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JOINT LEGISLATIVE COMMISSION ON GOVERNMENTAL OPERATIONS



REPORT TO THE 1991 GENERAL ASSEMBLY OF NORTH CAROLINA

LEGISLATIVE LIBRARY

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**JOINT LEGISLATIVE COMMISSION ON GOVERNMENTAL OPERATIONS
1989-91
MEMBERSHIP**

Lieutenant Governor James C. Gardner
Co-Chairman

Speaker Josephus L. Mavretic
Co-Chairman

Senator Henson P. Barnes

Representative R. D. Beard

Senator J. Richard Conder

Representative Dan DeVane

Senator Ted Kaplan

Representative David H. Diamont

Senator Helen R. Marvin

Representative Theresa H. Esposito

Senator David R. Parnell

Representative George M. Holmes

Senator Aaron W. Plyler, Sr.

Representative Doris R. Huffman

Senator James F. Richardson

Representative R. Samuel Hunt

Senator Kenneth C. Royall, Jr.

Representative Howard Hunter, Jr.

Senator Robert G. Shaw

Representative Johnathan Rhyne

Senator Marvin Ward

Representative Betty H. Wiser

STAFF TO THE COMMISSION:

FISCAL RESEARCH DIVISION:

Linda B. Powell
Janice Wheeler

BILL DRAFTING DIVISION:

Sarah Fuerst

CLERK:

Ellen Johns

SUBCOMMITTEE MEMBERSHIP

JUSTICE AND PUBLIC SAFETY

**Senator Helen Marvin, Chairman
Senator David Parnell**

**Rep. Doris Huffman, Chairman
Rep. Howard Hunter, Jr.**

GENERAL GOVERNMENT

**Senator Kenneth Royall, Chairman
Senator Ted Kaplan**

Rep. George Holmes, Chairman

NATURAL AND ECONOMIC RESOURCES

**Senator Henson Barnes, Chairman
Senator Robert Shaw**

**Rep. Johnathan Rhyne, Chairman
Rep. R. D. Beard**

TRANSPORTATION

Senator Aaron Plyler, Chairman

**Rep. Sam Hunt, Chairman
Rep. Dan DeVane**

EDUCATION

**Senator Marvin Ward, Chairman
Senator Richard Conder**

Rep. David Diamont, Chairman

HUMAN RESOURCES

Senator James Richardson, Chairman

**Rep. Betty Wiser, Chairman
Rep. Theresa Esposito**

ARTICLE 13.

Joint Legislative Commission on Governmental Operations.

§120-71. Purpose.

The rapid increase in the functions and costs of State government and the complexity of agency operations deeply concern the General Assembly. Members of the General Assembly have the ultimate responsibility for making public policy decisions and deciding on appropriations of public moneys. Knowledge of the public service needs being met, having evidence as to whether previous policy and appropriations have resulted in expected program benefits, and data on how State government reorganization has affected agency operations are most important.

Legislative examination and review of public policies, expenditures and reorganization implementation as an integral part of legislative duties and responsibilities should be strengthened. For the purpose of performing such continuing examination and evaluation of State agencies, [and] their actual effectiveness in programming and in carrying out procedures under reorganization, the General Assembly herein provides for the continuing review of operations of State government. (1975, c. 490.)

§120-72. Definition.

For the purposes of this Article, "program evaluation" is defined as: an examination of the organization, programs, and administration of State government to ascertain whether such functions (i) are effective, (ii) continue to serve their intended purposes, (iii) are efficient, and (iv) require modification or elimination. (1975, c. 490.)

§120-73. Commission established.

There is hereby established the Joint Legislative Commission on Governmental Operations, hereinafter called the Commission, which shall conduct evaluative studies of the programs, policies, practices and procedures of the various departments, agencies, and institutions of State government. (1975, c. 490.)

§120-74. Appointment of members; terms of office.

The Commission shall consist of 22 members. The President of the Senate, the President pro tempore of the Senate, the Speaker pro tempore of the House, and the Majority Leader of the Senate and the Speaker of the House shall serve as ex officio members of the Commission. The Speaker of the House of Representatives shall appoint nine members from the House. The President pro tempore of the Senate shall appoint eight members from the Senate. Vacancies created by resignation or otherwise shall be filled by the original appointing authority. Members shall serve two-year terms beginning and ending on January 15 of the odd-numbered years, except that initial appointments shall begin on July 1, 1975. Members shall not be disqualified from completing a term of service on the Commission because they fail to run or are defeated for reelection. Resignation or removal from the General Assembly shall constitute resignation or removal from membership on the Commission. The terms of the initial members of the Commission shall expire January 15, 1977. (1975, c. 490; 1977, c. 988, s. 1; 1979, c. 932, s. 9; 1981, c. 859, s. 85; 1985, c. 757, s. 142(a)-(c).)

§120-75. Organization of the Commission.

The President of the Senate and the Speaker of the House of Representatives shall serve as cochairmen of the Commission. Either of the cochairmen may call a meeting of the Commission. (1975, c. 490; 1977, c. 988, s. 2; 1981, c. 859, s. 86.)

§120-76. Powers and duties of the Commission.

The Commission shall have the following powers:

(1) To conduct program evaluation studies of the various components of State agency activity as they relate to:

- a. Service benefits of each program relative to expenditures;
- b. Achievement of program goals;
- c. Use of indicators by which the success or failure of a program may be gauged; and
- d. Conformity with legislative intent.

(2) To study legislation which would result in new programs with statewide implications for feasibility and need. These studies may be jointly conducted with the Fiscal Research Division of the Legislative Services Commission.

(3) To study on a continuing basis the implementation of State government reorganization with respect to:

- a. Improvements in administrative structure, practices and procedures;
- b. The relative effectiveness of centralization and decentralization of management decisions for agency operation;
- c. Opportunities for effective citizen participation; and
- d. Broadening of career opportunities for professional staff.

(4) To make such studies and reports of the operations and functions of State government as it deems appropriate or upon petition by resolution of either the Senate or the House of Representatives.

(5) To produce routine written reports of findings for general legislative and public distribution. Special attention shall be given to the presentation of findings to the appropriate committees of the Senate and the House of Representatives. If findings arrived at during a study have a potential impact on either the finance or appropriations deliberations, such findings shall immediately be presented to the committees. Such reports shall contain recommendations for appropriate executive action and when legislation is considered necessary to effect change, draft legislation for that purpose may be included. Such reports as are submitted shall include but not be limited to the following matters:

- a. Ways in which the agencies may operate more economically and efficiently;
- b. Ways in which agencies can provide better services to the State and to the people; and
- c. Areas in which functions of State agencies are duplicative, overlapping, or failing to accomplish legislative objectives, or for any other reason should be redefined or redistributed.

(6) To devise a system, in cooperation with the Fiscal Research Division of the Legislative Services Commission, whereby all new programs authorized by the General Assembly incorporate an evaluation component. The results of such evaluations may be made to the Appropriations Committees at the beginning of each regular session.

(7) To evaluate and approve or deny requests from the Department of Transportation regarding the funding of federally eligible construction projects as provided in the fourth paragraph of G.S. 136-44.2. (1975, c. 490; 1981, c. 859, s. 87.)

§120-77. Additional powers.

The Commission, while in the discharge of official duties, shall have access to any paper or document, and may compel the attendance of any State official or

employee before the Commission or secure any evidence under the provisions of G.S. 120-19. In addition, the provisions of G.S. 120-19.1 through 120-19.4 shall apply to the proceedings of the Commission as if it were a joint committee of the General Assembly. (1975, c. 490; 1977, c. 344, s. 1.)

§120-78. Compensation and expenses of Commission members.

Members of the Commission, who are also members of the General Assembly, shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1 for General Assembly members. The President of the Senate shall receive subsistence and travel expenses at the rates set forth in G.S. 138-6. The Commission shall be funded by the Legislative Services Commission from appropriations made to the General Assembly for that purpose. (1975, c. 490; 1977, c. 988, s. 3.)

§120-79. Commission staffing.

(a) The Commission shall use available secretarial employees of the General Assembly, or may employ, and may remove, such professional and clerical employees as the Commission deems proper. The chairmen may assign and direct the activities of the employees of the Commission, subject to the advice of the Commission.

(b) The employees of the Commission shall receive salaries that shall be fixed by the Legislative Services Commission and shall receive travel and subsistence allowances fixed by G.S. 138-6 and 138-7 when such travel is approved by either chairman, subject to the advice of the Commission. The employees of the Commission shall not be subject to the Executive Budget Act or to the State Personnel Act.

(c) The Commission may use employees of the Fiscal Research Division of the Legislative Services Commission.

