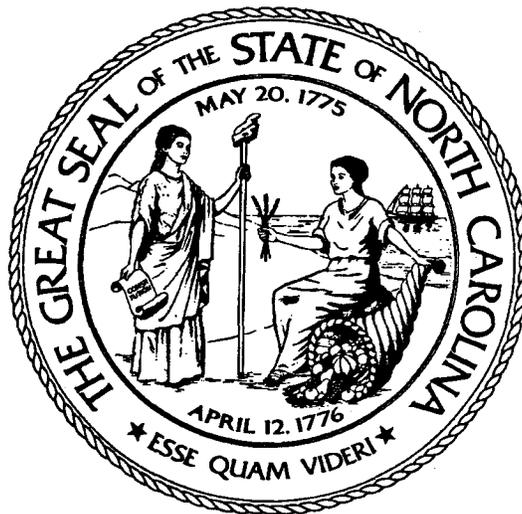


**REPORT OF THE
PROPERTY TAX STUDY COMMISSION**



**REPORT TO THE
1991 GENERAL ASSEMBLY
OF NORTH CAROLINA
1991 SESSION**

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

GEORGE R. HALL, JR.
LEGISLATIVE ADMINISTRATIVE OFFICER
TELEPHONE: (919) 733-7044

GERRY F. COHEN, DIRECTOR
LEGISLATIVE DRAFTING DIVISION
TELEPHONE: (919) 733-6660

THOMAS L. COVINGTON, DIRECTOR
FISCAL RESEARCH DIVISION
TELEPHONE: (919) 733-4910

M. GLENN NEWKIRK, DIRECTOR
LEGISLATIVE AUTOMATED SYSTEMS DIVISION
TELEPHONE: (919) 733-6834



TERRENCE D. SULLIVAN, DIRECTOR
RESEARCH DIVISION
TELEPHONE: (919) 733-2578

MARGARET WEBB
LEGISLATIVE INFORMATION OFFICER
TELEPHONE: (919) 733-4200

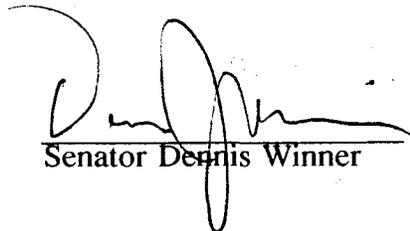
January 17, 1991

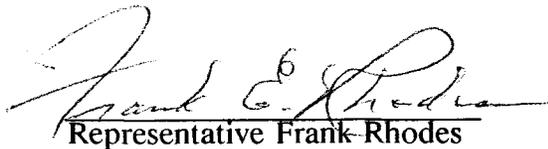
To the President Pro Tempore of the Senate and the Speaker of the House of Representatives and Members of the 1991 General Assembly:

The Property Tax Study Commission submits to you for your consideration its findings, recommendations, and legislative proposals on the property tax system in North Carolina.

The work of the Commission was authorized by Part IX of Senate Bill 231 (Chapter 802 of the 1989 Session Laws) and was performed in accordance with the instructions of that Act.

Respectfully submitted,


Senator Dennis Winner


Representative Frank Rhodes

Cochairs
Property Tax Study Commission

PREFACE

The General Assembly established the Property Tax Study Commission in Senate Bill 231, enacted as Part IX of Chapter 802 of the 1989 Session Laws. The Commission consisted of twenty-two members. The President Pro Tempore of the Senate appointed eight senators and three public members to serve on the Commission. The Speaker of the House appointed eight representatives and three public members to serve on the Commission. Of the six public members, two were county commissioners, one was a county tax official, one was an elected municipal official, and two were citizens representing the public at large. Senator Dennis Winner and Representative Frank Rhodes served as Cochairs of the Commission. Part IX of Chapter 802 is contained in Appendix A and a list of the membership and staff of the Commission is shown in Appendix B.

Chapter 802 instructed the Commission to "make a detailed and comprehensive study of the efficiency, effectiveness, and fairness of the property tax system in North Carolina." Specifically, the act directed the Commission to "examine all classes of property comprising the property tax base; all exemptions, exclusions, and preferential classifications; and the valuation of public service company property to determine whether the property tax system is just and equitable in taxing the citizens of the State." The act also directed the Commission to review current procedures for listing and collecting taxes on property to determine how to increase the efficiency and equity of these procedures and to examine the octennial revaluation system.

Chapter 802 charges the Commission to submit a final written report of its recommendations to the 1991 General Assembly on or before March 1, 1991. A copy of this final report is filed in the Legislative Library. A committee notebook containing the minutes and information presented to the Commission is also filed in the Legislative Library.

COMMISSION PROCEEDINGS AND RECOMMENDATIONS

Introduction

The Property Tax Study Commission met six times during the 1989-90 biennium in Raleigh, North Carolina. Four of the Commission's meetings were held before the 1990 legislative session and the last two were held after that session. The Commission appointed a subcommittee to study the collection of property taxes on motor vehicles and another subcommittee to study the present use value classification system. Both of the subcommittees met twice after the 1990 legislative session. They presented reports and made recommendations to the full Commission at its December 6, 1990, meeting.

The Property Tax System in North Carolina

Most taxpayers know only two things about the property tax system: They receive an abstract in January to list taxes and they receive a tax bill in late summer. The Commission spent a great deal of time learning the more intricate workings of North Carolina's property tax system. William Campbell, on the faculty of the Institute of Government, gave the Commission an overview of the system at its meeting on January 12, 1990. On March 2, 1990, the Commission studied the octennial revaluation system and the valuation of public service company property. The Commission examined the classes of property comprising the property tax base, as well as the current exemptions, exclusions, and preferential classifications, at its meetings on April 6, 1990, and on December 6, 1990. The Commission discussed two proposals making technical changes to the property tax statutes during its meeting on December 6, 1990. The Commission voted to recommend these proposals to the General Assembly as Legislative Proposals 4 and 5 of this report.

-----Property Tax Exemptions and Exclusions

Although the local governments play the dominant and visible role in property tax administration, the General Assembly makes the rules. The North Carolina Constitution requires the General Assembly to classify property for taxation on a state-wide, uniform basis. By statute, all real and personal property within the jurisdiction of the State is subject to taxation unless the General Assembly exempts it or classifies it for preferential treatment.

The Commission learned that the General Assembly, through its classification power, has excluded several kinds of property from taxation in a variety of ways. Some properties, such as money and inventories, are neither listed, appraised, assessed, nor taxed. The General Assembly has also classified property held by a nonprofit homeowners' association as a special class of property and, upon meeting certain conditions, the value of the property may be allocated among the members' property

on a fair and equitable basis. The General Assembly may also exclude property from taxation by lowering its tax rate. For example, property that lies with a roadway corridor is taxable at 20% of the general tax rate levied on other real property.

As a general rule, the law requires property to be assessed at its true value in money. However, in several instances, the General Assembly has classified property as a special class of property and reduced its assessed value for property tax purposes. The lower the property's assessed value, the lower the tax burden borne by that property's owner. The Commission learned that varying the assessed value of property reduces the local governments' tax base. Whenever the tax base is reduced, the tax rate must be increased to raise the necessary revenues. Thus, the net effect of preferential tax treatment is to benefit one class of property at the expense of the other property within the local governments' taxing jurisdiction. The Commission expressed a strong desire to protect the local governments' tax base and to provide a fair and equitable property tax system.

-----Review of Exempt Property

Every owner claiming an exemption or exclusion from property taxes has the burden of establishing that the property is entitled to the benefit. In most instances, the property owner must apply to the property tax assessor for an exemption or exclusion. In some cases, the application must be made on an annual basis. In other cases, once the application has been approved, the taxpayer remains entitled to the tax relief indefinitely. In these cases, the property owner is not required to submit a new application unless:

- (1) New or additional property is acquired or improvements are added or removed necessitating a change in the valuation of the property;
or
- (2) There is a change in the use of the property or the qualifications or eligibility of the taxpayer necessitating a review of the exemption or exclusion.

The Commission heard a presentation from Bart McLean, counsel to the Property Tax Commission, on Church of the Creator, Inc., a case decided by the Property Tax Commission in December of 1989. In that case, the tax assessor decided the Church of the Creator no longer qualified for the "property used for religious purposes" exemption because of facts indicating that the Church was not using the property for religious purposes. The exemption had been granted in 1984. The taxpayer argued that the assessor did not have the authority to terminate the exemption. The Commission held that the assessor did not have the authority to remove a previously granted exemption during the tax year, even if the taxpayer was not entitled to receive the exemption in the first place. To remove a previously granted exemption, the assessor must ask the taxpayer to submit a new application and then deny the application prospectively. However, the assessor cannot require the taxpayer to submit

a new application unless there is some change in either the value of the property or the use of the property.

The Commission studied a proposal that would require the assessor to annually review at least one-eighth of the property exempt or excluded from taxation to verify that the property qualifies for the exemption or exclusion. This proposal is based upon the the annual review the assessor currently makes of one-eighth of the property receiving present use value assessment. In reviewing the property, the assessor may require the owner to submit any information needed to verify that the property continues to qualify for the exemption or exclusion.

The proposal also allows the assessor to discover property that has been granted an exemption or exclusion from taxation but does not qualify for the exemption or exclusion. The assessor will be able to discover the property at any time during the year and the taxes will be due not only for the current year but also for the preceding years, up to five, in which the property did not meet the requirements for exemption or exclusion. The Commission voted to recommend this proposal to the General Assembly as Legislative Proposal 1 of this report.

-----Homestead Exemption

At its last meeting on December 6, 1990, the Commission discussed the property tax exclusion for the elderly, commonly known as the "homestead exemption." Through its classification power, the General Assembly enacted the first homestead exemption in 1972. Appendix D sets out the history of the homestead exemption since its enactment. Under the present law, the first \$12,000 in assessed value of real property owned by a North Carolina resident as his permanent residence will not be assessed for taxation if:

- (1) The owner is either 65 years of age or older or is totally and permanently disabled;
- (2) The owner's disposable income for the preceding calendar year did not exceed \$11,000; and
- (3) The owner makes the required application.

Ernest Messer, a former legislator, addressed the Commission concerning the erosion of the homestead exemption amount. He explained how taxpayers receiving the homestead exemption suffer a disproportionate share of the property tax increase during years of revaluation. The purpose of a revaluation is to determine the true value of the taxable property so that all of the taxpayers are taxed on the same basis. As with all taxpayers, recipients of the homestead exemption experience an upward shift in the value of their property after it is reappraised. However, unlike other taxpayers, recipients of the homestead exemption experience an additional upward shift in the value of their property from the failure to increase the value of the exemption to reflect the inflation in real value. The result is that the amount of tax due from the taxpayer

receiving the homestead exemption increases by a larger percentage than the tax due from the other taxpayers.

Mr. Messer also explained how inflation driven increases in income cause a person to become ineligible for the homestead exemption. The income for many of the recipients of the homestead exemption consist of their social security benefits. The federal government increases the social security amount annually for inflation.

Mr. Messer noted that since the exemption amount and income eligibility limit are fixed by statute, any change to them must be made through a statewide bill enacted by the General Assembly. Since its authorization in 1972, the homestead exemption amount has been amended six times in an attempt to keep the exemption amount in line with inflation. Mr. Messer proposed indexing both the exemption amount and the income eligibility amount. Indexing not only prevents the exemption amount from eroding during periods of economic changes and after revaluations, but also eliminates the need for continuous amendments to the homestead exemption statutes.

The Commission noted that the North Carolina Study Commission on Aging Report to the Governor and the 1991 General Assembly will include a recommendation to index the homestead exemption amount by the same percentage that the appraised value of real property changes during the year of a county's revaluation. The percentage would be based upon the sales assessment ratio studies conducted by the Department of Revenue. The exemption amount would change in a county only when the county reappraises property and the amount of the exemption may vary from county to county. Under this method, the percentage increase in the tax bill received by the homeowner with the homestead exemption equals the percentage increase realized by the homeowner who is not receiving tax relief. The Aging Commission's proposal also recommends that the income eligibility amount be increased annually by the percentage by which the federal government increases social security benefits the preceding year.

The Commission also discussed indexing the exemption amount on a statewide, annual basis by the same percentage that housing costs for all urban consumers increase, with a maximum increase of five percent. Under this method, the amount of tax due from the homeowner receiving tax relief decreases in the years prior to revaluation while the homeowner with no property tax relief pays the same amount. Also, while the amount of tax due in the year of revaluation is less than it would be without indexing, it still reflects some upward shift in the value of the property that is not shared by the homeowners who are not receiving property tax relief. Appendix E illustrates the effect of revaluation on people receiving the homestead exemption and the effects of indexing under both of the methods studied by the Commission.

The Commission studied the fiscal impact of both methods. Current law requires the State to reimburse the local governments for 50% of the amount of revenue lost due

to the homestead exemption. In the 1989-90 fiscal year, this reimbursement to the local governments totalled a little over eight million dollars. Under both of the methods studied by the Commission, the amount of the reimbursement would increase. After much discussion, the Commission decided not to make any recommendation on indexing either the homestead exemption amount or the income eligibility limit.

-----Present Use Value

During the Commission's meeting on April 6, 1990, it discussed the current law allowing present use value taxation for agricultural land, horticultural land, and forestland. Through its classification power, the General Assembly has classified farmland as a special category of property entitled to preferential tax treatment. Property meeting intricate ownership and use requirements may be taxed on its value in its current farm use, as opposed to its "highest and best use."

The Commission appointed a subcommittee to study how a person qualifies for present use value. The subcommittee, chaired by Senator LaFontaine Odom and Mr. Robert Lewis, discussed which owners should be allowed to qualify for the classification and when they should receive it. Throughout its deliberations, the subcommittee recognized the need to balance the benefits of the classification with the need to protect local governments' tax base and tax revenue.

The subcommittee decided not to make any recommendations concerning the ownership requirements for present use value. Under current law, the property must be owned by either a natural person or a family corporation whose principal business is agriculture, horticulture, or forestry. Not only must the land be owned by a natural person or a family corporation, but also it must:

- (1) Be the owner's place of residence; or
- (2) Have been owned by the current owner or a relative of the current owner for the four years preceding January 1 of the year for which the benefit is claimed; or
- (3) Have been appraised at its present use value or eligible for such appraisal at the time title to it passed to the present owner and the present owner must own other property classified at present use value at the time he obtains title.

