

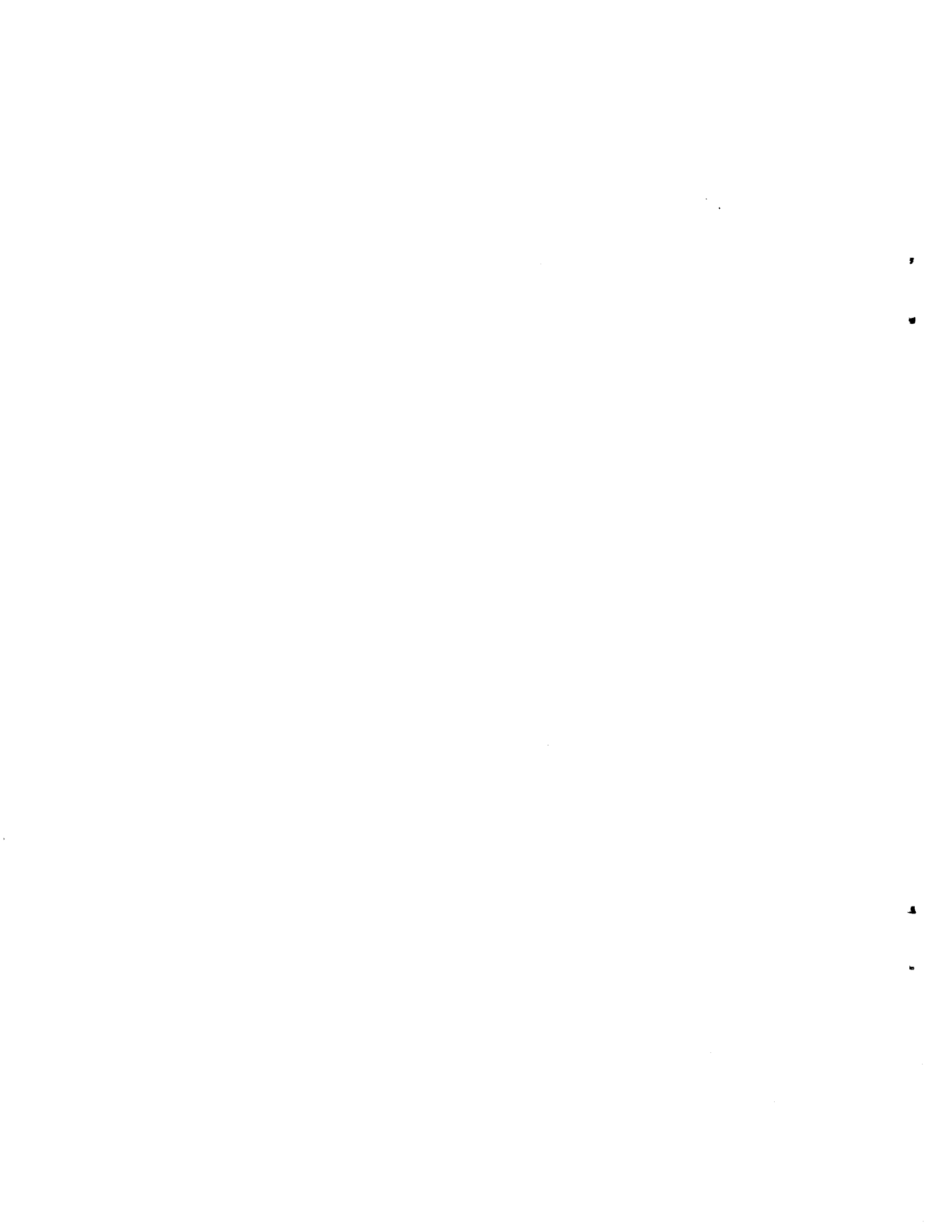
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North Carolina Legislative Committee on Agency Review

February, 1983



FINAL REPORT & RECOMMENDATIONS



North Carolina
LEGISLATIVE COMMITTEE ON AGENCY REVIEW

FINAL REPORT AND RECOMMENDATIONS

To the 1983 General Assembly

Senator W. G. Hancock, Jr.
Co-Chairman

Representative John T. Church
Co-Chairman

Senator Joseph E. Johnson
Senator Robert B. Jordan, III
Senator Helen R. Marvin

Rep. David W. Bumgardner, Jr.
Rep. Samuel D. Bundy
Rep. Jo Graham Foster
Rep. Foyle Hightower

Milton Heath, Staff

February 1983





Legislative Committee On Agency Review

State Legislative Building

Raleigh, North Carolina 27611

February 1983

SENATOR W. G. HANCOCK, JR.
CO-CHAIRMAN

SENATOR JOSEPH E. JOHNSON
SENATOR ROBERT B. JORDAN III
SENATOR HELEN R. MARVIN
SENATOR JULIUS A. WRIGHT

REPRESENTATIVE JOHN T. CHURCH
CO-CHAIRMAN

REP. DAVID W. BUMGARDNER, JR.
REP. SAMUEL D. BUNDY
REP. JO GRAHAM FOSTER
REP. FOYLE HIGHTOWER

To: Members of the 1983 General Assembly and Interested Departments, Agencies,
and Citizens

Attached is the report of the Legislative Committee on Agency Review. It includes several nonlegislative and a number of legislative recommendations designed to improve the laws under which many state departments and agencies operate.

We would like to thank the members of the Committee for their many hours of deliberation. Their diligence in evaluating over sixty programs assigned to the Committee for review is most appreciated. We also wish to thank the staff of the departments and agencies under our review for their assistance in addressing the issues before the Committee.

We are also grateful to the members of the public who took the time to appear at our meetings and public hearings to share their concerns and ideas on how state government might be improved.

We are particularly indebted to our own Committee Staff. Their hard work, skill and constant good humor made the work of the Committee more manageable, and their frequent suggestions proved invaluable.

We commend to the reader the recommendations presented in this report. The members of the Legislative Committee on Agency Review and our staff are available to answer any questions. On behalf of all who participated so actively in this process, we urge your support of these proposals.

Sincerely yours,

A handwritten signature in cursive script, reading "William G. Hancock, Jr.".

William G. Hancock, Jr.
Co-Chairman

A handwritten signature in cursive script, reading "John T. Church".

John T. Church
Co-Chairman



LEGISLATIVE COMMITTEE ON AGENCY REVIEW
FINAL REPORT TO THE 1983 GENERAL ASSEMBLY

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PART 1

INTRODUCTION

The Legislative Committee on Agency Review (LCAR) was created by the 1981 General Assembly as a successor to the "Sunset" or Governmental Evaluation Commission (GEC), following the termination of GEC's funding by the Legislative Services Commission. LCAR inherited the Sunset Commission's responsibility to evaluate the performance of 62 regulatory programs involving 67 separate statutes. Those laws were part of an original list of more than 100 laws that were scheduled for evaluation by GEC over a period of six years, beginning in 1977.

By early 1981 the Sunset Commission had completed its evaluation of about 40 regulatory laws and programs. When the 1981 General Assembly abolished the Sunset Commission, it elected to assign the responsibility for the remaining studies to the LCAR.

The main differences between the LCAR and the Sunset Commission were its composition (all legislators, not a mixture of legislators and citizens); its lack of an automatic termination date for the agencies reviewed; and its much smaller budget (less than 10% of GEC's) and staff resources. (For a more detailed comparison, see Appendix B.)

THE LCAR'S WORK

The program areas assigned to the LCAR for review and evaluation were these:

*Agriculture: 22 licensing and regulatory laws under the N.C. Department of Agriculture.

*Health and Social Services: 11 licensing and regulatory laws under the Department of Human Resources, a majority of which are in health-related fields and a minority in social services.

*Environmental Protection and Natural Resources: 10 licensing and regulatory laws under the Department of NRCD.

*Insurance and Related Matters: 6 licensing and regulatory laws under the Department of Insurance (bail bondsmen, collection agencies, motor clubs, and insurance).

*Independent Licensing Boards: 8 independent licensing boards plus the Commission on Indian Affairs.

*Pilotage: 2 pilotage licensing laws, under the Department of Commerce.

*Day Care: 2 day care laws, under the Department of Administration.

*Passenger Tramway Regulation, under the Department of Labor.

*Private Protective Services, under the Department of Justice.

In reviewing these programs and developing its recommendations the LCAR was charged to "proceed with a view to continuing productive, efficient and active programs which are in the public interest, to eliminating inactive programs, and to eliminating or consolidating overlapping or duplicating programs"; moreover, the LCAR was authorized to "consider the extent to which changes are needed in enabling laws." [G.S. 143-34.26(b)]. Part II of this

report details the LCAR's recommendations under each of these headings of the statute--for elimination of dead wood and overlapping programs, for retention of productive and active laws, and for changes in enabling laws.

The succeeding parts of this report examine and make recommendations on three related issues that grew out of its program evaluations:

- * Part III - legislative evaluation of proposals for new licensing boards.
- * Part IV - recommendations for legislative reorganization.
- * Part V - recommendations concerning the future role of the LCAR.

METHODOLOGY

The LCAR organized its work of program evaluation under statutory directives that:

- (1) The departments and agencies under review were to submit recommendations for retention or elimination of programs (and changes in legislation) by January 1, 1982;
- (2) The LCAR should make its own tentative recommendations available to the responsible departments and agencies by July 1, 1982;
- (3) The LCAR thereafter must hold at least one public hearing concerning any law recommended to be amended or repealed; and
- (4) The LCAR prepare its recommendations and report to the General Assembly (by its expiration date of June 30, 1983).

Altogether 15 full days of meetings and hearings were held by the LCAR. A one-day public hearing was devoted to one agency, the Milk Commission. Out of this work have come recommendations for the repeal of two statutory programs, the repeal of obsolete or unnecessary sections in six other statutes, and amendments to 19 other statutes.

RESULTS

As indicated in our interim report to the 1982 General Assembly, we believe that we have conducted a partially successful experiment in legislative-executive cooperation. This experiment has stimulated a commendable effort by the departments and agencies involved to weed out dead wood and reduce duplication in their programs. Encouraged by the cooperative spirit of this undertaking, some of the departments under review considerably accelerated the drafting of departmental bills affecting the programs reviewed by the LCAR. These limited results were realized within the budget provided by the 1981 General Assembly.

It should be emphasized that the budget available to the LCAR was \$35,000 for the biennium, less than 10% of the biennial budget of its predecessor, the Governmental Evaluation Commission. For that reason, LCAR was not in a position to conduct independent, in-depth examinations of the work of the agencies under review. Instead, LCAR was required by its enabling statute and by the constraints of its budget to depend heavily upon the departments themselves for recommendations. This is not an optimal arrangement, and the limited results achieved are testimony to the diligence of the LCAR members, the hard work and competence of the LCAR part-time staff and the cooperation of the executive-branch agencies under review.



PART II
FINDINGS AND RECOMMENDATIONS CONCERNING DEPARTMENTS
AND BOARDS WHOSE PROGRAMS WERE REVIEWED

Department of Administration

Two programs within the Department of Administration were subject to Committee review, THE NORTH CAROLINA STATE COMMISSION OF INDIAN AFFAIRS and CHILD DAY-CARE FACILITIES AND LICENSING. The Committee does not recommend changes in either of these laws but some comments are in order.

The State Commission of Indian Affairs is a large (22 member) commission and includes 15 Indians elected by each tribe or group represented. Members serve three year terms with no limit on the number of terms that can be served. Consistent with its usual practice, the Committee initially considered recommending that Commission members be limited to two consecutive terms; however, Commission representatives convinced the Committee that this limitation would work a hardship on some groups represented and thus, no change in terms is recommended. No other changes in the law were proposed by the Commission or anyone else.

Child Day-Care Licensing and Facilities are primarily regulated by the Department of Administration. However, there is significant involvement by the Department of Human Resources, which sets standards for and inspects those day-care facilities from which the Department purchases child care. Coincidentally, most issues concerning day-care licensing and administration were also subject to study by a committee of the Legislative Research Commission. Not wishing to duplicate the LRC efforts, the Legislative Committee on Agency Review initially decided to confine its study to (1) whether there was a duplication of efforts between the Departments of Administration and Human Resources, and (2) if so, whether the duplication could be reduced or eliminated. Subsequently, the LRC committee received

additional funding in the 1982 short session, which allowed it to expand the scope of its work. Based on assurances by the LRC committee that it would look at the duplication of efforts question, the LCAR decided to defer further consideration of all day care issues. The LRC day care study committee is required to report its recommendations to the 1983 General Assembly.