(d) The Commission shall assure that sufficient funds are available within its appropriations before employing professional and clerical employees. (1975, c. 490; 1981, c. 859, ss. 88, 89.)

§§120-80 to 120-84. Reserved for future codification purposes.

**CO-CHAIRMAN MAVRETIC'S RECOMMENDATIONS
TO THE 1991-93 GOVERNMENTAL
OPERATIONS COMMISSION**

I. BOARDS, AUTHORITIES, AND COMMISSIONS RECEIVING SUPPORT FROM STATE FUNDS AND EXEMPT FROM THE STATE PERSONNEL ACT

After discussion by Senator Royall regarding unauthorized salary increases given to employees of the Low Level Radioactive Waste Management Authority, it was recommended that staff review those boards, authorities and commissions who are currently exempt from the State Personnel Commission and those that have requested exemption with an analysis of why and the cost elements involved. Also suggested that this be taken up at the February meeting.

II. REPORTS REQUIRED TO BE REVIEWED BY THIS COMMISSION

The Speaker made a statement regarding the extraordinary number of reports from both state and non-state agencies sent to the subcommittees for their review and action. He directed staff to review and recommend to the Commission those reports which should be continued and those reports which should be discontinued. Suggested that these recommendations be considered at the March meeting for action by the Commission.

III. LONG-RANGE PLAN FOR PERFORMANCE AUDITS

The Department of the State Auditor regularly makes presentations to the Commission regarding performance audits done on various areas of state government. The most recent audit of this type concerned the overlap and duplication of small business assistance programs throughout 43 state and non-state agencies receiving state appropriations. The Auditor stated that because of the committee structure in the General Assembly, duplication of this type could not be easily identified during the appropriations process because these programs are reviewed individually by a number of different committees.

Therefore, the Speaker suggested that the Fiscal Research Division coordinate with the State Auditor's staff to develop and recommend to the Commission during the 1991 Session a long-range plan for performance audits to the end that performance audits could be used among other things to make decisions, or help in making decisions, in the change from an expansion to a continuation program and to determine if in fact the intent of the General Assembly had been achieved or was being accomplished. Hopefully, before the budget process is finished, the Commission could take some final action on the long-range plan.

SEE LETTER FOLLOWING ON NEXT PAGE.

Office of the State Auditor

Raleigh 27603-5903

January 11, 1991

300 N. SALISBURY STREET
RALEIGH, NC 27603-5903
TELEPHONE 733 3217EDWARD RENFROW
STATE AUDITOR

Speaker Josephus M. Mavretic
Co-Chairman
Joint Legislative Commission on
Governmental Operations
State Legislative Building
Raleigh, North Carolina 27611

Dear Mr. Mavretic,

I am writing in response to your January 2, 1991 letter regarding the State Auditor's report on the Small Business Program Statewide. This report was initiated by this office after a number of financial auditors had suggested the topic as a potential performance audit topic. Through the years, our employees have been instructed, during the course of their financial audit work, to be alert to areas of duplication and overlap of services in state government. Several auditors had observed small business assistance being provided through two or three different agencies they were auditing and thus, raised the question of potential overlaps. This topic had been identified for sometime; consequently, as we prepared our time budgets and selected our performance audit topics last year, we decided to place this topic on the list of audits to be performed.

This was a very unusual audit which became very burdensome because of the tremendous fragmentation in small business programs. As you know, we identified 43 organizations and divisions which received state appropriations for small business. You questioned whether this type of review should be done through the biennial budget process. I would suggest that it would be difficult to do because of the structure of the legislative process and because detail audit work is necessary to identify the type of findings we cited. For example, under the current committee structure in the General Assembly, the programs of these 43 organizations and divisions are reviewed individually by a number of different committees. While a program may be examined very thoroughly in one committee, there is no mechanism in place to identify the overlap of that program with other small business programs. There are provisions, through the study commission process, to look at programs that cut across state government and there is indeed a study commission looking at small business assistance in state government. At the request of this Commission, we presented our preliminary findings to them. I would certainly hope that the Commission would use the findings presented in this audit report as it develops its final recommendations to the General Assembly.

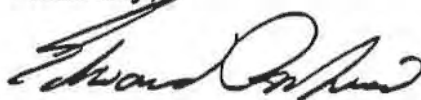
One of the benefits of an audit is to provide information for the policy and decision makers to evaluate the use of public funds. In this particular instance, issues such as the potential conflicts of interest, major discrepancies in success rate claims, and significant interest earnings generated on excess funds which are raised in our report, could not have been identified without the type of detail audit work our staff was able to perform.

Speaker Josephus M. Mavretic
Page 2
January 11, 1991

I have suggested to the Economic Future Commission a change in the budget process which I believe would be appropriate to mention here. I would like to see the General Assembly establish a cyclical review process for all components in state government on a three to five year cycle. During the review, an entity should be required to justify to the General Assembly the use of all resources appropriated to it and the measurable results achieved in the programs it is responsible for. The agency should be responsible for researching and determining any overlap or duplication in the services it provides across state government and would be expected to recommend economies of scale to be achieved. The duplication in an area such as small business programs should become clear through this process. In conjunction with the three to five year review, the State Auditor's Office could arrange its cycle of performance audits such that it could provide timely information for the legislators to aid in their review. This process by the State Auditor's Office would provide the independence necessary to present to the General Assembly a report on the accountability and management of resources in state government. Areas of waste and abuse would be pointed out as well as areas where funding is inadequate to achieve the designated mission. I believe this type of process would be helpful to both the General Assembly and to the State Auditor's Office as we each seek to reduce duplication and enhance the efficiency of state government.

Another area of inquiry in your January 2nd letter concerned the number and costs of audits issued by this agency during the last two years. While these figures are certainly available, and can be compiled for your information, I would like to have the opportunity to first discuss the audit process with you and the other members of the Joint Legislative Commission on Governmental Operations. There are a number of factors which obviously impact the cost of an audit which I feel it is important to discuss. I would be happy to attend your next Commission meeting if that is agreeable with you.

Sincerely,



Edward Renfrow
State Auditor

ER:wb

cc: Lieutenant Governor James C. Gardner
Co-Chairman
Joint Legislative Commission on
Governmental Operations
Linda Powell
Fiscal Research

Co-Chairman Mavretic's Recommendations Continued

IV. CHAIRMEN OF THE COMMISSION

The Speaker stated that since the Speaker of the House and the President Pro Tem of the Senate were authorized by the statute that created this Commission to make the appointments to this body, that it seemed only appropriate that the two appointive powers also be co-chairmen of the Commission. At the present time, the President of the Senate is the co-chairman and as a member of the Executive Branch, it also did not seem appropriate for him to chair a *legislative* commission which had such broad responsibility and authority. The Speaker hoped that this particular issue would be considered at some later date.

V. LAND TRANSACTIONS EXCEEDING \$25,000 IN VALUE

The Speaker felt that a land transaction with a value approximating \$25,000 did not warrant using the Commission's valuable time to review. He suggested that the statutes be changed to increase the base dollar value requiring action by this Commission.

LEGISLATIVE LIBRARY

DEPARTMENT OF ADMINISTRATION
MOTOR FLEET MANAGEMENT

Commuting Fees and Rental Fees

FINDINGS:

On October 12, 1990, Motor Fleet Management submitted a report on State agencies that allowed their employees to commute in state-owned vehicles at a fixed fee of \$3.00 per day and the distances that were traveled by those commuters. Included in the report was an analysis of the *cost per mile* to operate each of the types of vehicles available from Motor Fleet Management during fiscal 1989-90.

Currently there are 539 commuters commuting in Motor Fleet Management owned vehicles who pay \$3.00 per day for the privilege of commuting and who commute a total of 387,560 miles per month or 4,650,720 miles annually. In addition, the State agencies for which the affected employees work pay to Motor Fleet Management the standard cost per mile for each mile commuted. Below is a breakdown of fees generated to Motor Fleet Management from both of these sources:

	<u>Monthly</u>	<u>Annually</u>
Revenue @ \$3.00/day	\$32,340	\$388,080
Agency Cost @ .20/mile	<u>77,512</u>	<u>930,144</u>
Total Commuting Revenue to Motor Fleet Management	\$109,852	\$1,318,224

At the current rate of reimbursement by commuters of \$3.00 per day, the commuter is covering the cost of a *15-mile round-trip commute*. Following is a breakdown of the number of commuters and the miles they drive:

<u>Daily Miles</u>	<u>Numbers of Commuters</u>
0-15	95
16-25	113
26-50	233
51-75	61
76-100	23
Over 100	<u>14</u>
Total	539

There are an additional 405 commuters commuting in vehicles not owned by Motor Fleet Management who pay the \$3.00 per day to the department for which they work. Including these commuters, the total number of employees commuting in state-owned vehicles is 944.

