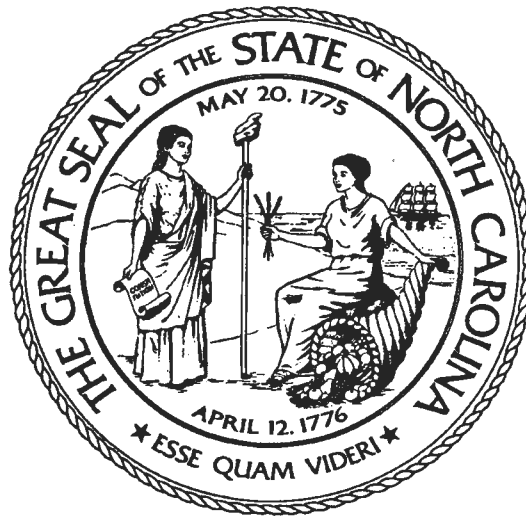


**LEGISLATIVE
RESEARCH COMMISSION**

EMERGENCY MANAGEMENT ISSUES



**REPORT TO THE
1993 GENERAL ASSEMBLY
OF NORTH CAROLINA**

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TABLE OF CONTENTS

Letter of Transmittal..... i

Legislative Research Commission Membership.....ii

PREFACE..... 1

COMMITTEE PROCEEDINGS..... 2

FINDINGS AND RECOMMENDATIONS..... 8

Legislative Proposal I -- A BILL TO BE ENTITLED
AN ACT TO ESTABLISH REGIONAL RESPONSE TEAMS FOR HAZARDOUS
MATERIALS EMERGENCIES IN NORTH CAROLINA..... 9

 and an Analysis of the Bill..... 15

Legislative Proposal II -- A BILL TO BE ENTITLED
AN ACT TO PROVIDE FOR LIMITED LEAVE WITH PAY FOR STATE
EMPLOYEES WHO ARE CERTIFIED DISASTER VOLUNTEERS 20

 and an Analysis of the Bill..... 22

Legislative Proposal III -- A BILL TO BE ENTITLED
AN ACT TO AUTHORIZE THE CONTINUATION OF THE EMERGENCY
MANAGEMENT ISSUES STUDY 23

 and an Analysis of the Bill..... 25

APPENDICES

A. Relevant portions of Chapter 754 of the 1991
Session Laws authorizing the study and
Senate Bill 946 of the 1991 Session.

B. Membership of the LRC Committee on
Emergency Management Issues.

C. Fiscal Analysis: Cost to Establish a
Hazardous Materials Emergency Response Team.

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




January 15, 1993


TO THE MEMBERS OF THE 1993 GENERAL ASSEMBLY:

The Legislative Research Commission herewith submits to you for your consideration its final report on emergency management. The report was prepared by the Legislative Research Commission's Committee on Emergency Management Issues pursuant to Section 2.1 (40) and (59) of Chapter 754 of the 1991 Session Laws.

Respectfully submitted,



Daniel T. Blue, Jr.
Speaker of the House



Henson P. Barnes
President Pro Tempore

Cochairmen
Legislative Research Commission

1991-1992

LEGISLATIVE RESEARCH COMMISSION

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PREFACE

The Legislative Research Commission, established by Article 6B of Chapter 120 of the General Statutes, is a general purpose study group. The Commission is cochaired by the Speaker of the House and the President Pro Tempore of the Senate and has five additional members appointed from each house of the General Assembly. Among the Commission's duties is that of making or causing to be made, upon the direction of the General Assembly, "such studies of and investigations into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner" (G.S. 120-30.17(1)).

At the direction of the 1991 General Assembly and the cochairs of the Legislative Research Commission, the Commission has undertaken studies of numerous subjects. These studies were grouped into broad categories and each member of the Commission was given responsibility for one category of study. The Cochairs of the Legislative Research Commission, under the authority of G.S. 120-30.10(b) and (c), appointed committees consisting of members of the General Assembly and the public to conduct the studies. Cochairs, one from each house of the General Assembly, were designated for each committee.

The study of emergency management was authorized by Sections 2.1 (40) and (59) of Chapter 754 of the 1991 Session Laws. That act states that the Commission may consider Senate Bill 922, Senate Bill 946, and House Bill 1206 in determining the nature, scope and aspects of the study. Section 1 of Senate Bill 946 provides in pertinent part: "...the Commission may study the State emergency management program's ability in the future to adequately address preparedness, response, recovery, and mitigation for technological and natural hazards as may impact the citizens of North Carolina and their property." The relevant portions of Chapter 754 and Senate Bill 946 are included in Appendix A. The Legislative Research Commission grouped this study in its State and Local Governments and Other Structures category under the direction of Senator J. K. Sherron, Jr. The Committee was chaired by Senator David R. Parnell and Representative Foyle Hightower, Jr. The full membership of the Committee is listed in Appendix B of this report. A committee notebook containing the committee minutes and all information presented to the committee is filed in the Legislative Library.

COMMITTEE PROCEEDINGS

The Legislative Research Commission's Study Committee on Emergency Management Issues met a total of seven times during the 1991-1993 biennium. The issues assigned to the Committee were both varied and complex. As a result, the Committee decided to focus its efforts on the issues involved in establishing a State-wide regional response program for hazardous materials emergencies.

December 9, 1991

The Committee held its initial meeting on December 9, 1991. At this first meeting, the Division of Emergency Management presented an overview of emergency management operations in the state. Mr. Joe Myers, Director of the Division, noted that the General Assembly had been generous in providing funding for the Division's radio communications system.

The Committee reviewed the number and scope of issues assigned. These issues included, regional response for hazardous materials emergencies, funding for catastrophic disasters, a disaster recovery law, personnel and funding to implement the offshore oil bill (SB977), expansion of the Emergency Information System, statewide flooding problems, dam safety, hurricane preparedness, and the adequacy of planning for other natural disasters including tornadoes, forest fires, and earthquakes.

January 27, 1992

The Committee's second meeting was held on January 27, 1992. During the first half of the meeting the Committee addressed problems faced by the Division of Emergency Management due to projected cuts in federal funding. The primary source of federal funds for the Division is the Federal Emergency Management Agency (FEMA). FEMA, an agency of the Department of Defense, faces cutbacks due to decreased federal spending on defense which will in turn affect the availability of monies flowing to the states.