Recommendation #1. North Carolina State Commission of Indian Affairs. No legislation recommended.

Recommendation #2. Child Day-Care Facilities. No legislation recommended.

Recommendation #3. Child Day-Care Licensing. No legislation recommended.

Department of Agriculture

The Committee reviewed the licensing and regulatory activities of the N.C. Department of Agriculture. After holding public hearings, we found that, in the main, these were active, productive and efficient programs that continue to meet well-defined needs of the public and the farm community. We recommend that a number of the laws that authorize these programs be continued without change (see recommendations on page 9).

The Committee was gratified to receive from Commissioner Graham the Department's recommendations for repeal of several regulatory laws that are obsolete or no longer are needed. These laws are:

*The farmers stock peanuts marketing license law (G.S. Ch. 106, Art. 5A).

*The meat processors and distributors permit law, tied to Korean War price ceilings (G.S. Ch. 106, Art. 15A).

*G.S. 106-189.1, which authorizes a system of grading apples, that was held unconstitutional by a federal district court.

The Committee concurs in the Department's repeal recommendations and appreciates the Department's cooperative spirit in helping to identify programs and laws that no longer meet current needs.

Hatcheries and Chick Dealers

The Department's review of the hatcheries and chick dealers licensing law identified a need for updating and clarifying amendments. The Department sought and the Committee recommends amendments in this statute (G.S. Ch. 106, Art. 49) to (1) eliminate obsolete references to turkey improvement plans,

*In addition to the proposed repeals listed here, the Department secured the repeal of the slaughterhouse inspection law by Ch. 284, S.L. 1981, in anticipation of sunset review.

(2) eliminate nuisance fees graded according to size of establishment and substitute annual license fees of \$25 for hatcheries and \$10 for dealers, and (3) make clarifying changes in appeal and disciplinary procedures. No objection was made to these provisions at the Committee's public hearing.

Feeding Garbage To Swine

North Carolina statutes now allow controlled feeding of garbage to swine under permit from the Department of Agriculture (G.S. Ch. 106, Art. 36). At the Committee's hearings on this act it became apparent that spokesmen for the Department and the pork producer industry share misgivings concerning practical problems of enforcing this act and possible risks to the health of persons who consume pork from animals that are fed garbage. The Department indicated that it would be glad to turn over enforcement in this area to the federal government, but that federal authorities would not commit themselves to assuming this responsibility. Out of this background arose a proposal that North Carolina join the ranks of several neighboring states that prohibit feeding garbage to swine. A bill was drafted by the Department that would replace the present law with provisions that (1) prohibit feeding garbage to swine (except your own household garbage), (2) prohibit offering or selling hogs that consumed garbage within 30 days prior to sale, and (3) prohibit allowing hogs on garbage dumps. The Committee joins the Department in recommending enactment of this bill.

Recommendation #1. Continue the following laws without change; no legislation recommended:

Public Weighmasters (Ch. 81A, Art. 5)

N.C. Commercial Fertilizer Law (Ch. 106, Art. 56)

Structural Pest Control Act (Ch. 106, Art. 4C)
Food, Drugs and Cosmetics (Ch. 106, Art. 12)
Licensing and Regulation of Rendering Plants and Rendering
Operations (Ch. 106, Art. 14A)
Inspection, Grading, and Testing Milk and Dairy Products
(Ch. 106, Art. 29)
North Carolina Seed Law (Ch. 106, Art. 31)
Public Livestock Markets (Ch. 106, Art. 35)
Livestock Dealer Licensing Act (Ch. 106, Art. 35B)
Unfair Practices by Handlers of Fruits and Vegetables
(Ch. 106, Art. 44)
North Carolina Antifreeze Law of 1975 (Ch. 106, Art. 51A)
Grain Dealers (Ch. 106, Art. 53) and Adulteration of
Grains (Art. 54)
Pesticide Applicators and Consultants (Ch. 143, Art. 52,
Part 4)
Pesticide Dealers and Manufacturers (Ch. 143, Art. 52,
Part 3)

Recommendation #2. Hatchery and Chick Dealer Licensing.

See "An act to amend Article 49 of Chapter 106, relating to Hatcheries and Chick Dealers", page D-1.

Recommendation #3. Feeding Garbage to Swine.

See "An act to prohibit the feeding of garbage to swine", page D-3.

Recommendation #4. Repeal of Marketing of Farmers Stock Peanuts.

See "An act to repeal the Marketing of Farmers Stock Peanuts Act", page D-5.

Recommendation #5. Repeal of North Carolina Meat Grading Law.

See "An act to repeal the North Carolina Meat Grading Law", page D-6.

Recommendation #6. Repeal of Unconstitutional Section of Marketing and Branding Farm Products Act.

See "An act to repeal an unconstitutional provision of the Marketing and Branding Farm Products Act", page D-7.

Department of Commerce

Navigation and Pilotage Commissions.

The Committee considered the laws establishing the CAPE FEAR AND MOREHEAD CITY NAVIGATION AND PILOTAGE COMMISSIONS. These commissions regulate river pilots through the issuance of state licenses. The Committee was concerned that this system of regulation might prohibit interested and qualified persons from entering this occupation. However, it was also concerned over the Commerce Department's statement that changes in these laws would create disturbances at the Wilmington and Morehead City ports. Even though the Committee recommended no changes in these laws, it advertised for public comment on them (and received none). The Committee suggests that the General Assembly consider amending these laws (Chapters 76A and 76, Art. 6) if subsequent facts or circumstances indicate that qualified persons who wish to become river pilots are prevented from doing so.

Recommendation #1. Cape Fear Navigation and Pilotage Commission. No legislation recommended.

Recommendation #2. Morehead City Navigation and Pilotage Commission. No legislation recommended.

Milk Commission

G.S. Chapter 106, Article 28B creates the North Carolina Milk Commission, which is charged with the responsibility of ensuring that the production and marketing of milk are carried on in a fair and orderly manner. Among other things, this statute licenses milk distributors; authorizes the Commission to fix prices to be paid to distributors and to define milk marketing areas; prohibits the sale of milk below cost to injure competition, and prohibits using milk as a "loss-leader".

Some dairy states have left the regulation of milk marketing to federal orders. North Carolina (since 1951) and some other states have assumed this responsibility themselves.

After developing basic information on regulation of milk marketing from the Milk Commission, the Committee held one full day of public hearings on milk marketing in North Carolina. This gave the Committee an opportunity to hear from spokesmen for various sectors of the milk industry, user and consumer groups, economic and other experts, and agricultural leaders. On the basis of this hearing the Committee reached one firm conclusion: that state regulation under the experienced guidance of the Milk Commission would better serve the interests of North Carolina than federal regulation. It also proposed two tentative recommendations (later to be modified), that:

- (1) In line with prevailing practice for regulatory and licensing boards, members of the Milk Commission should be eligible to serve no more than two successive 3-year terms, rather than continuing to have the potentiality of unlimited tenure; and

- (2) The statutory prohibition against below-cost sales of milk at retail should be carefully modified, so as to protect both the interest of North Carolina milk producers and the consuming public.

Following the public hearing the Committee asked the Milk Commission for its views on both of these tentative recommendations. (The second proposal had been refined, to this effect: that the below-cost retail sales ban be suspended experimentally for two years, with a "safety net" provision that would allow the Milk Commission to immediately re-instate the ban if market conditions required.) The Milk Commission and the North Carolina Farm Bureau responded negatively to both proposals, because of their concern over current economic difficulties of many milk producers.

In light of this response and of its own limited staff resources and lack of time for further study, the Committee recommends that the entire subject of milk regulation be studied in depth by a legislative study group endowed with sufficient staff resources to do justice to this complex subject.

Recommendation #3. Milk Commission. No legislation recommended; however, the Committee recommends that the entire subject of milk regulation be studied in depth by a legislative study group endowed with sufficient staff resources to do justice to this complex subject.

Department of Human Resources

The Department presented draft legislation to the Committee to consolidate and remove overlapping regulation of private facilities that provide various kinds of residential care for children. Current law (G.S. 110-49) requires foster care homes and other residential child care agencies, which number about 3500, to (1) initially obtain a written permit from the Department and (2) obtain an annual license. G.S. 131D-5 requires a smaller number of private child-caring institutions to obtain an annual license from the Department, and institutions regulated under this statute also appear subject to regulation under G.S. 110-49. The proposed legislation contained in Appendix D subjects all RESIDENTIAL CHILD CARE FACILITIES to regulation under G.S. 131D-5, thus eliminating possible overlap and confusion. There is no substantive change in these licensing requirements, and the Committee heard no opposition to the Department proposal.

The Department also suggested legislation, contained in Appendix D, to update language governing the two RESIDENTIAL MATERNITY CARE INSTITUTIONS in this state. The proposed legislation adds an initial permit requirement to the annual licensure one (which conforms to the permit and licensing requirements for all child caring institutions, as described above) and deletes "care during delivery" from the services provided by these homes. (Maternity homes no longer furnish care during delivery but do continue to provide care before and after delivery.) This bill conforms the law to current practice and makes no significant change in regulation of maternity homes. The Committee heard no opposition to this legislation.

No new legislation was requested, and the Committee recommends that this law be continued without change.

SANITATION REGISTRATION LAW: The public hearings on this law revealed that a bill was pending in Senate Committee (H 964) during the final 1982 adjourned session that would change the law from a "title act" to a "practice act"--which would make it a mandatory rather than a voluntary practice act for sanitarians.* (Most sanitarians are employees of local health departments who monitor and enforce environmental health laws, such as the septic tank law and restaurant inspection regulations.)

The Committee found a continuing need for this registration program, strong support among the sanitarians for a mandatory registration program as a means of upgrading the profession, and no vocal opposition to H 964. Accordingly, it recommended to the Senate Committee a favorable report of H 964 to the Senate floor in the 1982 special session. The Committee was gratified that this recommendation was accepted and the bill enacted into law as Chapter 1274.

MILK SANITATION LAW: The public hearings on the subject of food sanitation identified a duplication of MILK SANITATION PROGRAMS within the Departments of Agriculture and Human Resources. (G.S. Chapter 130 and G.S. Chapter 106, Article 12.) Traditional health department programs address the sanitary aspects of fluid milk and milk products consumed by humans, but without express statutory authority that directly covers these programs. More specific statutes authorize the Department of Agriculture to regulate the subject under the Food, Drugs and Cosmetics Act.

*Other proposed amendments to the law in H 964 affected the membership of the Board of Sanitarian Examiners, educational requirements for registration, and related matters.

The Committee encouraged the two departments to work together to produce an agreed solution that would expressly authorize the Commission for Health Services to regulate the sanitary aspects of Grade "A" milk production, transportation, processing and distribution, while leaving the remainder of the authority of the Department of Agriculture intact. The Committee endorses this approach as a satisfactory resolution of this issue for the present.

Recommendation #1. Residential Child Care Facilities.

See "An act to amend the requirements for operating residential child care and child placement facilities", page D-8.

Recommendation #2. Residential Maternity Care Institutions.

See "An act to amend the requirements for operating maternity care homes", page D-10.

Recommendation #3. Homes for the Aged and Disabled. No legislation recommended.

Recommendation #4. Hospital Licensing. No legislation recommended.

Recommendation #5. Ambulance Services. No legislation recommended.

Recommendation #6. Ambulatory Surgical Facilities. No legislation recommended.

Recommendation #7. Licensing and Control of Private Mental Institutions and Homes. No legislation recommended.

Recommendation #8. Area Mental Health, Mental Retardation and Substance Abuse Programs. No legislation recommended.

Recommendation #9. Midwives. No legislation recommended.

The Committee also considered HOMES FOR THE AGED AND DISABLED, the third category of statutes regulating private institutions subject to LCAR review. The Department did not recommend any legislation on this subject. The Committee expressed concern over possibly inadequate monitoring of these homes and suggested that more stringent inspection of nursing home facilities is needed. The Department agreed to study the matter and has appointed a committee to address the issues raised by the LCAR.

Three other laws scheduled for Committee review, HOSPITAL LICENSING, REGULATION OF AMBULANCE SERVICES, AND AMBULATORY SURGICAL FACILITIES, are being recodified by the Department of Human Resources as part of a comprehensive rewrite of the public health laws to be presented to the 1983 General Assembly pursuant to Res. 9, S.L. 1981. The Department was unable to have these drafts prepared in time for the Committee to properly consider them. However, legislation rewriting these three laws will be submitted by the Department in its 1983 legislative package.