Below is the actual 1989-90 cost per mile to operate the various types of vehicles of Motor Fleet Management:

<u>Vehicle Type</u>	<u>Quantity</u>	<u>Actual Cost Per Mile to Operate</u>	<u>Standard Rate Per Mile Charged Agencies</u>
Cavalier	2416	\$.1903	\$.20
Taurus	286	.2155	.20
Celebrity SW	733	.2170	.20
Caprice 6 cyl.	410	.2225	.20
Caprice 8 cyl.	55	.2532	.20
Caprice SW	138	.2451	.20
Caprice (LAW)	837	.2725	.24
Mini Van	9	.2250	.22
Pass. Van 8 cyl.	15	.3252	.22
Cargo Van small	82	.2595	.22
Cargo Van large	5	.2856	.22
Blazer S-10	293	.2791	.22
4 WD 8 cyl.	196	.3244	.24
Pick-up 6 cyl.	7	.2250	.20
Pick-up 8 cyl.	12	.3089	.20
Suburban	4	.3524	.24

All State agencies whether they are supported by State appropriations, federal funds, or departmental receipts are charged the same. So, in effect, the General Fund and the Highway Fund are subsidizing agencies supported from federal funds and other receipts for the difference between the rates paid and the actual cost of operating the vehicles..

Moreover, there are 1923 commuters who are exempt from paying any commuting fee, because they are law enforcement personnel.

The Motor Fleet Management Division pointed out that of the 13 southeastern states, only 3, including North Carolina, allowed commuting in State-owned vehicles.

RECOMMENDATION:

The General Government Subcommittee recommended and the full Joint Legislative Commission on Governmental Operations concurred that the 1991 General Assembly be requested to have the House and Senate Appropriations Committees review the rate per mile structure and the \$3.00 per day commuting fee to the end that the rates and per day fee be established at realistic levels and to also consider if commuting in a state-owned vehicle should be discontinued.

**CULTURAL RESOURCES
STATE LIBRARY**

Use of Acid-Free Paper in State Publications

FINDINGS:

The State Librarian and the University Librarian of UNC at Chapel Hill reported there appears to be very little difference in prices of similar stocks of acid-free and alkaline paper or the availability of acid-free paper. Indications are that the small price differences will continue to narrow as the paper industry increasingly converts to the production of acid-free paper to comply with environmental regulations.

The report indicated that the State will experience long-term cost savings if acid-free paper is used to print State publications because these publications will not have to be replaced or microfilmed because of paper deterioration.

The report contained the following recommendations:

1. Require the use of acid-free paper for the following general categories of publications:
 - (a) Reports of committees, commissions and task forces appointed by the Governor and the legislature;
 - (b) Publications about the history of an agency or division;
 - (c) Annual or biennial reports of agencies or divisions;
 - (d) Publications including significant statistical data.
2. Require the use of acid-free paper for the following specific publications:
 - (a) *Checklist of Official North Carolina State Government Publications*
 - (b) *Crime in North Carolina (Uniform Crime Reports)*
 - (c) *Directory of North Carolina Manufacturing Firms*
 - (d) *Directory of the State and County Officials of North Carolina*
 - (e) *General Statutes of North Carolina*
 - (f) *Geological Survey Bulletins*
 - (g) *Journal North Carolina General Assembly, Senate and House of Representatives*
 - (h) *North Carolina Administrative Code*
 - (i) *North Carolina Agricultural Statistics*
 - (j) *North Carolina Education Directory*
 - (k) *North Carolina Government, 1585-1979*
 - (l) *North Carolina Legislation*
 - (m) *North Carolina Manual*
 - (n) *North Carolina Register*
 - (o) *North Carolina Reports and North Carolina Court of Appeals Reports*

- (p) *North Carolina State Government Statistical Abstract*
 - (q) *North Carolina Vital Statistics*
 - (r) *Rules - Directory - North Carolina General Assembly, Senate and House of Representatives*
 - (s) *Session Laws*
 - (t) *Statistical Abstract of Higher Education in North Carolina*
 - (u) *Statistical Profile of North Carolina Public Schools*
 - (v) *Statistics of Taxation*
 - (w) *Summary of the Recommended State Budget*
3. Require the State Librarian and the University Librarian to develop procedures to make the transition from the use of alkaline paper to acid-free paper.
 4. Require the State Library Depository System Board to annually identify future publications for designation for printing on acid-free paper.

RECOMMENDATIONS:

The General Government Subcommittee recommends and the full Joint Legislative Commission on Governmental Operations concurs that the 1991 General Assembly be requested to implement the above recommendations.

SECRETARY OF STATE

Business License Information Office (BLIO)

Chapter 808 of the 1987 Session Laws established the BLIO for the purpose of providing a convenient, accessible, and timely one-stop system for the business community to acquire and maintain the necessary licenses to conduct business in the state. The legislation directed the BLIO to perform certain specified functions over a three-year period including the development of an operating plan for an automated Master Application System (MAS), the software, hardware, staffing level and space requirements for the system within the third year.

The BLIO developed the operating plan for a Master Application System and presented it in detail to the Joint Legislative Commission on Governmental Operations, along with their recommendations and the cost of implementing it.

Implementation of the MAS will simplify the acquisition of business licenses; permit anyone wishing to operate a business within the state to apply for certain state licenses at one location; provide application information one time; and submit one payment to cover the costs of all licenses applied for.

RECOMMENDATION:

The Joint Legislative Commission on Governmental Operations recommends that the General Assembly enact the proposed legislation (91-LH-18 Draft) to implement a Master Application System for Business Licenses and appropriate \$309,056 for the 1991-92 fiscal year and \$233,629 for the 1992-93 fiscal year to the Department of the Secretary of State to implement the system.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

S

D

91-LH-18

(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)

Short Title: Master Application.

(Public)

Sponsors: Senators Plyler and Conder.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO IMPLEMENT A MASTER APPLICATION SYSTEM FOR BUSINESS
3 LICENSES AND TO APPROPRIATE FUNDS TO THE DEPARTMENT OF THE
4 SECRETARY OF STATE TO IMPLEMENT THE MASTER APPLICATION SYSTEM.
5 The General Assembly of North Carolina enacts:
6 Section 1. G.S. 147-54.16 reads as rewritten:
7 § 147-54.16. Master application system.
8 ~~The Office shall develop an operating plan for an automated~~
9 ~~master application system, shall determine the software and~~
10 ~~hardware needs of the system, and shall determine the staffing~~
11 ~~levels and space required for the system. The plan shall be~~
12 ~~developed with the assistance of the departments that issue~~
13 ~~business licenses and with due regard to privacy statutes. In~~
14 ~~making the determinations and developing an operating plan for an~~
15 ~~automated master application system, the Office shall identify~~
16 ~~the business licenses appropriate for inclusion in a master~~
17 ~~application system and shall develop a master application form~~
18 ~~that consolidates the information needed for the various State~~
19 ~~agencies to issue the licenses. Environmental licenses may not~~
20 ~~be included in a master application form.~~
21 The Office shall implement and administer an automated master
22 application system. The Office shall determine the licenses
23 appropriate for inclusion in the master application system. The

1 Office may not include environmental licenses in the master
2 application system.

3 The appropriate agency shall continue to determine whether a
4 requested license shall be issued and to issue the license if the
5 application is approved by the agency. An applicant who receives
6 written notification by the Office that a license requested
7 through the Office is being issued by the appropriate agency may
8 proceed with the licensed business activity without having
9 physical possession of the issued license.

10 The Office shall collect from each applicant the total amount
11 of the fees for the licenses applied for through the Office. The
12 Office is the repository for an original signed application form
13 submitted through the Office for a license that is included in
14 the master application system.

15 Sec. 2. The Business License Information Office shall
16 implement a master application system as described in Article 4B
17 of Chapter 147 of the General Statutes. The master application
18 system shall be implemented in two phases as described below over
19 a period of two years. The first phase of the process to
20 implement the master application system shall be completed by
21 January 1, 1992. The Department of the Secretary of State shall
22 evaluate the first phase of the implementation of the master
23 application system and shall report to the Joint Legislative
24 Commission on Governmental Operations by October 1, 1992,
25 regarding the evaluation. The second phase of the process to
26 implement the master application system shall be completed by
27 January 1, 1993.

28 (1) Phase I. Applicant tracking module.

29 This phase shall consist of the following automated
30 functions: recording and tracking of inquiries
31 regarding business licenses, identification of
32 required licenses, and monitoring of the status of
33 the resulting applications. The original signed
34 license applications received by the Office during
35 this phase shall be forwarded by the Office to the
36 appropriate licensing agency.