Joe Myers spoke about his concerns regarding this potential loss of funding and personnel. He proposed a substitution, over a period of three years, of State dollars for federal dollars lost. He also proposed an increase in funding for personnel and communications. Mr. Shelley Boone, Chief, State and Local Programs, Emergency Management Division, FEMA, Region 4, confirmed Mr. Myers forecast on the potential loss of federal funding for several programs in the Division of Emergency Management. He also noted that there would be an increase in the number of programs requiring matching State money.

The second half of the meeting focused on the issue of the need for regional response teams to handle hazardous materials emergencies throughout the State. Mr. Eric Tolbert, Assistant Director of the Division of Emergency Management, gave an overview of the current response capability in the State and the problems, such as cost and training, associated with establishing a hazardous materials emergency response team (hazmat team). He also outlined the Division's proposal for providing response to hazmat incidents on a regional basis. At the present time, there are approximately 10 hazmat teams of varying capability operating in the State. These teams are primarily located in and operated by the larger municipalities in the State such as Charlotte, Fayetteville, and Raleigh. There are no hazmat teams operating in the far western region of the State or the northeastern region of the State. The Division's proposal calls for contracting with a number of the existing teams to provide hazmat response outside of their local jurisdiction, and creating new hazmat teams to serve the western and northeastern parts of the State.

The next speaker, Mr. Ben Nichols, Battalion Commander, Fayetteville Fire Department and President of the North Carolina Hazardous Materials Responders Association, told the Committee that most hazmat incidents have been resolved by local fire departments. However, federal Occupational Safety and Health Administration (OSHA) training and equipment standards have changed what a typical fire department is allowed to handle. Mr. Nichols concurred that a regional response team program would be a reasonable solution to the hazmat problem in the State. He cited costs from \$350,000 to \$550,000 to establish a hazmat team and pointed out that such costs made it impossible for many local governments to establish a hazmat team.

The Burke County Fire Marshall, Mr. Kevin Stewart, addressed the problems rural fire departments face in developing a hazmat team. He said that the Burke County hazmat team had 4 paid staff and the rest were volunteers. The Burke County team had responded to 56 hazmat incidents in the past year.

The last speaker of the day was Mr. Jim Hollingsworth, Manager, Environmental Response and Safety, Four Seasons Industrial Services. Mr. Hollingsworth addressed the role private companies could play in providing emergency response to hazardous materials emergencies.

March 30, 1992

During the first part of the March 30, 1992 meeting, the Committee heard from a number of speakers addressing the many and varied requirements for providing hazardous materials emergency response. Mr. Charles Case, General Counsel for the Chemical Industry Council of North Carolina, spoke on the chemical industry's "Responsible Care Program." He said that the Council favored regional response teams and noted that some of the members of the Council had their own hazmat teams. He noted that training was the most expensive part of maintaining a team and cost approximately \$100,000 per year.

Ms. Ann Wall, Director of the Right-to-Know Division of the N.C. Department of Labor, spoke to the Committee on the safety and training requirements for hazmat responders under the federal OSHA Standard 29 Code of Federal Regulations §1910.120. She pointed out that there are six categories of people who need training according to the OSHA standard; safety officials, first responders awareness level, first responders operations level, hazardous materials technicians, hazardous materials specialists, and incident commanders. All of the above are necessary for a properly functioning hazmat team. Ms. Wall noted that there had been some instances in North Carolina when inadequately trained and equipped responders were injured during a hazmat response. Among the persons in State and local government who should have some level of hazmat response training are local law enforcement personnel, fire and rescue, highway patrol, SBI, emergency management, solid and hazardous waste, the Department of Transportation, University personnel, health departments, water and sewer personnel, and State and local elected officials.

The next speaker on the agenda was Mr. Tim Bradley, Fire and Rescue Division, Department of Insurance. Mr. Bradley spoke about both the ongoing and planned training programs for hazmat responders in North Carolina. Much of the training in this State is done on the Community College campuses.

During the afternoon portion of the meeting, the Committee heard a presentation by James D. Holloway, Chief, Technological Hazards Branch, Virginia Department of Emergency Services. Virginia has established a regional response program for hazardous materials emergencies and funded the program out of their General Fund. Under the program, each of the 138 jurisdictions in Virginia appointed a hazardous material coordinator. The State then entered into agreements with existing teams throughout the State who were willing to provide regional response. In exchange for regional response, the State provided funds for additional equipment and training necessary for the teams to meet their expanded responsibilities. The capital costs of the program were funded over a three year period. Virginia currently has 12 teams under contract to provide regional response. Operating costs for the program are running about 1.8 million per year.

October 6, 1992

The October 6, 1992 meeting continued the review of other states solutions to the problem of hazmat response. Speakers from both Oregon and Pennsylvania addressed the Committee. This meeting was videotaped and a copy of the video is on file with the Legislative Librarian.

Mr. Ralph M. Rodia, Chief Deputy, Operations Division, Office of State Fire Marshall, Oregon, presented the morning program. To date, Oregon has contracted with nine teams across the state to provide regional response for hazardous materials incidents. The cost to bring a team on line ranges from \$300,000 to \$500,000.

In Oregon, hazmat teams are used only to mitigate an event. The Department of Environmental Quality is responsible for clean-up activities. All of the teams serve under contract with the State Fire Marshall's Office. The terms of the contract may include a loan of equipment, including a hazmat vehicle, training costs, medical

expenses and other costs agreed upon. The hazmat teams respond to about 200 incidents per year and their annual operating budget is about \$3.5 million dollars. The Oregon regional response program is funded through a "Petroleum Load Fee." The load fee is \$10 per load of petroleum products withdrawn from or imported to bulk facilities, regardless of the size of the load. The fee raises about \$3.5 million dollars every two years. In addition, facilities possessing hazardous chemicals must pay a possession fee. This fee raises an additional \$4 million dollars per year.

Pennsylvania's approach to hazmat response was very different from that of Virginia or Oregon. Mr. Richard Rodney, Special Assistant to the Director, Pennsylvania Emergency Management Agency, explained their system. Pennsylvania requires every county to provide hazmat response, either by organizing their own hazmat team, contracting with an existing team, or joining with other counties to provide a team. All hazmat teams must be certified by the state. In addition, Pennsylvania law requires an extensive survey and assessment of chemical stocks in each county. Fees are assessed at both the local and state level on facilities' chemical inventories. These fees support local planning activities and, to a limited extent, may provide funding for hazmat teams.