The Department did not submit legislation amending two other programs subject to LCAR review, LICENSING AND CONTROL OF PRIVATE MENTAL INSTITUTIONS AND HOMES and AREA MENTAL HEALTH, MENTAL RETARDATION, AND SUBSTANCE ABUSE PROGRAMS. However, the Department stated that these laws are overlapping and difficult to interpret, and it is trying to draft legislation to solve these problems.

The law requiring licensure of MIDWIVES, which was scheduled for sunset in 1981, was reviewed in detail by the former Sunset Commission. Because the complex issues involved required further consideration of the matter, the Commission successfully recommended that the midwives law be carried over to a 1983 Sunset date. Meanwhile, at the Human Resources Department's instigation,

the law regulating midwives was rewritten in 1981. The Department acknowledged that the 1981 rewrite was only an interim measure, and the 1981 General Assembly required the Department (Ch. 676, SL 1981) to study regulation of midwives and report to the 1983 Session. The Department has not presented any legislation to the LCAR for its consideration, and thus the Committee is unable to make any legislative recommendations on this subject.

RADIATION PROTECTION LAW: The RADIATION PROTECTION COMMISSION, staffed by the Department of Human Resources, administers under G.S. Chapter 104E a program of licensing low-level radiation materials and sources that is designed to facilitate the development and use of low-level radiation sources consistent with the public health and safety. The Committee found that this commission exemplifies some of the advantages and disabilities of independent boards and commissions. The commission's independence and dedicated staff enable it to attract a strong and experienced policy group. That very independence, however, breeds a measure of isolation from its home department that exposes the commission to the risk of being given a low budget priority. Low budgetary priorities may be a tolerable, if regrettable, consequence of the battle for bureaucratic survival in some cases, but the public concern over radiation protection puts this program in a special category.

Our public hearings concerning the radiation protection program revealed the need for additional funds for operating expenses and purchase of equipment to provide for a minimum of protection for the safety of the public. This prompted the Committee to send an inquiry to the Governor and Advisory Budget Commission concerning the need for these additional funds. The Committee was gratified to learn that--partly as a result of its efforts--additional funds were secured to help maintain current program levels.

Recommendation #10. Radiation Protection. No legislation recommended.

Recommendation #11. Sanitarian Registration. No legislation recommended.

Recommendation #12. Milk Sanitation Law.

See "An act to amend General Statutes Chapter 130 in relation to milk sanitation", page D-11.

Department of Insurance

Six insurance laws were on the Committee's list for study. These are: AGENTS AND OTHERS MUST PROCURE LICENSE, AUTHORITY OVER ALL INSURANCE COMPANIES, BAIL BONDSMEN AND RUNNERS, COLLECTION AGENCIES, INSURANCE PREMIUM FINANCING, and MOTOR CLUBS AND ASSOCIATIONS.

The Committee received preliminary information on these programs and did not hear any negative comment from members of the general public on any of them. However, because of the complexity of insurance regulation and its limited staff resources, the Committee chose to defer study of these laws to the LRC study committee charged with looking at all aspects of administration and organization within the Department, including licensing functions and procedures. The LRC Committee is required to report the 1983 General Assembly.

Recommendation #1. Agents and others must procure license. No legislation recommended.

Recommendation #2. Authority over all Insurance Companies. No legislation recommended.

Recommendation #3. Bail Bondsmen and Runners. No legislation recommended.

Recommendation #4. Collection Agencies. No legislation recommended.

Recommendation #5. Insurance Premium Financing. No legislation recommended.

Recommendation #6. Motor Clubs and Associations. No legislation recommended.

Department of Justice

A number of changes, some substantive, others technical, were suggested to the Committee by representatives of the Private Protective Services Board, an agency within the Department of Justice. Some of these amendments to Chapter 74C, the PRIVATE PROTECTIVE SERVICES ACT, were approved by the committee (see the legislation in Appendix D). These include proposals to:

(1) make it clear that the law's firearms registration provisions apply to proprietary security companies;

(2) authorize a new fee to recover costs for regulating and approving private protective services schools;

(3) require that trainees be bonded before a work permit is granted (replacing a ninety day grace period for trainee bonding);

(4) prohibit licensees from implying or representing that they are SBI agents or licensees;

(5) allow the Board Administrator to be an employee of the Department of Justice rather than an SBI employee;

(6) empower the Board to assess a civil penalty not exceeding \$2000 for violation of Chapter 74C or rules adopted thereunder.

A Board proposal to create a Private Protective Services Recovery Fund, which would replace current bonding requirements and provide for direct reimbursement of persons harmed by licensees upon a determination by the Board, was presented to the Committee but is not included in the Committee's legislative package because it did not have sufficient time to fully examine the idea.

Several proposals suggested by the Board were the subject of comment by licensees and others.

The Board proposal to allow the Administrator to be a Department of Justice employee rather than an SBI agent was intended to allow this position to be filled by a manager-administrator instead of a person primarily trained in law enforcement. The Committee agreed with the Board that this proposal was a good idea. Testimony before the Committee generated some discussion of the fact that three board investigators are SBI agents, thereby giving a total of four agents employed by the Board including the Administrator. These agents are required to handle unrelated law enforcement assignments should the need arise. They, along with other board employees, are funded by fees collected from licensees, not by General Fund revenues. The Committee questioned the propriety of funding SBI agents from licensee fees but was satisfied that these agents spend their full time on board activities. However, the Committee questioned whether it is necessary for persons with a full range of skills, including self defense and combat training, to handle the investigative and staff duties of the Board. The Committee concluded that it might be more cost effective for the Board to hire non-SBI agent investigators but that such a recommendation was beyond the scope of its inquiry.

The Board's request for civil penalty authority (up to \$2,000) was generally opposed by the licensees who appeared at the public hearing. The Board stated that its power to revoke or suspend licenses is often too harsh and being able to assess civil penalties would give the board greater flexibility to enforce Chapter 74C. Moreover, a large multistate business can transfer individual licensees from one state to another thereby avoiding any ill effects from the revocation or suspension of an employee's license. The Board feels that civil penalties are needed to deter potential violators in cases such as this. The bill contained in Appendix D requires civil penalties

to be assessed in accordance with the procedural protections of the Administrative Procedure Act, and board decisions can be appealed to the superior court of the county in which the affected person resides or has his principal place of business.

Another issue that came before the Committee concerned how to best regulate persons who install burglar alarms. The Board initially proposed removal of its regulatory power over the alarm systems business because it felt that this business is better suited to regulation by the State Board of Examiners of Electrical Contractors. However, the Board acknowledged that it would still be necessary to ensure that persons doing such installations do not have a criminal record, a matter that it is in a better position to determine because of its access to the police information reporting network. Moreover, the Electrical Contractors Board expressed a desire not to get into security clearance. Both boards subsequently worked out an arrangement to share regulation of burglar alarm installers; the PPS board will continue to administer the security aspects of the law and the Electrical Contractors Board will test for expertise in installing low voltage alarm systems. This arrangement does not require any change in the current law. Representatives of the alarms systems business stated that they planned to propose legislation creating a new board to regulate the business. There was some discussion of this idea before the Committee but no legislation was presented for its consideration and the committee made no decision on this matter.

Recommendation #1. Private Protective Services Act.

See "An act to amend Chapter 74C, the Private Protective Services Act", page D-14.

Department of Labor

The Committee reviewed only one program administered by the North Carolina Department of Labor: the safety inspection activity covering ski lifts and related facilities under the PASSENGER TRAMWAY LAW (G.S. Chapter 95, Article 15). Testimony from the Department persuaded the Committee that this is a necessary public safety program whose only noteworthy problem is the widely shared shortage of funds that prevents the Department from mounting a more active program of inspection and monitoring than is now provided. No new legislation was requested, and the Committee recommends that this law be continued without change.

Recommendation #1. Passenger Tramway Law. No legislation recommended.

Department of Natural Resources and Community Development

The Committee found that a number of the licensing and regulatory laws administered by the Department of NRCD are the foundation for active, productive and efficient programs that continue to meet real needs. We recommend that a number of the laws that authorize these programs be continued without change. (See the recommendations on page 31).

The Committee received and endorses departmental recommendations for repeal of several obsolete or overlapping sections of some of the laws it administers. These laws are:

G.S. 143-356 and 143-357: These sections continue the State Stream Sanitation Committee within the State Department of Water Resources, and transfer property, records, etc., of the former Board of Water Resources, Stream Sanitation Committee and Division of Water Pollution Control to the Department of Water Resources. (All of these organizations have been defunct since 1967.)

G.S. 113-22(a), second sentence: This provision requires that Marine Fisheries Commission rules be filed with the clerk of superior court. (This overlaps a requirement of the Administrative Procedure Act that requires the Attorney General to perform a similar function.)

G.S. 113-221(h): This provision makes the certified text of a DNRC rule prima facie evidence. (This duplicates other statutes.)

G.S. 143-215.3(a)(11): This provision authorizes establishment of local air pollution control programs. (Duplicates G.S. 143-215.12.)

G.S. 143B-282(2)f: This provision empowers the Environmental Management Commission to adopt rules pursuant to the Sand Dune Law (which was repealed in 1979.)

G.S. 113A-114: This section deals with interim areas of environmental concern (a transitional procedure under the Coastal Area Management Act, that was completed in 1974).

The Committee appreciates the Department's assistance in weeding out these unnecessary laws.

Coastal Area Management

The Committee recommends that the Coastal Area Management Act be continued with amendments that will simplify permit procedures, provide better protection for the rights of property owners, and update the act in light of administrative experience. One group of changes that we recommend was proposed by the Secretary of Natural and Economic Resources and another group grew out of neighborhood objections to the installation of an off-road-vehicle (ORV) ramp in the Town of Emerald Isle.

The Secretary's proposals arise from his department's experience in administering CAMA. One recommendation--reflecting a continuing effort to streamline permit procedures--would correlate CAMA's procedures with those of a related statute, the dredge and fill permit law. It would create uniform provisions in these two laws concerning deadlines for permit actions, and hearings and appeals before the Coastal Resources Commission. Another departmental recommendation would make procedural improvements in CAMA by:

- (1) updating the boundary that separates estuarine waters from fresh waters,

so that it will be clear where CAMA permits are required for developments in estuarine waters; (2) defining projects sponsored by federal agencies as "major" rather than "minor" developments, in order to simplify the processing of their permits; (3) authorizing the inclusion of operating conditions in permits; and (4) correcting inaccurate cross-references. The only comments on the Secretary's recommendations at our public hearings were favorable. We believe that these recommendations will simplify and improve CAMA, and we commend their enactment to the General Assembly.

At the public hearings on CAMA a group of property owners from Emerald Isle called our attention to provisions of CAMA that may prejudice the rights of landowners who want to protest neighboring developments. An ORV ramp had been installed near their Emerald Isle beach front lots while their appeal of a permit for the ramp was pending. The ramp was installed as a town project by the Town of Emerald Isle under a permit issued by a local permit officer, a town employee.

This case points up two procedural flaws in CAMA: a conflict-of-interest potential that lets a town employee review his own employer's permit application, and a failure to stay construction during the pendency of an appeal. These loopholes can be closed by amendments that stay construction once an appeal has been properly filed and shift the forum for town ORV projects to the Coastal Resources Commission by making such projects "major" rather than "minor" development projects under the act.

We believe that the larger subject of management of ORV traffic on the beaches deserves careful study, which time did not allow us to undertake. We recommended such a study to the Legislative Research Commission subcommittee to study rules and regulations pertaining to CAMA. (see Appendix D).

Water Pollution Control Law

The Committee recommends that the North Carolina water pollution control act be continued with amendments that will update and simplify its procedures, as proposed by the Secretary of NRCDC. This act has not been brought into line with the Administrative Procedure Act (APA) and many of its procedural provisions are cumbersome or confusing. We recommend three sets of amendments. One group of changes would conform the act's notice and hearing procedures to the APA, so as to standardize matters that now require special handling in every case. A second group of changes would substitute more informal public "meetings" for public "hearings" on permits, in conformity with modern practice. A third change, also in line with the APA, would substitute the APA's provisions on the scope of judicial review for de novo review of final decisions of the Environmental Management Commission.