37 (2) Phase II. Application Generation Module.

38 During this phase the Office shall implement the
39 centralized application process so that a master
40 application may be generated for those licenses
41 deemed appropriate by the Office for inclusion in
42 the master application system. The Office shall
43 retain the original signed license applications for

1 licenses requested through the Office that are
2 included in the master application system.

3 Sec. 3. There is appropriated from the General Fund to
4 the Department of the Secretary of State \$309,056 for the 1991-92
5 fiscal year and \$233,629 for the 1992-93 fiscal year to implement
6 the master application system as provided in G.S. 147-54.16.

7 Sec. 4. This act becomes effective July 1, 1991.

Phase 1	<u>Total</u>	<u>91-92</u>
Computer Development and Equipment	\$181,544	\$181,544
Recurring Computer Charges	37,752	18,876 (6 months)
Staff		
3 License Consultants	88,236	66,177
1 Administrative Assistant	25,075	18,806
Misc Recurring Expense	4,790	3,593 (9 months)
One Time Equipment for Staff	9,060	9,060
Additional Rental Space	<u>11,000</u>	<u>11,000</u>
	\$357,457	\$309,056

Phase 2 Total Implementation Expense

Computer Development	\$ 62,416
New Computer Recurring Charges	13,688
1 Data Entry Control Clerk	21,420
Equipment	<u>4,360</u>
Total	\$101,884

Appropriation Needed for 92-93

Computer Development	62,416
Recurring Computer Charges	37,752*
One Time Equipment	4,360
Recurring Staff Charges	88,236*
	25,075*
	4,790*
Recurring Rent Charges	<u>11,000*</u>
	\$233,629

*Recurring Charges for Operating Phase 1

Note: Data Entry Clerk will not be hired until July, 1993 due to implementation date of July 1, 1993

NORTH CAROLINA STATE BOARD OF COSMETIC ART

In their review of the Cosmetic Art Board's operations, the General Government Subcommittee was informed of several problems the Board is experiencing in the administration and enforcement of the law. In response to the Subcommittee's request the Board provided changes which the Board needs to help them in the accomplishment of their work.

The Subcommittee had three bills drafted to incorporate a majority of the changes which the Board requested into law and they were forwarded to the Joint Legislative Commission on governmental Operations for consideration.

The bill draft numbers, the changes proposed, and justification for the changes are as follows:

No. 91-LP-012 D: Cosmetology Requirements.

Amend G.S. 88-23 to require 16 hours of continuing education every two years for license renewal of cosmetology teachers.

Cosmetology teachers in the public schools and community colleges are required to have continuing education to renew their teacher certificates. Continuing education requirements for cosmetology teachers in private schools is at the discretion of the private school.

Amend G.S. 88-23 to require all establishments licensed by this Board to have constant exchange of fresh air during hours of business.

New technology, chemicals and formulas introduced in recent years have introduced odor as well as chemical particles that remain in stagnant air. This is a recommendation of OSHA.

No. 91-LP-013: Esthetician/Manicurist Requirements

Amend G.S. Chapter 88 to establish a registration requirement for Estheticians (skin care).

This would permit licensure as Esthetician upon completion of a 650-hour course and resolve the problem the Board has in licensing out-of-state practitioners under reciprocity who apply to practice in the state. Twenty-three other states have an Esthetician licensing law.

Amend G.S. Chapter 88 to include artificial nail providers within the definition of manicurist; increase the course hours for registered manicurists, and remove the exemption for manicurists practicing outside a cosmetic art shop.

Improper application and procedures used by unlicensed and untrained providers of artificial nails has resulted in numerous complaints of bacterial infection and permanent nail damage. Currently the board does not have the authority to enforce sanitary rules and regulations or require the licensure of providers of artificial nails who practice outside a licensed cosmetology shop.

New chemicals and products are being used and additional education is needed to prepare for the safe and sanitary use of these products.

No. 91-LP-014 D: Cosmetic Arts/Fees

Rewrite G.S. 88-21 to establish examination fees at cost. (Examination fees are one-time fees.)

Teacher -	\$50.00 (2-day exam of written and practical)
Cosmetologist/ Apprentice -	\$20.00 (1-day exam of written and practical)
Manicurist -	\$15.00 (5-hour exam of written and practical)
Esthetician*	\$30.00 (if license is ratified this year).
	This exam is a 1-day exam in other states.

* New license category

Examination fees were last increased in 1977 and do not cover the current cost. The Board needs to employ two Examiners to conduct examinations and free the four Inspectors of this responsibility. The Inspectors' efforts need to be devoted to making required inspections.

RECOMMENDATION:

The Joint Legislative Commission on Governmental Operations recommends introduction of the draft bills and enactment by the General Assembly.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

D

91-LP-012

(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)

Short Title: Cosmetology Requiremenmts.

(Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH CONTINUING EDUCATION REQUIREMENTS FOR
3 COSTMETOLOGY TEACHERS AND TO REQUIRE ADEQUATE VENTILATION IN
4 SHOPS AND SCHOOLS.
5 The General Assembly of North Carolina enacts:
6 Section 1. G.S. 88-23(a) reads as rewritten:
7 "§ 88-23. Rules and regulations of Board; inspections; granting
8 of certificates to Board members; employment of former Board
9 members.
10 (a) (1) The State Board of Cosmetic Art Examiners shall
11 have the authority to make a reasonable curriculum
12 and rules for recognized schools and colleges of
13 beauty culture and make reasonable rules and
14 regulations for the sanitary management of cosmetic
15 art shops, beauty parlors, hairdressing
16 establishments, cosmetic art schools, colleges,
17 academies and training schools, hereinafter called
18 shops and schools, and to have such curriculum and
19 rules and the sanitary rules and regulations
20 enforced. The duly authorized agents of said Board
21 shall have authority to enter upon and inspect any
22 shop or school at any time during business hours. A
23 copy of the curriculum and rules and the sanitary
24 rules and regulations shall be furnished from the

1 office of the Board or by the above mentioned
2 authorized agents to the owner or manager of each
3 shop or school in the State, and such copy shall be
4 kept posted in a conspicuous place in each shop and
5 school, and a copy of the curriculum and rules for
6 recognized schools and colleges of beauty culture
7 shall be kept posted in a conspicuous place in each
8 school and the rules and regulations complied with
9 as required by this Chapter.

10 (2) The Board shall adopt regulations prohibiting the
11 use of commercial chemicals of unknown content by
12 persons registered under this Chapter. For purposes
13 of this section, "commercial chemicals" are those
14 products sold only through beauty and barber supply
15 houses and not available to the general public.

16 (3) The Board shall adopt regulations instructing
17 persons registered under this Chapter in the proper
18 use and application of commercial chemicals where
19 no manufacturer's instructions are included. In the
20 alternative, the Board shall prohibit the use of
21 such commercial chemicals by persons registered
22 under this Chapter.

23 (4) The Board shall adopt regulations requiring that
24 cosmetology teachers complete a minimum of 16 hours
25 of continuing education every two years. Effective
26 October 1, 1993, the Board shall not renew the
27 license of any cosmetology teacher who has not
28 satisfied the continuing education requirements
29 established by the Board.

30 (5) The Board shall adopt regulations requiring that
31 adequate ventilation be maintained in places where
32 cosmetic art is practiced or taught."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

D

91-LP-013

(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)

Short Title: Esthetician/Manicurist Requirements. (Public)

Sponsors: .

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH A REGISTRATION REQUIREMENT FOR ESTHETICIANS,
3 TO INCLUDE ARTIFICIAL NAIL PROVIDERS WITHIN THE DEFINITION OF
4 MANICURIST, TO INCREASE THE COURSE HOURS FOR REGISTERED
5 MANICURISTS, AND TO REMOVE THE EXEMPTION FOR MANICURISTS
6 PRACTICING OUTSIDE A COSMETIC ARTS SHOP.
7 The General Assembly of North Carolina enacts:
8 Section 1. Chapter 88 of the General Statutes is
9 amended by adding a new section to read:
10 "§ 88-3.1. Esthetician.
11 An esthetician is any person, other than a registered
12 cosmetologist, registered apprentice, or student, who engages in
13 any of the following specialized practices, as generally
14 recognized in the field of cosmetology: skin care, makeup
15 artistry, facials, or body waxing."
16 Sec. 2. Chapter 88 of the General Statutes is amended
17 by adding a new section to read:
18 "§ 88-31. Registered esthetician.
19 A certificate of registration as a registered esthetician shall
20 be issued by the Board of Cosmetic Art Examiners to any person
21 who pays an application fee of thirty dollars (\$30.00), who has
22 completed an appropriate program of study of at least 750 hours
23 in a cosmetic art school or college approved by the Board, and
24 who has passed a satisfactory examination, conducted by the

1 Board, to determine his or her fitness to practice as an
2 esthetician as defined in this Chapter. The Board shall adopt
3 reasonable rules and regulations for an appropriate program of
4 study for an esthetician, including curriculum, sanitary
5 management, and equipment requirements."