November 6, 1992

The November 6, 1992 meeting began with a recap by Mr. Eric Tolbert, Assistant Director, Emergency Management Division, of the existing authority for emergency management operations and the trained manpower and equipment currently available in North Carolina to deal with hazardous materials incidents. Committee Counsel then presented the Commission with a proposal to establish a program of regional response in North Carolina. The proposal provided for a minimum of 6 regional response teams. The teams were to be independent contractors and not employees of the State. Following the Oregon model, the Department of Crime Control and Public Safety could contract with a unit of local government willing to provide a hazmat team for regional response. Under the contract the Department could agree to provide a loan of equipment, training, medical evaluations, and other expenses. The proposal also addressed other concerns such as an Advisory Committee to help with the development of the program, limited immunity for members of a regional response team when on

active duty, right of entry, actions for cost recovery from responsible parties, and the establishment of a hazardous materials emergency response fund.

The next item on the agenda was consideration of a volunteer disaster leave bill proposed by the American National Red Cross. Mr. Peyton Maynard presented the proposal. The legislation would allow state employees, who are certified disaster service volunteers, to be granted leave with pay if their services were requested by the Red Cross for a disaster occurring in North Carolina. The decision to grant the leave would rest in the sole discretion of the employing agency.

Finally, the Committee heard a presentation by Mr. Eric Tolbert on the lessons learned from Florida's experience with Hurricane Andrew. He presented a video about Operation Tarheel Alliance, the North Carolina relief efforts in Florida. Again the need for catastrophic disaster planning was emphasized.

December 15, 1992

At the December 15 meeting, the Committee discussed the proposed legislation for its report. Specifically, the Committee addressed the need for a regional response program, the volunteer disaster leave proposal, and the need to continue to study emergency management issues. Much of the Committee's discussion centered on cost estimates for the regional response program. The Committee concluded that a minimum of \$451,000 would be needed for each team established.

January 5, 1993

At the final meeting, January 5, 1993, the Committee continued its discussion of the costs and financing of the proposed regional response program. The Committee decided to adopt recommendations that \$409,400 be budgeted for the capital costs for equipping and training each regional response team. The final cost figures for fiscal years 1993-1994 and 1994-1995 reflected that it is unlikely that any regional response team would be operational during the first year of the program. The Committee then voted to adopt the revised report and to forward it to the Legislative Research Commission for its review and approval.

FINDINGS AND RECOMMENDATIONS

Based upon the presentations and other materials submitted to the Committee, and the Committee's deliberations, it is recommended that the General Assembly endorse the concept of a regional response program for hazardous materials emergencies through the ratification of Legislative Proposal I: AN ACT TO ESTABLISH REGIONAL RESPONSE TEAMS FOR HAZARDOUS MATERIALS EMERGENCIES IN NORTH CAROLINA.

The Committee also recommends that the General Assembly endorse and ratify Legislative Proposals II: AN ACT TO PROVIDE LIMITED LEAVE WITH PAY FOR STATE EMPLOYEES WHO ARE CERTIFIED DISASTER VOLUNTEERS.

Finally, based upon the number, scope, and complexity of the issues assigned to it, the Committee recommends that the General Assembly continue the study through the ratification of Legislative Proposal III: AN ACT TO AUTHORIZE THE CONTINUATION OF THE EMERGENCY MANAGEMENT ISSUES STUDY.

LEGISLATIVE PROPOSAL I

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

S/H

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93-RF-EMS1

THIS IS A DRAFT: NOT READY FOR INTRODUCTION

Short Title: Hazardous Materials Emergency Response.

(Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED

2 AN ACT TO ESTABLISH REGIONAL RESPONSE TEAMS FOR HAZARDOUS
3 MATERIALS EMERGENCIES IN NORTH CAROLINA.

4 Whereas, since 1989 over 1,800 chemical incidents have been reported annually
5 from across the State to the Department of Crime Control and Public Safety, Division
6 of Emergency Management; and

7 Whereas, these incidents involve both transportation accidents and mishaps at
8 facilities using or storing hazardous materials; and

9 Whereas, North Carolina has more than 95,144 functional miles of highway over
10 which hazardous materials are transported and more than 6,486 facilities that are
11 required to file reports on quantities of hazardous or extremely hazardous materials
12 present at their facilities pursuant to Title III of the Superfund Amendments and
13 Reauthorization Act of 1986, Pub. L. No. 99-499, 100 Stat. 1613, as amended; and

14 Whereas, in 1989, the Occupational Safety and Health Administration issued its
15 regulations at 29 Code of Federal Regulations §1910.120 governing hazardous
16 materials emergency response; and

17 Whereas, these regulations require minimum thresholds of training and equipment
18 for persons responding to hazardous incidents, that, although very expensive to
19 implement, protect not only the health and safety of those responding to hazardous
20 materials emergencies, but also the public's health and safety. Rapid and appropriate
21 response to hazardous materials incidents saves lives and money and protects the
22 environment; and

LEGISLATIVE PROPOSAL I

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

1 Whereas, the cost of equipping and training a hazardous materials emergency
2 response team, taken together with the low frequency of incidents in some jurisdictions,
3 makes establishment of these teams infeasible for many local jurisdictions; and

4 Whereas, the establishment of a regional program of hazardous materials
5 emergency response is the most appropriate and cost-effective means of protecting the
6 citizens of the State from the effects of uncontrolled releases of hazardous materials.

7 Now, therefore, The General Assembly of North Carolina enacts:

8 Section 1. Chapter 166A of the General Statutes is amended by adding a
9 new Article 2 to read:

10 ARTICLE 2

11 "§ 166A-17. Title, Purpose.

12 (a) This Article may be cited as the "North Carolina Hazardous Materials
13 Emergency Response Act."

14 (b) The purpose of this Article is to establish a system of regional response to
15 hazardous materials emergencies in the State to protect the health and safety of its
16 citizens.

