommend
26 designation of a property as a landmark or designation of an area
27 as a district, and final designation has not been made by the
28 local governing board, the demolition or destruction of any
29 building, site, or structure located on the property of the
30 proposed landmark or in the proposed district may be delayed by
31 the commission or planning agency for a period of up to 180 days
32 or until the local governing board takes final action on the
33 designation, whichever occurs first.

34 (b) The governing board of any municipality may enact an
35 ordinance to prevent the demolition by neglect of any designated

1 landmark or any building or structure within an established
2 historic district. Such ordinance shall provide appropriate
3 safeguards to protect property owners from undue economic
4 hardship.

5 (c) An application for a certificate of appropriateness
6 authorizing the demolition or destruction of a building, site, or
7 structure determined by the State Historic Preservation Officer
8 as having statewide significance may be denied except where the
9 commission finds that the owner would suffer extreme hardship or
10 be permanently deprived of all beneficial use or return by virtue
11 of the denial."

12 Sec. 3. This act shall become effective October 1,
13 1989.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

H

DRAFT

D

89-LF-14

(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)

FOR REVIEW ONLY

Short Title: Eminent Domain Change.

(Public)

Sponsors: .

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE LAW OF EMINENT DOMAIN REGARDING HISTORIC
3 PROPERTIES.
4 The General Assembly of North Carolina enacts:
5 Section 1. G.S.40A-3(b) reads as rewritten:
6 "(b) Local Public Condemnors. -- For the public use or benefit,
7 the governing body of each municipality or county shall possess
8 the power of eminent domain and may acquire by purchase, gift or
9 condemnation any property, either inside or outside its
10 boundaries, for the following purposes.
11 (1) Opening, widening, extending, or improving roads, streets,
12 alleys, and sidewalks. The authority contained in this subsection
13 is in addition to the authority to acquire rights- of-way for
14 streets, sidewalks and highways under Article 9 of Chapter 136.
15 The provisions of this subdivision (1) shall not apply to
16 counties.
17 (2) Establishing, extending, enlarging, or improving any of the
18 public enterprises listed in G.S. 160A-311 for cities, or G.S.
19 153A-274 for counties.

1 (3) Establishing, enlarging, or improving parks, playgrounds,
2 and other recreational facilities.

3 (4) Establishing, extending, enlarging, or improving storm
4 sewer and drainage systems and works, or sewer and septic tank
5 lines and systems.

6 (5) Establishing, enlarging, or improving hospital facilities,
7 cemeteries, or library facilities.

8 (6) Constructing, enlarging, or improving city halls, fire
9 stations, office buildings, courthouse jails and other buildings
10 for use by any department, board, commission or agency.

11 (7) Establishing drainage programs and programs to prevent
12 obstructions to the natural flow of streams, creeks and natural
13 water channels or improving drainage facilities. The authority
14 contained in this subdivision is in addition to any authority
15 contained in Chapter 156.

16 (8) Acquiring designated historic properties, designated as
17 such before October 1, 1989, or acquiring a designated landmark
18 or building structure or site within a historic district,
19 designated as such on or after October 1, 1989, for which an
20 application has been made for a certificate of appropriateness
21 for demolition, in pursuance of the purposes of G.S. 160A-399.3,
22 Chapter 160A, Article 19, Part 3B, effective until October 1,
23 1989, or G.S.160A 400.(a), (b), and (c), whichever is
24 appropriate.

25 (9) Opening, widening, extending, or improving public wharves.

26 The board of education of any municipality or county or a
27 combined board may exercise the power of eminent domain under
28 this Chapter for purposes authorized by other statutes.

29 The power of eminent domain shall be exercised by local public
30 condemnors under the procedures of Article 3 of this Chapter."

31 Sec. 2. This act shall become effective October 1,
32 1988.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

H

D

(THIS IS A DRAFT ^{89H.F.-13} AND NOT READY FOR INTRODUCTION)

DRAFT
FOR REVIEW ONLY

Short Title: Historic Properties Tax.

(Public)

Sponsors: .

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAW REGARDING PROPERTY TAX INCENTIVES FOR HISTORIC PROPERTIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-278 reads as rewritten:

"§ 105-278. Historic properties.-- (a) Real property (1) designated as a historic structure or site by a local ordinance adopted pursuant to G.S. 160A-399.4; (2) maintained according to standards promulgated by the North Carolina Historic Commission; and (3) protected by easements meeting the definitions contained in the North Carolina Historic Preservation and Conservation Agreements Act, is hereby designated a special class of property under authority of Article V, Sec. 2(2) of the North Carolina Constitution. Property so classified shall be taxed uniformly as a class in each local taxing unit on the basis of ~~fifty percent~~ forty percent (40%) of the true value of the property as determined pursuant to G.S. 105-285 and 105-286, or 105-287.