6 Sec. 3. G.S. 88-21(a) reads as rewritten:

7 "88-21. Fees required.

8 (a) The following fees shall be paid to the Board:

9 (1) The fee to be paid by an applicant for a certificate of
10 registration to practice cosmetic art as an apprentice shall be
11 five dollars (\$5.00).

12 (2) The fee to be paid by an applicant for an examination to
13 determine his or her fitness to receive a certificate of
14 registration as a registered cosmetologist shall be ten dollars
15 (\$10.00).

16 (3) The fee to be paid by an applicant for an examination to
17 determine his or her fitness to receive a certificate of
18 registration as a registered manicurist shall be five dollars
19 (\$5.00).

20 (4) The license fee for a registered cosmetologist shall be
21 thirty-three dollars (\$33.00) for three years, payable in
22 advance.

23 (5) The fee for renewal of the license of a registered
24 cosmetologist shall be thirty-three dollars (\$33.00) for three
25 years, payable in advance, if the license is renewed before it
26 becomes delinquent. The licenses of all registered cosmetologists
27 shall be due for renewal in October 1986, and every three years
28 thereafter.

29 (6) A delinquency penalty of ten dollars (\$10.00) shall be
30 paid, in addition to the renewal fee, for the renewal of a
31 registered cosmetologist's license that has become delinquent.

32 (7) The annual fee for a registered apprentice or certified
33 manicurist, which shall be due on or before October 1, shall be
34 five dollars (\$5.00).

35 (8) All cosmetic art shops shall pay an annual fee of three
36 dollars (\$3.00) for each active booth, on or before February 1 of
37 each year.

38 (9) A delinquency penalty of ten dollars (\$10.00) shall be paid
39 by each cosmetic art shop that does not pay the required fees by
40 the February 1 deadline.

41 (10) The fee for reissuance of an expired permit of a cosmetic
42 art shop shall be twenty-five dollars (\$25.00).

43 (11) All cosmetic art schools shall pay a fee of fifty dollars
44 (\$50.00) annually.

1 (12) Applicants for licensing under G.S. 88-19 shall pay an
2 application fee of fifteen dollars (\$15.00).

3 (13) Registered cosmetologists licensed under G.S. 88-19 shall
4 pay an annual license fee of eleven dollars (\$11.00) until the
5 year in which all other registered cosmetologist licenses are due
6 for renewal and then shall pay the fees required in subdivision
7 (5) above.

8 (14) A delinquency penalty of three dollars (\$3.00) shall be
9 paid by all registered cosmetologists licensed under G.S. 88-19,
10 paying on an annual basis if they do not renew their license
11 before October 1 of that year.

12 (15) Apprentice cosmetologists, licensed under G.S. 88-19,
13 shall pay an annual license fee of five dollars (\$5.00) for the
14 first year, or part of the year, in addition to the application
15 fee required by subdivision (12) above.

16 (16) All cosmetic art teachers shall be licensed by the Board
17 and shall pay a fee of ten dollars (\$10.00) for that license
18 which shall be renewed every two years.

19 (17) The fee to be paid by an applicant for examination to
20 determine his or her fitness to receive a certificate of
21 registration as a registered esthetician is thirty dollars
22 (\$30.00). Registered estheticians shall pay a license fee of
23 thirty dollars (\$30.00) and an annual renewal fee of thirty
24 dollars (\$30.00). The renewal fee shall be due on October 1 of
25 each year."

26 Sec. 4. G.S. 88-1 reads as rewritten:

27 "§ 88-1. Practice of cosmetology regulated; permits for operation
28 of cosmetic art shops.

29 On and after June 30, 1933, no person or combination of persons
30 shall, for pay or reward, either directly or indirectly, practice
31 or attempt to practice cosmetic art as hereinafter defined in the
32 State of North Carolina without a certificate of registration,
33 either as a registered manicurist, registered esthetician,
34 registered apprentice or as a registered 'cosmetologist,' issued
35 pursuant to the provisions of this Chapter by the State Board of
36 Cosmetic Art Examiners hereinafter established and, except as
37 provided in G.S. 88-7.1; the practice of cosmetic art shall not
38 be performed outside of a licensed and regularly inspected beauty
39 establishment.

40 The operator of a cosmetic art shop, beauty parlor or
41 hairdressing establishment may employ unlicensed personnel to do
42 shampooing only, where the shampooing is done under the
43 supervision of a registered cosmetologist. As used in this
44 paragraph, 'shampooing' includes only the application of shampoo

1 to hair and the removal of the shampoo from the hair, and does
2 not include any arranging, dressing, waving, marcelling or other
3 treatment of hair. This paragraph does not apply to barbershops.
4 This paragraph shall not apply to the following counties:
5 Guilford, Jones, Lenoir, Mecklenburg, Onslow, Richmond, Sampson.

6 On and after February 1, 1976, any person, firm or corporation,
7 before establishing or opening a cosmetic art shop not heretofore
8 licensed by the State Board of Cosmetic Art, shall make
9 application to the Board, on forms to be furnished by the Board,
10 for a permit to operate a cosmetic art shop. The shop of such
11 applicant shall be inspected and approved by the State Board of
12 Cosmetic Art by an agent designated for such purpose by the Board
13 before such cosmetic art shop shall be opened for business. It
14 shall be unlawful to open a new cosmetic art shop for the
15 practice of cosmetology until such shop has been inspected, as
16 heretofore required, and determined by the Board to be in
17 compliance with the requirements set forth in this Chapter. Upon
18 the determination by the Board that the applicant has complied
19 with the requirements of this Chapter, the Board shall issue to
20 such applicant a permit to operate a cosmetic art shop. A fee of
21 twenty-five dollars (\$25.00) shall be paid to the Board for the
22 inspection of a cosmetic art shop. Such fee must accompany the
23 application for a permit to operate a cosmetic art shop at the
24 time such application is filed with the Board.

25 All cosmetic art shops in operation as of February 1, 1976,
26 shall be required to make application to the Board of Cosmetic
27 Art, on forms supplied by the Board, for a permit to operate. The
28 fee required for such permit shall be three dollars (\$3.00) per
29 active booth in said shop.

30 Thereafter, all permits shall be renewed as of the first day of
31 February of each and every year, and the fee for annual renewal
32 of cosmetic art shop permits shall be as set forth in G.S. 88-21.
33 No permit or certificate shall be transferable from one location
34 to another or from one owner to another at the same location.
35 Each cosmetic art shop permit shall be conspicuously posted
36 within such cosmetic art shop for which same is issued."

37 Sec. 5. G.S. 88-8 reads as rewritten:

38 "§ 88-8. Manicurist.

39 'Manicurist' means any person who does manicuring or pedicuring
40 and who makes a charge for such service, provides manicuring or
41 pedicuring services for compensation. Manicuring or pedicuring
42 services include trimming, filing, sculpturing, shaping, and
43 decorating fingernails or toenails and applying sculptured or
44 other artificial fingernails or toenails."

1 Sec. 6. G.S. 8-22 reads as rewritten:

2 "§ 88-22. Persons exempt.

3 The following persons are exempt from the provisions of this
4 Chapter while engaged in the proper discharge of their
5 professional duties:

- 6 (1) Persons authorized under the laws of the State to
7 practice medicine and surgery.
8 (2) Commissioned medical or surgical officers of the
9 United States army, navy, or marine hospital
10 services.
11 (3) Registered nurses.
12 (4) Undertakers.
13 (5) Registered barbers.
14 (6) Manicurists as ~~herein defined~~, defined in G.S. 88-
15 8, who perform manicuring in a barbershop that is
16 operating as required by G.S. 86A-13."

17 Sec. 7. G.S. 88-30 reads as rewritten:

18 "§ 88-30. Registered manicurist.

19 ~~A person shall be a registered manicurist to engage in the~~
20 ~~practice of manicuring or pedicuring in a cosmetic art shop,~~
21 ~~beauty parlor or hairdressing establishment and that person may~~
22 ~~be a registered manicurist without being a registered~~
23 ~~cosmetologist.~~

24 A certificate of registration as a registered manicurist shall
25 be issued by the Board of Cosmetic Art Examiners to any person
26 who meets the following qualifications:

- 27 (1) Who has completed ~~150 hours~~ 300 hours in classes in
28 a cosmetic art school or college approved by the
29 Board;
30 (2) Repealed by Session Laws 1981, c. 615, s. 19.
31 (3) Repealed by Session Laws 1973, c. 450, s. 4.
32 (4) Who has passed a satisfactory examination,
33 conducted by the Board, to determine his or her
34 fitness to practice manicuring, such examination to
35 be so prepared and conducted as to determine
36 whether or not the applicant is possessed of the
37 requisite skill in such trade to properly perform
38 all the duties thereof and services incident
39 thereto."