17 § 166A-18. Definitions. As used in this Article:

18 (a) "Hazardous materials emergency response team" or "Hazmat team" means
19 an organized group of persons specially trained and equipped to respond to
20 and control actual or potential leaks or spills of hazardous materials.

21 (b) "Hazardous material" means any material defined as a hazardous substance
22 under 29 Code of Federal Regulations §1910.120(a)(3).

23 (c) "Hazardous materials incident" or "hazardous materials emergency" means
24 an uncontrolled release, or threatened release of a hazardous substance
25 requiring outside assistance by a local fire department or hazmat team to
26 contain and control.

27 (d) "Regional response team" means a hazmat team under contract with the
28 State to provide response to hazardous materials emergencies occurring
29 outside the hazmat team's local jurisdiction at the direction of the
30 Department of Crime Control and Public Safety, Division of Emergency
31 Management.

32 (e) "Secretary" means the Secretary of the Department of Crime Control and
33 Public Safety.

34 (f) "Technician-level entry capability" means the capacity of a hazmat team, in
35 terms of training and equipment as specified in 29 Code of Federal
36 Regulations §1910.120, to respond to a hazardous materials incident
37 requiring affirmative measures, such as patching, plugging or other action
38 necessary to stop and contain the release of a hazardous substance at its
39 source.

40 § 166A-19. Hazardous materials emergency response program.

41 (a) The Secretary shall adopt rules establishing a regional response program for
42 hazardous materials emergencies, to be administered by the Division of Emergency
43 Management. To the extent possible, the regional response program shall be
44 coordinated with other emergency planning activities of the State. The regional

LEGISLATIVE PROPOSAL I

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

1 response program shall include at least six hazmat teams located strategically across the
2 State that are available to provide regional response to hazardous materials incidents
3 requiring technician-level entry capability and 24-hour dispatch and communications
4 capability at the Division of Emergency Management Operations Center. The rules for
5 the program shall include:

- 6 (1) Standards, including training, equipment, and personnel standards
7 required to operate a regional response team with technician-level
8 entry capability.
- 9 (2) Guidelines for the dispatch of a regional response team to a hazardous
10 materials incident.
- 11 (3) Guidelines for the on-site operations of a regional response team.
- 12 (4) Standards for administration of a regional response team, including
13 procedures for reimbursement of response costs.
- 14 (5) Refresher and specialist training for members of regional response
15 teams.
- 16 (6) Procedures for recovering the costs of a response to a hazardous
17 materials incident from persons determined to be responsible for the
18 emergency.
- 19 (7) Procedures for bidding and contracting for the provision of a hazmat
20 team for the regional response program.
- 21 (8) Criteria for evaluating bids for the provision of a hazmat team for
22 regional response.
- 23 (9) Delineation of the roles of the regional response team, local fire
24 department and local public safety personnel, the Division of
25 Emergency Management's area coordinator, and other State agency
26 personnel responding to the scene of a hazardous materials incident.

27 (b) In developing the program and adopting rules, the Secretary shall consult with
28 the Regional Response Team Advisory Committee established pursuant to G.S. 166A-
29 24.

30 **§ 166A-20. Contracts, equipment loans.**

31 (a) The Secretary may contract with any unit or units of local government for the
32 provision of a regional response team to implement the regional response program.
33 Contracts are to be let consistent with the bidding and contract standards and
34 procedures adopted pursuant to G.S. 166A-19(a)(7) and (8). In entering into contracts
35 with units of local government, the Secretary may agree to provide:

- 36 (1) A loan of equipment, including a hazmat vehicle, necessary for the
37 provision technician-level entry capability;
- 38 (2) Reimbursement of personnel costs when a regional response team is
39 authorized by the Department to respond to a hazmat incident,
40 including the cost of call-back personnel;
- 41 (3) Reimbursement for use of equipment and vehicles owned by the
42 regional response team;
- 43 (4) Replacement of disposable materials and damaged equipment;

LEGISLATIVE PROPOSAL I

- 1 (5) Costs of medical surveillance for members of the regional response
- 2 team, including baseline, maintenance, and exit physicals;
- 3 (6) Training expenses; and
- 4 (7) Other provisions agreed to by the Secretary and the regional response
- 5 team.

6 **(b) The Secretary shall not agree to provide reimbursement for:**

- 7 (1) costs of clean-up activities, after a spill or leak has been contained;
- 8 (2) local response not requiring technician level entry capability; or
- 9 (3) stand-by time.

10 **(c) Any contract entered into between the Secretary and a unit of local government**

11 **for the provision of a regional response team shall specify that the members of the**

12 **regional response team, when performing their duties under the contract, shall not be**

13 **employees of the State and shall not be entitled to benefits under the Retirement**

14 **System for Teachers and State Employees, benefits for the payment of federal social**

15 **security, employment insurance or workers' compensation.**

16 **(c) Regional response teams that have the use of a State hazmat vehicle may use**

17 **the vehicle for local purposes. Where a State vehicle is used for purposes other than**

18 **authorized regional response to a hazardous materials incident, the regional response**

19 **team shall be liable for repairs or replacements directly attributable to the**

20 **nonauthorized response.**

21 **§166A-21. Immunity of regional response team personnel. Members of a regional**

22 **response team shall be protected from liability under the provisions of G.S. 166A-14(a)**

23 **while responding to a hazardous materials incident pursuant to authorization from the**

24 **Division of Emergency Management.**

25 **§ 166A-22. Right of entry. A regional response team, when authorized to respond to**

26 **a release or threatened release of hazardous materials, may enter onto any private or**

27 **public property on which the release has or occurred or on which there is an imminent**

28 **threat of such release. A regional response team may also enter, under such**

29 **circumstances, any adjacent or surrounding property in order to respond to the release**

30 **or threatened release of hazardous material or to monitor, control, and contain the**

31 **release or perform any other action in mitigation of a hazardous materials incident.**

32 **§ 166A-23. Regional response team advisory committee.**

33 **(a) The Regional Response Team Advisory Committee is created. The Secretary**

34 **shall appoint the members of the Committee and shall designate the chair. In making**

35 **appointments, the Secretary shall take into consideration the expertise of the appointees**

36 **in the management of hazardous materials emergencies. The Secretary shall appoint**

37 **one representative from:**

- 38 (1) The Division of Emergency Management;
- 39 (2) The North Carolina Highway Patrol;
- 40 (3) The Fire and Rescue Commission;
- 41 (4) The Department of Environment, Health, and Natural Resources;
- 42 (5) The Department of Transportation;
- 43 (6) The Department of Agriculture.
- 44 (7) The Chemical Industry Council of North Carolina;

LEGISLATIVE PROPOSAL I

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

1 (8) The N.C. Association of Hazardous Materials Responders;

2 (9) Each regional response team.