The subcommittee learned that a person could purchase property from an individual and immediately qualify it for present use value if the property met the ownership requirements, as well as the use requirements, in the hands of the seller. However, a person could purchase the same property from a corporation and not be eligible to immediately qualify it for present use value because the property did not meet the ownership requirements in the hands of the corporation. The subcommittee studied one proposal that would allow someone who owns property appraised at its present use value to acquire additional property and immediately qualify it for present use value if it meets the use requirements. Although the subcommittee agreed with the

concept of the proposal, it decided that the loss in revenue to the local governments outweighed the benefits of the classification in this situation.

Likewise, the subcommittee decided not to take any action on a proposal to allow a person who intends to farm the land to immediately qualify the land for present use value. Presently, the owner must either reside on the land or own it for four years before it can be classified for present use value. Although the subcommittee felt suitable restrictions could be enacted to prevent the possibilities of abuse, it decided the potential revenue loss to the local governments outweighed the benefits of the classification at this time.

The subcommittee also discussed a proposal that would amend the ownership requirements to allow a charitable trust, as well as a natural person or a family corporation whose principal business is agriculture, horticulture, or forestry, to qualify for present use value. The subcommittee debated whether or not the intent of the classification is to preserve farmland or the "family farm". The subcommittee noted that the North Carolina Court of Appeals recently ruled that the intent of the classification was to ease the tax burden on family farmers and thus to encourage their continued farm use of the property. The North Carolina Farm Bureau Federation opposed the proposal on the grounds that it could reopen constitutional questions surrounding the intent of the statutes and the equal protection clauses of the federal and state Constitutions. The subcommittee recognized that the proposal created a situation where a trust benefiting a charitable interest would qualify for the classification, although the property farmed in the hands of the charitable entity itself would not qualify. The subcommittee also felt the proposal would increase the potential for abuse of the classification and would result in a potential revenue loss to the local governments. With these concerns, the subcommittee recommended that the Commission give this proposal an unfavorable recommendation. The Commission voted not to recommend this proposal to the General Assembly.

Under current law, to be eligible for present use value classification, land must be part of a unit that is actively engaged in the commercial production or growing of agricultural, horticultural, or forestry products. The subcommittee spent a great of time reviewing a proposal that defines the term "commercial." The subcommittee decided one indication of a landowner's primary purpose for buying land is the price paid for it. As a general rule, a person intending to use the land for farm production would not pay a large amount of money for the land because the farm production would not provide a large enough return on the investment to pay for the land.

The subcommittee learned that some landowners purchase land for large amounts of money, classify the property for present use value, and then, over a period of years, sell parcels of the land for commercial development. The difference between the true value of the property and the present use value of the property is often quite large. Although the land meets all of the qualifications for present use value, it appears the

landowner's purpose for purchasing the land is long term speculation, not farm production.

The subcommittee realized people may pay a greater price for the land if they want to increase their land holdings in a certain area or if they purchase the land from a relative. With these thoughts in mind, the subcommittee recommended a proposal to the Commission defining the term "commercial". Under the proposal, land purchased at a price that is more than five times, but not more than ten times, the land's present use value is presumed to be purchased for a purpose other than the commercial production or growing of agricultural, horticultural, or forestry products. The presumption may be rebutted by presenting evidence that the land is adjacent to, or in close proximity to, other land owned by the purchaser and classified for present use value. The presumption may also be rebutted by presenting evidence that the land was purchased from a relative. If the price paid for the land is greater than ten times its present use value, the assessor will conclusively presume that the land was purchased for a purpose other than the commercial production or growing of agricultural, horticultural, or forestry products. The Commission voted to recommend the proposal in this report as Legislative Proposal Number 2.

-----Public Service Company Property

In most instances, counties appraise the real and personal property located within their taxing jurisdiction. However, public service company property is appraised on an annual, statewide basis by the Property Tax Division in the Department of Revenue. Bob Underhill, in the Property Tax Division, Department of Revenue, explained how the Division values public service company to the Commission during its March 2, 1990 meeting.

Once the Division appraises the property, it sends the values to the local governments to tax. To ensure that public service companies bear the same percentage of the tax burden as the locally assessed real estate, the local governments adjust the values to correspond with the counties' appraised properties by applying the sales assessment ratio in the year of their revaluation and in the fourth and seventh years thereafter. The sales assessment ratio represents the relationship between the true value of property in a county and its assessed value. The Department conducts the sales assessment study and determines the ratio by comparing property that has recently sold with the county's assessed value for that same property. After the presentation and discussion, the Commission decided the current procedure for valuing public service company property is just and equitable.

Procedures for Listing and Collecting Property Taxes

January 1 may be considered property tax day in North Carolina. That is the day on which the counties determine the ownership, value, and taxability of property. Although the property's value is established on January 1, the fiscal year for which the taxes on it become due begins on the following July 1. Property taxes become due and payable the following September 1 and interest begins to accrue on January 6. As a general rule, the Commission decided that the existing procedures used to list and collect taxes on personal and real property are efficient and equitable.

-----Collection of Motor Vehicle Property Taxes

At its second meeting on January 12, 1990, the Commission heard testimony that local governments lose millions of dollars each year because 10 to 15% of the State's motor vehicles are not listed for property tax purposes. How to recapture this lost revenue has vexed State and local government officials for years. The General Assembly has studied the problem since 1974. Throughout the years, bills representing six different approaches to solving the problem have been discussed:

- (1) Increase the penalty for failure to list;
- (2) Require stickers on motor vehicles verifying that the property taxes have been paid;
- (3) Authorize the Division of Motor Vehicles to collect the tax;
- (4) Authorize local tax collectors to register motor vehicles;
- (5) Tax motor vehicles on a revolving, year-round schedule and disallow renewal of the vehicle's registration for the following year if the taxes remain unpaid; and
- (6) Repeal the property tax on motor vehicles and substitute another revenue source, such as an excise tax on motor vehicles.

After discussing the problem at some length, the Commission appointed a subcommittee to study the issue of the loss in property tax revenue from unlisted motor vehicles and from uncollected taxes on discovered motor vehicles.

The subcommittee, chaired by Senator Robert Shaw and Representative John Kerr, III, investigated the problems of unlisted motor vehicles and uncollected taxes on discovered motor vehicles. It requested the Fiscal Research Division to conduct a study to determine the amount of property tax revenue actually being lost due to failure to list or failure to pay taxes on motor vehicles. Based on this study, the subcommittee learned that approximately \$11.1 million is lost annually due to uncollected taxes on motor vehicles. A copy of the survey results may be found in Appendix F.

The subcommittee focused on two proposals to help counties recover this lost revenue. The first was House Bill 98 from the 1989 Session and the second was a proposal submitted by Representative Robert Brawley. After much deliberation, the subcommittee voted to recommend a modified version of House Bill 98 to the Commission. The subcommittee felt that House Bill 98 is broader and could give more

relief to counties because it addresses undiscovered vehicles as well as discovered vehicles.

House Bill 98 proposed taxing motor vehicles on a revolving, year-round schedule and disallowing renewal of the vehicle's registration for the following year if the taxes remain unpaid. An ad hoc committee involving representatives from the Department of Revenue, the Division of Motor Vehicles, the North Carolina Assessors Association, the Institute of Government, the North Carolina League of Municipalities, and the North Carolina Association of County Commissioners, developed this proposal. After it was introduced, the bill remained in the House Finance Committee and was postponed indefinitely at the end of the 1989-90 session.

The subcommittee updated the proposal and amended it to clarify that registration would not be blocked against an innocent purchaser of a motor vehicle upon which taxes had not been paid. In debating the bill, the subcommittee expressed concern that the complexity of the bill as well as its failure to pass during the 1989-90 biennium could lessen its chance of success in 1991-92. Recognizing the complexity of the bill, the Commission voted to recommend this proposal to the General Assembly as Legislative Proposal 3 of this report. An example of how a motor vehicle would be registered and taxed under Legislative Proposal 3 may be found in Appendix G. Appendix H sets forth a list of the advantages of taxing motor vehicles on a revolving, year-round schedule.

The Octennial Revaluation System

The property tax is the primary source of revenue for local government services. Once a county has established its budget, it sets the tax rate based upon the amount of revenue needed to meet the budget divided by the tax base. The assessed value of the real property located within a county determines the county's tax base. The amount of property tax a person pays is the assessed value of his property multiplied by the tax rate. Ideally, all of the property in a county should be assessed at the same level so that every property owner pays the same percentage of his property's value in property taxes.

To promote a more equitable property tax system, the General Assembly requires every county to revalue property at least once every eight years. The quality of the reappraisal determines the fairness of the tax burden among the property owners in a county. The goal of an octennial revaluation cycle is that all the real property be assessed at its fair market value. William Campbell, with the Institute of Government, spoke briefly on the octennial revaluation cycle at the Commission's January 12, 1990, meeting. William Connolly, with the Property Tax Division, Department of Revenue, explained the octennial revaluation system in great detail at the Commission's March 2, 1990, meeting.

The Commission learned that the county commissioners establish the standards for appraising real property during a revaluation. Although there is a growing trend to conduct the actual valuation of the property in-house, most counties continue to hire an independent appraisal firm. However, as more counties begin to conduct in-house appraisals, not only does the quality of the revaluations improve, but the octennial cycle tends to be shortened.

Shorter revaluation cycles tend to avoid the taxpayer shock suffered with the octennial revaluation cycle. They can also mean more tax revenue for the county, especially in the area of public service company property. Public service company property, like personal property, is appraised annually. Therefore, its value is nearly always its fair market value. However, a county can tax only the portion of the value that coincides with the assessed value of the other county property if the county's sales assessment ratio falls below ninety percent. If the percentage must be applied, it means a decrease in tax revenue to the county.

To conduct an in-house appraisal requires three things: a good property tax mapping system, a computerized appraisal system, and a trained staff. Through the years, the General Assembly has enacted laws to enhance the counties' abilities to meet these requirements. The Commission learned that by 1993, more than 25% of the State's counties will have shortened the period of time between revaluations. As demonstrated by the number of counties conducting more frequent revaluations on their own initiative, the Commission concluded that further legislation in this area is not necessary.

LEGISLATIVE PROPOSALS

The Property Tax Study Commission recommends the following legislation to the 1991 General Assembly. The Commission's legislative proposals consist of five bills. The first two legislative proposals address exemptions and exclusions to the property tax system. Legislative Proposal 1 provides for the systematic review of property exempted or excluded from property taxation and allows property that was erroneously exempted or excluded from property taxation to be treated as discovered property. Legislative Proposal 2 restricts the present use value classification by presuming that property whose purchase price exceeds five times its present use value was bought for a purpose other than the commercial production or growing of agricultural, horticultural, or forestry products, and is thus ineligible for present use value classification. The presumption may be rebutted if the purchase price does not exceed ten times the property's present use value.

Legislative Proposal 3 establishes a more equitable and efficient system for listing and collecting motor vehicle property taxes. It provides for the taxing and listing of motor vehicles on a revolving, year-round schedule. Under the proposal, the Division of Motor Vehicles could not renew the motor vehicle's registration if the taxes on it are not paid.

Legislative Proposals 4 and 5 contain technical changes to the property tax statutes. Legislative Proposal 4 deletes unnecessary language from various statutes. Legislative Proposal 5 consolidates and revises the statutes concerning the Property Tax Commission, repeals unnecessary duties and requirements of the Department of Revenue, and conforms the oaths required by office holders in the Department to the oath required by the Constitution.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

S/H

D

LEGISLATIVE PROPOSAL 1 (PTSC-RB91-106)
THIS IS A DRAFT AND NOT READY FOR INTRODUCTION

Short Title: Review of Exempt Property. (Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR THE SYSTEMATIC REVIEW OF PROPERTY
3 EXEMPTED OR EXCLUDED FROM PROPERTY TAXATION AND TO ALLOW
4 PROPERTY THAT WAS ERRONEOUSLY EXEMPTED OR EXCLUDED TO BE
5 TREATED AS DISCOVERED PROPERTY.
6 The General Assembly of North Carolina enacts:
7 Section 1. G.S. 105-282.1(a) is rewritten to read:
8 "(a) Every owner of property claiming exemption or exclusion
9 from property taxes under the provisions of this Subchapter has
10 the burden of establishing that the property is entitled thereto.
11 Except as provided below, an owner claiming exemption or
12 exclusion shall annually file an application for exemption or
13 exclusion during the listing period. If the property for which
14 the exemption or exclusion is claimed is appraised by the
15 Department of Revenue, the application shall be filed with the
16 Department. Otherwise, the application shall be filed with the
17 assessor of the county in which the property is situated. An
18 application must contain a complete and accurate statement of the
19 facts that entitle the property to the exemption or exclusion and
20 must indicate the municipality, if any, in which the property is
21 located. If the property covered by the application is located
22 within a municipality, that fact shall be shown on the
23 application. Each application filed with the Department of
24 Revenue or an assessor shall be submitted on a form approved by

- 1 the Department. Application forms shall be made available by the
2 assessor and the Department, as appropriate.
- 3 (1) The United States government, the State of North
4 Carolina and the counties and municipalities of the
5 State are exempted from the requirement that owners
6 file applications for exemption.
- 7 (2) Owners of the special classes of property excluded
8 from taxation under G.S. 105-275(5), (15), (16),
9 (26), (31), (33), or (34), or exempted under G.S.
10 105-278.2 are not required to file applications for
11 the exclusion or exemption of that property.
- 12 (3) After an owner of property entitled to exemption
13 under G.S. ~~105-277.1~~, 105-278.3, 105-278.4,
14 105-278.5, 105-278.6, 105-278.7, or 105-278.8 or
15 exclusion under G.S. 105-275(3), (7), ~~(12) or (39)~~
16 (12), or (39), G.S. 105-277.1, or G.S. 105-278 has
17 applied for exemption or exclusion and the
18 exemption or exclusion has been approved, such the
19 owner ~~shall not be~~ is not required to file
20 applications an application in subsequent years
21 except in the following circumstances:
- 22 a. New or additional property is acquired or
23 improvements are added or removed,
24 necessitating a change in the valuation of the
25 property, property; or
- 26 b. There is a change in the use of the property
27 or the qualifications or eligibility of the
28 taxpayer necessitating a review of the
29 exemption, exemption or exclusion.
- 30 (4) After an owner of property entitled to exclusion
31 under G.S. 105-277.10 has applied for the exclusion
32 and the exclusion has been approved, the owner is
33 not required to apply for the exclusion in
34 subsequent years so long as the classified
35 property, including classified property acquired
36 after the application is approved, is used or held
37 for use directly in manufacturing or processing as
38 part of industrial machinery.
- 39 (5) Upon a showing of good cause by the applicant for
40 failure to make a timely application, an
41 application for exemption or exclusion filed after
42 the close of the listing period may be approved by
43 the Department of Revenue, the board of
44 equalization and review, the board of county

1 commissioners, or the governing body of a
2 municipality, as appropriate. An untimely
3 application for exemption or exclusion approved
4 under this subdivision applies only to property
5 taxes levied by the county or municipality in the
6 calendar year in which the untimely application is
7 filed."