(b) The difference between the taxes due on the basis of ~~fifty percent~~ forty percent (40%) of the true value of the

1 property and the taxes that would have been payable in the
2 absence of the classification provided for in subsection (a)
3 shall be a lien on the property ~~of the taxpayer~~ as provided in
4 G.S. 105-355(a) and shall be carried forward in the records of
5 the taxing unit or units as deferred taxes, but shall not be
6 payable until the property loses its eligibility for the benefit
7 of this classification because of (a) a change in an ordinance
8 designating a historic property; or (b) a change in the property,
9 except by fire or other natural disaster, which causes its
10 historical significance to be lost or substantially ~~impaired.~~
11 impaired as certified by the State Historic Preservation Officer.
12 The tax for the fiscal year that opens in the calendar year in
13 which a disqualification occurs shall be computed as if the
14 property had not been classified for that year, and taxes for the
15 preceding three fiscal years that have been deferred as provided
16 herein shall be payable immediately, together with interest
17 thereon as provided in G.S. 105-360 for unpaid taxes, which shall
18 accrue on the deferred taxes as if they had been payable on the
19 dates on which they originally became due. If only a part of the
20 historic property loses its eligibility for the classification, a
21 determination shall be made of the amount of deferred taxes
22 applicable to that part, and the amount shall be payable with
23 interest as provided above.

24 (c) Tax benefits accruing to any property by virtue of this
25 section prior to this amendment shall not be affected by this
26 amendment."

27 Sec. 2. This act shall become effective for taxable
28 years beginning on or after January 1, 1989.

29

HISTORIC PROPERTY EXCLUSION

Fiscal Report
Fiscal Research Division
December 8, 1988

Explanation of Proposal:

The 1977 General Assembly enacted a 50% property tax exclusion for real property designated as a historic structure by a local ordinance. The difference between the taxes computed on the basis of fair market value and the taxable value shall be a lien on the property and shall be carried on the books of local tax assessors as a deferral. The deferred taxes shall be payable when the property loses its eligibility.

The proposal increases the exclusion to 60%.

Effective Date:

January 1, 1990.

Fiscal Effect:

There are 33 counties in the state that have a historical commission to certify historic property. In many of these counties, little or no property has been certified. The bulk of the certified properties are in a handful of counties. The estimated statewide reduction in local tax revenue from increasing the exclusion on the properties already receiving an exclusion is \$75,000 per year.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

DRAFT

H

D

89M-DF-12
(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)

Short Title: Historic Properties Income Tax Credit. (Public)

Sponsors: .

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO CREATE A STATE INCOME TAX CREDIT FOR PRESERVING OR
3 RESTORING HISTORIC PROPERTIES.
4 The General Assembly of North Carolina enacts:
5 Section 1. Section 1 of Chapter 105 of the General
6 Statutes is amended by adding a new section to read:
7 "§ G.S. 105-151.3. Credit against personal income tax for the
8 preservation or restoration of historic properties.-- (a) Any
9 person not a dependent of another individual, or any corporation,
10 may claim a credit not exceeding a maximum aggregate of fifteen
11 thousand dollars (\$15,000) in an amount equal to ten percent
12 (10%) of the actual cost of restoring or preserving a property
13 listed in the North Carolina Register of Historic Places,
14 provided that:
15 (1) the property is certified by the State Historic
16 Preservation Officer to be of individual historic,
17 architectural, or cultural significance, or that it
18 is a contributing building in a historic district;
19 and

- 1 (2) the taxpayer submitted a plan and specifications
2 for such restoration or preservation project to the
3 State Historic Preservation Officer who approved it
4 prior to its commencement; and
5 (3) the preservation or restoration project when
6 completed is certified by the State Historic
7 Preservation Officer to preserve and maintain those
8 qualities that qualified it for listing in the
9 North Carolina Register of Historic Places; and
10 (4) upon completion of the project, protective
11 restrictions meeting the requirements of the North
12 Carolina Historic Conservation and Preservation
13 Agreements Act shall have been offered to and
14 accepted by an organization or public
15 instrumentality qualified as tax exempt under the
16 requirements of the §501(c)(3) of the Federal
17 Internal Revenue Code;

18 (b) A taxpayer may claim the credit provided in this section
19 for each taxable year in which the project is carried out, but
20 any unused credit remaining at the end of the year may be carried
21 forward for an additional four years. The total credit for any
22 single project shall not exceed fifteen thousand dollars
23 (\$15,000).

24 (c) Regulations providing for the implementation of this
25 section shall be promulgated within one year of the date of the
26 ratification of this Act by the North Carolina Department of
27 Revenue and the North Carolina Historical Commission, as
28 appropriate, in accordance with the North Carolina Administrative
29 Procedure Act."

30 Sec. 2. This act is effective for taxable years
31 beginning on or after January 1, 1989.

Explanation of Proposal:

Would allow an individual income credit for 10% of the actual cost of restoring or preserving a property listed in the N.C. Register of Historic Places, limited to a cumulative amount of \$15,000 (\$150,000 of costs incurred). To the extent that the credit claimed in a particular year exceeds the taxpayer's liability for that year, a four-year carry-forward is allowed.

Effective Date:

1989 tax year.

Fiscal Effect:

Based on current federal estimates of the cost of federal credits and the relationship of the number of N.C. facilities on the National Register to the U.S. total, a rough estimate of the maximum impact on state General Fund tax revenue is \$3.0 million. The \$15,000 credit limit could reduce the cost from this level.

Additional Information:

Federal tax law allows a 10% investment tax credit for the rehabilitation of pre-1936 nonresidential buildings and a 20% credit for rehabilitating certified historic structures used either for residential or nonresidential purposes.