3 In addition to the persons listed above, the Secretary shall appoint to the Advisory
4 Committee three persons designated jointly by the North Carolina Fire Chiefs
5 Association and the North Carolina Firemen's Association.

6 (b) The Advisory Committee shall meet on the call of the chair, or at the request
7 of the Secretary; provided that the Committee shall meet no less than once every three
8 months. The Department of Crime Control and Public Safety shall provide space for
9 the Advisory Committee to meet. The Department also shall provide the Advisory
10 Committee with necessary support staff and supplies to enable the Committee to carry
11 out its duties in an effective manner.

12 (c) Members of the Advisory Committee shall serve without pay, but shall receive
13 travel allowance, lodging, subsistence, and per diem as provided by G.S. 138-5.

14 (d) The Regional Response Team Advisory Committee shall advise the Secretary
15 on the establishment of the program for regional response to hazardous materials
16 emergencies in the State. The Committee shall also evaluate and advise the Secretary
17 of the need for additional regional response teams to serve the State.

18 **§ 166A-24. Action for the recovery of costs of hazardous materials emergency**
19 **response.**

20 A person who causes the release of a hazardous material requiring the activation of a
21 regional response team shall be liable for all costs incurred by the regional response
22 team in responding to and mitigating the incident. The Secretary shall invoice the
23 person liable for the hazardous materials release, and, in the event of nonpayment, may
24 institute an action to recover those costs in the Superior Court Division of the county in
25 which the release occurred.

26 **§ 166A-25. Hazardous Materials Emergency Response Fund.**

27 There is established in the Department of Crime Control and Public Safety a
28 nonreverting fund for those monies collected pursuant to G.S.166A-25. The Fund is
29 also authorized to accept any gift, grant, or donation of money or property to facilitate
30 the establishment and operation of the regional response system.

31 Sec. 2. There is appropriated from the General Fund to the Department of Crime
32 Control and Public Safety the sum of \$2,639,818 for the 1993-1994 fiscal year, and
33 the sum of \$948,343 for the 1994-1995 fiscal year to be distributed as follows:

34 (1) \$2,521,400 in the 1993-1994 fiscal year to establish, equip, and train
35 a minimum of six hazmat teams to provide regionalized response to
36 hazardous materials emergencies across the State. This amount shall be
37 reduced by the amount of any grants, gifts, or donations received by the
38 Hazardous Materials Emergency Response Fund during the 1993-1994
39 fiscal year.

40 (2) \$741,400 in the 1994-1995 fiscal year, to cover the ongoing
41 operational costs the regional response teams, including replacement
42 equipment, and training.

43 (3) \$118,418 in the 1993-1994 fiscal year, and \$206,943 in the 1994-
44 1995 fiscal year, for additional personnel to provide 24-hour coverage at

LEGISLATIVE PROPOSAL I

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

1 the Division of Emergency Management Operations Center in Raleigh
2 and for an industrial hygienist.
3 Sec. 3. This act becomes effective July 1, 1993.

EXPLANATION OF LEGISLATIVE PROPOSAL I

Background

Since 1989 over 1,800 chemical incidents have been reported to the North Carolina Division of Emergency Management each year from every region in the State. These incidents involve both transportation accidents and mishaps at fixed facilities using or storing hazardous materials. North Carolina has more than 95,144 functional miles of highway over which hazardous materials are transported and more than 6,486 facilities that are required to file reports on quantities of hazardous or very hazardous materials present at their facilities pursuant to SARA Title III.

In 1989, the federal OSHA regulations, promulgated pursuant to SARA Title I, became effective requiring minimum thresholds of training and equipment for persons responding to a hazardous materials emergency. In addition to protecting the safety of the responders, proper training and equipment also enhances the public's health and safety. Rapid and appropriate response to hazardous materials incidents saves lives, money, and protects the environment.

The cost of equipping and training a hazardous materials emergency response team taken together with the low frequency of incidents in some jurisdictions, makes establishment of hazmat teams infeasible for many local jurisdictions. Therefore, the establishment of a regional system of hazardous materials emergency response appears to be an appropriate and cost-effective means of protecting the citizens of the State from the effects of hazardous materials accidents.

The legislative proposal.

Section 1 of the bill creates a new Article 2 of Chapter 166A of the General Statutes setting up the regional response program for hazardous materials emergencies.

§166A-17. sets out the purpose of the Article and provides that the Article may be cited as the "North Carolina Hazardous Materials Emergency Response Act."

§166A-18 provides definitions of key terms used throughout the bill. Terms defined include hazmat team, hazardous materials, hazardous materials incident, regional response team, and technician-level entry capability. The definitions of hazmat team, hazardous material, and technician-level entry are all drawn, at least in part, from the federal OSHA standards for hazmat responders at 29 CFR §1910.120.

§166A-19 provides that the Secretary of the Department of Crime Control and Public Safety, shall adopt rules establishing a program of regionalized response to hazardous materials emergencies in the State. to be administered by the Division of Emergency Management. The system will have at least six hazmat teams with technician-level entry capability serving as regional response teams. There will also be 24-hour dispatch and communications through the Division of Emergency Management's Operations Center in Raleigh. This section also prescribes some of the items that should be addressed by the rules for the program including:

- (1) Standards, including training, equipment, and personnel required to operate a regional response team with technician-level entry capability.
- (2) Guidelines for the dispatch of a regional response team to a hazardous materials incident.
- (3) Guidelines for on-site operations of a regional response team.
- (4) Standards for administration of a regional response team, including procedures for reimbursement of response costs.
- (5) Refresher and specialist training for members of a regional response team.
- (6) Procedures for cost recovery from persons determined to be responsible for a hazardous materials emergency.
- (7) Procedures for bidding and contracting for the provision of a hazmat team for regional response.
- (8) Criteria for evaluating bids by persons wishing to provide regional response for hazardous materials incidents when contracts are available.
- (9) Delineation of the roles of the regional response team, the local fire department and local public safety personnel, the Division's area coordinator, and other State agency personnel responding to the scene of a hazardous materials incident.