Grants-in-aid for Water Resources Projects

As proposed by the Secretary of NRCDC, we recommend the continuance of the formula for state grants-in-aid to various kinds of water resources projects, with two changes. First, flood control projects should be made eligible for state grants that will meet two-thirds of non-federal costs--the same treatment as drainage projects. This is needed to meet impending changes in federal law. Second, all water-based recreation sites operated by local governments should be made eligible for 50% state grants, instead of only sites located at federal impoundments (of which there are only four in the state). The obvious fairness of this change speaks for itself.

Well Construction Standards

The Committee received a proposal from the Secretary of Natural Resources and Community Development to strengthen the enforcement of the Well Construction Standards Act by spelling out both civil penalty authority and criminal sanctions for violations. Present law authorizes only criminal penalties, which has severely limited its workability. Of all the pollution coastal programs administered by the Department of NRCD, this program alone lacks civil penalty authority.

Following a thorough public hearing with ample opportunities for well drillers to express their views, the committee requested the Secretary of NRCD and objecting well drillers to meet and resolve their remaining differences. A report on this meeting was presented to the Committee.

The Committee recommends that the Secretary of NRCD's proposals to add civil penalties for violations of the Well Construction Standards Act, as modified, be enacted (See Appendix D).

Further Studies

The Committee recommends that the water and air pollution control laws, and the oil and hazardous substance spill control law be placed on the agenda for further study by the LCAR or another legislative study group. Although this report recommends some fine-tuning changes in the water pollution control laws, time did not allow the LCAR to undertake a thorough evaluation of these fundamental and complex environmental control laws. Among the important issues that might merit further examination are the fragmented and overlapping organization of state government's functions in these fields, and a re-examination of these laws in light of the "new federalism".

Recommendation #1. Continue the following laws without change. No legislation recommended:

Wastewater Treatment Plant Operators (Ch. 90A, Art. 3)

Wastewater Treatment Plant Operators Certification Commission (Ch. 143B, Art. 7, Part 9)

Oil Pollution Control (Ch. 143, Art. 21A)

Air Pollution Control (Ch. 143, Art. 21B)

Water Resources (Ch. 143, Art. 38)

Environmental Management Commission (Ch. 143B, Art. 7, Part 4)

North Carolina Game Law of 1935 (Ch. 133, Art. 7)

Recommendation #2. Repeal obsolete sections of the following laws:
Stream Sanitation Committee and Board of Water Resources.

See "A bill to amend G.S. Chapter 143, Article 38 so as to eliminate outmoded and inconsistent provisions concerning the State Stream Sanitation Committee and the Board of Water Resources", page D-17.

Recommendation #3. Repeal Obsolete Reference to Sand Dune Law.

See "An act to repeal G.S. 143B-282(2)f, which contains an obsolete reference to the Sand Dune Law", page D-18.

Recommendation #4. Marine Fisheries Act.

See "An act to amend administrative provisions of the Marine Fisheries Act to make a technical change", page D-19.

Recommendation #5. Coastal Area Management Act.

See "An act to clarify and simplify the Coastal Area Management Act", page D-20.

Recommendation #6. Prohibit Coastal Development Pending Hearing.

See "An act to prohibit development pursuant to CAMA permit while a request for a hearing on that permit is pending", page D-22.

Recommendation #7. CAMA Major Development Permits for Local Government Developments.

See "An act to require that local governments apply to major development permits for all development under the Coastal Area Management Act", page D-23.

Recommendation #8. Dredging and Filling Permits, Appeals and Hearings.

See "An act to amend G.S. 113-229 relating to permits, appeals, and hearings regarding dredging and filling", page D-24.

Recommendation #9. Water Pollution Control Law.

See "An act to reform certain administrative procedures of the Environmental Management Commission", page D-26.

Recommendation #10. Grants-in-Aid for Water Resources Projects.

See "An act to amend G.S. Chapter 143, Art. 21, Part 8, so as to make Flood Control Projects and all local water-based recreation projects eligible for cost-sharing", p. D-28.

Recommendation #11. Well Construction Standards.

See "An act to amend the Well Construction Act, G.S. 87-83 et seq., to provide for civil penalties and criminal penalties", page D-29.

Recommendation #12. That a further study be conducted concerning the Water and Air Pollution Control Laws and the Oil and Hazardous Substance Spill Control Law. No legislation recommended.

Department of Transportation

The Committee considered only one program administered by the Department of Transportation, PROFESSIONAL HOUSEMOVING. Current law (Chapter 20, Art. 16) requires professional housemovers to (1) be licensed (now administered by the Division of Motor Vehicles) and (2) receive a permit authorizing each move (now issued by the Office of Technical Services, Division of Highways). The Department suggested that it would simplify regulation of this occupation to consolidate all activities into one office, that of Technical Services. The Committee agreed with this proposal and determined that legislation is not necessary for the Department to make this internal change. Representatives of some professional housemovers appeared at several meetings and stated that in their opinion, the housemoving law could be better enforced. These representatives met with the Department to discuss the housemoving law but no specific legislative proposals were offered by the Department or representatives of professional housemovers as a result.

Recommendation #1. Professional Housemoving. No legislation recommended.

OTHER BOARDS AND COMMISSIONS

Auctioneer Licensing Board

The Auctioneer Licensing Board submitted a number of proposed changes regarding the NORTH CAROLINA AUCTIONEERS LAW (Chapter 85B). The Committee approved most of these changes but modified or eliminated a few of them after hearing objections from other persons who would be affected. Proposals suggested by the Board and approved by the Committee include:

(1) limiting board members to two complete consecutive three-year terms and requiring that one member represent the public at large;

(2) eliminating the requirement that licensed auctioneers and apprentice auctioneers be North Carolina residents and facilitating licensure in this state for persons already licensed by another state;

(3) making violation of any provision of Chapter 85B a misdemeanor (now, only practicing without a license is a misdemeanor) and

(4) implementing various technical and clarifying changes.

The Committee also approved a board recommendation to exempt only persons who own all of the property offered for sale from the auctioneers law licensing requirement. G.S. 85B-2(1) currently exempts persons owning all or any part of the goods offered for sale from the law's requirements. The Committee agreed with the Board's position that this change will help ensure that only qualified persons sell other people's property.

The Committee asked the board to offer language to clarify the portion of the owner's exemption subsection that requires a license of persons selling their own goods if the owner "originally acquired the goods for the purpose of resale at auction." The Committee felt that it was often difficult to determine an owner's intent at the time he purchased the goods. The board

recommended, and the Committee endorsed, language removing the exemption from owners only if the owner's "regular course of business includes engaging in the sale of goods or real estate by means of auction." The Committee felt this language would be easier to properly enforce by specifying the kinds of sales that are of concern to the board.

On a related matter, the Committee recommended inclusion of a new definition in G.S. 85B-1 to specify that in the case of corporations, the "owner" of the property being offered for sale includes an officer or director of a corporation that owns the property being offered for sale, provided the corporation is qualified to do business in North Carolina. This definition replaces a current board interpretation of the word "owner" based on an Attorney General's Opinion issued in November 1981. According to the Opinion, a corporation that owns goods being offered for sale at auction can only sell those goods without an auctioneer if the sale is conducted by a majority shareholder in the corporation. Many corporations do not have one person who owns over fifty percent of the corporate stock; however, the corporation undisputably owns the goods. The change in definition allows corporate officers or directors to conduct sales on behalf of a corporation that owns the goods being offered; it does not allow employees to conduct those sales unless they are also officers or directors. The board stated that corporate sales involve less than one percent of the transactions under its jurisdiction.

A board recommendation to eliminate the G.S. 85B-2(8) exemption for sales of particular brands of livestock conducted by auctioneers who specialize in the sale of that brand when the sale is conducted under the auspices of a livestock trade association was rejected after the Committee heard strong objections from the Department of Agriculture and representatives of livestock associations. A number of livestock markets are regulated by the North

Carolina Department of Agriculture. The Department felt that this exemption had worked well and was not aware of abuses that would suggest its repeal.

The Board also proposed amending G.S. 85B-2(7) to remove the exemption for sales by motor vehicle dealers licensed under Article 12 of Chapter 20 of the General Statutes. Representatives of automobile dealers contacted by the Committee expressed their opposition to the change and their opinion that the exemption had worked well so far. The Committee noted that the only motor vehicle dealers who are exempt from the law are those who are already licensed under Chapter 20. That Chapter sets bonding and other requirements for motor vehicle dealers and makes a dealer's license subject to revocation for fraudulent conduct. The Committee felt that it had not received sufficient information to justify regulation of motor vehicle dealers by both the Department of Transportation and the Auctioneers Board, and it decided to continue the dealer exemption. However, it amended the law to exempt licensed motor vehicle dealers who sell any kind of motor vehicle at auction; present law, although ambiguous, appears to exempt only sales of automobiles by licensed dealers.

Finally, the Committee expressed some concern over whether auctioneers are required to check for outstanding security interests in property they offer for sale. Neither the law nor board regulation requires auctioneers to do so. The Board furnished copies of an Attorney General's Opinion dated March 6, 1969, stating that the general rule established by courts is that auctioneers are liable to the person holding the security interest if property they sell is subject to such an interest. The Committee was satisfied with this response and thus did not suggest writing this requirement into Chapter 85B.

Recommendation #1. Auctioneer Licensing Board.

See "An act to amend Chapter 85B, relating to auctions and auctioneers", page D-32.

Foresters

The Committee received recommendations from the STATE BOARD OF REGISTRATION FOR FORESTERS, established by Ch. 89B, regarding its composition. The Committee accepted these recommendations and they are contained in the legislation appearing in Appendix D. They are:

(1) to change the designation of the "at-large" board member to a "public" member, leaving the Board at its current level of five members, four of whom must be registered foresters; and

(2) to limit board members to two complete consecutive three-year terms. Currently board members serve an unlimited number of five-year terms.

No other recommendations were submitted by the Board or anyone else.

As is the case with the law regulating landscape contractors, which was also studied by this Committee, Chapter 89B establishes a registration scheme which requires persons wishing to use a particular title--in this case, registered forester--to register with the Board after meeting certain qualifications. However, others are not prohibited from engaging in the same kind of work, so long as they do not convey the impression that they are registered with the Board.

Recommendation #2. State Board of Registration for Foresters.

See "An act to establish three-year terms for members of the State Board of Registration for Foresters and to set a limit of two consecutive terms", page D-35.

Landscape Contractors

The Landscape Contractors' Registration Board suggested amending Chapter 89C, regulating LANDSCAPE CONTRACTORS, to alter the composition of the board and increase certain fees. Concerning its membership, the Board suggested deleting three of the five appointments currently held by the North Carolina Association of Nurserymen and replacing them with two nominees of the North Carolina Landscape Contractors Association and one appointee of the N.C. Chapter of the American Society of Landscape Architects. The proposed composition of the Board is set out in the bill contained in Appendix D. No board member will be removed from office before his current term expires. The Board also proposed limiting all members to two complete consecutive three year terms. A third Board proposal raises the initial application fee from \$20 to \$50, and the examination and re-examination fees from no charge to \$25. The Committee endorsed all of these proposals.

Representatives of nurserymen, landscape contractors and landscape architects appeared at one committee meeting but neither opposed the proposed changes nor suggested any additional changes in the law.

Recommendation #3. Landscape Contractors' Registration Board.

See "An act to amend Chapter 89D, concerning landscape contractors", page D-36.

Mortuary Science

The law regulating the PRACTICE OF FUNERAL SERVICE (Art. 13A, Ch. 90) was rewritten by the 1979 General Assembly. The Board of Mortuary Science suggested few changes in it and all of them were approved by the Committee.

These changes:

(1) eliminate two members of the board, thereby reducing it from nine to seven members. One funeral service licensee member is eliminated, leaving four representatives from this category, and the ex officio membership of the Chairman of the Commission for Health Services is also deleted. The Board has had one public member since the mid-1970s and this position is retained in the legislation contained in Appendix D;

(2) limit board members to two complete consecutive terms, consistent with Committee recommendations on other boards and commissions; and

(3) allow the board to accept an up to \$1,000 offer in compromise from persons whose license would otherwise be subject to revocation, suspension or non-renewal for various acts outlined in G.S. 90-210.25(e)(1). The Board may either accept a compromise or revoke or refuse to renew a license, but not both; however, it may accept a compromise and suspend the license in the same case. This procedure is patterned after one used by the State Alcoholic Beverage Control Commission.