8 Sec. 2. G.S. 105-296 is amended by adding a new
9 subsection to read:

10 "(1) The assessor shall annually review at least one-eighth of
11 the parcels in the county exempted or excluded from taxation to
12 verify that these parcels qualify for the exemption or exclusion.
13 By this method, the assessor shall review the eligibility of all
14 parcels exempted or excluded from taxation in an eight-year
15 period. The assessor may require the owner of exempt or excluded
16 property to submit any information needed by the assessor to
17 verify that the property continues to qualify for the exemption
18 or exclusion."

19 Sec. 3. G.S. 105-312(a) is rewritten to read:

20 "(a) Definitions. -- For purposes of this Subchapter:

21 (1) ~~The phrase 'discovered property' shall include~~
22 ~~property that was not listed by the taxpayer or any~~
23 ~~other person during a regular listing period and~~
24 ~~also property that was listed but with regard to~~
25 ~~the value, quantity, or other measurement of which~~
26 ~~the taxpayer made a substantial understatement in~~
27 ~~listing, includes:~~

28 a. Property that was not listed during a listing
29 period.

30 b. Property that was listed but the listing
31 included a substantial understatement.

32 c. Property that has been granted an exemption or
33 exclusion from taxation under an application
34 for exemption or exclusion and does not
35 qualify for the exemption or exclusion.

36 (2) ~~The phrase 'failure to list property' shall include~~
37 ~~both the omission to list property during a regular~~
38 ~~listing period and the taxpayer's substantial~~
39 ~~understatement of value, quantity, or other~~
40 ~~measurement with regard to property listed.~~
41 ~~includes:~~

42 a. Failure to list property during a listing
43 period.

- 1 b. A substantial understatement of listed
2 property.
- 3 c. Failure to notify the assessor that property
4 granted an exemption or exclusion under an
5 application for exemption or exclusion does
6 not qualify for the exemption or exclusion.
- 7 (3) ~~The phrase 'to discover property' shall refer to~~
8 ~~the determination that property has not been listed~~
9 ~~during a regular listing period and to the~~
10 ~~identification of the omitted item. For discoveries~~
11 ~~made after July 1, 1971 and in future years, the~~
12 ~~phrase shall also refer to the determination that~~
13 ~~listed property was returned by the taxpayer with a~~
14 ~~substantial understatement of value, quantity, or~~
15 ~~other measurement. means to determine that:~~
- 16 a. Property has not been listed during a listing
17 period.
- 18 b. A taxpayer made a substantial understatement
19 of listed property.
- 20 c. Property was granted an exemption or exclusion
21 and the property does not qualify for an
22 exemption or exclusion.
- 23 (4) ~~The phrase 'substantial understatement' as used in~~
24 ~~these definitions shall be interpreted to mean~~
25 means ~~the omission of a material portion of the~~
26 ~~value, quantity, or other measurement of taxable~~
27 ~~property; the determination of materiality in each~~
28 ~~case shall be made by the assessor, subject to the~~
29 ~~taxpayer's right to review of the determination by~~
30 ~~the county board of equalization and review or~~
31 ~~board of commissioners and appeal to the Property~~
32 ~~Tax Commission."~~
- 33 Sec. 4. This act is effective upon ratification.
34
35

EXPLANATION OF LEGISLATIVE PROPOSAL 1

Legislative Proposal 1 provides a procedure for the property tax assessor to follow when he decides that property benefitting from an exemption or exclusion does not qualify for the exemption or exclusion.

In most cases, the property owner must apply to the property tax assessor for an exemption or exclusion. For many of the exemptions and exclusions, once the application is approved, the property owner does not need to make a new application until there is some change in either the property or the use of the property. Outside of the limited requirements for a new application, the Machinery Act does not make clear what procedure the assessor should follow when he determines that property receiving an exemption or exclusion does not qualify for it.

The Property Tax Commission addressed an appeal by the Church of the Creator, Inc. in December of 1989. In that case, the tax assessor decided the Church of the Creator did not qualify for the "property used for religious purposes" exemption because the Church did not appear to be using the property for religious purposes. The Commission said the tax assessor did not have the authority to remove a previously granted exemption during the tax year, even if the taxpayer was not entitled to receive the exemption in the first place.

The only statutory procedure for removing a previously granted exemption is G.S. 105-282.1(a)(3). An owner must complete a new application if:

1. New or additional property is acquired; or
2. Improvements are added or removed from the property necessitating a change in value; or
3. There is a change in either the use of the property or the qualifications or the eligibility of the owner.

The Commission said the assessor could require the property owner to complete a new application prior to the listing period for the upcoming tax year under this subsection. However, if the new application is denied, the assessor could not require the owner to pay taxes for the previous years in which it did not qualify for the exemption.

Before a new application can be required under G.S. 105-282.1(a)(3), the property must meet one of the reasons necessitating the filing of a new application. In some cases, where an exemption may have been granted in error, there has not been a change in the facts since the application was approved. It is unclear in these situations whether the assessor can require the owner to submit a new application.

Section 1 explicitly requires the applicant for an exemption or exclusion to make a complete and accurate statement of the facts which entitle the property to the classification. This addition to G.S. 105-282.1(a) will make it easier for the tax assessor to properly classify property. It also makes technical corrections to the subsection.

Section 2 requires the assessor to annually review at least one-eighth of the property exempt or excluded from taxation to verify that the property is entitled to the exemption or exclusion. The assessor may require the owner to submit any information needed to verify that the property continues to qualify for the exemption or exclusion. Currently, the assessor reviews one-eighth of the property receiving present use value assessment to verify its eligibility for the program.

Section 3 adds the necessary definitions to G.S. 105-312 to allow the tax assessor to discover property that has been granted an exemption or exclusion from taxation but does not in fact qualify for the exemption or exclusion. The assessor will be able to discover the property at any time during the year and the taxes will be due for not only the current year but also for the preceding years, up to five, in which the property did not meet the requirements for exemption or exclusion. The assessor must notify the property owner of the discovery and the property owner can appeal the discovery to the local boards and the Property Tax Commission. The discovery provisions allow penalties to be assessed against the property owner. However, the board of county commissioners has the authority to compromise, settle, or adjust the county's claim for taxes.

Section 5 makes this act effective upon ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

S/H

D

LEGISLATIVE PROPOSAL 2 (PTSC-RB91-20)
THIS IS A DRAFT AND NOT READY FOR INTRODUCTION.

Short Title: Refine Use Value Limitations.

(Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE A MECHANISM TO ASSURE THAT ONLY LAND USED
3 EXCLUSIVELY FOR COMMERCIAL FARMING MAY QUALIFY FOR PRESENT USE
4 VALUE TAXATION.
5 The General Assembly of North Carolina enacts:
6 Section 1. G.S. 105-277.2 reads as rewritten:
7 "§ 105-277.2. Agricultural, horticultural and forestland
8 --Definitions.
9 ~~For the purposes of G.S. 105-277.3 through 105-277.7 the~~ The
10 following definitions shall apply: apply in G.S. 105-277.3
11 through 105-277.7:
12 (1) ~~"Agricultural land" means land~~ Agricultural land. --
13 Land that is a part of a farm unit that is actively
14 engaged in the commercial production or growing of
15 crops, plants, or animals under a sound management
16 program. Agricultural land includes woodland and
17 wasteland that is a part of the farm unit, but the
18 woodland and wasteland included in the unit shall be
19 appraised under the use-value schedules as woodland or
20 wasteland. A farm unit may consist of more than one
21 tract of agricultural land, but at least one of the
22 tracts must meet the requirements in G.S.
23 105-277.3(a)(1), and each tract must be under a sound
24 management program.

- 1 (1a) Commercial. -- Reasonably calculated to produce a
2 profit from the sale of agricultural, horticultural,
3 or forestry products. The assessor shall presume that
4 land purchased by the owner or by any prior owner at a
5 price that is more than five times but not more than
6 ten times the present-use value of the land was
7 purchased for a purpose other than the commercial
8 production or growing of agricultural, horticultural,
9 or forestry products. The taxpayer may offer the
10 following evidence to the assessor to rebut this
11 presumption:
12 a. Whether the land purchased is adjacent to, or in
13 close proximity to, land currently owned by the
14 taxpayer and classified for taxation at present use
15 value.
16 b. Whether the taxpayer purchased the land from a
17 relative.
18 The assessor shall conclusively presume that land
19 purchased by the owner or by any prior owner at a
20 price that is more than ten times the present-use
21 value of the land is purchased for a purpose other
22 than the commercial production or growing of
23 agricultural, horticultural, or forestry products, and
24 therefore the land may not qualify for present use
25 value classification.
26 (2) "Forestland" means land Forestland. -- Land that is a
27 part of a forest unit that is actively engaged in the
28 commercial growing of trees under a sound management
29 program. Forestland includes wasteland that is a part
30 of the forest unit, but the wasteland included in the
31 unit shall be appraised under the use-value schedules
32 as wasteland. A forest unit may consist of more than
33 one tract of forestland, but at least one of the
34 tracts must meet the requirements in G.S.
35 105-277.3(a)(3), and each tract must be under a sound
36 management program.
37 (3) "Horticultural land" means land Horticultural land.
38 -- Land that is a part of a horticultural unit that is
39 actively engaged in the commercial production or
40 growing of fruits or vegetables or nursery or floral
41 products under a sound management program.
42 Horticultural land includes woodland and wasteland
43 that is a part of the horticultural unit, but the
44 woodland and wasteland included in the unit shall be

1 appraised under the use-value schedules as woodland or
2 wasteland. A horticultural unit may consist of more
3 than one tract of horticultural land, but at least one
4 of the tracts must meet the requirements in G.S.
5 105-277.3(a)(2), and each tract must be under a sound
6 management program.

7 (4) ~~"Individually owned" means~~ Individually owned. -- Land
8 owned by:

9 a. A natural person; or

10 b. A corporation having as its principal business one
11 of the activities described in subdivisions (1),
12 (2), and (3) and whose shareholders are all natural
13 persons actively engaged in the business of the
14 corporation or a relative of a shareholder who is
15 actively engaged in the business of the
16 corporation.

17 (5) ~~"Present-use value" means the~~ Present-use value. --
18 The value of land in its current use as agricultural
19 land, horticultural land, or forestland, based solely
20 on its ability to produce income, using a rate of nine
21 percent (9%) to capitalize the expected net income of
22 the property and assuming an average level of
23 management.

24 (5a) ~~"Relative" means:~~ Relative. -- A person who is

25 a. ~~Spouse;~~ A spouse;

26 b. A lineal ancestor;

27 c. A lineal descendant;

28 d. A brother or sister, including a stepbrother or
29 stepsister;

30 e. An adopted or adoptive child, parent, grandchild,
31 or grandparent; or

32 f. A spouse of a person listed in paragraphs b.
33 through e.

34 (6) ~~"Sound management program" means a~~ Sound management
35 program. -- A program of production designed to obtain
36 the greatest net return from the land consistent with
37 its conservation and long-term improvement."

38 Sec. 2. The county assessor shall review the land
39 qualified for present-use value prior to the enactment of this
40 act for compliance with the amendment made by Section 1 of this
41 act. If land was purchased after January 1, 1973, and prior to
42 January 1, 1991, at a cost that is more than five times the 1990
43 use value of the land, the assessor shall presume that the land
44 was purchased for a purpose other than the commercial production

1 or growing of agricultural, horticultural, or forestry products
2 and is thus ineligible for present-use value assessment. The
3 taxpayer may rebut the presumption by presenting evidence to the
4 assessor that the land purchased is adjacent to, or in close
5 proximity to, land owned by the taxpayer and classified for
6 taxation at present use value or that the land was purchased from
7 a relative. If the land was acquired at a cost that is more than
8 ten times the 1990 use value of the land, the assessor shall
9 conclusively presume that the land was purchased for a purpose
10 other than the commercial production or growing of agricultural,
11 horticultural, or forestry products and is thus ineligible for
12 present-use value assessment. If property loses its eligibility
13 for present-use value classification because of the amendment
14 made by Section 1 of this act, no deferred taxes are due on the
15 property and the lien for the deferred taxes that would otherwise
16 be payable is extinguished.

17 Sec. 3. This act is effective for taxes imposed for
18 taxable years beginning on or after July 1, 1992.

EXPLANATION OF LEGISLATIVE PROPOSAL 2

Legislative Proposal 2 seeks to lessen the use of present use valuation for land purchased for long term speculation. It does so by presuming that property purchased at a price that exceeds five times its present use value was bought for a purpose other than the commercial production or growing of agricultural, horticultural, or forestry products. Under this presumption, the land would not be eligible for present use value classification. The presumption may be rebutted if the purchase price does not exceed ten times the property's present use value.

One indication of a landowner's primary purpose for buying land is the price paid for the land. As a general rule, a person intending to use the land for agricultural, horticultural, or forestry production would not pay a large amount of money for it because the farm production would not provide a large enough return on the investment to pay for the land. Some landowners purchase land for large amounts of money, classify the property for present use value, and then, over a period of years, sell parcels of the land for commercial development. The difference between the true value of the property and the present use value of the property is often quite large. Although the land meets all of the qualifications for present use value, it appears the landowner's purpose for purchasing the land is long term speculation, not farm production.