40 Sec. 8. This act shall be effective January 1, 1992,
41 except that (i) the Board may adopt reasonable rules at any time
42 after this act is ratified to implement its provisions, and (ii)
43 any applicant for registration as a registered manicurist who
44 applies on or before December 31, 1991, shall be required to have

1 completed no more than 150 hours in classes in a cosmetic arts
2 school or college approved by the Board.

3

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

D

91-LP-014

(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)

Short Title: Cosmetic Arts/Fees.

(Public)

Sponsors: .

Referred to:

- 1 A BILL TO BE ENTITLED
2 AN ACT TO CHANGE CERTAIN EXAMINATION FEES CHARGED BY THE BOARD OF
3 COSMETOLOGY EXAMINERS.
4 The General Assembly of North Carolina enacts:
5 Section 1. G.S. 88-21(a) is rewritten to read:
6 "§ 88-21. Fees required.
7 (a) The following fees shall be paid to the Board:
8 (1) The fee to be paid by an applicant for an
9 examination to determine his or her fitness to
10 receive a certificate of registration to practice
11 cosmetic art as an apprentice shall be five dollars
12 ~~(\$5.00)~~ twenty dollars (\$20.00).
13 (2) The fee to be paid by an applicant for an
14 examination to determine his or her fitness to
15 receive a certificate of registration as a
16 registered cosmetologist shall be ten dollars
17 ~~(\$10.00)~~ twenty dollars (\$20.00).
18 (3) The fee to be paid by an applicant for an
19 examination to determine his or her fitness to
20 receive a certificate of registration as a
21 registered manicurist shall be five dollars
22 ~~(\$5.00)~~ fifteen dollars (\$15.00).

- 1 (4) The license fee for a registered cosmetologist
2 shall be thirty-three dollars (\$33.00) for three
3 years, payable in advance.
- 4 (5) The fee for renewal of the license of a registered
5 cosmetologist shall be thirty-three dollars
6 (\$33.00) for three years, payable in advance, if
7 the license is renewed before it becomes
8 delinquent. The licenses of all registered
9 cosmetologists shall be due for renewal in October
10 1986, and every three years thereafter.
- 11 (6) A delinquency penalty of ten dollars (\$10.00) shall
12 be paid, in addition to the renewal fee, for the
13 renewal of a registered cosmetologist's license
14 that has become delinquent.
- 15 (7) The fee for a registered apprentice or certified
16 manicurist, which shall be due on or before October
17 1, shall be five dollars (\$5.00).
- 18 (8) All cosmetic art shops shall pay an annual fee of
19 three dollars (\$3.00) for each active booth, on or
20 before February 1 of each year.
- 21 (9) A delinquency penalty of ten dollars (\$10.00) shall
22 be paid by each cosmetic art shop that does not pay
23 the required fees by the February 1 deadline.
- 24 (10) The fee for reissuance of an expired permit of a
25 cosmetic art shop shall be twenty-five dollars
26 (\$25.00).
- 27 (11) All cosmetic art schools shall pay a fee of fifty
28 dollars (\$50.00) annually.
- 29 (12) Applicants for licensing under G.S. 88-19 shall pay
30 an application fee of fifteen dollars (\$15.00).
- 31 (13) Registered cosmetologists licensed under G.S. 88-19
32 shall pay an annual license fee of eleven dollars
33 (\$11.00) until the year in which all other
34 registered cosmetologist licenses are due for
35 renewal and then shall pay the fees required in
36 subdivision (5) above.
- 37 (14) A delinquency penalty of three dollars (\$3.00)
38 shall be paid by all registered cosmetologists
39 licensed under G.S. 88-19, paying on an annual
40 basis if they do not renew their license before
41 October 1 of that year.
- 42 (15) Apprentice cosmetologists, licensed under G.S.
43 88-19, shall pay an annual license fee of five
44 dollars (\$5.00) for the first year, or part of the

1 year, in addition to the application fee required
2 by subdivision (12) above.
3 (16) All cosmetic art teachers shall be licensed by the
4 Board and shall pay a fee of ten dollars (\$10.00)
5 for that license which shall be renewed every two
6 years. The fee to be paid by an applicant for an
7 examination to determine his or her fitness to
8 receive a Certification of Registration as a
9 Registered Teacher shall be fifty dollars
10 (\$50.00)."
11 Sec. 2. This act is effective upon ratification and
12 applies to fees due on or after that date.

OCCUPATIONAL AND PROFESSIONAL LICENSING BOARDS

Independent 1991 Interim Study

Several issues have been raised about the various boards that warrant an independent Legislative Study of all the boards. Some of the issues are regulation of the home construction industry addressed by the State Auditor; the need for the boards' fiscal year to be the same as that for the State to enable the State Controller to report those funds in the State's annual financial report; and the need to establish a standard policy regarding whether boards should or should not be subject to the Executive Budget Act.

RECOMMENDATIONS:

The Joint Legislative Commission on Governmental Operations concurred with the General Government Subcommittee recommendations and request the 1991 General Assembly to establish an independent study commission to review these and other issues.

**BOARD OF GOVERNORS
UNIVERSITY OF NORTH CAROLINA**

Assistance to Public Schools

FINDINGS:

The Board of Governors has been slow in adopting standards to create and enhance an organized program of public service and technical assistance to the public schools as directed by Section 7 of Chapter 936 of the 1989 Session Laws.

RECOMMENDATIONS:

The Joint Legislative Commission on Governmental Operations recommends that the Board of Governors report to the Commission on a quarterly basis their progress in implementing the directives of Section 7 of Chapter 936 of the 1989 Session Laws.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

H

D

91-LE-003

(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)

Short Title: UNC Report on Public Service.

(Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT REQUIRING THE BOARD OF GOVERNORS OF THE UNIVERSITY OF
3 NORTH CAROLINA TO REPORT ON ITS PROGRESS IN ADOPTING STANDARDS
4 TO CREATE AND ENHANCE AN ORGANIZED PROGRAM OF PUBLIC SERVICE
5 AND TECHNICAL ASSISTANCE TO THE PUBLIC SCHOOLS.
6 The General Assembly of North Carolina enacts:
7 Section 1. Section 7 of Chapter 936 of the 1989 Session
8 Laws reads as rewritten:
9 "Sec. 7. The Board of Governors of The University of
10 North Carolina shall adopt standards to create and enhance an
11 organized program of public service and technical assistance to
12 the public schools. This program shall:
13 (1) Provide systematic access for public schools to
14 consultation and advice available from members of
15 the faculties of the constituent institutions;
16 (2) Facilitate and encourage research in the public
17 schools and the application of the results of this
18 research;
19 (3) Link the education faculties of the constituent
20 institutions with public school teachers and
21 administrators through public service requirements
22 for the education faculties; and
23 (4) Create partnerships among all constituent
24 institutions, their schools or departments of

1 education, and the maximum number of public
2 schools that could benefit from these partnerships.
3 The Board of Governors shall report on a quarterly basis
4 beginning April 15, 1991, and ending April 15, 1993, to the Joint
5 Legislative Commission on Governmental Operations on its progress
6 in implementing the provisions of this section."
7 Sec. 2. This act is effective upon ratification.

DEPARTMENT OF CORRECTION

*Privatization of Alcohol/Drug Detention Centers
Proposal for a Pilot Program*

FINDINGS:

A report to this Commission was directed by Section 121 of Chapter 1066 of the 1989 Session Laws.

RECOMMENDATION:

The Joint Legislative Commission on Governmental Operations recommended that this report be forwarded to the Senate and House Appropriations Committees of the General Assembly for action during the 1991 Session.

A REPORT TO THE JOINT LEGISLATIVE
COMMISSION ON GOVERNMENTAL OPERATIONS

500 BED PRIVATE ALCOHOL/DRUG
DETENTION CENTER(S)

NORTH CAROLINA DEPARTMENT OF CORRECTION

AARON J. JOHNSON, SECRETARY
LATTIE BAKER, JR., ASSISTANT SECRETARY FOR
SUBSTANCE ABUSE SERVICES

JANUARY 1991

PREFACE

This proposal is developed in compliance with a request from the 1990 Session of the North Carolina General Assembly, Short Title: Private Sector Funds/House Bill 2291.