Recommendation #4. Board of Mortuary Science.

See "An act to establish a seven-member Board of Mortuary Science, to set three-year terms, and to limit service to two consecutive terms", page D-39.

Nursing Home Administrators

Only one amendment was suggested by the STATE BOARD OF EXAMINERS FOR NURSING HOME ADMINISTRATORS and it is incorporated in the legislation in Appendix D. The proposed revision of G.S. 90-286 requires every nursing home administrator to satisfactorily complete continuing education courses before he can renew his license. Board representatives stated that forty-one states currently require continuing education for administrators and argued that North Carolina needs this requirement to facilitate licensure of North Carolina administrators by other states. After hearing no opposition to this proposal, the committee agreed with the Board's position and recommended the bill contained in Appendix D.

Recommendation #5. Nursing Home Administrators Examining Board.

See "An act to amend the Nursing Home Administrator Act", page D-42.

Osteopaths

In 1979, the Sunset Commission studied the laws regulating OSTEOPATHS (Art. 7, Ch. 90). Because its work revealed a number of issues and questions that still needed to be addressed before final recommendations could be issued, the Commission successfully recommended legislation to continue review of the Osteopathy Law until 1983.

Osteopaths who graduated from an osteopathic college before January 1, 1960, are regulated by the State Board of Osteopathic Examination and Registration, the subject of this report. Persons graduating from an osteopathic college after that date are licensed by the State Board of Medical Examiners. The principal difference between osteopaths and medical doctors is that osteopaths use neither drugs nor surgery in treating human illness or disease.

Changes proposed by the Board of Osteopathic Examination and Registration and approved by the Committee include:

(1) reducing the size of the board from five to three members, all of whom are osteopaths appointed by the Governor;

(2) limiting board members to three-year terms (now, five years) with no limit on the number of consecutive terms. The Committee found that placing a limit on terms served could work a hardship on the Board because there are relatively few licensees and it may be difficult to find persons able to serve in this capacity;

(3) eliminating the requirement that the Board hold at least one meeting annually in Raleigh. The annual meeting requirement is still retained but the Board may select the meeting place that is most convenient;

(4) raising the maximum fee for annual registration from five dollars to fifty dollars. The declining number of licensees has necessitated this amendment.

Recommendation #6. Board of Osteopathic Examiners.

See "An act to amend Article 7 of Chapter 90 of the General Statutes relating to the Board of Osteopathic Examination and Registration and to permit higher registration fees", page D-43.

Practicing Psychologists

Two bills were submitted for Committee consideration. One, consisting primarily of technical amendments and offered by the State Board of Examiners of Practicing Psychologists, was recommended by the committee and is contained in Appendix D. Changes made in Art. 18A of G.S. Ch. 90 (PRACTICING PSYCHOLOGISTS) by this bill include: adding two public members to the board, limiting board members to two consecutive three year terms, giving the board injunctive authority, raising the examination fee, and exempting state employees from the law's licensure requirements if the employee was practicing psychology on December 31, 1979 (current law requires the employee to have served in this capacity before July 1, 1979).

The other bill was presented by the Task Force for Psychological Services. It sought to require that all persons practicing psychology obtain a doctorate degree. Current law allows licensure at two stages: masters degree holders may practice as psychological associates but are restricted from certain activities unless they are under qualified supervision, and doctorate holders may engage in the full practice of psychology. Under the proposal, masters level psychologists would have received full licensure, with ten years in which to upgrade their education; after then, no one would be licensed without a doctorate. The Committee considered this proposal but was not convinced that a single level of licensure would be preferable to the current system. The Committee was concerned about the bill's effect on state employees who do not have a masters degree in psychology (under the proposal they would not be licensed). The Committee also noted that state employees working in education and corrections have historically been allowed to

practice with less than masters or doctorate degrees. Some jurisdictions that license psychologists require licensees to have a doctorate; others allow licensure of both masters and doctorate level practitioners. There does not seem to be a professional consensus on which arrangement is better.

The Committee noted that there may well be problems with the current law (Art. 18A, Chapter 90), including the definition of "professional psychological services," the scope of the law's coverage, and whether the law's requirements concerning supervision of psychological associates, especially those in private practice, are sufficient to protect the public. The Committee recommends that further study be given to the laws regulating practicing psychologists.

Recommendation #7. Practicing Psychologists.

See "An act to amend the Practicing Psychologists Licensing Article", page D-45.

Recommendation #8. That further study be given to the laws regulating Practicing Psychologists.

PART III

REVIEW OF LEGISLATIVE PROPOSALS FOR NEW LICENSING BOARDS

Recommendation #1. The Committee recommends adoption of the following legislation authorizing it to review proposals for the creation of new licensing boards or programs.

Under Res. 61, SL 1981, the Study Committee on New Health Licensing Boards was directed to propose criteria and procedures to be used by the General Assembly in reviewing the need for new licensing boards and programs. Legislation proposing standards to be applied in evaluating new licensing laws was jointly approved by the New Health Licensing Boards Committee and the LCAR, and it appears below.

Under the proposed bill, every bill, resolution, amendment, or committee substitute instigating the licensing of any occupation or profession must have an assessment report describing the need for the proposal attached to it before it will be eligible for consideration by any committee of either house of the General Assembly. Substantive amendments to original proposals must be accompanied by a supplementary report pointing out the amendment's effect. This procedure is patterned after the fiscal note provisions in the Senate rules and G.S. 120-114(a), the actuarial note law. Reports will be prepared by the Legislative Committee on Agency Review according to criteria listed in the bill, and proponents of the new licensing law or program will be required to furnish detailed information in support of their proposal to the Committee. Additional comments on how the procedure will work are interspersed with the text of the draft bill.

Additional Comments:

Under the legislation contained in Appendix D, page D-47 of this report, every bill, resolution, amendment, or committee substitute proposing the establishment or licensing of any occupation or profession must have an "assessment report" that describes the need for the new licensing program attached to it before it will be eligible for consideration by any committee of either house of the General Assembly. The purpose of the report is to expedite the legislative process by having all relevant facts before a committee so that it can make an informed and speedier decision on whether to approve legislation seeking to license a profession or occupation. This method is patterned after the fiscal note procedure in the Senate rules and G.S. 120-144(a), the actuarial note law. Amendments to original proposals would be required to be accompanied by a "supplementary report" pointing out the effect of the amendment. Under the proposed legislation, assessment and supplementary reports would be prepared by the Legislative Committee on Agency Review. The bill sets time limits within which the LCAR must act; assessment reports must be prepared within two months after they are requested; supplementary reports, within two weeks. The person or group sponsoring the proposed licensing program must provide detailed information (specified in the bill) to the LCAR to assist it in preparing reports; the purpose of the required information is to assist in determining whether it is necessary that the occupation or profession be licensed to protect the public health, safety or welfare. The LCAR must hold at least one public hearing before preparing an assessment report; public hearings are not required but may be held before the LCAR submits a supplementary report. Although it is hoped that licensing proposals will be submitted to the LCAR for review between sessions, it would

be necessary for the committee to meet during legislative sessions to consider amendments (which would require supplementary reports) or to consider new licensing proposals. The Committee would not be able to handle a large volume of business during the session. Thus, it is allowed to extend the deadline on assessment reports on new licensing programs from two to three months if its volume of business makes preparation of a report impossible within the usual time. It is hoped and anticipated that requests to establish new licensing boards and programs will be submitted to the LCAR between sessions; most licensing proposals are developed over months or years and they are prepared well before the legislature meets. Amendments and other matters that could not be anticipated between sessions would be considered during the session; sponsors of new licensing proposals requiring an assessment report should be aware of the fact that although the LCAR must consider their proposal, a three-month delay during the session could hurt their bill's chance of passage that year.

The LCAR is in a unique position to evaluate the need for new licensing boards or programs. It (and its predecessor, the Sunset Commission) has been responsible for reviewing whether government programs are being operated efficiently, whether they duplicate other programs, whether they are serving the public, and whether it is in the public interest for them to continue to operate. These are the same kind of inquiries that the proposed legislation establishing a review process for new boards makes. The duties and procedures established by the proposed bill are a logical extension of the LCAR's activities. Moreover, LCAR members have developed expertise, credibility, and experience in evaluating the need for government programs.

Since the committee that is responsible for preparing assessment reports will be quite busy (for example, at least six bills establishing new licensing boards were introduced in the 1981 legislative session), it might be helpful to establish a subcommittee to advise the LCAR on its final recommendations. One possibility is to establish a subcommittee with half of its members legislators (and LCAR members) and the other half lay members, including an economist, lawyer interested in regulatory matters, business representative, and consumer representative. One advantage of lay members, including their obvious expertise, is that they provide continuity on the subcommittee if one or more legislator members do not continue to serve in the General Assembly. It would be necessary for the LCAR to budget enough money to pay per diem and expenses for lay members. Since the LCAR consists solely of legislators, the subcommittee would be advisory only, and the LCAR would make the final decision on the content of assessment and supplementary reports. However, since the LCAR is comprised totally of legislators, a favorable report from it would lend more acceptance to a bill in the General Assembly than a report from a subcommittee of citizen and legislator members. Legislation authorizing the Committee to establish subcommittees to advise it on licensing and related matters is included in Part VI, Appendix D of this report.

PART IV

EXPEDITING DEPARTMENTAL LEGISLATIVE PROGRAMS AND THE LEGISLATIVE PROCESS

I. Introduction

One key factor in expediting or delaying the legislative session is the readiness of the departments of state government to present and carry forward their legislative programs when a session convenes. If important departmental bills are not drafted or well publicized when a regular session begins, much time can be lost in developing the momentum of the session. Other factors can also significantly affect the session's progress, but this is one of the more important influences.

Various approaches have been tried in an effort to prompt the departments to "get their bills in." Both houses have adopted rules that set deadlines for introduction of departmental bills. Governors have pressed departments to meet early session deadlines, and some cabinet officers have set their own tight timetables. Sometimes a creditable departmental response results, but none of these techniques has been consistently successful in shortening the legislative session.

To make a real dent in this problem something more is needed: an earlier start in drafting departmental bills and getting them before legislative committees for review.

This year the Legislative Committee on Agency Review ("LCAR") achieved this objective on a limited scale, as a by-product of its review of departmental licensing and regulatory programs, notably for the departments of Agriculture, Human Resources and Natural Resources and Community Development. Each of these departments had several programs up for LCAR review and each of them chose to propose changes in the laws authorizing these programs through

the medium of draft bills. LCAR committee meetings and public hearings helped to test out and perfect these bills, essentially in the way that standing committee processes perform this function during the legislative session. As a result, portions of the legislative program of these departments have already been drafted and reviewed months ahead of the usual schedule. We have been told that the work done on these bills has also stimulated some of these agencies to step up the schedule of preparing the remainder of their 1983 legislative programs. All of this should make a useful, if limited, contribution towards shortening the 1983 session.

We believe that our experience demonstrates on a small scale a potential for significantly expediting the legislative process. During a biennium when the General Assembly met in regular session for nearly six months, in three extra sessions for six days, in three adjourned sessions for thirty days, and generally tried the patience of its own members and their constituents, any serious prospect of expediting the legislative process is worth exploring.

There are two obvious ways to broaden this experiment to larger-scale operation: (a) more of the same (that is, a great expansion of the role of this Committee), or (b) extending the work of some or all Senate and House standing committees into the interim period between legislative sessions. It is tempting for this Committee to consider recommending that its own scope be greatly enlarged. For the long pull, however, it plainly would be more effective and more efficient to extend the established and functioning standing committees into the interim between sessions. We recommend that the extension of standing committees promptly be considered and pursued, with an eye to implementing some early steps in the 1983 General Assembly.

Of course, there is a need to expedite the early introduction and screening of all bills, not only departmental bills. We believe that our recommendation to extend the standing committees can serve both purposes.

History reminds us of the 1974-75 experiment with extending standing committees beyond the legislative session--an experiment that was both productive of substantial legislation and burdensome in its impact on the legislators who served on those standing committees. A repeat of that experience undoubtedly would be resisted by many legislators and is undesirable. But the problems of the 1974-75 experiment need not be revived. There are obvious and necessary companion proposals to extending standing committees that would avoid the problems experienced in the past: We should limit the length of legislative sessions so that the work of standing committees between sessions is in lieu of, not in addition to, a long session; and we should streamline the General Assembly's committee system so that fewer committees will be working between sessions. All of these proposals are really interdependent, in that the successful implementation of each is supported by the others.