Section 1 of the proposal seeks to lessen this type of abuse of the program by presuming that a landowner who paid more than five times but not more than ten times the present use value of the land purchased the land for a reason other than the commercial production or growing of agricultural, horticultural, or forestry products. This presumption may be rebutted by presenting evidence that the land is adjacent to, or in close proximity to, other land owned by the purchaser and classified for present use value. The presumption may also be rebutted by presenting evidence that the land was purchased from a relative. However, the presumption becomes conclusive when the price paid for the land is more than ten times its present use value.

Section 2 requires the county assessor to review the land currently qualified for present use value for compliance with this proposal. Land purchased at a cost that is more than ten times its 1990 use value shall lose its eligibility for present use value assessment. Land purchased at a cost that is more than five times its 1990 use value, but not more than ten times its use value, shall lose its eligibility for present use value assessment unless the taxpayer rebuts the presumption. Property that loses its eligibility for present use value assessment because of the proposal is not subject to deferred taxes and the lien for the deferred taxes is extinguished.

Section 3 makes this act effective for taxes imposed for taxable years beginning on or after July 1, 1991.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

S/H

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LEGISLATIVE PROPOSAL 3 (91-LCX-012(9.19))
THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION.

Short Title: Motor Vehicle Property Tax.

(Public)

Sponsors: .

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR A MORE EFFICIENT AND EQUITABLE PROCEDURE
3 FOR ASSESSING AND COLLECTING LOCAL AD VALOREM PROPERTY TAXES ON
4 CERTAIN MOTOR VEHICLES.
5 The General Assembly of North Carolina enacts:
6 Section 1. Subchapter II of Chapter 105 of the North
7 Carolina General Statutes is amended by adding after Article 22 a
8 new Article to read:
9 "Article 22A.
10 "Motor Vehicles.
11 "§ 105-330. Definitions.
12 The following definitions apply in this Article.
13 (1) Motor vehicle. Defined in G.S. 20-4.01(23).
14 (2) Public service company. Defined in G.S. 105-
15 333(14).
16 "§ 105-330.1. Classification of motor vehicles.
17 All motor vehicles, except (i) manufactured homes and (ii)
18 motor vehicles owned by a public service company or leased by a
19 public service company and included in the company's system
20 property under G.S. 105-335(b)(1), are hereby designated a
21 special class of property under authority of Article V, Sec. 2(2)
22 of the North Carolina Constitution. Motor vehicles so classified
23 shall be known as 'classified motor vehicles.' Classified motor
24 vehicles shall be listed and assessed as provided in this Article

1 and taxes on classified motor vehicles shall be collected as
2 provided in this Article.

3 "§ 105-330.2. Appraisal, ownership, and situs.

4 (a) The value of a classified motor vehicle that is registered
5 shall be determined annually as of January 1 preceding the date a
6 new registration is applied for or the current registration is
7 renewed. If the value of a new motor vehicle cannot be
8 determined as of January 1 preceding the date the new
9 registration is applied for, the value of that vehicle shall be
10 determined for that year as of the first day of the month in
11 which the new registration is applied for. The value of a
12 classified motor vehicle that is unregistered shall be determined
13 as of January 1 of the year in which the motor vehicle is
14 required to be listed pursuant to G.S. 105-330.3(a)(2). The
15 ownership, situs, and taxability of a classified motor vehicle
16 listed pursuant to G.S. 105-330.3(a)(1) shall be determined
17 annually as of the day on which the current vehicle registration
18 is renewed or the day on which a new registration is applied for.
19 The ownership, situs, and taxability of a classified motor
20 vehicle listed or discovered pursuant to G.S. 105-330.3(a)(2)
21 shall be determined as of January 1 of the year in which the
22 motor vehicle is required to be listed.

23 (b) A classified motor vehicle shall be appraised by the
24 assessor at its true value in money as prescribed by G.S. 105-
25 283. The owner of a classified motor vehicle may appeal the
26 appraisal, situs, or taxability of the vehicle in the manner
27 provided by G.S. 105-312(d) for appeals in the case of discovered
28 property. Notwithstanding G.S. 105-312(d), an owner who appeals
29 the listing, valuation, or assessment of a classified motor
30 vehicle shall pay the tax on the vehicle when due, subject to a
31 full or partial refund if the appeal is decided in the owner's
32 favor.

33 (c) The Department of Revenue, acting through the Property Tax
34 Division, and the Department of Transportation, acting through
35 the Division of Motor Vehicles, shall enter into a memorandum of
36 understanding concerning the vehicle identification information,
37 name and address of the owner, and other information that will be
38 required on the motor vehicle registration forms to implement the
39 tax listing and collection provisions of this Article, and this
40 information shall appear on the forms beginning January 1, 1992.

41 "§ 105-330.3. Assessor's duty to list classified motor vehicles;
42 application for exempt status.

43 (a) (1) Registered Vehicles. The assessor shall list,
44 appraise, and assess all taxable classified motor

1 vehicles for county, municipal, and special
2 district taxes each year in the name of the record
3 owner as of the day on which the current vehicle
4 registration is renewed or the day on which a new
5 registration is applied for. The owner of a
6 classified motor vehicle listed pursuant to this
7 subdivision need not list the vehicle as provided
8 in G.S. 105-306; G.S. 105-312 does not apply to
9 classified motor vehicles listed pursuant to this
10 subdivision.

11 (2) Unregistered Vehicles. The owner of a classified
12 motor vehicle who does not register the vehicle or
13 does not renew the registration of the vehicle on
14 or before the expiration date of the current
15 registration shall list the vehicle for taxes by
16 filing an abstract with the assessor of the county
17 in which the vehicle is located on or before
18 January 31 following the date the unregistered
19 vehicle is acquired or, in the case of a
20 registration that is not renewed, January 31
21 following the date the registration expires, and on
22 or before January 31 of each succeeding year that
23 the vehicle is unregistered. If a classified motor
24 vehicle listed pursuant to this section is
25 registered during the calendar year in which it was
26 listed, it shall be taxed for the fiscal year that
27 opens in the calendar year of listing as an
28 unregistered vehicle. A vehicle required to be
29 listed pursuant to this subdivision that is not
30 listed by January 31 shall be subject to discovery
31 pursuant to G.S. 105-312.

32 (b) The owner of a classified motor vehicle who claims an
33 exemption or exclusion from tax under this Subchapter has the
34 burden of establishing that the vehicle is entitled to the
35 exemption or exclusion. The owner may establish prima facie
36 entitlement to exemption or exclusion of the classified motor
37 vehicle by filing an application for exempt status with the
38 assessor. When such an approved application is on file, the
39 assessor shall omit from the tax records all exempt classified
40 motor vehicles registered in the name of the owner.

41 (c) The owner of a classified motor vehicle that has been
42 omitted from the tax records as provided in subsection (b) shall
43 report to the assessor any classified motor vehicle registered in
44 the owner's name or owned by him that does not qualify for

1 exemption or exclusion for the current year. This report shall
2 be made within 30 days after the renewal of registration or
3 initial registration of the vehicle or, for an unregistered
4 vehicle, on or before January 31 of the year in which the vehicle
5 is required to be listed by subdivision (a)(2). A classified
6 motor vehicle that does not qualify for exemption or exclusion
7 but has been omitted from the tax records as provided in
8 subsection (b) is subject to discovery under the provisions of
9 G.S. 105-312, except that in lieu of the penalties prescribed by
10 G.S. 105-312(h) there shall be assessed a penalty of one hundred
11 dollars (\$100.00) for each registration period that elapsed
12 before the disqualification was discovered.

13 (d) The provisions of G.S. 105-282.1 do not apply to
14 classified motor vehicles.

15 "§ 105-330.4. Due date, interest, and enforcement remedies.

16 (a) Taxes on a classified motor vehicle listed pursuant to
17 G.S. 105-330.3(a)(1) shall be due each year on the first day of
18 the fourth month following the date the registration expires or
19 on the first day of the fourth month following the last day of
20 the month in which the new registration is applied for. Taxes on
21 a classified motor vehicle listed pursuant to G.S. 105-
22 330.3(a)(2) shall be due on September 1 following the date by
23 which the vehicle was required to be listed.

24 (b) Subject to the provisions of G.S. 105-395.1, interest on
25 unpaid taxes on classified motor vehicles listed pursuant to G.S.
26 105-330.3(a)(1) accrues at the rate of three-fourths of one
27 percent (3/4%) per month following the date the taxes were due
28 until the taxes are paid. Subject to the provisions of G.S. 105-
29 395.1, interest on delinquent taxes on classified motor vehicles
30 listed pursuant to G.S. 105-330.3(a)(2) accrues as provided in
31 G.S. 105-360(a) and discounts shall be allowed as provided in
32 G.S. 105-360(c).

33 (c) Unpaid taxes on classified motor vehicles may be collected
34 by levying on the motor vehicle taxed or on any other personal
35 property of the taxpayer pursuant to G.S. 105-366 and G.S. 105-
36 367, or by garnishment of the taxpayer's property pursuant to
37 G.S. 105-368. Notwithstanding the provisions of G.S. 105-366(b),
38 the enforcement measures of levy, attachment, and garnishment may
39 be used to collect unpaid taxes on classified motor vehicles
40 listed pursuant to G.S. 105-330.3(a)(1) at any time after
41 interest accrues. Notwithstanding the provisions of G.S. 105-
42 355, taxes on classified motor vehicles do not become a lien on
43 real property owned by the taxpayer.

44 "§ 105-330.5. Listing and collecting procedures.

1 (a) For classified motor vehicles listed pursuant to G.S. 105-
2 330.3(a)(1), upon receiving the registration lists from the
3 Division of Motor Vehicles each month, the assessor shall prepare
4 a tax notice for each vehicle; the tax notice shall contain all
5 county, municipal, and special district taxes due on the motor
6 vehicle. In computing the taxes, the assessor shall appraise the
7 motor vehicle in accordance with G.S. 105-330.2 and shall use the
8 tax rates of the various taxing units in effect on the first day
9 of the month in which the current vehicle registration expired or
10 the new registration was applied for. This procedure shall
11 constitute the listing and assessment of each classified motor
12 vehicle for taxation.

13 (b) For classified motor vehicles listed pursuant to G.S. 105-
14 330.3(a)(2), the assessor shall appraise each vehicle in
15 accordance with G.S. 105-330.2. The assessor shall prepare a tax
16 notice for each vehicle before September 1 following the January
17 31 listing date; the tax notice shall include all county,
18 municipal, and special district taxes due on the motor vehicle.
19 In computing the taxes, the assessor shall use the tax rates of
20 the various taxing units in effect for the fiscal year that
21 begins on July 1 following the January 31 listing date.

22 (c) When the tax notice is prepared, the county tax collector
23 shall mail a copy of the notice, with appropriate instructions
24 for payment, to the motor vehicle owner. The county may retain
25 up to five percent (5%) of municipal and special district taxes
26 collected pursuant to this section as compensation for the cost
27 of collecting the taxes, unless other contractual arrangements
28 for reimbursement of collection costs are in effect. The county
29 finance officer shall establish procedures to ensure that tax
30 payments received pursuant to this section are properly accounted
31 for and taxes due other taxing units are remitted to the units to
32 which they are due no later than thirty days after the date of
33 collection.

34 (d) The county shall include taxes on classified motor
35 vehicles in the tax levy for the fiscal year in which the taxes
36 become due and shall charge the taxes to the tax collector for
37 that year.

38 "§ 105-330.6. Motor vehicle tax year; transfer of plates;
39 surrender of plates.

40 (a) The tax year for a classified motor vehicle listed
41 pursuant to G.S. 105-330.3(a)(1) shall begin on the first day of
42 the first month following the date on which the registration
43 expires or the new registration is applied for and end on the
44 last day of the twelfth month following the date on which the

1 registration expires or the new registration is applied for. The
2 tax year for a classified motor vehicle listed pursuant to G.S.
3 105-330.3(a)(2) shall be the fiscal year that opens in the
4 calendar year in which the vehicle is required to be listed.

5 (b) If the owner of a classified motor vehicle listed pursuant
6 to G.S. 105-330.3(a)(1) transfers the registration plates from
7 the listed vehicle to another classified motor vehicle pursuant
8 to G.S. 20-64 during the listed vehicle's tax year, the vehicle
9 to which the plates are transferred is not required to be listed
10 or taxed until the current registration expires or is renewed.

11 (c) If the owner of a classified motor vehicle listed pursuant
12 to G.S. 105-330.3(a)(1) surrenders the registration plates from
13 the listed vehicle to the Division of Motor Vehicles and at the
14 date of surrender one or more full calendar months remains in the
15 listed vehicle's tax year, the owner may apply for a release or
16 refund of taxes on the vehicle for the full calendar months
17 remaining after surrender. To apply for a release or refund, the
18 owner must present to the county tax collector the certificate
19 received from the Division of Motor Vehicles accepting surrender
20 of the registration plates. The county tax collector shall then
21 multiply the amount of the taxes for the tax year on the vehicle
22 by a fraction, the denominator of which is twelve and the
23 numerator of which is the number of full calendar months
24 remaining in the vehicle's tax year after the date of surrender
25 of the registration plates. The product of the multiplication is
26 the amount of taxes to be released or refunded. If the taxes
27 have not been paid at the date of application, the county tax
28 collector shall make a release of the prorated taxes and credit
29 the owner's tax receipt with the amount of the release. If the
30 taxes have been paid at the date of application, the county tax
31 collector shall direct an order for a refund of the prorated
32 taxes to the county finance officer, and the finance officer
33 shall issue a refund to the vehicle owner.

34 **"§ 105-330.7. List of delinquents sent to Division of Motor**
35 **Vehicles.**

36 On the 10th day of each month the county tax collector shall
37 prepare a list with the name and address of the owner and the
38 vehicle identification number of every classified motor vehicle
39 on which taxes remain unpaid on that date and on which taxes
40 became due on the first day of the fourth month preceding that
41 date. The tax collector shall mail that list to the Division of
42 Motor Vehicles. The list shall be in such form and contain such
43 information as the Division of Motor Vehicles may require.

44 **"§ 105-330.8. Deadlines not extended.**

1 Except as otherwise provided in this Article, the provisions of
2 G.S. 105-395.1 and G.S. 103-5 do not apply to deadlines
3 established in this Article."

4 Sec. 2. Article 22 of Chapter 105 of the General
5 Statutes is amended by adding a new section to read:

6 "§ 105-329. Article inapplicable to classified motor vehicles.