The General Assembly of North Carolina Enacts:

...PRIVATE ALCOHOL AND DRUG ABUSE DETENTION CENTERS

Sec. 121. The Department of Correction shall develop a proposal for a pilot program for contracting with the private sector for one or more privately operated, for-profit or not for-profit detention centers for alcohol and drug abusers with an emphasis on the self-help recovery model. The plan should provide for the private construction, operation, and maintenance of a facility or facilities not to exceed a total of 500 beds and should include considerations of size, level of custody, construction and operation costs, and the possible use of existing buildings. The Department shall submit this proposal to the Joint Legislative Commission on Governmental Operations by January 1, 1991.

This legislative request and the Department of Correction's response/proposal complements State Substance Abuse Plans and has promise for cost efficient and effective impact upon reducing drug related crime and easing the State's prison capacity problems.

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EXECUTIVE SUMMARY

BACKGROUND

Since 1986 the Department of Correction's plan to address prison overcrowding has included (1) expansion of existing prisons; (2) construction of new prisons; and (3) a private contract. The Department has made significant progress to implement expansion of existing prisons; and proposes the construction of new prisons to increase prison capacity to 24,315 beds. In addition to these beds projected admission show 9,500 beds are required to meet population capacity. The use of private vendors in the Department has been restricted. This pilot 500 bed alcohol/drug detention center(s) proposal requires removal of State restrictions which prohibit the Department of Correction contract with a private vendor to design, construct, operate and maintain a specialized correctional facility.

A national correctional strategy has been to allow private firms to operate prison facilities to reduce prison overcrowding. Some 28 states allow private firms to operate private correctional centers. A recent survey by the National Institute of Correction (NIC) predicts that, by 1990, about one dozen secure prisons will be operated by private management.

Several major reports support the Department's proposal for the privatization of specialized alcohol/drug treatment services. The 1987 Legislative Research Commission's "Inmate Substance Abuse Therapy Program", report to the General Assembly of North Carolina, considered including private therapists to meet staffing needs. In March 1990, the North Carolina Drug Cabinet recommended "the Department of Correction should establish a drug treatment program for inmates with substance abuse problems, prior to their release from prison" (Recommendation #33). The 500 Bed Private Detention Center(s) will assist the Department in implementing the five action statements required in this recommendation. North Carolina's Adult Substance Abuse Plan recommends to the Mental Health Commission, expansion of corrections based alcohol/drug treatment programs linked to community based services. A federal drug control strategy supports the expansion of State correctional and criminal justice treatment programs through the "purchase of treatment slots".

The Department of Correction conducted an informal survey through Chambers of Commerce, Boards of Realtors, and County

Mangers to determine the location of existing buildings suitable for a 500 bed detention center, 250 bed detention center or a 100 bed detention center. The survey was conducted in five (5) major geographic areas: (1) Buncombe; (2) Cumberland; (3) Forsyth; (4) Mecklenburg and (5) Wake Counties.

Sufficient numbers of commercial properties and other existing buildings (public and private) are available for conversion and use as a detention center(s). Problems with citing detentions may reduce the number of locations; however, it is apparent that existing structures can and should be considered for detention center(s).

The major cost of privately operated facilities to the Department of Correction is contract and compliance monitoring, and project evaluation. A cost estimate of \$191,819.00 is projected as additional cost to the Department of Correction. Details of these as start-up cost and detail data on these cost are found in the Appendix.

The Department's proposal to develop privately operated alcohol/drug detention centers hold significant promise to favorably impact on prison overcrowding and achieve objectives established by major substance abuse planning entities. Implementation of this proposal would favorably impact upon State strategies to reduce drug related crime and at the same time ease the State's prison capacity problems.

PHILOSOPHY AND PRINCIPLES

The Department of Correction recognizes the impact that the "War on Drug" has upon prison admissions. Prison crowding is fueled by increasing numbers of drug and drug related crimes.

The Department of Correction promotes the belief that the private sector can provide effective and cost efficient, specialized treatment to alcohol/drug offenders in a secure setting. A pilot privatization program in the Department of Correction places the least burden upon current State revenues and allows the Department of Correction to have significant control over design, construction and operation of the proposed center(s). The proposed centers will provide an intermediate level of secure housing and specialized alcohol/drug treatment services. Secure detention alcohol/drug treatment is not available to offenders who have proven they can not benefit from non-secure, community based programs. Generally, these prison admissions are probation and parole revokees or other "low" risk offenders. Detention

facilities will house misdemeanant and felon inmates whose classification and security needs pose a low risk for escapes and are minimal risk to public safety when alcohol/drug free.

It is the Department's belief that in order to achieve the most cost efficient and effectively operated private alcohol/drug detention center(s), the following are critical elements:

Invitation to Bid: Private vendors shall present their interest in this project through a formal response to a State approved Invitation to Bid (ITB) procedure.

Contract Components: A private contract shall consist of four components which define the Department of Correction standards for center (1) design; (2) construction; (3) furnishing, fixtures and equipment; and, (4) facility management services. These services shall be guided by National Correctional Standards, federal, state and local codes and Department of Correction approved policies and procedures.

Compensation/Per Diem Rates: The private facility shall operate at a per day, per inmate cost which is lower than Department of Correction/Division of Prisons cost. Payments to the vendor shall comply with State rules and regulations.

Operation of Facility: The facility must be operated under the strongest measures of accountability. An on site monitor shall provide a review of operations and evaluate contractual compliance. Every effort will be made to maintain a drug free environment for inmates, staff and visitors. Facility operational procedures will be written and shall be consistent with Department of Correction/Division of Prisons policies and procedures.

Employees: At a minimum, the vendors employees must meet the same educational and/or experience requirements as Department employees in comparable positions. The vendor must operate a personnel system which complies with federal and state law and meets Department of Correction approval.

Authority Over Inmates: While the private vendor will assume full responsibility for the security, alcohol/drug treatment programs, and the management of staff, inmates and all activities at the detention center(s); the Department of Correction will retain overall authority over the care, custody and control of the inmate.

Indemnification/Insurance and Defense of Claims: The vendor

shall continuously maintain and pay for such insurance as will protect the vendor and the Department of Correction as a named insured from:

- a. all claims, including death and claims based on violations of civil rights, arising from the services performed under the contract.
- b. all claims arising from the services performed under the contract by vendor; and
- c. actions by a third party against the vendor as a result of the contract.

Alcohol/Drug Treatment Program: The alcohol/drug treatment program must focus on the self help treatment recovery model and comply with Department of Correction administered alcohol/drug treatment program standards.

Access to Privately Operated Facilities: State regulations governing access to State prisons shall govern public access to private facilities. Detainees in treatment shall have access to visitors and others in accordance with concurrent Division of Prisons policies and procedures.

Evaluation, Research and Development: The evaluation must be an ongoing and guiding element in the development, implementation and management of the privately operated facilities. The evaluation of private alcohol/drug treatment programs must include the programs ability to reduce substance abuse related recidivism, decrease criminal activity and enhance the offenders reintegration into the community.

The Department of Correction continues to improve tracking, and data collection to support program effectiveness measures. A number of formal program evaluation activities will be accomplished by the private vendor. Specifically the private vendor will retain records and follow-up to determine the name and number of program participants admitted, and discharged. The reason for discharges other than successful program completion will be recorded. Most important in the evaluation of private programs will be the offenders overall adjustment to confinement and treatment and the program impact upon community reintegration. Successful program performance will be based upon the offenders adjustment to parole supervision, maintenance of employment, family/social adjustments, participation in recovery, self-help and/or other community based programs, drug test results, arrest data and re-incarceration rates for this population vs a non-treated or other program groups.

The Department's research and tracking effort will focus upon achieving overall treatment system improvements from techniques and program strategies which prove their benefit, especially strategies which through research show they impact upon drug use behaviors and the reduction of alcohol/drug related crimes.

DEPARTMENT OF CORRECTION SUBSTANCE ABUSE PLAN

Since 1987 the Department of Correction has made significant progress in developing an comprehensive, cost efficient and effective Drug Alcohol Recovery Treatment (DART) program for prison offenders. Despite these significant efforts, an important gap remains. Treatment "slots" are limited, and only a small fraction of inmates requiring alcohol/drug treatment are admitted to programs before their release from prison. Program expansion is required to meet drug/alcohol treatment for prison inmates court recommended for treatment, and for parolees whose treatment and reintegration needs must continue in local communities and as a relapse and crime prevention strategy.

The Department of Correction, Department of Human Resources and the Crime Commission have included in State plans program measures to expand services to the State's offender population. Significant federal funding may be available to support cooperative, interagency efforts which link correctional, institution based programs with continued treatment, transition and aftercare with local community based public and private treatment providers.