The North Carolina General Assembly has not consistently limited either the length of its sessions or the number of its committees within the memory of its current membership. As a result, North Carolina now has 59 House committees and 38 Senate committees; in the past two decades these levels have occasionally dipped, but the trend has been generally upward from the 1963 levels of 50 House and 29 Senate committees (For example, in 1969 there were 37 House committees and 30 Senate committees.) North Carolina has no constitutional or statutory limits on the length of its legislative sessions, nor has either the Senate or the House adopted such limits in its rules.

(Prior to 1968 Article II, Section 28 of the State Constitution limited the per diem pay of legislators to \$15 per day for not exceeding a 120-day session, but this limitation was repealed by vote of the people in November, 1968.)

II. Limited Length Legislative Sessions and Reorganization of the Standing Committees

The feasibility of limited-length sessions and streamlined standing committees has been amply demonstrated by other states, notably some of our closest neighbors. Without exception our neighboring southeastern states have moved to control the number of standing legislative committees. Seven adjoining and nearby southeastern states average less than 15 Senate committees and less than 20 House committees (Alabama, Florida, Georgia, Kentucky, South Carolina, Tennessee and Virginia. See Table 1.)

Limited-length legislative sessions are also the norm in these nearby states, who generally share in many of our political traditions. All but one of these seven states place legal limits on regular sessions, ranging from 30 to 105 legislative or calendar days, and place a variety of (generally shorter) limits on special or off-year sessions. (See Table 2.)

The experience of our neighbor Virginia offers a case study in the fruits of a sustained effort to control the legislative process.

III. The Virginia Experience

1. Limited legislative sessions: By constitutional amendment, effective in 1971, Virginia adopted a 60-calendar-day limit on legislative sessions in even-years and a 30-calendar-day limit on sessions in odd-years.

(Previously there was a 60-day constitutional limit on biennial sessions.)

The 1971 constitution allows the legislature to extend either session as much as 30 days. Pending bills are carried over from the even-year to the odd-year sessions, but not the reverse.

In the decade since the amendment was adopted, all regular even-year sessions have lasted the full 60 days but none has been extended. The odd-year short sessions have invariably been extended, for periods ranging from 15 to 30 days. Until reapportionment in 1981, there had been no special sessions since 1971.

In the decade 1961-1970 the biennial regular even-year sessions averaged 79 days in length, and all lasted at least 73 days. Brief extra sessions were held in 1963, 1964 and 1965. A 59-day extra session set the stage for the move to annual sessions in 1971.

2. Standing committee and staff structure: The Virginia Senate has 11 standing committees, and the Virginia House of Delegates has 20 committees. The professional staff that is supervised by the Legislative Services Office is grouped in teams of two or more staff members that roughly parallel the standing committee structure. Those teams are organized under three clusters as follows:

Commerce & Labor
Elections & Political Subdivisions
Transportation

Agriculture & Natural Resources
Courts of Justice
Tax and Finance

Education & Health
General Laws
Corrections & Social Services

Two "money committees" have their own separate staffs (House Appropriations and Senate Finance.) Administrative staff, including committee clerks and secretaries, are provided and supervised by the Principal Clerks' offices.

By their rules both houses allow standing committees to meet between sessions to "study, call hearings, and consider any bill or resolution continued for further action at the odd-numbered session, or to consider such other action as may be germane to the duties of the Committee." (Senate Rule 20(e), House Rule 24a). Thus, committees are in a position to report out bills left over from the even-year session, and to generate new bills for consideration at either session. A bill pre-filing system facilitates the preparation of new bills for early introduction in an upcoming session.

3. Deadlines for bill introductions, committee actions, etc.: Efforts have been made in recent sessions to control the number of bills and the flow by establishing early deadlines for introduction of bills and for reporting of bills by committee in the house of origin, and for other matters. For example, the 1981 resolution set the following deadlines in a session that began January 14:*

-Requests for bill drafting by January 16.

-Introduction of bills by January 19.

-Standing committee actions on bills carried over from 1980 by January 22.

-Standing committee action on all other bills by February 17.

*These deadlines did not apply to purely procedural resolutions or money bills.

-House action on appropriations by February 11.

-Action on non-appropriations bills and amendments of the other house house after February 8.

Effect on legislative makeup: Virginia's streamlined legislative process has apparently made it possible for active professional and business people--the "citizen legislators"--to stay in the General Assembly in much larger numbers than their North Carolina counterparts. For example, almost three-fourths of the 1980 Virginia General Assembly were professional and almost one-fourth were business people. (See Table No. 3.) By comparison, in the 1977 and 1979 North Carolina Assemblies, less than one-fourth of the members were professional and a smaller proportion were business people. (See Popular Government, Winter 1981, p. 22.)

IV. A Proposal For Consideration In North Carolina

Virginia's time-tested system, as well as the experience of other Southeastern states illustrate the steps that could be involved in limiting legislative sessions and streamlining Senate and House committees in North Carolina. A model for North Carolina based on these examples could look like this:

(1) Limited Length Sessions

- (a) 60 legislative-day (or possibly 90 calendar day) limit on the regular session.
- (b) 30 calendar-day limit on the off-year session.
- (c) General Assembly may extend either session by up to 30 days.
- (d) Pending bills are carried over from the regular session to the off-year session, but no vice versa.
- (e) Special sessions may continue to be called.
- (f) Regular session to convene in January of odd-numbered years, for the purpose of naming committees, adopting rules and other procedural work, then adjourn until approximately April 1 at which time then General Assembly would re-convene for its regular session.

Virginia's experience with this system from 1971-1981 was: (i) No regular sessions were extended. (ii) Off-year sessions were usually extended for fifteen to thirty days. (iii) Special sessions were necessary only for reapportionment. Other states in the region (such as Florida and Kentucky) have had similar experience.

2. Incidental Procedures Necessary to Make the Limited Length Session Work

(a) Establishment of Deadline:

A resolution should be adopted early in the session that places strict deadlines on requests for bill drafting, introduction of bills, standing committee action on bills carried over and new bills, floor action on appropriations and floor action on all other bills. Virginia and other states have successfully used the deadline procedures for several sessions.

(b) Pre-filing procedure:

A rule or resolution should be adopted to establish procedures for pre-filing of bills in advance of the session. Various states (including Virginia and Florida) have successfully operated procedures for pre-filing bills before the sessions begin for consideration by interim committee meetings.

(c) Committee work between sessions:

A rule or statute would be needed that allows standing committees to meet between sessions to study, call and hold hearings, and to consider carry-over bills, pre-filed bills or other appropriate action (such as, proposals for new bills that might be pre-filed bills or other appropriate action (such as, proposals for new bills that might be pre-filed later). Some limits might be set or specific dates set for days and times of committee meetings. The Appropriations Committee probably would need to meet for several full weeks before the regular session to conduct its review of the proposed budget. Presumably, allowing standing committees to meet between sessions would lessen the need for separate study commissions, which have proliferated in recent years.

(d) Streamlining of Standing Committees:

This process could involve (i) reducing the number of standing committees to 10-20 per house; (ii) placing some workable limits on the number of committee memberships per legislator; (iii) organizing staff, as necessary, to provide needed service to the new committee system; and (iv) authorizing standing subcommittees. The states that operate successfully with limited length sessions have found it helpful to reorganize their standing committee systems so as to make the total

operation more workable. The object is to get a committee system underway that will allow any member to meet his or her committee obligations without conflicts and overlaps, and that along with the changes discussed in this section will produce the business for floor consideration during limited-length sessions in a timely and orderly way. If there were strong objections to reducing the number of committees it may be that the same goals could be achieved in other ways--e.g., by closer scheduling and management of committee work.

3. Possible 1983 action:

Several steps could be taken in 1983 to smooth the transition to full-scale implementation of these concepts in 1985. These could include:

- (a) Reducing the number of standing committees, or taking other appropriate action to manage committee work.
- (b) Creating standing subcommittees, if needed.
- (c) Extending (some) (all) standing committees into interim after the sessions.
- (d) Establishing fewer study commissions.
- (e) Proposing or adopting the necessary implementing changes in statutes and rules, including the incidental procedures necessary to make the system work as discussed above.

* * * * *

The Legislative Committee on Agency Review believes that the foregoing proposal is worthy of consideration by the General Assembly as part of the continuing effort to improve the operation of this institution for the benefit of all the people of North Carolina. The Committee is well aware that the proposal would require additional work before it could be fully implemented, and the Committee welcomes comment and suggestions from all interested persons.

If the concepts expressed in the foregoing proposal are eventually adopted in North Carolina, the "citizen-legislator" system in our State can be preserved, and the Committee believes that is a desirable goal. If we fail to revise our legislative system along the general lines discussed in this proposal, several unfortunate results are likely. Our sessions will continue to lengthen, the demands on legislators' time will continue to expand and

fewer qualified people will seek legislative office because they can not afford the financial and personal sacrifice involved in legislative service under the existing system, and these are results which North Carolina can ill afford. The Committee believes that we can avoid these problems if we take appropriate and timely action, and respectfully submits this proposal for consideration.

TABLE 1
NUMBER OF LEGISLATIVE COMMITTEES
IN SOUTHEASTERN STATES, 1981*

STATE	SENATE	HOUSE
Alabama	12	21
Florida	16	24
Georgia	22	29
Kentucky	18	18
South Carolina	15	11
Tennessee	9	12
Virginia	11	20
Average	13.5	17.6

Source: Council of State Governments; State Legislative Leadership, Committees, Staff, 1981-2 (Lexington, 1981).

*Note: The legislatures in these seven states have an average of 159.4 members.

TABLE 2
LIMITATIONS ON LENGTH OF LEGISLATIVE
SESSIONS IN SOUTHEASTERN STATES, 1982

State	Limitation: Regular Session	Extra or Off-Year Session
Alabama	30L in 105 C	12 L in 30C
Florida	60C*	20C*
Georgia	40L	70 (Gov.), 30 (Leg.)
Kentucky	60L	
South Carolina	Adjourn by 1st Thurs., June*	Same
Tennessee	90L on legislator pay	30 L on legislator pay
Virginia	60C*	30C*

Legend: L - legislative days, C - Calendar days.
 *Can be extended by extraordinary majority vote.

Source: Council of State Governments, Book of the States, 1982-83
 (Lexington, 1982).

TABLE 3
COMPOSITION OF VIRGINIA GENERAL
ASSEMBLY, 1980

Group	Senate	House
Attorneys	50%	47%
Insurance/realty	7.5	1
Other business	25	23
Farmers (part or full-time)	7.5	5
Educators	---	6
Housewife	---	2
All others	10	16

Source: General Assembly of Virginia, Manual of the Senate and House of Delegates, (1980), pp. 91-107, 277-326



PART V. FUTURE ROLE OF LCAR

The fact is that there is no comprehensive system in North Carolina for the review and evaluation of existing statutes by the General Assembly, and there should be. Our experience during the past biennium leads us to recommend that the LCAR be continued for this purpose as an independent legislative commission. The duties of the LCAR should include, but not be limited to, the following:

1. Statute review. The identification of statutes or groups of statutes which should be reviewed and evaluated, and requests to the General Assembly that these statutes be designated for study. These statutes, as well as others suggested for evaluation by members of the General Assembly could be examined by LCAR using the techniques developed over the past six years. The LCAR could serve as the designated agency to review, at the appropriate time, statutes which are passed with a "Sunset" termination date.

2. Licensing law assessment. The preparation of assessment reports with respect to proposed changes in licensing laws, as provided for in legislation endorsed by LCAR (see Part III of this Report) and by the Study Committee on New Health Licensing Boards of the General Assembly.

3. State government organization. The last major re-organization of state government occurred in 1973. The LCAR could review aspects of state government reorganization on a systematic basis and recommend improvements to future sessions of the General Assembly.

4. Study centralized management of occupational and professional licensing boards. Most occupational and professional licensing boards are not included in any department of state government. Since they are independent boards,

they have their own staff, budgets, etc. Over 30 states have established a central agency or administrative unit for some or all of the state's licensing boards. These central agencies consolidate some board staff and functions, and the degree of consolidation varies from state to state. A report on the pros and cons of creating an umbrella agency in North Carolina for occupational and professional licensing boards was prepared for the Sunset Commission but the Commission did not have time to give the issue the lengthy consideration it would require. The LCAR might want to devote some time to considering the advisability of establishing a central agency or department for independent licensing boards.