7 The provisions of this article do not apply to the listing,
8 appraisal, and assessment of classified motor vehicles, as
9 defined in G.S. 105-330.1."

10 Sec. 3. G.S. 105-373 is amended by adding a new
11 subsection (h) to read:

12 "(h) Relief from Collecting Taxes on Classified Motor
13 Vehicles. The board of county commissioners may, in its
14 discretion, relieve the tax collector of the charge of taxes on
15 classified motor vehicles that are one year or more past due when
16 it appears to the board that the taxes are uncollectible. This
17 relief, when granted, shall include municipal and special
18 district taxes charged to the collector."

19 Sec. 4. G.S. 20-50.2 is repealed.

20 Sec. 5. Article 3 of Chapter 20 of the General Statutes
21 is amended by adding two new sections to read:

22 "§ 20-50.3. Division to furnish county assessors registration
23 lists.

24 On the 10th day of each month the Division shall send to each
25 county assessor a list of vehicles for which registration was
26 renewed or a new registration was obtained in that county during
27 the second month preceding that date, with the name and address
28 of each vehicle owner.

29 "§ 20-50.4. Division to refuse to register vehicles on which
30 taxes are delinquent.

31 Upon receiving the list of motor vehicle owners and motor
32 vehicles sent by county tax collectors pursuant to G.S. 105-
33 330.7, the Division shall refuse to register for the owner named
34 in the list any vehicle identified in the list until the vehicle
35 owner presents the Division with a paid tax receipt identifying
36 the vehicle for which registration was refused. The Division
37 shall not refuse to register a vehicle for a person, not named in
38 the list, to whom the vehicle has been transferred in good faith.
39 Where a motor vehicle owner named in the list has transferred the
40 registration plates from the motor vehicle identified in the list
41 to another motor vehicle pursuant to G.S. 20-64 during the first
42 vehicle's tax year, the Division shall refuse registration of the
43 second vehicle until the vehicle owner presents the Division with

1 a paid tax receipt identifying the vehicle from which the plates
2 were transferred."

3 Sec. 6. G.S. 20-66(d) reads as rewritten:

4 "(d) The Division may also provide for the issuance of license
5 plates for motor vehicles with the dates of expiration thereof to
6 vary from month to month so as to approximately equalize the
7 number that expire during a registration period of one or two
8 years. ~~the registration year. A person may purchase a license~~
9 ~~plate for a period of two years, but the Division shall not~~
10 ~~solicit, encourage, or require the purchase of a license plate~~
11 ~~for a period of more than one year."~~

12 Sec. 7. G.S. 105-312 reads as rewritten:

13 "§ 105-312. Discovered property; appraisal; penalty.

14 (a) Definitions. -- For purposes of this Subchapter:

- 15 (1) The phrase 'discovered property' shall include
16 property that was not listed by the taxpayer or any
17 other person during a regular listing period and
18 also property that was listed but with regard to
19 the value, quantity, or other measurement of which
20 the taxpayer made a substantial understatement in
21 listing.
- 22 (2) The phrase 'failure to list property' shall include
23 both the omission to list property during a regular
24 listing period and the taxpayer's substantial
25 understatement of value, quantity, or other
26 measurement with regard to property listed.
- 27 (3) The phrase 'to discover property' shall refer to
28 the determination that property has not been listed
29 during a regular listing period and to the
30 identification of the omitted item. For discoveries
31 made after July 1, 1971 and in future years, the
32 phrase shall also refer to the determination that
33 listed property was returned by the taxpayer with a
34 substantial understatement of value, quantity, or
35 other measurement.
- 36 (4) The phrase 'substantial understatement' as used in
37 these definitions shall be interpreted to mean the
38 omission of a material portion of the value,
39 quantity, or other measurement of taxable property;
40 the determination of materiality in each case shall
41 be made by the assessor, subject to the taxpayer's
42 right to review of the determination by the county
43 board of equalization and review or board of

1 commissioners and appeal to the Property Tax
2 Commission.

3 (b) Duty to Discover and Assess Unlisted Property. -- It shall
4 be the duty of the assessor to see that all property not properly
5 listed during the regular listing period be listed, assessed and
6 taxed as provided in this Subchapter. The assessor shall file
7 reports of such discoveries with the board of commissioners in
8 such manner as the board may require.

9 (c) Carrying Forward Real Property. -- At the close of the
10 regular listing period each year, the assessor shall compare the
11 tax lists submitted during the listing period just ended with the
12 lists for the preceding year, and he shall carry forward to the
13 lists of the current year all real property that was listed in
14 the preceding year but that was not listed for the current year.
15 When carried forward, the real property shall be listed in the
16 name of the taxpayer who listed it in the preceding year unless,
17 under the provisions of G.S. 105-302, it must be listed in the
18 name of another taxpayer. Real property carried forward in this
19 manner shall be deemed to be discovered property, and the
20 procedures prescribed in subsection (d), below, shall be followed
21 unless the property discovered is listed in the name of the
22 taxpayer who listed it for the preceding year and the property is
23 not subject to appraisal under either G.S. 105-286 or G.S.
24 105-287 in which case no notice of the listing and valuation need
25 be sent to the taxpayer.

26 (d) Procedure for Listing, Appraising, and Assessing Discovered
27 Property. -- Subject to the provisions of subsection (c), above,
28 and the presumptions established by subsection (f), below,
29 discovered property shall be listed by the assessor in the name
30 of the person required by G.S. 105-302 or G.S. 105-306. The
31 discovery shall be deemed to be made on the date that the
32 abstract is made or corrected pursuant to subsection (e) of this
33 section. The assessor shall also make a tentative appraisal of
34 the discovered property in accordance with the best information
35 available to him.

36 When a discovery is made, the assessor shall mail a notice to
37 the person in whose name the discovered property has been listed.
38 The notice shall contain the following information:

- 39 (1) The name and address of the person in whose name
40 the property is listed;
41 (2) A brief description of the property;
42 (3) A tentative appraisal of the property;
43 (4) A statement to the effect that the listing and
44 appraisal will become final unless written

1 exception thereto is filed with the assessor within
2 30 days from date of the notice.

3 Upon receipt of a timely exception to the notice of discovery,
4 the assessor shall arrange a conference with the taxpayer to
5 afford him the opportunity to present any evidence or argument he
6 may have regarding the discovery. Within 15 days after the
7 conference, the assessor shall give written notice to the
8 taxpayer of his final decision. Written notice shall not be
9 required, however, if the taxpayer signs an agreement accepting
10 the listing and appraisal. In cases in which agreement is not
11 reached, the taxpayer shall have 15 days from the date of the
12 notice to request review of the decision of the assessor by the
13 board of equalization and review or, if that board is not in
14 session, by the board of commissioners. Unless the request for
15 review by the county board is given at the conference, it shall
16 be made in writing to the assessor. Upon receipt of a timely
17 request for review, the provisions of G.S. 105-322 or G.S.
18 105-325, as appropriate, shall be followed.

19 (e) Record of Discovered Property. -- When property is
20 discovered, the taxpayer's original abstract (if one was
21 submitted) may be corrected or a new abstract may be prepared to
22 reflect the discovery. If a new abstract is prepared, it may be
23 filed with the abstracts that were submitted during the regular
24 listing period, or it may be filed separately with abstracts
25 designated "Late Listings." Regardless of how filed, the listing
26 shall have the same force and effect as if it had been submitted
27 during the regular listing period.

28 (f) Presumptions. -- When property is discovered and listed to
29 a taxpayer in any year, it shall be presumed that it should have
30 been listed by the same taxpayer for the preceding five years
31 unless the taxpayer shall produce satisfactory evidence that the
32 property was not in existence, that it was actually listed for
33 taxation, or that it was not his duty to list the property during
34 those years or some of them under the provisions of G.S. 105-302
35 and G.S. 105-306. If it is shown that the property should have
36 been listed by some other taxpayer during some or all of the
37 preceding years, the property shall be listed in the name of the
38 appropriate taxpayer for the proper years, but the discovery
39 shall still be deemed to have been made as of the date that the
40 assessor first listed it.

41 (g) Taxation of Discovered Property. -- When property is
42 discovered, it shall be taxed for the year in which discovered
43 and for any of the preceding five years during which it escaped
44 taxation in accordance with the assessed value it should have

1 been assigned in each of the years for which it is to be taxed
2 and the rate of tax imposed in each such year. The penalties
3 prescribed by ~~subsections (h) and (h1)~~ subsection (h) of this
4 section shall be computed and imposed regardless of the name in
5 which the discovered property is listed. If the discovery is
6 based upon an understatement of value, quantity, or other
7 measurement rather than an omission from the tax list, the tax
8 shall be computed on the additional valuation fixed upon the
9 property, and the penalties prescribed by ~~subsections (h) and~~
10 ~~(h1)~~ subsection (h) of this section shall be computed on the
11 basis of the additional tax.

12 (h) Computation of Penalties. -- Having computed each year's
13 taxes separately as provided in subsection (g), above, there
14 shall be added a penalty of ten percent (10%) of the amount of
15 the tax for the earliest year in which the property was not
16 listed, plus an additional ten percent (10%) of the same amount
17 for each subsequent listing period that elapsed before the
18 property was discovered. This penalty shall be computed
19 separately for each year in which a failure to list occurred; and
20 the year, the amount of the tax for that year, and the total of
21 penalties for failure to list in that year ~~including any penalty~~
22 ~~imposed under subsection (h1) of this section~~ shall be shown
23 separately on the tax records; but the taxes and penalties for
24 all years in which there was a failure to list shall be then
25 totalled on a single tax receipt.

26 ~~(h1) If the discovered property is a motor vehicle and the~~
27 ~~county assessor determines from records of the Division of Motor~~
28 ~~vehicles that the owner of the vehicle falsely certified that he~~
29 ~~listed the vehicle for property taxes in violation of G.S.~~
30 ~~20-50.2(a)(1), the county assessor shall add a penalty of \$100.00~~
31 ~~for failure to list that vehicle in that county, which penalty~~
32 ~~shall be in addition to the penalties imposed by subsection (h).~~
33 ~~This penalty shall be imposed only for the year in which the~~
34 ~~discovery is made, regardless of the number of listing periods~~
35 ~~that elapsed before the motor vehicle was discovered, and~~
36 ~~regardless of whether the owner of the vehicle falsely certified~~
37 ~~that he paid taxes on the vehicle in previous years. The civil~~
38 ~~penalty in this subsection shall not be imposed if the owner of~~
39 ~~the vehicle has been criminally punished under G.S. 20-50.2(c)~~
40 ~~with regard to the same failure to list.~~

41 (i) Collection. -- For purposes of tax collection and
42 foreclosure, the total figure obtained and recorded as provided
43 in ~~subsections (h) and (h1)~~ subsection (h) of this section shall
44 be deemed to be a tax for the fiscal year beginning on July 1 of

1 the calendar year in which the property was discovered. The
2 schedule of discounts for prepayment and interest for late
3 payment applicable to taxes for the fiscal year referred to in
4 the preceding sentence shall apply when the total figure on the
5 single tax receipt is paid. Notwithstanding the time limitations
6 contained in G.S. 105-381, any property owner who is required to
7 pay taxes on discovered property as herein provided shall be
8 entitled to a refund of any taxes erroneously paid on the same
9 property to other taxing jurisdictions in North Carolina. Claim
10 for refund shall be filed in the county where such tax was
11 erroneously paid as provided by G.S. 105-381.

12 (j) Tax Receipts Charged to Collector. -- Tax receipts
13 prepared as required by subsections ~~(h), (h1)~~, (h) and (i) of
14 this section for the taxes and penalties imposed upon discovered
15 property shall be delivered to the tax collector, and he shall be
16 charged with their collection. Such receipts shall have the same
17 force and effect as if they had been delivered to the collector
18 at the time of the delivery of the regular tax receipts for the
19 current year, and the taxes charged in the receipts shall be a
20 lien upon the property in accordance with the provisions of G.S.
21 105-355.

22 (k) Power to Compromise. -- After a tax receipt computed and
23 prepared as required by subsections ~~(g), (h), and (h1)~~ (g) and
24 (h) of this section has been delivered and charged to the tax
25 collector as prescribed in subsection (j), above, the board of
26 county commissioners, upon the petition of the taxpayer, may
27 compromise, settle, or adjust the county's claim for taxes
28 arising therefrom. The board of commissioners may, by
29 resolution, delegate the authority granted by this subsection to
30 the board of equalization and review, including any board created
31 by resolution pursuant to G.S. 105-322(a) and any special board
32 established by local act.

33 ~~(l) Except for the provision in subsection (h1) which imposes~~
34 ~~an additional penalty for false certification of motor-vehicle~~
35 ~~listing, the Municipal Corporations. The provisions of this~~
36 section shall apply to all cities, towns, and other municipal
37 corporations having the power to tax property. Such governmental
38 units shall designate an appropriate municipal officer to
39 exercise the powers and duties assigned by this section to the
40 assessor, and the powers and duties assigned to the board of
41 county commissioners shall be exercised by the governing body of
42 the unit. When the assessor discovers property having a taxable
43 situs in a municipal corporation, he shall send a copy of the
44 notice of discovery required by subsection (d) to the governing

1 body of the municipality together with such other information as
2 may be necessary to enable the municipality to proceed. The
3 governing board of a municipality may, by resolution, delegate
4 the power to compromise, settle, or adjust tax claims granted by
5 this subsection and by subsection (k) of this section to the
6 county board of equalization and review, including any board
7 created by resolution pursuant to G.S. 105-322(a) and any special
8 board established by local act."

9 Sec. 8. This act does not affect the rights or
10 liabilities of the State, a taxpayer, or other person arising
11 under a statute amended or repealed by this act before its
12 amendment or repeal; nor does it affect the right to any refund
13 or credit of a tax that would otherwise have been available under
14 the amended or repealed statute before its amendment or repeal.

15 Sec. 9. This act shall become effective January 1,
16 1992, and shall first apply to the taxation of classified motor
17 vehicles for the fiscal year beginning July 1, 1992.