The Department has developed a treatment capacity plan which focuses upon the addition of 500 privately operated alcohol/drug detention center beds. Detention center beds will provide a single program focus on alcohol/drug treatment services. These centers will target treatment services for offenders who are ready for both treatment and community reintegration. Existing and planned DART programs in the Division of Prisons will continue to provide higher custody level inmates with a full array of correctional "habilitation" services, i.e., education, vocational, academic, mental health, AIDS counseling/case management, and other multidisciplinary correctional treatment services. These correctional services including alcohol/drug treatment are long term services beginning at admission and continuing through the offenders period of incarceration. These long term services provide higher custody inmates when coupled with multidisciplinary (co-morbid conditions) resources which are best provided in a designed prison setting. Cost prohibits the privatization of an array of multidisciplinary services.

The Department plans to expand Division of Prisons DART (Drug/Alcohol Recovery Treatment) programs at Wayne Correctional Center, the North Carolina Correctional Institution for Women and the DWI Center at Cherry Hospital, programs for youthful offenders and improve existing drug/alcohol treatment programs and services. These programs will provide alcohol/drug treatment services to inmates with severe criminal histories or multiple driving while impaired convictions. Inmates with multiple incarcerations and repeated criminal involvement will be targeted for prison programs. Prison programs will feature extended alcohol/drug treatment duration.

Department of Correction programs, to include contractual programs, will be oriented toward self help recovery program involvement during incarceration and community reintegration. Alcohol/drug treatment services will be linked with parole, parole supervision and community based counseling and aftercare. The volunteer resources of Alcoholics Anonymous, Narcotics Anonymous and other local alcohol/drug recovery support groups will be utilized. The Department will reserve \$5.00 per day, per inmate assigned to contractual programs. These funds will provide seed funding for community based services for parolees whose ITP (Individual Treatment Plan) requires continued community based treatment. These offenders will be linked with local public and private programs to assure effective community treatment services.

A REPORT TO THE JOINT LEGISLATIVE COMMISSION ON GOVERNMENTAL OPERATIONS

The 1990 Session of the General Assembly requested the Department of Correction submit a proposal to the Joint Legislative Commission of Governmental Operations which describes the development of a pilot program:

"The Department of Correction shall develop a proposal for a pilot program for contracting with the private sector for a privately-operated, for profit or not for-profit detention center or centers for alcohol and drug abusers, with an emphasis on the self-help recovery model."

This plan requires the General Assembly authorize construction by a lease/purchase agreement in an amount not to exceed \$16,181,400.00. Under a lease/purchase agreement the Department anticipates taking title of the facility when lease payment obligations are complete.

The Department proposes the North Carolina General Assembly authorize the Secretary of Correction to contract for up to 500 beds in a privately operated alcohol/drug treatment center(s).

Private vendors would respond to the Department's Invitation to Bid (ITB) or Request for Proposal. The Department would award one or more contracts for the private operation of no more than 500 alcohol/drug detention center(s) beds.

A private vendor would be required to manage the alcohol/drug detention center(s) operations on a 24 hour a day, around the clock operation. Facility maintenance and maintenance of support structures and equipment would be performed at the private vendors expense.

The Department proposes the use of the existing 104 bed dormitory prototypes as a basic design for a detention center(s) unit. The construction of new facilities will incorporate current Division of Prisons construction standards and assure long term utility, capability for conversion to medium or higher custody should future changes in population warrant facility conversion. Consideration will be given to proposals which outline cost for a campus style 500 bed center; the development of two (2) 250 bed alcohol/drug detention centers located in the North Piedmont and South Piedmont geographic areas of the Division of Prisons operational commands; and cost efficient proposals for regional distribution of detention centers in areas of the State having the highest alcohol/drug offender admissions. Counties considered for small detention centers (generally 100 beds) will include Buncombe, Cumberland, Forsyth, Mecklenburg and Wake.

The cost of operations shall be based on a negotiated inmate per day cost. Inmate per day cost shall not exceed the Department of Correction average per day primary housing and alcohol/drug treatment cost for inmates in minimum custody.

The Department has conducted an informal survey of existing buildings which may be converted to detention centers. There are significant numbers of private and public properties which may be converted in the counties previously mentioned.

The report to the General Assembly is divided into three (3) sections:

1. Proposed Legislation
2. Vendor Information
3. Appendix

Annual appropriations in the amount of \$5,105,464.50 for FY 1991-92; and, \$10,210,929.00 for FY 1992-93 is required to support this proposal for 500 Alcohol/Drug Detention Center(s) beds. A 500 bed private facility could serve 1900 inmates during a twelve (12) month operation period and upon legislative authorization and the signing of a contractual agreement, a private detention center(s) could become operational within a minimum period of nine (9) months.

DRAFT

1 A BILL TO BE ENTITLED

2 AN ACT TO AUTHORIZE THE SECRETARY OF CORRECTION TO CONTRACT WITH PRIVATE
3 CORPORATIONS FOR THE HOUSING, CARE, AND MAINTENANCE OF STATE PRISONERS.

4 The General Assembly of North Carolina enacts:

5 Section 1. Chapter 148 of the General Statutes is amended by adding a
6 new article to read:

7 Article 13.

8 Private Prison Contracts.

9 G.S. 148-122. Authority to Contract. Notwithstanding any other provision
10 of law, the Secretary of Correction shall have the authority to contract
11 with private corporations for the housing, care, and maintenance of
12 prisoners committed to the custody of the Department of Correction.

3 G.S. 148-123. Prison Rules and Regulations Applicable. Prisoners housed
4 in privately-operated facilities pursuant to this Article shall remain
5 subject to the rules and regulations adopted for the conduct of persons

16 committed to the state prison system. The rules and regulations regarding
17 good time and gain time, discipline, classification, extension of the limit
18 of confinement, transfers, housing assignments, and eligibility for parole
19 shall apply to inmates housed in such private prison facilities. Private
20 contractors may promulgate such other rules as may be necessary for the
21 operation of the program with the written approval of the Secretary of
22 Correction.

23 G.S. 148-124. Private Contractors Enforcement of Rules. Custodial
24 officials employed by a private firm shall be considered agents of the
25 Secretary of Correction and shall have the authority to use any means
26 necessary to defend themselves, or to enforce the observance of discipline
27 in compliance with the rules, or to secure the person of the offender, or to
28 prevent escape.

29 G.S. 148-25. Inmate Work Requirement. Inmates housed in private
30 facilities pursuant to this Article may be required to perform reasonable
31 work assignments within such facilities. The facility may award gain time
32 to such prisoners as are eligible for gain time within the applicable
33 statutes, rules, and regulations.

34

35 Section 2. G.S. 148-4 is amended by rewriting the two sentences as
36 follows: "The Secretary of Correction shall have control and custody of all
37 prisoners serving sentences in the State Prison System and in
38 privately-operated facilities, and such prisoners shall be subject to all
39 the rules and regulations legally adopted for the government thereof. Any
40 sentence to imprisonment in any unit of the State prison system, or to jail
41 to be assigned to work under the State Department of Correction, shall be

42 construed as a commitment, for such terms of imprisonment as the court may
43 direct, to the custody of the Secretary of Correction or his authorized
44 representative, who shall designate the places of confinement ~~within the~~
45 ~~state/prison/system~~ where the sentences of all such persons shall be
46 served."

7 Section 3. G.S. 148-4 is amended by designating the current language
8 of that section as subsection (a) and by adding a new subsection (b) as
9 follows:

10 "(b) Notwithstanding any other provision of law, the Secretary of
11 Correction shall have the authority to contract with private corporations
12 and entities for the housing, care, and maintenance of prisoners committed
13 to the custody of the Department of Correction."

Section 4. G.S. 148-45 is amended by adding a new subsection as
follows:

"(h) For purposes of this Section, persons housed in privately-operated
facilities pursuant to Article 13 of this Chapter shall be considered
persons in the custody of the Department of Correction."

Section 5. G.S. 14-258.1 is amended by deleting the word "state"
wherever it appears in the first sentence.

61 Section 6. G.S. 14-258.1 is further amended by adding a new subsection
62 , as follows:

63 "(c) The term 'penal institution' as used in this section shall be
64 construed to include private facilities operated in accordance with Article
65 13 of Chapter 148."

66 Section 7. G.S. 14-258.3 is amended by designating the present Section
67 as subsection (a) and by adding a new subsection (b) as follows:

68 "(b) For purposes of this Section, prisoners housed in privately operated
69 facilities pursuant to Article 13 of Chapter 148 shall be considered persons
70 in the custody of the Department of Correction."

71 Section 8. This Act is effective upon ratification.