The passive loss restriction rules contained in the Tax Reform Act of 1986 have had a substantial negative impact on historic rehab activity.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

H

DRAFT

D

(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)

Short Title: Neighborhood Preservation Programs. (Public)

Sponsors: Representative Colton.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ENABLE CITIES, TOWNS AND COUNTIES TO PROVIDE FOR
3 NEIGHBORHOOD, COMMUNITY AND RURAL PRESERVATION.
4 The General Assembly of North Carolina enacts:
5 Section 1. Article 19 of Chapter 160A of the General
6 Statutes is amended by adding the following new Part:
7 "PART 9.
8 "Districts for Neighborhood, Community, and Rural
9 Preservations.
10 § 160A-459.1. Membership and appointment of commission; joint
11 commission.--(a) Each city and county in the State may create a
12 special commission, to be known as the community conservation
13 district commission for the city or county. The commission shall
14 consist of not less than three members, to be appointed by the
15 governing body of the municipality or county for such terms, not
16 to exceed four years, as the governing body may by ordinance
17 provide. All members shall be residents of the city's or
18 county's area of planning or zoning jurisdiction at the time of
19 appointment. Where possible, appointments shall be made in such

1 a manner as to maintain on the commission at all times at least
2 two members who have had special training or experience in a
3 design field, such as architecture, landscape design, landscape
4 architecture, horticulture, city planning, or a related field.
5 Membership on the commission is declared to be an office that may
6 be held concurrently with any other elective or appointive office
7 pursuant to Article VI, Section 9, of the North Carolina
8 Constitution.

9 (b) A county and one or more cities in the county may
10 establish a joint community conservation district commission. If
11 a joint commission is established, the county and the city or
12 cities involved shall determine the residence requirements of the
13 joint commission.

14 (c) In lieu of establishing a separate community conservation
15 district commission, a city or county may designate as its
16 community conservation district commission either (1) the city or
17 county preservation commission, established pursuant to Part 3 of
18 Chapter 160A of the General Statutes, or (2) a city or county
19 planning agency, or (3) the governing body of the municipality or
20 county, or (4) the city or county appearance commission.

21 "§ 160A-459.2. Community conservation district defined.--A
22 community conservation district is an area that possesses form,
23 character, and visual qualities derived from arrangements or
24 combinations of topography, vegetation, space, scenic vistas,
25 architecture, appurtenant features, distinctive natural habitats,
26 natural formations, or places of natural or cultural
27 significance, that create an image of stability, comfort, local
28 identity, and livable atmosphere.

29 "§ 160A-459.3. Powers and duties of commission.--The governing
30 body may confer upon the community conservation districts
31 commission any or all of the following duties and powers:

32 (1) To undertake an inventory of areas of scenic, cultural and
33 natural significance within the jurisdiction of the municipality
34 or county to identify for all public officials and public bodies

- 1 those characteristics which define significant areas within the
2 jurisdiction;
- 3 (2) To recommend to the governing body areas to be designated
4 or removed from designation by ordinance as 'Conservation
5 Districts';
- 6 (3) To conduct an educational program with respect to the
7 special character of conservation districts;
- 8 (4) To prepare studies and plans for consideration by
9 governing bodies in taking action that affects the conservation
10 and enhancement of such districts. Such studies and plans shall
11 consider, but not be limited to, beautification, landscaping,
12 acquisition of easements, streetscapes, and capital improvements;
- 13 (5) To recommend to the governing body such action as will
14 enhance and conserve the special character of conservation
15 districts;
- 16 (6) To cooperate with public and private officials,
17 organizations, agencies, and groups which are concerned with and
18 have an impact upon conservation districts;
- 19 (7) To cooperate with State, federal and local governments in
20 pursuance of the purposes of this Part. The governing body or
21 the commission, when authorized by the governing body, may
22 contract with the State, or with the United States of America, or
23 any agency of either, or with any other public or private
24 organization provided the terms are not inconsistent with State
25 or federal law;
- 26 (8) To submit annually to the governing body a written report
27 of its activities; to identify activities, including violations
28 of ordinances and plans that affect the district; and, at the
29 request of the deliberating or issuing authority or officials, to
30 review and comment on plans, proposals, and applications that
31 affect the districts. All accounts and funds of the commission
32 shall be administered in accordance with the requirements of the
33 Local Government Budget and Fiscal Control Act.
- 34 "§ 160A-459.4. Required procedures.--As a guide for the
35 identification and evaluation of community conservation district,

1 the commission shall undertake an inventory of those areas within
2 its jurisdiction that exhibit scenic, cultural, and natural
3 qualities and which may qualify as conservation districts as
4 defined in G.S. 160A-459.2. No resolution designating a
5 community conservation district shall be adopted by the governing
6 body until the following procedural steps have been taken:

7 (1) The community conservation districts commission shall
8 prepare and adopt rules of procedure not inconsistent with this
9 Part.

10 (2) The commission shall investigate and prepare a report on
11 the special scenic, natural, and cultural qualities of the area
12 to be designated.

13 (3) The commission and the governing body shall hold a public
14 hearing on the proposed ordinance(s) designating community
15 conservation districts. Reasonable notice of the time and place
16 thereof shall be given. All meetings of the commission shall be
17 open to the public, in accordance with the Open Meetings Law,
18 G.S. Chapter 143, Article 33C.