EXPLANATION OF LEGISLATIVE PROPOSAL 3

Legislative Proposal 3 provides a new system for collecting property taxes on motor vehicles, to become effective January 1, 1992. Under this system, all motor vehicles except manufactured homes and public service company vehicles are classified for listing, assessment, and taxation separately from other classes of property (Section 1, § 105-330.1). For motor vehicles that are not registered or for which the registration is not renewed when it expires, the owner has the duty of listing the vehicle during the normal listing period and paying taxes on the same schedule as for other property (Section 1, §§ 105-330.3(a)(2); 105-330.4; 105-330.5(b)). For registered motor vehicles, the taxes will be paid on a revolving year-round schedule.

Every month, the Division of Motor Vehicles will give every county a list of all the motor vehicles in the county for which registration was renewed or obtained two months earlier (Section 5, § 20-50.4). The county will then list and appraise the vehicles and bill the owners of the vehicles for the county, municipal, and special district property taxes due (Section 1, §§ 105-330.3(a); 105-330.5(a)). The tax will be levied at the rates in effect during the month that the registration expired or was first obtained and the vehicle will be appraised by the county assessor as of January 1 preceding the registration date (Section 1, §§ 105-330.2; 105-330.5(a)). Taxes are due four months after the registration was obtained or renewed (Section 1, § 105-330.4(a)).

A motor vehicle owner who does not pay the taxes will be liable for interest at the rate of 3/4% per month (Section 1, § 105-330.4(b)). Unpaid taxes may be collected by levying on the motor vehicle or other personal property of the owner, but they do not become a lien on the owner's real property (Section 1, § 105-330.4(c)). The requirement that the owner certify on the registration that taxes have been paid and the \$100 penalty for false certification will be repealed (Sections 4 & 7).

If the taxes remain unpaid for more than four months after they become due, the county will include the motor vehicle on a list to be mailed to the Division of Motor Vehicles (Section 1, § 105-330.7). The Division will then refuse to renew the vehicle's registration the following year unless the taxpayer obtains a receipt showing that the previous year's taxes have been paid (Section 5, § 20-50.4).

For registered motor vehicles, the tax year runs from the first month after the registration is obtained or renewed. If an owner transfers the registration plates from one vehicle to another during the tax year, the second vehicle is not taxed until the end of the first vehicle's tax year (Section 1, § 105-330.6). The taxes must be paid on the first vehicle, however, before the registration can be renewed for the second vehicle (Section 5, § 20-50.4). If a taxpayer surrenders a vehicle's tags before the end of the tax year, the taxpayer can obtain a release or refund of the rest of that year's taxes (Section 1, § 105-330.6).

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

S/H

D

LEGISLATIVE PROPOSAL 4 (PTSC-RB91-12)
THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION.

Short Title: Property Tax Technical Changes.

(Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE TECHNICAL CHANGES TO THE PROPERTY TAX STATUTES.
3 The General Assembly of North Carolina enacts:
4 Section 1. G.S. 105-272 reads as rewritten:
5 "§ 105-272. Purpose of Subchapter. The purpose of this Subchapter
6 ~~(being G.S. 105-271 through 105-395, inclusive)~~ is to provide the
7 machinery for the listing, appraisal, and assessment of property
8 and the levy and collection of taxes on property by counties and
9 municipalities. It is the intent of the General Assembly to make
10 the provisions of this Subchapter uniformly applicable throughout
11 the State, and to assure this objective no local act to become
12 effective on or after July 1, 1971, shall be construed to repeal
13 or amend any section of this Subchapter in whole or in part
14 unless it shall expressly so provide by specific reference to the
15 section to be repealed or amended. As used in this section, the
16 term 'local act' means any act of the General Assembly that
17 applies to one or more counties by name, to one or more
18 municipalities by name, or to all municipalities within one or
19 more named counties."
20 Sec. 2. G.S. 159-55(a)(4) reads as rewritten:
21 "(4) The appraised value of property subject to taxation by the
22 ~~issuing unit before the application of any assessment ratio.~~
23 unit. The appraised value of property is its true value in money
24 as defined in G.S. 105-283 and revealed by the county tax records

1 and certified to the issuing unit by the county tax supervisor.
2 ~~The appraised value of property subject to taxation by the~~
3 ~~issuing unit is the value from which the assessed value last~~
4 ~~fixed for taxation by the issuing unit was computed, as revealed~~
5 ~~by the county tax records and certified to the issuing unit by~~
6 ~~the county tax supervisor."~~

7 Sec. 3. G.S. 159-55(c) reads as rewritten:

8 "(c) No bond order shall be adopted unless it appears from the
9 sworn statement of debt filed in connection therewith that the
10 net debt of the unit does not exceed eight percent (8%) of the
11 appraised value of property subject to taxation by the issuing
12 ~~unit before the application of any assessment ratio as determined~~
13 ~~under subsection (a)(4) of this section.~~ unit. This limitation
14 shall not apply to:

- 15 (1) Funding and refunding bonds.
- 16 (2) Bonds issued for water, gas, or electric power purposes,
17 or two or more of these purposes.
- 18 (3) Bonds issued for sanitary sewer system purposes when the
19 bonds are deductible pursuant to subsection (b) of this
20 section.
- 21 (4) Bonds issued for sanitary sewers, sewage disposal, or
22 sewage purification plants when the construction of these
23 facilities has been ordered by the Environmental
24 Management Commission, which Commission is hereby
25 authorized to make such an order, or by a court of
26 competent jurisdiction.
- 27 (5) Bonds or notes issued for erosion control purposes.
- 28 (6) Bonds or notes issued for the purpose of erecting jetties
29 or other protective works to prevent encroachment by the
30 ocean, sounds, or other bodies of water."

31 Sec. 4. G.S. 159-148(a)(3) reads as rewritten:

32 "(3) Obligates the unit over the full term of the
33 contract, including periods that may be added to
34 the original term through the exercise of options
35 to renew or extend, to the extent of five hundred
36 thousand dollars (\$500,000) or a sum equal to one
37 tenth of one percent (1/10 of 1%) of the appraised
38 value of property subject to taxation by the
39 contracting unit ~~(before the application of any~~
40 ~~assessment ratio),~~ unit, whichever is less, and"

41 Sec. 5. G.S. 159-150 reads as rewritten:

42 "§ 159-150. Sworn statement of debt; debt limitation. After or at
43 the time an application is filed under G.S. 159-149, the finance
44 officer, or some other officer designated by the board, shall

1 prepare, swear to, and file with the secretary and for public
2 inspection in the office of the clerk to the board a statement of
3 debt in the same form prescribed in G.S. 159-55 for statements of
4 debt filed in connection with general obligation bond issues. The
5 sums to be included in gross debt and the deductions therefrom to
6 arrive at net debt shall be the same as prescribed in G.S.
7 159-55, except that sums to fall due under contracts subject to
8 this Article shall be treated as if they were evidenced by
9 general obligation bonds of the unit.

10 No contract subject to this Article may be executed if the net
11 debt of the contracting unit, after execution of the contract,
12 would exceed eight percent (8%) of the appraised value of
13 property subject to taxation by the contracting unit ~~before the~~
14 ~~application of any assessment ratio.~~ unit."

15 Sec. 6. This act is effective upon ratification.

EXPLANATION OF LEGISLATIVE PROPOSAL 4

Legislative Proposal 4 deletes an unnecessary and inaccurate parenthetical in G.S. 105-272. It also deletes obsolete references to the effective property tax rate.

Since 1974, local governments have been required to assess property for taxation at the property's market value. Before then, property could be assessed at a percentage of its market value. In calculating the debt of a county for the purposes of bonds and contracts, the Local Government Bond Act still refers to the appraised value of property subject to taxation before the application of any assessment ratio. **Sections 2 through 5** delete references to the pre-1974 assessment ratios in this Act.

Section 6 makes this act effective upon ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

S/H

D

LEGISLATIVE PROPOSAL 5 (PTSC-RB91-16)
THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION.

Short Title: Consolidate Property Tax Comn. Statutes. (Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO CONSOLIDATE AND REVISE STATUTES CONCERNING THE PROPERTY
3 TAX COMMISSION, TO REPEAL UNNECESSARY DUTIES OF THE DEPARTMENT
4 OF REVENUE, TO REPEAL THE REQUIREMENT THAT ALL OF THE EMPLOYEES
5 IN THE DEPARTMENT OF REVENUE TAKE AN OATH, AND TO CONFORM THE
6 OATHS REQUIRED BY THE OFFICE HOLDERS IN THE DEPARTMENT OF
7 REVENUE TO THE OATH REQUIRED BY THE CONSTITUTION.
8 The General Assembly of North Carolina enacts:
9 Section 1. G.S. 105-288 reads as rewritten:
10 "~~§ 105-288. Functions of Department and Property Tax Commission;~~
11 ~~oath; expenses. Commission.~~
12 (a) Creation and Membership. -- The Property Tax Commission
13 is created. It consist of five members, three of whom are
14 appointed by the Governor and two of whom are appointed by the
15 General Assembly. Of the two appointments by the General
16 Assembly, one shall be made upon the recommendation of the
17 Speaker of the House of Representatives and the other shall be
18 made upon the recommendation of the President of the Senate. The
19 terms of the members appointed by the Governor and of the member
20 appointed upon the recommendation of the President of the Senate
21 are for four years. Of the members appointed for four year
22 terms, two expire on June 30 of each odd number year. The term
23 of the member appointed upon the recommendation of the Speaker of
24 the House of Representatives is for two years and it expires on

1 June 30 of each odd number year. The General Assembly shall make
2 its appointments in accordance with G.S. 120-121 and shall fill a
3 vacancy in accordance with G.S. 120-122. A vacancy occurs on the
4 Commission when a member resigns, is removed, or dies. The
5 person appointed to fill a vacancy shall serve for the balance of
6 the unexpired term. The Governor may remove any member for
7 misfeasance, malfeasance, or nonfeasance.

8 The Commission shall have a Chair and a Vice-Chair. The
9 Governor shall designate one of the Commission members as the
10 Chair, to serve at the pleasure of the Governor. The members of
11 the Commission shall elect a Vice-Chair from the among its
12 membership. The Vice-chair serves until the member's regularly
13 appointed term expires.

14 ~~Duties of the Department of Revenue:~~

15 ~~— (1) The Department shall exercise general and specific~~
16 ~~supervision over the valuation and taxation of property by~~
17 ~~counties and municipalities throughout the State.~~

18 ~~— (2) The Department is responsible for appraising the property~~
19 ~~of public service companies as defined in G.S. 105-333.~~

20 (b) Duties. -- The Property Tax Commission constitutes the
21 State board of equalization and review for the valuation and
22 taxation of property in the State. It shall hear appeals from
23 the appraisal and assessment of the property of public service
24 companies as defined in G.S. 105-333. The Commission may adopt
25 rules needed to fulfill its duties.

26 ~~Duties of the Property Tax Commission:~~

27 ~~— (1) The Commission is constituted as the State board of~~
28 ~~equalization and review for the valuation and taxation of~~
29 ~~property in the State.~~

30 ~~— (2) The Commission shall hear appeals from the appraisal and~~
31 ~~assessment of the property of public service companies as defined~~
32 ~~in G.S. 105-333.~~

33 (c) Oath. -- Each member of the Property Tax Commission, as
34 the appointed holder of an office, shall take the oath required
35 by Article VI, § 7 of the North Carolina Constitution with the
36 following sentence added to it: 'That I will not allow my
37 actions as a member of the Property Tax Commission to be
38 influenced by personal or political friendships or obligations'.
39 the Secretary of Revenue, and the employees of the Department
40 assigned duties and responsibilities enumerated in this Chapter
41 shall take and subscribe the oath set up below and file it with
42 the Secretary of State:

43 I,, do solemnly swear, or affirm, that I
44 will support and maintain the Constitution and laws of the United

1 ~~States, and the Constitution and laws of North Carolina not~~
2 ~~inconsistent therewith, and that I will faithfully discharge the~~
3 ~~duties of my office and that I will not allow my actions in such~~
4 ~~office to be influenced by personal or political friendships or~~
5 ~~obligations, so help me, God.~~

6

7

8

Signature

9 (d) Expenses. -- The members of the Property Tax Commission
10 shall receive travel and subsistence expenses in accordance with
11 G.S. 138-5 and a salary of two hundred dollars (\$200.00) a day
12 when hearing cases. The Secretary of Revenue shall supply all
13 the clerical and other services required by the Commission. All
14 expenses of the Commission, Commission and the Department of
15 Revenue in performing the duties enumerated in this Article shall
16 be paid from funds appropriated out of revenue derived from the
17 tax on intangible personal property as provided by G.S. 105-213.

18 (e) Meetings. -- The Property Tax Commission shall meet at
19 least once in each quarter and may hold special meetings at any
20 time and place within the State at the call of the Chair or upon
21 the written request of at least three members. At least 15 days'
22 notice shall be given to each member with respect to each special
23 meeting. A majority of the Commission members constitutes a
24 quorum for the transaction of business."

25 Sec. 2. G.S. 105-289(a) reads as rewritten:

26 "(a) It shall be the duty of the Department of Revenue:

27 (1) To discharge the duties prescribed by law and to
28 ~~take such action and to do such things as may be~~
29 ~~needful and proper~~ to enforce the provisions of
30 this Subchapter.

31 (2) To exercise general and specific supervision over
32 the valuation and taxation of property by counties
33 and municipalities throughout the State. ~~To report~~
34 ~~in reasonably durable form to the General Assembly~~
35 ~~at each regular session or at such other times as~~
36 ~~the General Assembly may direct:~~

37 a. ~~The proceedings of the Property Tax Commission~~
38 ~~during the preceding biennium.~~

39 b. ~~Recommendations concerning revision of this~~
40 ~~Subchapter and information concerning the~~
41 ~~public revenues that may be required by the~~
42 ~~General Assembly or that the Commission deems~~
43 ~~expedient and wise.~~

- 1 (3) ~~To appraise the property of public service~~
2 ~~companies. To report to the Governor on or before~~
3 ~~the first day of January each year:~~
4 ~~a. The proceedings of the Commission during the~~
5 ~~preceding year.~~
6 ~~b. Any recommendations the Commission desires to~~
7 ~~submit with respect to any matter relating to~~
8 ~~this Subchapter.~~
9 (4) To keep full and accurate records of the
10 Commission's official proceedings.
11 (5) To prepare and distribute annually to each assessor
12 a manual that establishes five expected net income
13 per acre ranges for agricultural land,
14 horticultural land, and forestland, and establishes
15 a method for appraising nonproductive land as a
16 percentage of the lowest use-value established for
17 productive land. The high and low net income amount
18 in each range may differ by no more than fifteen
19 dollars (\$15.00). The basis for establishing each
20 range shall be soil productivity.
21 For agricultural land, the expected net income
22 per acre ranges shall be based on the actual
23 yields and prices of corn and soybeans over a
24 period of at least the five previous years,
25 and the actual fixed and variable costs,
26 including an imputed management cost, incurred
27 in growing corn and soybeans over the same
28 period of time. The manual shall contain
29 recommended adjustments to the net income per
30 acre ranges for the growing of crops subject
31 to acreage or poundage allotments.
32 Expected net income per acre ranges shall be
33 similarly established for horticultural land
34 and forestland, using typical horticultural or
35 forest products in various growing regions of
36 the State instead of corn and soybeans.
37 (6) To establish requirements for horticultural land,
38 used to produce evergreens intended for use as
39 Christmas trees, in lieu of a gross income
40 requirement until evergreens are harvested from the
41 land, and to establish a gross income requirement
42 for this type horticultural land, that differs from
43 the income requirement for other horticultural
44 land, when evergreens are harvested from the land.