APPENDIX A

H. B. 115

CHAPTER 932

AN ACT TO REPEAL THE SUNSET LAW AND TO REPLACE THE GOVERNMENTAL EVALUATION COMMISSION WITH A LEGISLATIVE COMMITTEE ON AGENCY REVIEW, WHICH WILL COMPLETE THE PROCESS OF REVIEWING LAWS AND PROGRAMS THAT WERE ON THE SUNSET LIST.

The General Assembly of North Carolina enacts:

Section 1. General Statutes Chapter 143, Article 1.1 ("Periodic Review of Certain Agencies") is repealed except for G.S. 143-34.11, effective June 30, 1981, except that this section does not repeal that Article as it applies to the subjects covered by any of the following bills (1981 Session) which have not been ratified before the adjournment of the Spring 1981 Session of the General Assembly: House Bills 279, 283, 284, 286, 287, 288, 294, 295, 297, 298, and 300.

Sec. 2. There is added to General Statutes Chapter 143, following Article 1.1, a new Article to be numbered 1.2 and to read as follows:

"ARTICLE 1.2.

"Legislative Committee on Agency Review.

"§ 143-34.25. *Creation of Legislative Committee on Agency Review; staffing; compensation; termination.*—(a) There is created a temporary legislative committee to be known as the Committee on Agency Review (hereinafter referred to as "The Committee"). The Committee is composed of 10 members, five Representatives appointed by the Speaker of the House and five Senators appointed by the President Pro Tempore of the Senate. The members serve for two-year terms, beginning July 1, 1981, or until they cease to be members of the General Assembly, whichever occurs first. The appointing officers shall designate two of the members to serve as cochairmen. Any vacancy that occurs in the membership of the Committee shall be filled for the remainder of the unexpired term by the officer making the original appointment. A quorum consists of a cochairman and any four other members of the Committee.

(b) Members of the Committee shall be compensated pursuant to G.S. 120-3.1.

(c) The Committee shall be staffed by the Legislative Services Commission, but the Committee may also employ such additional professional services as it deems necessary.

(d) The Committee shall terminate and the authority granted by this Article shall expire on June 30, 1983.

"§ 143-34.26. *Functions of Committee.*—(a) The Committee shall review and evaluate the programs and functions authorized under the following laws:

- (1) DEPARTMENT OF AGRICULTURE
Public Weighmasters (Chapter 81A, Article 5).

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Landscape Contractors (Chapter 89D).
North Carolina Commercial Fertilizer Law (Chapter 106, Article 56)
Structural Pest Control Act (Chapter 106, Article 4C).
Marketing of Farmers Stock Peanuts (Chapter 106, Article 5A).
Food, Drugs and Cosmetics (Chapter 106, Article 12).
State Inspection of Slaughterhouses (Chapter 106, Article 14).
Licensing and Regulation of Rendering Plants and Rendering
Operations (Chapter 106, Article 14A).
Meat Grading Law (Chapter 106, Article 15A).
Marketing and Branding Farm Products (Chapter 106, Article 17).
Regulation of Production, Distribution, etc., of Milk and Cream
(Chapter 106, Article 28B).
Inspection, Grading, and Testing Milk and Dairy Products (Chapter
106, Article 29).
North Carolina Seed Law (Chapter 106, Article 31).
Feeding Garbage to Swine (Chapter 106, Article 34, Part 10).
Public Livestock Markets (Chapter 106, Article 35).
Livestock Dealer Licensing Act (Chapter 106, Article 35B).
Unfair Practices by Handlers of Fruits and Vegetables (Chapter
106, Article 44).
Poultry; Hatcheries; Chick Dealers (Chapter 106, Article 49).
North Carolina Antifreeze Law of 1975 (Chapter 106, Article 51A).
Grain Dealers (Chapter 106, Article 53) and Adulteration of
Grains (Article 54).
Pesticide Applicators and Consultants (Chapter 143, Article 52,
Part 4).
Pesticide Dealers and Manufacturers (Chapter 143, Article 52,
Part 3).
(2) DEPARTMENT OF INSURANCE
Bail Bondsmen and Runners (Chapter 85C).
Collection Agencies (Chapter 66, Article 9A).
Motor Clubs and Associations (Chapter 66, Article 9B).
Authority over all insurance companies, no exemptions from
license (G.S. 58-15).
Agents and others must procure license (G.S. 58-40).
Insurance Premium Financing (Chapter 58, Article 4).
(3) DEPARTMENT OF LABOR
Passenger Tramways (Chapter 95, Article 15).
(4) DEPARTMENT OF JUSTICE
Private Protective Services Act (Chapter 74C).

(5) DEPARTMENT OF ADMINISTRATION
Day-Care Facilities (Chapter 110, Article 7).
Child Day-Care Licensing Commission (Chapter 143B, Article 9,
Part 4).
(6) DEPARTMENT OF HUMAN RESOURCES
Nursing Home Administration (Chapter 90, Article 20).
Licensing of Private Institutions (maternity homes, homes for the
aged and infirm, private child-care institutions) (Chapter 108,
Article 3, Part 2).

- Control over Child-Caring Facilities (Chapter 110, Article 3).
- Licensing of Local Mental Health Facilities (Chapter 122, Article 2F).
- Licensing and Control of Area Mental Health, Mental Retardation and Substance Abuse Institutions and Homes (G.S. 122-72).
- Regulation of Ambulance Services (Chapter 130, Article 26).
- Hospital Licensing Act (Chapter 131, Article 13A).
- Licensing of Ambulatory Surgical Facilities (Chapter 131B).
- Sanitarians (Chapter 90A, Article 1).
- Midwives (Chapter 90, Article 10), and Midwives (Chapter 130, Article 18).
- North Carolina Radiation Protection Act (Chapter 104E).
- (7) DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT
 - Wastewater Treatment Plant Operators (Chapter 90A, Article 3).
 - Wastewater Treatment Plant Operators Certification Commission (Chapter 143B, Article 7, Part 9).
 - Coastal Area Management (Chapter 113A, Article 7).
 - Water and Air Resources (Chapter 143, Article 21 (except Part 3)).
 - Oil Pollution Control (Chapter 143, Article 21A).
 - Air Pollution Control (Chapter 143, Article 21B).
 - Water Resources (Chapter 143, Article 38).
 - Environmental Management Commission (Chapter 143B, Article 7, Part 4).
 - Administrative Provisions; Regulatory Authority of Marine Fisheries Commission and Department (Chapter 113, Article 17).
 - North Carolina Game Law of 1935 (Chapter 113, Article 7).
- (8) DEPARTMENT OF COMMERCE
 - Board of commissioners of navigation and pilotage for the Cape Fear River and Bar (Chapter 76, Article 1).
 - Morehead City Navigation and Pilotage Commission (Chapter 76, Article 6).
- (9) DEPARTMENT OF TRANSPORTATION
 - Professional House Moving (Chapter 20, Article 16).
- (10) OTHERS
 - Practice of Funeral Service (Chapter 90, Article 13A).
 - Practicing Psychologists (Chapter 90, Article 18A).
 - Auctions and Auctioneers (Chapter 85B).
 - North Carolina State Commission on Indian Affairs (Chapter 143B, Part 15).
 - Foresters (Chapter 89B).
 - Osteopathy (Chapter 90, Article 7).

(b) The Committee may develop legislative recommendations concerning the programs and functions that it is charged to review. In developing such recommendations (if any) the Committee shall proceed with a view to continuing productive, efficient and active programs which are in the public interest, to eliminating inactive programs, and to eliminating or consolidating overlapping or duplicating programs; and may consider the extent to which changes are needed in enabling laws.

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(c) The citations and titles in subsection (a) of this section are listed for convenience only. It is the intention of the General Assembly that all of the agencies and programs covered in subsection (a) are to be reviewed by the Committee whether or not the provisions and codification of the enabling laws for those agencies and programs are changed.

"§ 143-34.27. *Procedure in developing Committee recommendations.*—(a) By January 1, 1982, each department listed in G.S. 143-34.26(a), whose programs are to be reviewed by the Committee, shall submit to the Committee its recommendations for retention or termination of those programs, and for changes (if any) in the enabling laws for those programs, together with supporting reasons for its recommendations. By January 1, 1982, the Legislative Services Office shall submit to the Committee its recommendations for retention or termination of the programs listed in G.S. 143-34.26(a)(10), and for changes (if any) in the enabling laws for those programs, together with supporting reasons for its recommendations. The recommendations of the departments and of the Legislative Services Office shall identify:

- (1) any functions which in their opinion are being duplicated by another State agency, together with their recommendations (if any) for eliminating the duplication; and
- (2) any functions which in their opinion are inconsistent with current and projected public demands and should be terminated or altered.

(b) On the basis of the recommendations submitted under subsection (a) of this section, and other available information, the Committee shall prepare tentative recommendations concerning the programs and agencies listed in G.S. 143-34.26(a) and shall make its tentative recommendations available to the responsible departments and offices by July 1, 1982. The Committee shall hold at least one public hearing concerning any program, function or agency as to which it tentatively recommends termination or statutory amendment, at which hearing the affected agency and any other interested persons may present data, views and arguments. Hearings for more than one agency or program or function may be held on the same day. The Committee shall give at least 10 days' notice, by publication at least once in one newspaper of general circulation in Wake County, of the public hearing, including the following:

- (1) a reference to the statutory authority for the evaluation;
- (2) the time and place of the hearing and a statement of the manner in which data, views, and arguments may be submitted either at the hearing or at other times by any person; and
- (3) a brief summary of the Committee's recommendations.

(c) Upon completion of the hearing and consideration of written statements or other evidence submitted, the Committee shall make its final decisions with respect to the program or function and shall prepare a report thereon for the General Assembly together with any recommended legislation. Copies of the report and the recommended legislation shall be filed with the Attorney General and shall be mailed or delivered to the agency responsible for the program or function.

(d) The Committee is authorized to meet in the State Legislative Building when the General Assembly is not in session, subject to the determination by the Legislative Services Commission that space is available. The Committee shall hold its initial meeting at the Legislative Building on October 9, 1981, at 10:00 a.m., unless another date and time are set by the cochairmen."

Session Laws—1981 CHAPTER 934

Sec. 2.1. Session Laws 1973, Chapter 1284, Section 3, as amended by Session Laws 1975, Chapter 452, Section 5, is hereby amended to delete the words and punctuation ", and the entire act shall expire on June 30, 1983".

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.

APPENDIX B

Volume and Emphasis of Work under Sunset and LCAR

1) Number of statutes listed for review originally:

*Sunset: 100-105, in six years.

*LCAR: 62-64, in two years.

(The exact number used depends on whether you double count some cases where the law specifically lists more than one section or article for review.)

2) Number of reports presented by Sunset Commission:

*1979: 17 programs, concentrating on the licensing boards for the building industry.

*1981: 20 programs, concentrating on the licensing boards in the health related professions, several environmental programs, the state bar, and barbers and cosmetologists.

3) Disposition of Programs on the Sunset list:

*Two functioning licensing programs were eliminated (watchmakers and well driller registration).

*One board was eliminated on paper whose law had been declared unconstitutional and repealed (tile contractors).

*Two programs were eliminated on paper that had previously been merged into broader programs (private detectives and mining registration).

*One program was continued by the General Assembly contrary to the Sunset Commission's recommendations (Public Librarians' Certification Commission).

*The remaining 31 programs and laws were continued as recommended by the Sunset Commission, in most cases with amendments.

The general pattern of amendments included the addition of public members to licensing boards; limitation of board members' service to two consecutive 3-year terms; providing authority for injunctive relief against violations (in the licensee's home judicial district); restricting the licensing boards' powers over professional advertising; facilitating movement of out-of-state practitioners into North Carolina; and increasing the disciplinary powers and options of some boards.