19 (4) Following the joint public hearing, the governing body may
20 adopt the resolution as proposed, adopt it with any amendments it
21 deems necessary, or reject it.

22 (5) Following adoption of the resolution, the designation of
23 the community conservation district shall be publicized through
24 an appropriate publication(s) and public awareness programs.

25 (6) Notification of all areas duly designated shall be
26 forwarded to the Department of Cultural Resources (Division of
27 Archives and History) and the Department of Natural Resources and
28 Community Development, showing the inventory, report, and a map
29 of the boundaries for the purpose of educating the citizens of
30 North Carolina to the scenic, cultural and natural resources of
31 the State. The boundaries or geographical data shall give the
32 acreage of the area, USGS quadrangle reference and UTM reference
33 (Universal Transverse Mercator)."

34 Sec. 2. This act is effective upon ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

H

D

89-LF-16

(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)

Short Title: Archaeologist Law Change.

(Public)

Sponsors: .

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO STRENGTHEN THE LAW PROTECTING ARCHAEOLOGICAL RESOURCES
3 AND TO MAKE TECHNICAL CHANGES.

4 The General Assembly of North Carolina enacts:

5 Section 1. The Title of Chapter 70 of the General
6 Statutes reads as rewritten:

7 "Chapter 70

8 "~~Indian Antiquities, Archaeological Resources, and Unmarked Human~~
9 ~~Skeletal Remains Protection~~ Archaeological Resources Protection."

10 Sec. 2. G.S.70-15(c) reads as rewritten:

11 "(c) Any person who knowingly and willfully violated or employs
12 any other person to violate any prohibition contained in
13 G.S.70-15(a) or G.S.70-15(b) ~~shall upon conviction, be fined not~~
14 ~~more than two thousand dollars (\$2,000) or imprisoned not more~~
15 ~~than six months, or both, in the discretion of the court~~ is
16 guilty of a Class H felony."

17 Sec. 32. Article 2 of Chapter 70 of the General Statutes
18 is amended by adding new sections to read:

1 "§ 70-21. Cooperation with other State agencies.--Heads of
2 agencies controlling State land shall report violations of this
3 Article to the Department of Cultural Resources and to the State
4 Bureau of Investigation, pursuant to G.S.114-15.1.

5 "§ 70-22. Law-enforcement agencies empowered to assist
6 Department.-- All law-enforcement agencies and officers, State
7 and local, are empowered to assist the Department of Cultural
8 Resources in carrying out its duties under this Article."

9 Sec. 4. Article 3 of Chapter 70 of the General Statutes
10 reads as rewritten:

11 "ARTICLE 3

12 "Unmarked Human Burial and Human Skeletal Remains Protection
13 Act.

14 "§ 70-26. Short title.-- This Article shall be known as "The
15 Unmarked Human Burial and Human Skeletal Remains Protection Act."

16 §70-27. Findings and purpose.

17 (a) The General Assembly finds that:

18 (1) Unmarked human burials and human skeletal remains
19 are subject to vandalism and inadvertent
20 destruction at an ever- increasing rate;

21 (2) Existing State laws do not provide adequate
22 protection to prevent damage to and destruction of
23 these remains;

24 (3) There is a great deal of scientific information to
25 be gained from the proper excavation, study and
26 analysis of human skeletal remains recovered from
27 such burials; and

28 (4) There has been no procedure for descendants or
29 other interested individuals to make known their
30 concerns regarding disposition of these remains.

31 (b) The purpose of this Article is (i) to provide adequate
32 protection from vandalism for unmarked human burials and human
33 skeletal remains, (ii) to provide adequate protection for
34 unmarked human burials and human skeletal remains not within the
35 jurisdiction of the medical examiner pursuant to G.S. 130-198

1 that are encountered during archaeological excavation,
2 construction, or other ground disturbing activities, found
3 anywhere within the State except on federal land, and (iii) to
4 provide for adequate skeletal analysis of remains removed or
5 excavated from unmarked human burials if the analysis would
6 result in valuable scientific information.

7

8 "§70-28. Definitions.--As used in this Article:

- 9 (1) 'Chief State Archaeologist' means the Chief State
10 Archaeologist, Archaeology Branch, Archaeology and
11 Historic Preservation Section, Division of Archives
12 and History, Department of Cultural Resources.
- 13 (2) 'Executive Director' means the Executive Director
14 of the North Carolina Commission of Indian Affairs.
- 15 (3) 'Human skeletal remains' or 'remains' means any
16 part of the body of a deceased human being in any
17 stage of decomposition.
- 18 (4) 'Professional archaeologist' means a person having
19 (i) a postgraduate degree in archaeology,
20 anthropology, history, or another related field
21 with a specialization in archaeology, (ii) a
22 minimum of one year's experience in conducting
23 basic archaeological field research, including the
24 excavation and removal of human skeletal remains,
25 and (iii) designed and executed an archaeological
26 study and presented the written results and
27 interpretations of such study.
- 28 (5) 'Skeletal analyst' means any person having (i) a
29 postgraduate degree in a field involving the study
30 of the human skeleton such as skeletal biology,
31 forensic osteology or other relevant aspects of
32 physical anthropology or medicine, (ii) a minimum
33 of one year's experience in conducting laboratory
34 reconstruction and analysis of skeletal remains,
35 including the differentiation of the physical

1 characteristics denoting cultural or biological
2 affinity, and (iii) designed and executed a
3 skeletal analysis, and presented the written
4 results and interpretations of such analysis.