The Secretary is to seek the advice of the Regional Response Team Advisory Committee in adopting rules.

§166A-20 provides authority for the Secretary to contract with units of local government for the provision of a regional response team. Under the contract the Secretary may agree to:

- (1) A loan of equipment, including a hazmat vehicle, necessary for the provision of technician-level entry capability.
- (2) Reimbursement of personnel costs when a regional response team is authorized by the Department to respond to a hazmat incident, including the cost of call-back personnel.
- (3) Reimbursement for a regional response team's use of its own vehicle & equipment.
- (4) Replacement of disposable materials and damaged equipment.
- (5) Costs of medical surveillance for members of the regional response team, including baseline, maintenance, and exit physicals.
- (6) Training expenses.
- (7) Other provisions agreed to by the Secretary and a regional response team.

This section provides that the State shall not reimburse for:

- (1) costs of clean-up activities not involving mitigation of a spill or leak.
- (2) local response not requiring technician-level entry.
- (3) stand-by time (When the team has not been activated by the Division to respond to a hazmat incident.)

Any contract entered into between the Department and a unit of local government for the provision of a regional response team shall specify that the members of the regional response team, when serving as team members, shall not be employees of the State and shall not be entitled under the contract to benefits under the State Retirement System, benefits for the payment of federal social security, employment insurance or workers' compensation.

Regional response teams that have the use of a State hazmat vehicle or other equipment may use such vehicle or equipment for local purposes.

§166A-21 provides that members of the regional response team shall be protected from liability during all responses authorized by the Department pursuant to G.S. 166A-14(a).

§166A-22 provides a regional response team, when authorized to respond to a release or threatened release of hazardous materials, the right to enter onto any private or public property on which the release has or occurred or on which there is an imminent threat of such release. A regional response team may also enter, under such circumstances, any adjacent or surrounding property in order to respond to the release.

§166A-23 establishes the Regional Response Team Advisory Committee. The committee shall be appointed by the Secretary. In making appointments the Secretary is to consider the expertise of potential appointees in the area of hazmat response. There shall be one appointee from each of the following:

1. The Division of Emergency Management.
2. The North Carolina Highway Patrol.
3. The Fire and Rescue Commission.
4. The Department of Environment, Health, and Natural Resources.
5. The Department of Transportation.
6. The Department of Agriculture.
7. The Chemical Industry Council of North Carolina.
8. The North Carolina Hazmat Providers Association.
9. Each regional response team.

In addition, the Secretary shall appoint three persons designated jointly by the North Carolina Fire Chiefs Association and the North Carolina Fire Fighters Association.

§166A-24 provides that a person who causes the release of a hazardous material shall be liable for the costs of responding to the incident. The Secretary of Crime Control and Public Safety shall invoice the person liable for a hazardous material release, and in the event of nonpayment, may institute an action to recover those costs in the Superior Court Division of the county in which the release occurred.

§166A-25 sets up a nonreverting fund in the Department of Crime Control and Public Safety for money collected from responsible parties. The fund may also receive grants, gifts, and donations of property to help establish the regional response program.

Section 2 of the bill provides the funding for the program. The funding is broken down into three parts; (1) capital and equipment costs for setting up regional response teams, (2) costs for operating the regional response teams, and (3) costs for personnel for the Division of Emergency Management to run a 24-hour operations center. In addition the appropriation mandates the adding of an industrial hygienist to the Division's staff.

Section 3 provides that the act becomes effective upon ratification.

LEGISLATIVE PROPOSAL II

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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D

93-RF-EMS2
THIS IS A DRAFT 22-JAN-93 09:54:43

Short Title: Disaster Leave Law

(Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR LIMITED LEAVE WITH PAY FOR STATE
3 EMPLOYEES WHO ARE CERTIFIED DISASTER VOLUNTEERS.
4 The General Assembly of North Carolina enacts:
5 Section 1. Chapter 166A of the General Statutes is amended by adding a
6 new Article to read:

7 **ARTICLE 3**

8 §166A-30. Short title. This Act may be cited as the Disaster Service Volunteer Leave
9 Act.

10 §166A-31. Definitions. As used in this Article:

11 (a) "State agency" means and includes all departments, institutions,
12 commissions, committees, boards, divisions, bureau, officers, officials, and
13 bodies politic and corporate of the State, including those within the
14 legislative and judicial branches of State government.

15 (b) "Disaster" means a disaster designated at Level III or higher in the
16 American National Red Cross Regulations and Procedures.

17 (c) "Certified Disaster Service volunteer" means a person who has completed
18 the necessary training for and been certified as a disaster service specialist by
19 the American National Red Cross.

20 §166A-32. Disaster service volunteer leave. An employee of a State agency who is a
21 certified disaster service volunteer of the American Red Cross may be granted leave
22 from his work with pay for a time not to exceed 15 work days in any 12-month period
23 to participate in specialized disaster relief services for the American Red Cross. To be
24 granted leave, the request for the services of that employee must come from the

1 American Red Cross. The decision to grant the employee leave rests in the sole
2 discretion of the employing State agency. Employees granted leave pursuant to this
3 article shall not lose seniority, pay, vacation time, sick time, or earned overtime
4 accumulation. The State agency shall compensate an employee granted leave under
5 this Article at the regular rate of pay for those regular work hours during which the
6 employee is absent from his work. Leave under this Act shall be granted only for
7 services related to a disaster occurring within the State of North Carolina.

8 Sec. 2. This act becomes effective upon ratification.

EXPLANATION OF LEGISLATIVE PROPOSAL II

The proposed disaster leave law provides that an employee of a State agency, who is a disaster service volunteer certified by the American Red Cross, may be granted leave with pay to assist the Red Cross in providing disaster relief services within the State of North Carolina.

The amount of leave is limited to 15 work days in any 12 month period. The decision to grant the employee leave rests in the discretion of the employing State agency. An employee may be granted leave only at the request of the American Red Cross for disasters classified as Level III and above.