1 Sec. 3. G.S. 143B-222 through G.S. 143B-225 are
2 repealed.

3 Sec. 4. G.S. 105-295 reads as rewritten:

4 "~~105-295. Oath of office for assessor. Before entering upon his~~
5 ~~duties, the assessor shall take and subscribe the following oath~~
6 ~~and file it with the clerk of the board of county commissioners:~~

7 ~~I,, do solemnly swear (or affirm) that I will~~
8 ~~support and maintain the Constitution and laws of the United~~
9 ~~States, and the Constitution and laws of North Carolina not~~
10 ~~inconsistent therewith, and that I will faithfully discharge the~~
11 ~~duties of my office as assessor of County, North~~
12 ~~Carolina, and that I will not allow my actions as assessor to be~~
13 ~~influenced by personal or political friendships or obligations,~~
14 ~~so help me God.~~

15 _____
16
17 _____

(Signature)

18 The assessor, as the holder of an appointed office, shall take
19 the oath required by Article VI, § 7 of the North Carolina
20 Constitution with the following sentence added to it: 'That I
21 will not allow may actions as assessor to be influenced by
22 personal or political friendships or obligations'. The oath must
23 be filed with the clerk of the board of county commissioners."

24 Sec. 5. G.S. 105-322(c) reads as rewritten:

25 ~~"(c) Oath. -- Before entering upon his duties, each member of~~
26 ~~the board of equalization and review shall take and subscribe the~~
27 ~~following oath and file it with the clerk of the board of county~~
28 ~~commissioners:~~

29 ~~I,, do solemnly swear (or affirm) that I will~~
30 ~~support and maintain the Constitution and laws of the United~~
31 ~~States, and the Constitution and laws of North Carolina not~~
32 ~~inconsistent therewith, and that I will faithfully discharge the~~
33 ~~duties of my office as a member of the Board of Equalization and~~
34 ~~Review of County, North Carolina, and that I will not~~
35 ~~allow my actions as a member of the Board of Equalization and~~
36 ~~Review to be influenced by personal or political friendships or~~
37 ~~obligations, so help me God.~~

38 ~~.....~~
39 ~~(Signature)~~

40 Each member of the board of equalization and review shall take
41 the oath required by Section VI, § 7 of the North Carolina
42 Constitution with the following sentence added to it: 'That I
43 will not allow my actions as a member of the Board of
44 Equalization and Review to be influenced by personal or political

1 friendships or obligations.' The oath must be filed with the
2 clerk of the board of county commissioners."

3 Sec. 6. G.S. 105-349(g) reads as rewritten:

4 "(g) Oath. -- ~~Every tax collector and deputy tax collector~~
5 ~~shall take and subscribe the oath set out below and file it with~~
6 ~~the clerk of the governing body of the taxing unit:~~

7 ~~I,....., do solemnly swear (or affirm) that I will~~
8 ~~support and maintain the Constitution and laws of the United~~
9 ~~States, and the Constitution and laws of North Carolina not~~
10 ~~inconsistent therewith, and that I will faithfully discharge the~~
11 ~~duties of my office as (deputy) tax collector of the County~~
12 ~~(City, Town, or other appropriate unit of local government) of~~
13 ~~....., North Carolina, and that I will not allow my~~
14 ~~actions as tax collector to be influenced by personal or~~
15 ~~political friendships or obligations, so help me God.~~

16 _____
17 _____

18 _____ (Signature)

19 Every tax collector and deputy tax collector, as the holder of
20 an appointed office, shall take the oath required by Article VI,
21 § 7 of the North Carolina Constitution with the following
22 sentence added to it: 'That I will not allow my actions as tax
23 collector to be influenced by personal or political friendships
24 or obligations'. The oath must be filed with the clerk of the
25 governing body of the taxing unit."

26 Sec. 7. This act is effective upon ratification. It
27 does not affect the terms of the Property Tax Commission members.

EXPLANATION OF LEGISLATIVE PROPOSAL 5

Legislative Proposal 5 incorporates the provisions concerning the creation, membership, and organization of the Property Tax Commission from Chapter 143B into the provisions concerning the powers and duties of the Commission in Chapter 105. It also repeals redundant duties of the Department of Revenue, repeals the requirement that all of the employees in the Property Tax Division of the Department of Revenue take an oath of office, and conforms the oath of the various property tax offices to the oath required by the North Carolina Constitution.

Section 1 incorporates all of the provisions concerning the creation and organization of the Property Tax Commission into one statute. The General Assembly created Chapter 143B as a transition Chapter during the reorganization of state agencies. At that time, the State Board of Assessment was placed in the Department of Revenue and the name was changed to the "Property Tax Commission".

Article VI, § 7 of the Constitution requires any person elected or appointed to a state office to take an oath. G.S. 105-288 currently requires every employee of the Department of Revenue with any responsibility under Chapter 105 to take an oath. The far reaching affects of this language is that a secretary taking minutes for the Property Tax Commission should take an oath of office. This requirement is not found elsewhere in State government. **Section 1** repeals this requirement for the Department of Revenue employees. It also deletes the requirement that the Secretary of Revenue take the oath of this Chapter since the Secretary must already take an oath under both the Constitution and Chapter 11 of the General Statutes as the appointed holder of a State office.

Section 2 of the bill incorporates into the appropriate section the duties of the Department of Revenue deleted from G.S. 105-288. It also deletes the requirement that the Department of Revenue report the proceedings of the Property Tax Commission and any recommendations it may have to the General Assembly and to the Governor. The Department currently achieves this duty through the various study committees and commissions of the General Assembly, such as the Property Tax Study Commission and the Revenue Laws Study Committee.

Section 3 deletes the sections in Chapter 143B that have been incorporated through this bill into Chapter 105.

Sections 4 through 6 of the bill conform the oaths taken by the tax assessor, the tax collector, and the members of the county boards of equalization and review to the oath required by the Constitution. The sections retain the additional oath currently required by the statutes.

Section 7 makes this bill effective upon ratification.

APPENDIX A

AUTHORIZING LEGISLATION

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION
RATIFIED BILL

CHAPTER 802
SENATE BILL 231

AN ACT TO AUTHORIZE STUDIES BY THE LEGISLATIVE RESEARCH COMMISSION, TO CREATE AND CONTINUE VARIOUS COMMITTEES AND COMMISSIONS, TO MAKE APPROPRIATIONS THEREFOR, AND TO DIRECT VARIOUS STATE AGENCIES TO STUDY SPECIFIED ISSUES.

The General Assembly of North Carolina enacts:

PART IX.-----PROPERTY TAX STUDY COMMISSION

Sec. 9.1. There is established a Property Tax Study Commission. The Commission shall consist of 16 members who are legislators at the time of their appointment and six other members as provided below. The President Pro Tempore of the Senate shall appoint eight members of the Senate, and the Speaker of the House shall appoint eight members of the House of Representatives to serve on the Commission. To aid the Commission in its study of the property tax system, six additional members shall be appointed as follows: the Speaker of the House shall appoint three members, one of whom is a county commissioner, one a county tax official, and one a citizen representing the public at large; and the President Pro Tempore of the Senate shall appoint three members, one of whom is a county commissioner, one an elected municipal official, and one a citizen representing the public at large. All appointments shall be made in time for the Commission to begin its work by October 1, 1989. The Speaker and the President Pro Tempore of the Senate shall jointly call the first meeting to be held on a date no later than October 1, 1989.

Sec. 9.2. The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate one of the legislative members appointed by them as cochairman. Original members appointed shall serve until the Commission makes its final report. Vacancies on the Commission shall be filled in the same manner as the original appointments were made.

Sec. 9.3. The Commission shall make a detailed and comprehensive study of the efficiency, effectiveness, and fairness of the property tax system in North Carolina. The Commission shall examine all classes of property comprising the

property tax base; all exemptions, exclusions, and preferential classifications; and the valuation of public service company property to determine whether the property tax system is just and equitable in taxing the citizens of the State. The Commission shall review current procedures for listing and collecting taxes on personal and real property to determine how to increase the efficiency and equity of these procedures. The Commission shall examine the octennial revaluation system and evaluate the feasibility of any programs that would aid the counties in conducting more frequent revaluations.

Sec. 9.4. On or before March 1, 1991, the Commission shall submit a final written report of its recommendations to the General Assembly by filing the report with the Speaker of the House and the President of the Senate. If legislation is recommended, the Commission shall submit appropriate bills with its report. The Commission shall terminate upon filing its final report.

Sec. 9.5. The Commission shall consult with tax officials in State and local government. With the prior approval of the Legislative Services Commission, the Commission may obtain clerical and professional assistance from the Legislative Services Office. The Commission may also obtain assistance from the Department of Revenue.

Sec. 9.6. With the prior approval of the Legislative Services Commission, the Commission shall meet in the State Legislative Building or in the Legislative Office Building.

Sec. 9.7. Commission members who are legislators shall be paid subsistence and travel allowances at the rates established for members of the General Assembly in G.S. 120-3.1. Other Commission members shall be paid subsistence and travel allowances at the rates established in G.S. 138-5.

Sec. 9.8. The expenses of the Commission shall be paid from funds collected by the Department of Revenue under Article 7, Chapter 105 of the General Statutes. The funds expended shall be deducted as in G.S. 105-213(a) for the costs of administering the intangibles tax. Commission expenses shall be limited to a maximum of seventy-five thousand dollars (\$75,000).

#

APPENDIX B

Commission: PROPERTY TAX STUDY COMMISSION
Authority: 1989 Session Laws, Chapter 802, Part IX, SB 231
Report to: Speaker; President of the Senate
Date: On or before 3/01/91

**President Pro Tempore's
Appointments**

Sen. Dennis J. Winner
Co-Chairman
81-B Central Avenue
Asheville, NC 28801
(704)258-0094

Sen. Frank W. Ballance, Jr.
P.O. Box 616
Warrenton, NC 27589
(919)257-1012

Dr. John M. Booker
Johnston County
Board of Commissioners
309 N. 2nd Street
Smithfield, NC 27577
(919)934-3511

Sen. William D. 'Bill' Goldston, Jr.
P.O. Box 307
Eden, NC 27288
(919)627-1495

Sen. Charles W. 'C. W.' Hardin
67 Rhoda Street
Canton, NC 28716
(704)648-2327

Sen. Ralph A. Hunt
1005 Crete Street
Durham, NC 27707
(919)682-5259

Sen. T. LaFontine 'Fountain' Odom
1100 S. Tryon Street
Charlotte, NC 28203
(704)372-4800

**Speaker's
Appointments**

Rep. Frank E. Rhodes
Co-Chairman
4701 Whitehaven Road
Winston-Salem, NC 27106
(919)924-2878

Rep. C. Robert Brawley
P.O. Box 1322
 Mooresville, NC 28115
(704)664-1502

Rep. Logan Burke
3410 Cumberland Road
Winston-Salem, NC 27105
(919)767-6690

Judith A. Critcher
Martin County Tax Collector
P.O. Box 668
Williamston, NC 27892
(919)792-2167

Mr. W. Harrell Everett, Jr.
P.O. Drawer 10809
Goldsboro, NC 27532
(919)778-6707

Rep. Annie B. Kennedy
3727 Spaulding Drive
Winston-Salem, NC 27105
(919)724-9207

Rep. John H. Kerr, III
P.O. Box 1616
Goldsboro, NC 27533-1616
(919)734-1841

Property Tax Study Commission
--continued--

President Pro Tempore's
Appointments
--continued--

Hon. Melvin Oliver
Mayor
Snow Hill, NC 28580
(919)747-3414

Hon. Robert V. Owens
Dare County Board of Commissioners
Nags Head, NC 27954
(919)441-7309

Sen. Joseph B. 'Joe' Raynor
345 Winslow Street
Fayetteville, NC 28301
(919)483-5948

Sen. Robert G. 'Bob' Shaw
P.O. Box 8101
Greensboro, NC 27419
(919)292-5805

Staff:

* Cindy Avrette
Research Division
(919)733-2578

Martha Harris
Bill Drafting Division
(919)733-6660

Warren Plonk
Ruth Sappie
Fiscal Research Division
(919)733-4910

Speaker's
Appointments
--continued--

Robert 'Bob' Lewis, Chairman
Cumberland County
Board of Commissioners
6711-B Irongate Drive
Fayetteville, NC 28306
(919)483-8131

Rep. H. Clayton Loflin
1425 Medlin Road
Monroe, NC 28110
(704)289-4554

Rep. J. Arthur 'Art' Pope
3401 Gresham Lake Road
Raleigh, NC 27615
(919)876-6000

Rep. Stephen W. 'Steve' Wood
P.O. Box 5172
High Point, NC 27262
(919)886-4641

Clerk:

Donna Rosefield
Legislative Building, Room 1008
O: (919)733-5862
H: (919)847-4043