- 5 (6) 'Unmarked human burial' means any interment of
6 human skeletal remains for which there exists no
7 grave marker or any other historical documentation
8 providing information as to the identity of the
9 deceased.

10

11 "§70-29. Discovery of remains and notification of
12 authorities.--(a) Any person knowing or having reasonable grounds
13 to believe that unmarked human burials or human skeletal remains
14 are being disturbed, destroyed, defaced, mutilated, removed, or
15 exposed, shall notify immediately the medical examiner of the
16 county in which the remains are encountered.

17 (b) If the unmarked human burials or human skeletal remains are
18 encountered as a result of construction or agricultural
19 activities, disturbance of the remains shall cease immediately
20 and shall not resume without authorization from either the county
21 medical examiner or the Chief State Archaeologist, under the
22 provisions of G.S. 70-30(c) or 70-30(d).

23 (c) (1) If the unmarked human burials or human skeletal
24 remains are encountered by a professional
25 archaeologist, as a result of survey or test
26 excavations, the remains may be excavated and other
27 activities may resume after notification, by
28 telephone or registered letter, is provided to the
29 Chief State Archaeologist. The treatment, analysis
30 and disposition of the remains shall come under the
31 provisions of G.S. 70- 34 and 70-35.

32 (2) If a professional archaeologist directing
33 long-term(research designed to continue for one or
34 more field seasons of four or more weeks' duration)
35 systematic archaeological research sponsored by any

1 accredited college or university in North Carolina,
2 as a part of his research, recovers Native American
3 skeletal remains, he may be exempted from the
4 provisions of G.S. 70-30, 70-31, 70-32, 70-33,
5 70-34 and 70-35(c) of this Article so long as he:

6 a. Notifies the Executive Director within five
7 working days of the initial discovery of
8 Native American skeletal remains;

9 b. Reports to the Executive Director, at
10 agreed upon intervals, the status of the
11 project;

12 c. Curates the skeletal remains prior to
13 ultimate disposition; and

14 d. Conducts no destructive skeletal analysis
15 without the express permission of the
16 Executive Director.

17 Upon completion of the project fieldwork, the professional
18 archaeologist, in consultation with the skeletal analyst and the
19 Executive Director, shall determine the schedule for the
20 completion of the skeletal analysis. In the event of a
21 disagreement, the time for completion of the skeletal analysis
22 shall not exceed four years. The Executive Director shall have
23 authority concerning the ultimate disposition of the Native
24 American skeletal remains after analysis is completed in
25 accordance with G.S. 70-35(a) and 70-36(b) and (c).

26 (d) The ~~Chief~~ State Archaeologist shall notify the Chief,
27 Medical Examiner Section, Division of Health Services, Department
28 of Human Resources, of any reported human skeletal remains
29 discovered by a professional archaeologist.

30

31 "§70-30. Jurisdiction over remains.--(a) Subsequent to
32 notification of the discovery of an unmarked human burial or
33 human skeletal remains, the medical examiner of the county in
34 which the remains were encountered shall determine as soon as

1 possible whether the remains are subject to the provisions of
2 G.S. 130-198.

3 (b) If the county medical examiner determines that the remains
4 are subject to the provisions of G.S. 130-198, he will
5 immediately proceed with his investigation.

6 (c) If the county medical examiner determines that the remains
7 are not subject to the provisions of G.S. 130-198, he shall so
8 notify the Chief Medical Examiner. The Chief Medical Examiner
9 shall notify the Chief State Archaeologist of the discovery of
10 the human skeletal remains and the findings of the county medical
11 examiner. The Chief State Archaeologist shall immediately take
12 charge of the remains.

13 (d) Subsequent to taking charge of the human skeletal remains,
14 the Chief State Archaeologist shall have 48 hours to make
15 arrangements with the landowner for the protection or removal of
16 the unmarked human burial or human skeletal remains. The Chief
17 State Archaeologist shall have no authority over the remains at
18 the end of the 48-hour period and may not prohibit the resumption
19 of the construction or agricultural activities without the
20 permission of the landowner.

21

22 "§70-31. Archaeological investigation of human skeletal
23 remains.--(a) If an agreement is reached with the landowner for
24 the excavation of the human skeletal remains, the Chief State
25 Archaeologist shall either designate a member of his staff or
26 authorize another professional archaeologist to excavate or
27 supervise the excavation.

28 (b) The professional archaeologist excavating human skeletal
29 remains shall report to the Chief State Archaeologist, either in
30 writing or by telephone, his opinion on the cultural and
31 biological characteristics of the remains. This report shall be
32 transmitted as soon as possible after the commencement of
33 excavation, but no later than two full business days after the
34 removal of a burial.

1 (c) The Chief State Archaeologist, in consultation with the
2 professional archaeologist excavating the remains, shall
3 determine where the remains shall be held subsequent to
4 excavation, pending other arrangements according to G.S. 70-32 or
5 70-33.