For the purposes of the Act, a State agency includes all departments, institutions, commissions of the executive, legislative, and judicial branches of State government.

The act becomes effective upon ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

HD

THIS IS A DRAFT 22-JAN-93 09:54:44

Short Title: Continue Emergency Mgmt. Study

(Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE CONTINUATION OF THE EMERGENCY
3 MANAGEMENT ISSUES STUDY.
4 Whereas, the technical, legal and economic issues involved in the provision of
5 emergency response to natural and technological disasters are very complex; and
6 Whereas, the Legislative Research Commission Study Committee on Emergency
7 Management Issues has met numerous times to discuss the varied issues before it; and
8 Whereas, a majority of the Committee's time was focused on the development
9 of a regional response program for hazardous materials emergencies; and
10 Whereas, many of the issues that the Commission was directed to study by the
11 1991 General Assembly have not been fully studied and resolved; and
12 Whereas, there is a continuing need to study emergency management issues and
13 provide for comprehensive disaster planning and a disaster recovery fund; Now
14 therefore.
15 The General Assembly of North Carolina enacts:
16 Section 1. The Legislative Research Commission may study the State
17 emergency management program's ability in the future to adequately address
18 preparedness, response, recovery, and mitigation for technological and natural hazards
19 as may impact the citizens of North Carolina and their property. In conducting its

LEGISLATIVE PROPOSAL III

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

- 1 study, the Commission may consider the program's ability in the future to address
2 recovery operations during Presidential and Gubernatorial declared disasters, including:
3 a. Need for Disaster Recovery Law, Disaster Recovery Fund, and related
4 staffing needs;
5 b. Need to expand the Emergency Information System; and
6 c. Needs to respond and recover from catastrophic disasters, including
7 resource needs at State and local levels such as auxiliary power
8 requirements for vital facilities.
9 If the Commission conducts the study authorized under this act, it shall report
10 its findings together with recommended legislation, to the 1994 Session of the
11 1993 General Assembly, or to the 1995 General Assembly, or to both.
12 Sec. 2. This resolution is effective upon ratification.

EXPLANATION OF LEGISLATIVE PROPOSAL III

Legislative Proposal III authorizes the continuation of the Legislative Research Commission Study on Emergency Management Issues. Although the bill authorizes the Commission to look at all aspects of the Division of Emergency Management to respond to technological and natural disasters, it focuses particularly on recovery from major, or catastrophic disasters, and the need for a disaster recovery fund.

The act becomes effective upon ratification.

APPENDIX A

CHAPTER 754
SENATE BILL 917

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

PART I.-----TITLE

Section 1. This act shall be known as "The Studies Act of 1991."

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PART II.-----LEGISLATIVE RESEARCH COMMISSION

Sec. 2.1. The Legislative Research Commission may study the topics listed below. Listed with each topic is the 1991 bill or resolution that originally proposed the issue or study and the name of the sponsor. The Commission may consider the original bill or resolution in determining the nature, scope, and aspects of the study. The topics are:

- (40) Management of Hazardous Materials Emergencies and Establishment of Regional Response Teams (H.B. 1210 - Flaherty, S.B. 922 - Martin of Pitt),
- (59) State Emergency Management Program, including natural hazards, recovery operations for Presidential or Gubernatorial declared disasters, and catastrophic hazards (S.J.R. 946 - Basnight),

Sec. 2.7. Committee Membership. For each Legislative Research Commission Committee created during the 1991-93 biennium, the cochairs of the Commission shall appoint the Committee membership.

Sec. 2.8. Reporting Dates. For each of the topics the Legislative Research Commission decides to study under this act or pursuant to G.S. 120-30.17(1), the Commission may report its findings, together with any recommended legislation, to the 1992 Regular Session of the 1991 General Assembly or the 1993 General Assembly, or both.

Sec. 2.9. Bills and Resolution References. The listing of the original bill or resolution in this Part is for reference purposes only and shall not be deemed to have incorporated by reference any of the substantive provisions contained in the original bill or resolution.

Sec. 2.10. Funding. From the funds available to the General Assembly, the Legislative Services Commission may allocate additional monies to fund the work of the Legislative Research Commission.

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PART XXI.-----EFFECTIVE DATE

Sec. 21.1. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 16th day of July, 1991.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE JOINT RESOLUTION 946

Sponsors: Senator Basnight.

Referred to: Appropriations.

May 14, 1991

1 A JOINT RESOLUTION AUTHORIZING THE LEGISLATIVE RESEARCH
2 COMMISSION TO STUDY THE STATE EMERGENCY MANAGEMENT
3 PROGRAM.

4 Be it resolved by the Senate, the House of Representatives concurring:

5 Section 1. The Legislative Research Commission may study the
6 State emergency management program's ability in the future to adequately
7 address preparedness, response, recovery, and mitigation for technological and
8 natural hazards as may impact the citizens of North Carolina and their
9 property. In conducting its study, the Commission may consider the
10 program's ability in the future to address the following:

- 11 (1) Technological hazards (hazardous material), including:
- 12 a. Need to establish regional hazardous materials response
 - 13 teams, and to staff each of the six emergency
 - 14 management area offices with a hazardous materials
 - 15 specialist;
 - 16 b. Need for staff and resources to implement Senate Bill
 - 17 977, introduced in the 1989 Session, addressing
 - 18 potential adverse impacts of offshore oil and gas
 - 19 activities;
 - 20 c. Need for a fee system related to the impact of the
 - 21 Superfund Amendments and Reauthorization Act
 - 22 (SARA) of 1986, as amended;
 - 23 d. Need for staff and resources to implement OSHA 1910-
 - 24 120 (Title I, SARA, as amended) for State and local
 - 25 hazardous material responders; and