APPENDIX C

PERSONS MAKING PRESENTATIONS BEFORE THE COMMISSION AND ITS SUBCOMMITTEES

<u>Speaker</u>	<u>Subject of Presentation</u>
William A. Campbell Institute of Government	Collection of Motor Vehicle Property Taxes
Ken Murray President, NC County Assessors Association	Collection of Motor Vehicle Property Taxes
Jim Blackburn NC Association of County Commissioners	Collection of Motor Vehicle Property Taxes
Ellis Hankins League of Municipalities	Collection of Motor Vehicle Property Taxes
Roger Ellis Department of Revenue	Collection of Motor Vehicle Property Taxes
Carol Nemitz Division of Motor Vehicles	Collection of Motor Vehicle Property Taxes
Bobby Wicker NC County Assessors Association	Collection of Motor Vehicle Property Taxes
William Connolly Department of Revenue	Octennial Revaluation System
Johnny Bailey Department of Revenue	Sales Assessment Ratio
Bob Underhill Department of Revenue	Public Service Company Property
Judge John B. Lewis, Jr.	Present Use Value
Representative Harry Payne	Present Use Value
Bart McLean Department of Revenue	Review of Exempt Property Present Use Value
Ernest Messer	Homestead Exemption

**Fred Retchin
NC Association of County
Commissioners**

Homestead Exemption

**Ron Aycock
NC Association of County
Commissioners**

Present Use Value

**Anne Coan
NC Farm Bureau
Federation**

Present Use Value

**HISTORY OF PROPERTY TAX
HOMESTEAD EXEMPTION IN NORTH CAROLINA**

<u>Effective Year</u>	<u>Action</u>
1972	Excluded first \$5,000 in appraised value of real property used as principal place of residence by retired owner, aged 65 years or older, whose disposable income from all sources was less than \$3,500.
1974	(1) Substantially enlarged the class of property entitled to the exclusion. (2) Increased the income eligibility limit from \$3,500 to \$5,000. (3) Excluded social security benefits from the definition of disposable income.
1976	(1) Expanded eligible taxpayers to include permanent and totally disabled taxpayers regardless of age. (2) Increased the income eligibility limit from \$5,000 to \$7,500. (3) Re-included social security benefits in the definition of disposable income.
1978	(1) Increased the exemption amount from \$5,000 to \$7,500. (2) Increased the income eligibility limit from \$7,500 to \$9,000.
1982	(1) Increased the exemption amount from \$7,500 to \$8,500. (2) Established a mechanism for the State to reimburse cities and counties 15% of the revenue loss from the homestead exemption. (3) Replaced the annual application requirement with a one-time application (unless the taxpayer's eligibility changes).
1986	(1) Increased the exemption amount from \$8,500 to \$10,000. (2) Increased the income eligibility limit from \$9,000 to \$10,000. (3) Provided for the State to reimburse cities and counties 35% of the revenue loss from the homestead exemption.
1987	(1) Increased the exemption amount from \$10,000 to \$12,000. (2) Increased the income eligibility limit from \$10,000 to \$11,000. (3) Provided for the State to reimburse cities and counties 50% of the revenue loss from the homestead exemption.

INDEXING THE HOMESTEAD EXEMPTION

- I. Homestead Exemption
 - A. North Carolina residents, aged 65 or older, or residents who are permanently disabled, and whose disposable income does not exceed \$11,000, are entitled to the benefits of the homestead exclusion allowed under G.S. 105-277.1.
 - B. For qualifying homeowners, the value upon which his residence is taxed is its assessed value (tax value) less \$12,000. Therefore, they are given a \$12,000 property tax exclusion.
 - C. The State reimburses the counties and cities for 50% of the amount of revenue lost because of the exemption. The loss is determined by multiplying the amount of property exempted by the tax rate. Last year, the State paid \$8,003,361.41 to the counties and cities by virtue of this reimbursement.
- II. Problem: Its value is eroded by economic changes and by revaluation.
 - A. Property revaluations are required to be conducted at least once every eight years. The purpose of the revaluation is to determine the true value of the taxable property so that all of the taxpayers are taxed on the same basis. The result of a revaluation is usually an increase in properties' tax values.
 - B. Revaluations affect taxpayers who receive tax relief under the homestead exemption in two ways:
 1. As with all taxpayers, recipients of the homestead exemption experience an upwards shift in the value of their property after reappraisal.
 2. Unlike other taxpayers, recipients of the homestead exemption experience an additional upwards shift in the value of their property from the failure to increase the value of the exemption to reflect the inflation in real value.

HOW REVALUATION AFFECTS TAXPAYERS WHO RECEIVE THE BENEFITS OF THE HOMESTEAD EXEMPTION

In the following examples, assume that the true value of the house and lot is \$60,000. In the year prior to revaluation, the property is appraised at 50% of its fair market value. In the year of revaluation, it is appraised at 95% of its fair market value.

Homeowner with no property tax relief:

	<u>Year Prior to Reval</u>	<u>Year of Reval</u>
Assessed Val	\$30,000	\$57,000
Tax Rate	x .0080	x .0050
TAX DUE	\$ 240	\$ 285

In this example, the homeowner's taxes will increase \$45. or approximately 19%.

Homeowner with homestead exemption as presently provided:

	<u>Year Prior to Reval</u>	<u>Year of Reval</u>
Assessed Val	\$30,000	\$57,000
Exclusion	- 12,000	- 12,000
Taxable Val	<u>18,000</u>	<u>45,000</u>
Tax Rate	x .0080	x .0050
TAX DUE	<u>\$ 144</u>	<u>\$ 225</u>

In this example, the homeowner's taxes will increase \$81, or approximately 56%.

- C. Because the exemption amount and the income eligibility limit are fixed by statute, any change to them must be done through a statewide bill enacted by the General Assembly. Since its authorization in 1972, the homestead exemption has been amended six times in an attempt to keep the exemption amount in line with inflation.

III. Solution: Indexing

- A. Indexing not only prevents the exemption amount from eroding during periods of economic changes and after revaluations, but also eliminates the need for continuous amendments to the homestead exemption statutes. However, before indexing, the Commission must determine which "number" should bear the relationship to inflation: the exemption amount itself or the amount of tax due.
- B. The bill with the short title "Homestead Exemption -1." is similar to two bills introduced during the 1989 Session--HB 1597 and SB 84. This bill indexes the exemption amount to reflect the inflationary impact on the amount of tax paid by the taxpayer.
1. Under the bill, the homestead exemption amount increases for the 1991 taxable year from \$12,000 to \$15,000.
 2. Thereafter, the amount of the exemption will be set for each county based on increases in the county's appraised value of property resulting from a reappraisal.
 3. The exemption amount would change in a county only when the county reappraises property and the amount of the exemption may vary from county to county.

HOW REVALUATION AFFECTS TAXPAYERS

WHO RECEIVE THE BENEFITS OF THE HOMESTEAD EXEMPTION

WHERE THE EXEMPTION AMOUNT IS INDEXED TO INFLUENCE THE TAX DUE:

Under this bill, the amount of the exemption would be set for each county based on increases in the county's appraised value of property resulting from a reappraisal. The amount of the exemption would automatically change by the proportion by which the appraised value of real property changes, based on the sales assessment ratio studies done by the Department of Revenue. In this example, the amount of the exemption would increase by 45% effective in the year the reappraisal becomes effective.

	<u>Year Prior to Reval</u>	<u>Year of Reval</u>
Prop Val	\$30,000	\$57,000
Exclusion	- 12,000	- 22,800
Taxable Val	<u>18,000</u>	<u>34,200</u>
Tax Rate	x .0080	x .0050
TAX DUE	<u>\$ 144</u>	<u>\$ 171</u>

In this example, the homeowner's taxes will increase \$27, or approximately 19%. This percentage of increase equals the percentage of increase realized by the homeowner who is not receiving tax relief. This percentage is attributable to the shift caused by the revaluation. The inflationary shift has been removed.

- C. The bill with the short title "Index Homestead Exemption -2." indexes the exemption amount to reflect the inflationary impact of the housing costs on the exemption amount itself.
1. Under the bill, the homestead exemption amount increases from 12,100 to \$15,000 for the 1991 taxable year.
 2. Thereafter, the exemption amount increases by the same percentage as the housing costs for all urban consumers increases.
 3. The exemption amount is the same for all counties and it changes annually.

**HOW REVALUATION AFFECTS TAXPAYERS
WHO RECEIVE THE BENEFITS OF THE HOMESTEAD EXEMPTION
WHERE THE EXEMPTION AMOUNT IS INDEXED TO REFLECT HOUSING COSTS**

Under this bill, the amount of the exemption is indexed annually to reflect the inflationary increases in housing costs for the year ending in January. For the 12 months ending in January of 1990, the Consumer Price Index Detailed Report showed a 4.3% increase in the housing costs for all urban consumers. For the purposes of this example, assume that the housing cost increases 4.3% in each of the next six years. The county revalues in the sixth year. Also assume that the tax rate does not change until the county revalues.

	<u>Year 1</u>	<u>Year 2</u>
Assessed Val	\$30,000	\$30,000
Exclusion	-12,500	-13,000
Taxable Val	<u>17,500</u>	<u>17,000</u>
Tax Rate	x .0080	x .0080
TAX DUE	<u>\$ 140</u>	<u>\$ 136</u>
	<u>Year 5</u>	<u>Year of Reval</u>
Assessed Val	\$30,000	\$57,000
Exclusion	-14,500	-15,000
Taxable Val	<u>15,500</u>	<u>15,000</u>
Tax Rate	x .0080	x .0050
TAX DUE	<u>\$ 124</u>	<u>\$ 210</u>

In this example, note that the homeowner's tax due decreases in the years prior to revaluation while the homeowner with no property tax relief pays the same amount. Also note that while the amount of tax due in the year of revaluation is less than it

would be without indexing, it still reflects some upwards shift in the value of the property that is not shared by the homeowners who are not receiving property tax relief.

-
- D. The income eligibility amount increases by the percentage by which the federal government increased social security benefits the preceding year under both bills.

Prepared by Cindy Avrette
Research Division
Property Tax Study Commission
December 6, 1990

APPENDIX F

December 5, 1990

MEMORANDUM

TO: Property Tax Subcommittee Members

FROM: Ruth Sappie, Warren Plonk, Fiscal Research Division

RE: Motor Vehicle Property Tax Survey Results

Survey Parameters and Results

The survey questioned tax assessors in all 100 counties for 1989 tax year information. Assessors were asked to answer questions regarding the number of motor vehicles listed for property tax, their assessed value, the number of discoveries for which taxes remained uncollected and to give reasons why they believed vehicles can escape taxation (survey and spreadsheet enclosed).

Fifty-one counties responded to the survey. Fifty-four percent of those responding (28 counties) answered the two questions, 3C and 3D, pertaining to the number and value of uncollected discovered vehicles in their county.

Fiscal Estimate

The annual loss due to uncollected property tax on motor vehicles is estimated to be \$11.1 million.

Survey Comments

Assessors were asked to identify reasons they believed taxpayers are able to escape payment of property tax on vehicles. Their comments to question 3E are as follows:

- o Individuals moving between the time they list and pay the tax.
- o Vehicles owned by military personnel claim other states as residence.
- o People moving into the State are not aware of the law.
- o People give false addresses.
- o Buyers list the county in which the vehicle was purchased instead of the county in which the owner lives.
- o Dealers retain previous owner's name on the title until the car is sold.
- o Dealers purchasing tags for owners.
- o Owners believe they only need to list new vehicles.

APPENDIX G

SCHEDULE OF REGISTRATION AND TAXATION UNDER LEGISLATIVE PROPOSAL 3

William A. Campbell
Institute of Government

This example assumes that the vehicle registration expires on July 31, 1991.

<u>Date</u>	<u>Action</u>
June 30, 1991	DMV mails renewal notice and card to the vehicle owner.
September 10, 1991	DMV sends list of July renewals to the assessor.
October 15, 1991 (Approximate date)	Tax collector mails tax bills.
November 1, 1991	Tax due date for July renewals. Taxes included in the levy and charged to the collector.
December 1, 1991	Interest at the rate of 3/4% a month begins to accrue on unpaid taxes due on motor vehicles renewed in July.
March 10, 1992	Tax collector mails list of delinquent taxpayers to DMV.
June 30, 1992	DMV mails renewal notice and card with special notice that registration cannot be renewed unless proof of payment of delinquent taxes is submitted.
November 1, 1992	Board of county commissioners may relieve the tax collector of the charge of taxes on classified motor vehicles more than one year past due.

APPENDIX H

ADVANTAGES OF LEGISLATIVE PROPOSAL 3

1. Would eliminate need for listing vehicles annually during the regular listing period. Would bill directly from DMV list rather than tax listing forms.
2. List to be provided by DMV would be current since list would be compiled on a monthly basis, and would contain only vehicle owners renewing vehicle registrations in the month immediately preceding the month in which the vehicle list is received by the Assessor.
3. Will solve the leased vehicle problem since listing vehicles would no longer be required.
4. Would eliminate double taxation on vehicles re-registered here from other states.
5. When hold is put on subsequent renewal, DMV will warn vehicle owner when registration renewal card is mailed that a tax receipt is necessary for renewal .
6. Proposed legislation would eliminate at least 75% of listing forms that are presently required to be mailed in January. Would reduce cost related to postage, forms, sorting, print time and microfilming. Additionally, would reduce file space and record retention.
7. Would eliminate the discovery process (checking for unlisted vehicles, mailing notice for failure to list, and billing).
8. Could be quickly implemented - with Legislative approval, could become effective 1/1/92, eliminating requirement to list vehicles in January, 1992.
9. Would minimize, if not eliminate, the need for outside listing stations.
10. Should be favored by Automobile Dealers Association since sale price of new or used vehicle would not be impacted by additional tax, such as sales tax.
11. Mortgage companies should favor this proposal. Vehicle tax would no longer need to be escrowed. In many cases, under the present system, if the homeowner acquired a new vehicle, the mortgage company finds it necessary to increase the escrow payment. This would be eliminated.

12. Title attorneys should be excited about this proposal. Vehicles would no longer be a lien on real estate.
13. Should be very popular with taxpayers. Most counties throughout the state have adopted a permanent listing system on real estate. The owner is only required to report improvements on the real property, otherwise, the real property is listed by the assessor. Most listings involve homeowners who are required to list their vehicles and apartment dwellers who list only vehicles. Under this proposal, most of the listings required in January would be eliminated. Taxpayers would simply receive a bill.
14. Under the South Carolina system, tax receipts are required, and must be attached when registration is renewed. Under this proposal, tax receipts will not be required unless requested by the vehicle owner, or if hold has been put on subsequent registration renewal.