6 (d) The Department of Cultural Resources may obtain
7 administrative inspection warrants pursuant to the provisions of
8 Chapter 15, Article 4A of the General Statutes to enforce the
9 provisions of this Article, provided that prior to the requesting
10 of the administrative warrant, the Department shall contact the
11 affected landowners and request their consent for access to their
12 land for the purpose of gathering such information. If consent is
13 not granted, the Department shall give reasonable notice of the
14 time, place and before whom the administrative warrant will be
15 requested so that the owner or owners may have an opportunity to
16 be heard.

17

18 " §70-32. Consultation with the Native American Community.--

19 (a) If the professional archaeologist determines that the human
20 skeletal remains are Native American, the Chief State
21 Archaeologist shall immediately notify the Executive Director of
22 the North Carolina Commission of Indian Affairs. The Executive
23 Director shall notify and consult with the Eastern Band of
24 Cherokee or other appropriate tribal group or community.

25 (b) Within four weeks of the notification, the Executive
26 Director shall communicate in writing to the Chief State
27 Archaeologist, the concerns of the Commission of Indian Affairs
28 and an appropriate tribal group or community with regard to the
29 treatment and ultimate disposition of the Native American
30 skeletal remains.

31 (c) Within 90 days of receipt of the concerns of the Commission
32 of Indian Affairs, the Chief State Archaeologist and the
33 Executive Director, with the approval of the principal tribal
34 official of an appropriate tribe, shall prepare a written
35 agreement concerning the treatment and ultimate disposition of

1 the Native American skeletal remains. The written agreement shall
2 include the following:

- 3 (1) Designation of a qualified skeletal analyst to
4 work on the skeletal remains;
- 5 (2) The type of analysis and the specific period of
6 time to be provided for analysis of the skeletal
7 remains;
- 8 (3) The timetable for written progress reports and the
9 final report concerning the skeletal analysis to be
10 provided to the Chief State Archaeologist and the
11 Executive Director by the skeletal analyst; and
- 12 (4) A plan for the ultimate disposition of the Native
13 American remains subsequent to the completion of
14 adequate skeletal analysis.

15 If no agreement is reached within 90 days, the Archaeological
16 Advisory Committee shall determine the terms of the agreement.

17 "**§70-33. Consultation with other individuals.--**

18 (a) If the professional archaeologist determines that the human
19 skeletal remains are other than Native American, the Chief State
20 Archaeologist shall publish notice that excavation of the remains
21 has occurred, at least once per week for four successive weeks in
22 a newspaper of general circulation in the county where the
23 burials or skeletal remains were situated, in an effort to
24 determine the identity or next of kin or both of the deceased.

25 (b) If the next of kin are located, within 90 days the Chief
26 State Archaeologist in consultation with the next of kin shall
27 prepare a written agreement concerning the treatment and ultimate
28 disposition of the skeletal remains. The written agreement shall
29 include:

- 30 (1) Designation of a qualified skeletal analyst to
31 work on the skeletal remains;
- 32 (2) The type of analysis and the specific period of
33 time to be provided for analysis of the skeletal
34 remains;

1 (3) The timetable for written progress reports and the
2 final report concerning the skeletal analysis to be
3 provided to the Chief State Archaeologist and the
4 next of kin by the skeletal analyst; and

5 (4) A plan for the ultimate disposition of the
6 skeletal remains subsequent to the completion of
7 adequate skeletal analysis.

8 If no agreement is reached, the remains shall be handled
9 according to the wishes of the next of kin.

10
11 "**§70-34. Skeletal analysis.**--(a) Skeletal analysis conducted
12 under the provisions of this Article shall only be accomplished
13 by persons having those qualifications expressed in G.S.
14 70-28(5).

15 (b) Prior to the execution of the written agreements outlined
16 in G.S. 70-32(c) and 70-33(b), the Chief State Archaeologist
17 shall consult with both the professional archaeologist and the
18 skeletal analyst investigating the remains.

19 (c) The professional archaeologist and the skeletal analyst
20 shall submit a proposal to the Chief State Archaeologist within
21 the 90-day period set forth in G.S. 70-32(c) and 70-33(b),
22 including:

23 (1) Methodology and techniques to be utilized;

24 (2) Research objectives;

25 (3) Proposed time schedule for completion of the
26 analysis; and

27 (4) Proposed time intervals for written progress
28 reports and the final report to be submitted.

29 (d) If the terms of the written agreement are not substantially
30 met, the Executive Director or the next of kin, after
31 consultation with the Chief State Archaeologist, may take
32 possession of the skeletal remains. In such case, the Chief State
33 Archaeologist may ensure that appropriate skeletal analysis is
34 conducted by another qualified skeletal analyst prior to ultimate
35 disposition of the skeletal remains.

1

2 "§70-35. Disposition of human skeletal remains.--(a) If the
3 skeletal remains are Native American, the Executive Director,
4 after consultation with an appropriate tribal group or community,
5 shall determine the ultimate disposition of the remains after the
6 analysis.

7 (b) If the skeletal remains are other than Native American and
8 the next of kin have been identified, the next of kin shall have
9 authority concerning the ultimate disposition of the remains
10 after the analysis.

11 (c) If the Chief State Archaeologist has received no
12 information or communication concerning the identity or next of
13 kin of the deceased, the skeletal remains shall be transferred
14 to the Chief State Archaeologist and permanently curated
15 according to standard museum procedures after adequate skeletal
16 analysis.