- 1 e. Expansion of the Emergency Information System (EIS)
2 at the State emergency management office into the six
3 emergency management area offices to include detailed
4 digitized maps of business and industry impacted by
5 SARA.
- 6 (2) Natural Hazards, including:
7 a. Statewide flooding problems;
8 b. Dam safety, particularly emphasizing the impact of the
9 dam on people, property, and vital resources located
10 below the dam;
11 c. Further expansion of the Integrated Flood Observation
12 and Warning System in the mountains to include
13 maintenance of the entire system;
14 d. Further study of eastern North Carolina hurricane
15 preparedness, emphasizing additional signage to
16 identify local Emergency Broadcast System station;
17 e. Hurricane preparedness for inland counties;
18 f. Need for adequate planning and public education, and
19 development of urban search and rescue capabilities
20 regarding other hazards such as tornadoes, forest fires,
21 and the potential impact of liquefaction of the New
22 Madrid fault;
23 g. Expansion of the emergency management system to
24 allow for identification of high-risk dams.
- 25 (3) Recovery operations (Presidential and Gubernatorial declared
26 disasters), including:
27 a. Need for Disaster Recovery Law, Disaster Recovery
28 Fund, and related staffing needs; and
29 b. Need to expand Emergency Information System.
- 30 (4) Catastrophic disasters, including resource needs at State and
31 local levels such as auxiliary power requirements for vital
32 facilities.
- 33 If the Commission conducts the study authorized under this act, it shall report
34 its findings together with recommended legislation, to the 1992 Session of the
35 1991 General Assembly, or to the 1993 General Assembly, or to both.
- 36 Sec. 2. This resolution is effective upon ratification.

<EF=1>

APPENDIX B

MEMBERSHIP OF LRC COMMITTEE ON EMERGENCY MANAGEMENT ISSUES

LRC Member: Sen. J. K. Sherron, Jr.
4208 Six Forks Road, Suite 302
Raleigh, NC 27609
(919) 781-8721

Members:

President Pro Tempore's Appointments

Sen. David R. Parnell, Cochair
P.O. Box 100
Parkton, NC 28371
(919) 858-3521

Sen. Austin M. Allran
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Hickory, NC 28603
(704) 324-5200

Sen. Robert L. Martin
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Bethel, NC 27812
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Sen. Aaron W. Plyler
2170 Concord Avenue
Monroe, NC 28110
(704) 289-3541

Mr. Tony Seamon
P.O. Box 3486
Morehead City, NC 28557

Sen. Marvin Ward
641 Yorkshire Road
Winston-Salem, NC 27106
(919) 724-9104

Mr. R. E. Wilkins
518 W. College Street
Warsaw, NC 28398

Speaker's Appointments

Rep. Foyle Hightower, Cochair
Route 2, Box 2
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Rep. Daniel H. DeVane
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Raeford, NC 28376-0500
(919) 875-2652

Rep. Jerry C. Dockham
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Denton, NC 27239
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Rep. Aaron E. Fussell
1201 Briar Patch Lane
Raleigh, NC 27609
(919) 876-0240

Rep. George M. Holmes
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Rep. Mary E. McAllister
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Rep. Ronald L. Smith
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Atlantic Beach, NC 28512
(919) 726-7933

Staff:

Ms. Barbara Riley
(919) 733-2578

Ms. Michele Nelson
(919) 733-4910

Clerk:

Ms. Janet Puryear
(919) 733-5963 (O)
(919) 552-8224

Fiscal Research Division
 December 18, 1992
Alternate Budget
 (Reflects Delay in Implementation)

HAZMAT REGIONAL RESPONSE TEAMS
 AND
 STATE EMERGENCY MANAGEMENT ADMINISTRATION

		<u>1993-94</u>	<u>1994-95</u>
I.	TEAMS		
A.	Equipment		
	1. Library	\$ 4,000	
	2. Maps & Misc. Equipment	15,000	
	3. Protective Equipment	145,000	
	4. Leak Control, Detection, Suppression & Containment Equipment & Tools	65,000	
	5. Decontamination Equipment	7,000	
	6. Communications Equipment: FAX machines, radios, cellular phones, tape recorders, computers and hardware	15,400	
	7. Vehicle - equipped per specifications	<u>158,000</u>	
	(Refer to Attach. B)	<u>409,400</u> *	
	Subtotal Equipment for 6 teams	\$2,456,400	\$ -
B.	Administration/Personnel		
	\$500/Hour - Team & Call Back allowance x 8 Hours (Avg.) per Call x 100 Calls annually	-	400,000
	Subtotal-Admin./Personnel	-	\$400,000

* The revised cost of equipment is \$409,400, not \$451,400. The latter assumes an estimated cost for the vehicle of \$200,000.

1993-94 1994-95

C.	1. Medical Monitoring		
	\$500/team x 6	\$ -	\$ 30,000
	2. Inventory/Equipment Replacement	-	150,000
	3. Equipment Repair	-	30,000
	4. Vehicle Repair	-	21,000
	5. Cost Recovery	-	32,000
	(Based upon allowance for 8 calls		
	x \$4,000/call)		
	 Subtotal-Other Expenses	\$ -	\$255,000

D. Training (Refer to Attachment C)
First Year

Basic Courses

Technician Level - 3 Classes @ \$11,000
per class of 20 students - \$33,000

Chemistry of Hazardous Materials - 2
classes @ \$16,000 per class of
30 students - \$32,000

Second Year

Basic and Refresher Courses - \$50,000

Other Courses (Advanced)

Highway Emergencies - 18 students per
course @ \$2,000+ per student - \$36,000

Tank Cars - 18 students per course
@ \$2,000+ per student - \$36,000

	<u>1993-94</u>	<u>1994-95</u>
<u>Other Courses (Advanced) (continued)</u>		
Air Surveillance - 18 students per course @ \$800 per student - \$14,400		
Radiological Response Team - offered per Division of Emergency Management	\$ <u>65,000</u>	<u>\$86,400</u>
Total - Team Expenses	\$2,521,400	\$741,400
II.		
A. Expansion of State Administration (Refer to Attachments D3 and D4 for details of cost each fiscal year. Request 3 rather than 4 positions to provide 24-hour coverage). Fund Emerg. Mgmt. Officers for one quarter, only in FY 93-94, and the Hygenist position for 9 months, only, in FY 93-94.	106,909 107,418	210,587 206,943
B. Training Cost <u>Basic Courses</u>		
Technician Level - 1 session @ \$11,000 per session for 20 students (Area Coordinators)	11,000	-
Total - State Administration	118,418 <u>\$117,909</u>	206,943 <u>\$210,587</u>
TOTAL TEAM & STATE ADMIN. EXPENSES	\$2,639,309 2,639,818	\$957,987 948,343

* Amounts remain the same, as presented to the Commission.