17

18 " §70-36. Financial responsibility.--(a) The provisions of this
19 Article shall not require that the owner of the land on which the
20 unmarked human burials or human skeletal remains are found, bear
21 the cost of excavation, removal, analysis or disposition.

22 (b) If a determination is made by the Executive Director, in
23 consultation with an appropriate tribal group or community, that
24 Native American skeletal remains shall be reinterred following
25 the completion of skeletal analysis, an appropriate tribal group
26 or community may provide a suitable burial location. If it elects
27 not to do so, it shall be the responsibility of the North
28 Carolina Commission of Indian Affairs to provide a suitable
29 burial location.

30 (c) The expense of transportation of Native American remains to
31 the reburial location shall be borne by the party conducting the
32 excavation and removal of the skeletal remains. The reburial
33 ceremony may be provided by an appropriate tribal group or
34 community. If it elects not to do so, the reburial ceremony shall
35 be the responsibility of the Commission of Indian Affairs.

1

2 " §70-37. Prohibited acts.--(a) No person, unless acting under
3 the provisions of G.S. 130-198 through G.S. 130-201, shall:

4 (1) Knowingly acquire any human skeletal remains
5 removed from unmarked burials in North Carolina
6 after October 1, 1981, except in accordance with
7 the provisions of this Article;

8 (2) Knowingly exhibit or sell any human skeletal
9 remains acquired from unmarked burials in North
10 Carolina; or

11 (3) Knowingly retain human skeletal remains acquired
12 from unmarked burials in North Carolina after
13 October 1, 1981, for scientific analysis beyond a
14 period of time provided for such analysis pursuant
15 to the provisions of G.S. 70-32, 70-33 and 70-34,
16 with the exception of those skeletal remains
17 curated under the provisions of G.S. 70-35.

18 (b) Other provisions of criminal law concerning vandalism of
19 unmarked human burials or human skeletal remains may be found in
20 G.S. 14-149.

21

22 " §70-38. Rule-making authority.--The North Carolina Historical
23 Commission may promulgate rules and regulations to implement the
24 provisions of this Article.

25

26 "§70-39. Exceptions.--(a) Human skeletal remains acquired from
27 commercial biological supply houses or through medical means are
28 not subject to the provisions of G.S. 70-37(a).

29 (b) Human skeletal remains determined to be within the
30 jurisdiction of the medical examiner according to the provisions
31 of G.S. 130-198 are not subject to the prohibitions contained in
32 this Article.

33

34 " §70-40. Penalties.--(a) Violation of the provisions of G.S.
35 70-29 is a misdemeanor.

1 (b) Violation of the provisions of G.S. 70-37(a) is a Class H
2 felony.

3 "§70-41. Forfeiture.-- All archaeological resources with
4 respect to which a violation of the provisions of this Article
5 occurred, and all vehicles and equipment that were used in
6 connection with this violation are subject to forfeiture to the
7 State in the same manner as are vehicles and equipment pursuant
8 to G.S.90-112.

9 "§70-42. Law-enforcement agencies empowered to assist
10 Department.-- All law-enforcement agencies and officers, State
11 and local, are empowered to assist the Department of Cultural
12 Resources in carrying out its duties under this Article."

13 Sec. 5. G.S.121-28 reads as rewritten:

14 "~~§ 121-28. Violation of Article a misdemeanor Penalties.--(a)~~
15 Any person violating the provisions of this Article or any rules
16 ~~or regulations established thereunder shall be guilty of a~~
17 ~~misdemeanor and upon conviction shall be punished as in cases of~~
18 ~~misdemeanor is guilty of a Class H felony.~~

19 (b) Each day on which a violation occurs constitutes
20 occasion of a separate and distinct offense."

21 Sec. 6. Chapter 121 of the General Statutes is amended
22 by adding a new section to read:

23 "§ 121-29. Forfeiture.--All archaeological resources with
24 respect to which a violation of the provisions of this Article
25 occurred, and all vehicles and equipment that were used in
26 connection with this violation are subject to forfeiture to the
27 State in the same manner as vehicles and equipment subject to
28 forfeiture under G.S. 90-112."

29 Sec. 7. G.S. 143B-62 reads as rewritten:

30 "143B-62. North Carolina Historical Commission -- creation,
31 powers and duties.

32 There is hereby created the North Carolina Historical
33 Commission of the Department of Cultural Resources to give advice
34 and assistance to the Secretary of Cultural Resources and to
35 promulgate rules and regulations to be followed in the

1 acquisition, disposition, preservation, and use of records,
2 artifacts, real and personal property, and other materials and
3 properties of historical, archaeological, architectural, or other
4 cultural value, and in the extension of State aid to other
5 agencies, counties, municipalities, organizations, and
6 individuals in the interest of historic preservation.

7 (1) The Historical Commission shall have the following powers
8 and duties:

9 a. To advise the Secretary of Cultural Resources on the
10 scholarly editing, writing, and publication of historical
11 materials to be issued under the name of the Department;

12 b. To evaluate and approve proposed nominations of historic,
13 archaeological, architectural, or cultural properties for entry
14 on the National Register of Historic Places;

15 c. To evaluate and approve the State plan for historic
16 preservation as provided for in Chapter 121;

17 d. To evaluate and approve historic, archaeological,
18 architectural, or cultural properties proposed to be acquired and
19 administered by the State;

20 e. To evaluate and prepare a report on its findings and
21 recommendations concerning any property not owned by the State
22 for which State aid or appropriations are requested from the
23 Department of Cultural Resources, and to submit its findings and
24 recommendations in accordance with Chapter 121;

25 f. To serve as an advisory and coordinative mechanism in and by
26 which State undertakings of every kind that are potentially
27 harmful to the cause of historic preservation within the State
28 may be discussed, and where possible, resolved, particularly by
29 evaluating and making recommendations concerning any State
30 undertaking which may affect a property that has been entered on
31 the National Register of Historic Places as provided for in
32 Chapter 121 of the General Statutes of North Carolina;

33 g. To exercise any other powers granted to the Commission by
34 provisions of Chapter 121 of the General Statutes of North
35 Carolina;

1 h. To give its professional advice and assistance to the
2 Secretary of Cultural Resources on any matter which the Secretary
3 may refer to it in the performance of the Department's duties and
4 responsibilities provided for in Chapter 121 of the General
5 Statutes of North Carolina;

6 i. To serve as a search committee to seek out, interview, and
7 recommend to the Secretary of Cultural Resources one or more
8 experienced and professionally trained historian(s) for the
9 position of Director of the Division of Archives and History when
10 a vacancy occurs, and to assist and cooperate with the Secretary
11 in periodic reviews of the performance of the Director and the
12 Division; and

13 j. To assist and advise the Secretary of Cultural Resources and
14 the Director of the Division of Archives and History in the
15 development and implementation of plans and priorities for the
16 State's historical programs ; and

17 k. To review existing statutes relating to archaeological
18 resources, to make recommendations to the General Assembly
19 concerning programs and statutes, to advise the Department on the
20 development of its archaeological program and to determine the
21 terms of agreements under G.S.70-32 in cases in which the
22 executive director of the Commission of Indian Affairs and the
23 State Archaeologist cannot reach an agreement within 90 days, in
24 cases involving disposition of human skeletal remains. .

25 (2) The Historical Commission shall have the power and duty to
26 establish standards and provide rules and regulations as follows:

27 a. For the acquisition and use of historical materials suitable
28 for acceptance in the North Carolina State Archives or the North
29 Carolina Museum of History;

30 b. For the disposition of public records under provisions of
31 Chapter 121 of the General Statutes of North Carolina; and

32 c. For the certification of records in the North Carolina State
33 Archives as provided in Chapter 121 of the General Statutes of
34 North Carolina;

1 d. For the use by the public of historic, architectural,
2 archaeological, or cultural properties as provided in Chapter 121
3 of the General Statutes of North Carolina;

4 e. For the acquisition of historic, archaeological,
5 architectural, or cultural properties by the State;

6 f. For the extension of State aid or appropriations through the
7 Department of Cultural Resources to counties, municipalities,
8 organizations, or individuals for the purpose of historic
9 preservation or restoration; and

10 fl. For the extension of State aid or appropriations through
11 the Department of Cultural Resources to nonstate-owned nonprofit
12 history museums;

13 g. For qualification for grants-in-aid or other assistance from
14 the federal government for historic preservation or restoration
15 as provided in Chapter 121 of the General Statutes of North
16 Carolina. This section shall be construed liberally in order that
17 the State and its citizens may benefit from such grants-in-aid.

18 (3) The Commission shall adopt rules and regulations consistent
19 with the provisions of this section. All current rules and
20 regulations heretofore adopted by the Executive Board of the
21 State Department of Archives and History, the Historic Sites
22 Advisory Committee, the North Carolina Advisory Council on
23 Historical Preservation, the Executive Mansion Fine Arts
24 Commission, and the Memorials Commission shall remain in full
25 force and effect unless and until repealed or superseded by
26 action of the Historical Commission. All rules and regulations
27 adopted by the Commission shall be enforced by the Department of
28 Cultural Resources."

29 Sec. 8. This act is effective upon ratification.

30

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GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

H

D

DRAFT
89-70
(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)
FOR REVIEW ONLY

Short Title: Historic Property Survey Change. (Public)

Sponsors: .

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE TECHNICAL CHANGES IN THE LAW REGARDING SURVEYS OF
3 HISTORIC PROPERTIES.
4 The General Assembly of North Carolina enacts:
5 Section 1. G.S.121-8(b) reads as rewritten:
6 " (b) Surveys of Historic Properties. -- The Department of
7 Cultural Resources shall conduct a continuing statewide survey to
8 identify, document, and record properties having historical,
9 architectural, archaeological, or other cultural significance to
10 the State, its communities, and the nation. Upon approval of the
11 North Carolina Historical Commission, the Secretary Director of
12 the Division of Archives and History or his designee as the
13 State's liaison officer for historic preservation State Historic
14 Preservation Officer, may nominate appropriate properties for
15 entry in the National Register of Historic Places as established
16 by the National Historic Preservation Act of 1966, Public Law
17 89-665, 16 U.S.C. section 470. The Department of Cultural
18 Resources shall maintain a permanent file containing research
19 reports, descriptions, photographs, and other appropriate

1 documentation relating to properties deemed worthy of inclusion
2 in the statewide survey."

3 Sec. 2. This act is effective upon ratification.

4