4) The areas of concentration for the LCAR are as follows:

Evaluation Process

Old Sunset Evaluation Elements

Departmental Recommendations

(Sunset (Commission))	(LCAR)
1. Program Objectives and Need	Departments and Legislative
2. Performance Evaluation: To what Degree Have Original Objectives Been Achieved?	Services Office are to identify:
3. Accomplishments and Costs (Last FY)	(1) Any functions duplicated
4. Persons Served	by another state agency,
5. Personnel Employed (Last FY)	and recommendations to
6. Do Agency Policies (Expressed in Regulations, Decisions, etc.) Meet Statutory Objectives?	eliminate duplication
7. Effect of Program on State's Economy	(2) Any functions inconsis-
8. Evaluation of Reporting and Recordkeeping	tent with current and
9. Budget (Current FY and Next FY)	projected public demands
10. Assessment of Restrictions on Entry to Trade and of Public Participation	that should be terminated
11. Evaluation of Efficiency and Responsiveness to Public Need	or altered
12. Evaluation of Complaint Processing	
13. Analysis of Continuing Services and Performance	

LCAR Recommendations (identical to State Government
Committee recommendations under Sunset)

- (1) Continue productive, efficient and active programs that are in the public interest.
- (2) Eliminate inactive programs.
- (3) Eliminate or consolidate overlapping or duplicating programs.
- (4) May consider changes needed in enabling laws.

Public Hearings under Sunset

- (1) Mandatory hearing(s) by Sunset Commission on each proposed report.
- (2) Mandatory hearing by State Government Committees on each program with burden on agency to demonstrate continued need.

LCAR Public Hearings

Mandatory hearing by LCAR only on programs or agency as to which termination or amendment is recommended.

Sunset

Automatic termination

LCAR

APPENDIX C

TABLE OF LCAR RECOMMENDATIONS

CONTINUE LEGISLATION WITHOUT CHANGE

Passenger Tramways
Radiation Protection Act
Commission of Indian Affairs
Antifreeze Laws of 1975
Commercial Fertilizer Law
Grain Dealers and Adulteration of Grains
Fruit & Vegetable Handlers Unfair Practices
Livestock Dealers Licensing
Public Livestock Markets
Public Weighmasters
Pesticide Applicators and Consultants
Rendering Plants and Operations
Seed Law
Structural Pest Control
Food, Drugs and Cosmetics
Environmental Management Commission
Game Law of 1935
Wastewater Treatment Plant Operators Certification Commission
Inspection, Grading, and Testing Milk and Dairy Products
Pesticide Dealers and Manufacturers
Sanitarians (enacted Ch. 1274, S.L. 1982)
Wastewater Treatment Plant Operators
Oil Pollution Control
Air Pollution Control
Water Resources
Professional Housemoving

AMEND

Private Protective Services Act
Auctions & Auctioneers
Practicing Psychologists
Nursing Home Administrators
Mortuary Science
Foresters
Osteopaths
Milk Sanitation
Hatcheries & Chick Dealers
Marine Fisheries Act
Coastal Area Management
Dredging & Filling Permits
Water Resources Projects (Grants-in-Aid)
Well Construction Act
Residential Child Care Facilities
Residential Maternity Care Institutions
Water Pollution Control Law
Legislative Committee on Agency Review

REPEAL (ALL OR PART)

Marketing of Farmers Stock Peanuts
Meat Grading Law
Marketing & Branding Farm Products Act
Feeding Garbage to Swine
Stream Sanitation Committee and Board of Water Resources (obsolete sections)
Sand Dune Law (obsolete reference to)

CONTINUE LEGISLATION WITHOUT CHANGE BUT CONSIDER FUTURE AMENDMENTS
IF LATER FACTS JUSTIFY SUCH ACTION

Cape Fear Navigation and Pilotage Commission
Morehead City Navigation and Pilotage Commission

RECOMMEND NEW LEGISLATION

To establish criteria and procedures to study the need for new licensing laws
and programs

NO LEGISLATION RECOMMENDED DUE TO INSUFFICIENT INFORMATION FROM DEPARTMENT

Homes for the Aged and Disabled
Hospital Licensing
Regulation of Ambulance Services
Ambulatory Surgical Facilities
Licensing of Private Mental Institutions and Homes
Area Mental Health, Mental Retardation, and Substance Abuse Programs
Midwives

REFER TO EXISTING STUDY COMMISSION

Agents & Others must procure license
Authority over all insurance companies
Bail Bondsmen & Runners
Collection Agencies
Insurance Premium Financing
Motor Clubs & Associations
Child Day-Care Licensing Commission
Child Day-Care Facilities

RECOMMEND FURTHER STUDY

Regulation of Production, Distribution, etc., of Milk and Cream
(N.C. Milk Commission)
Water & Air Pollution Control
Oil and Hazardous Substance Spill Control
Practicing Psychologists

LEGISLATION CONSIDERED BY THE LCAR BUT NOT RECOMMENDED

To create a Private Protective Services Recovery Fund
To require all Practicing Psychologists to have a doctorate degree

APPENDIX D

Proposed Legislation

A BILL TO BE ENTITLED

AN ACT TO AMEND ARTICLE 49 OF CHAPTER 106, RELATING TO HATCHERIES AND CHICK DEALERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-539 is amended by deleting the words "and turkey improvement plans" and inserting in lieu thereof the word "improvement plan."

Sec. 2. G.S. 106-540 is rewritten, through the end of subsection (1), as follows:

"The North Carolina Board of Agriculture is hereby authorized to adopt such regulations as may be necessary to:

(1) Carry out the provisions of the national poultry improvement plan."

Sec. 3. G.S. 106-540 is amended by adding new subsections at the end thereof as follows:

"(6) Establish fee schedules for pullorum and other disease testing, and the performance of services such as culling and selecting by Department personnel.

(7) Provide for compulsory testing of poultry for pullorum disease and fowl typhoid."

Sec. 4. G.S. 106-542 is rewritten as follows:

"(a) It shall be unlawful for any person, firm or corporation to operate a hatchery within this State without first obtaining a hatchery license from the Department of Agriculture for a fee of \$25.00 per year.

(b) It shall be unlawful for any person, firm or corporation to operate as a hatching egg dealer, chick dealer or jobber within this State without first obtaining a license from the Department of Agriculture for a fee of \$10.00 per year.

(c) The Department of Agriculture may deny, suspend, revoke or refuse to renew the license of any person, firm or corporation or violation of this Article or any rule or regulation promulgated thereunder."

Sec. 5. G.S. 106-543 is amended by deleting the words "and turkey improvement plans" and inserting in lieu thereof the words, "improvement plan", and is further amended by deleting the words, "or national turkey improvement plan" at the end thereof.

Sec. 6. G.S. 106-548 is amended by deleting the first three sentences and the last sentence thereof.

Sec. 7. This act shall become effective July 1, 1983.

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT THE FEEDING OF GARBAGE TO SWINE

The General Assembly of North Carolina enacts:

Section 1. Part 10 of Article 34 of Chapter 106 is amending by deleting Sections 106-405.1 through 106-405.9 and by adopting the following Sections:

"§106-405.10. Definitions. As used in this Part:

(a) "Garbage" means any animal or vegetable wastes resulting from handling, preparation, cooking and consumption of foods, including parts of animal carcasses or contents of offal.

(b) "Person" means the State, any municipality, political subdivision, institution, public or private corporation, individual, partnership, or any other entity.

(c) "Garbage dump" means a place or area where ordinary household garbage is disposed of from two or more families.

§106-405.11. Unlawful acts.

(a) It shall be unlawful for any person to feed garbage to swine, except as provided herein.

(b) It shall be unlawful for anyone to sell or offer for sale hogs which have consumed any garbage with a period of thirty days prior to date of sale.

(c) It shall be unlawful for any person to permit hogs on any garbage dump.

§106-405.12. Notification required from certain persons disposing of garbage.

Any person who sells, gives away or otherwise disposes of garbage other than his ordinary household garbage, to any person, shall notify the North

Carolina Department of Agriculture, giving the name and address of the person who obtained the garbage.

This section shall not apply to persons whose garbage is collected by a municipality or by a person who has a permit to collect garbage.

§106-405.13. Inspection of premises where swine are kept.

Any authorized representative of the North Carolina Department of Agriculture is authorized to enter at reasonable times upon any private or public property where swine are kept for the purpose of inspecting and investigating conditions relating to the feeding of garbage to swine.

§106-405.14. Administration; regulations; exemption; penalties; injunctions.

(a) The North Carolina Department of Agriculture is hereby charged with administration and enforcement of the provisions of this Part and is authorized to make and enforce all rules and regulations which the department may deem necessary to carry out its purposes.

(b) This part shall not apply to any person who feeds his own household garbage to swine, except that no person shall sell or offer for sale any hogs which have consumed any garbage within thirty days of sale.

(c) Any person who violates any of the provisions of this Part or any rule or regulation promulgated thereunder shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined or imprisoned, or both, in the discretion of the court. In addition, such person may be enjoined from continuing such violation. Each day on which a violation occurs shall constitute a separate violation.

Sec. 2. This act shall become effective July 1, 1983.

A BILL TO BE ENTITLED

AN ACT TO REPEAL THE MARKETING OF FARMERS STOCK PEANUTS ACT

The General Assembly of North Carolina enacts:

Section 1. G.S. Chapter 106, Article 5A, regulating the marketing of farmers stock peanuts, is repealed in its entirety.

Sec. 2. This act is effective upon ratification.

A BILL TO BE ENTITLED

AN ACT TO REPEAL THE NORTH CAROLINA MEAT GRADING LAW

The General Assembly of North Carolina enacts:

Section 1. G.S. Chapter 106, Article 15A, entitled the North Carolina Meat Grading Law, is repealed in its entirety.

Sec. 2. This act is effective upon ratification.

A BILL TO BE ENTITLED

AN ACT TO REPEAL AN UNCONSTITUTIONAL PROVISION OF THE MARKETING AND BRANDING
FARM PRODUCTS ACT

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-189.1 is repealed.

Sec. 2. This act is effective upon ratification.

A BILL TO BE ENTITLED

AN ACT TO AMEND THE REQUIREMENTS FOR OPERATING RESIDENTIAL CHILD CARE AND
CHILD PLACEMENT FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 131D-5 is rewritten to read:

"§ 131D-5. Permits and licenses for residential child care.--(a) No individual, agency, voluntary association or corporation seeking to establish any business or organization in this State to (1) give full-time care to children or (2) place dependent, neglected, abandoned, destitute, orphaned or delinquent children or children separated temporarily from their parents shall organize and operate without first securing a written permit from the Department of Human Resources. The Department shall issue a permit only after it has duly investigated the purpose, character, nature, methods and assets of the proposed business or organization.

"(b) In addition to meeting the requirements of subsection (a), every such business or organization shall annually obtain a license from the Department of Human Resources under rules and regulations adopted by the Social Services Commission. It shall be unlawful to provide such care or placement without being licensed.

"(c) This section shall not apply to any child-caring institution chartered by the laws of the State of North Carolina (or operating under charters of other states which have complied with the corporation laws of North Carolina) which (1) has a plant and assets worth sixty thousand dollars (\$60,000.00) or more, (2) is owned or operated by a religious denomination or fraternal order, and (3) was in operation before July 1, 1977. This section shall not apply to State institutions for the mentally handicapped or for the

detention of juveniles, nor to residential maternity care homes as defined in G.S. 131D-1.

"(d) Any individual, corporation, institution or association violating any provision of this section shall, upon conviction, be guilty of a misdemeanor and punishable by a fine not exceeding two hundred dollars (\$200.00), or imprisonment for not more than six months, or both."

Sec. 2. G.S. 110-49 is repealed.

Sec. 3. This act is effective upon ratification.

A BILL TO BE ENTITLED

AN ACT TO AMEND THE REQUIREMENTS FOR OPERATING RESIDENTIAL MATERNITY CARE HOMES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 131D-1 is rewritten to read:

"§ 131D-1. Permits and licenses for residential maternity care.--(a) No individual, agency, voluntary association or corporation seeking to establish and provide full time residential care in this State to pregnant females before and after delivery shall organize and carry out such work without first securing a written permit from the Department of Human Resources. The Department shall issue a permit only after it has duly investigated the purpose, character, nature, methods and assets of the proposed individual, agency, association or corporation.

"(b) In addition to meeting the requirements of subsection (a), individuals, agencies, associations or corporations providing residential maternity care shall annually obtain a license from the Department of Human Resources under rules and regulations adopted by the Social Services Commission. It shall be unlawful to provide residential maternity care without being licensed.

"(c) Any individual, agency, association or corporation violating any provision of this section shall, upon conviction, be guilty of a misdemeanor and punishable by a fine not exceeding two hundred dollars (\$200.00) or imprisonment for not more than six months, or both."

Sec. 2. This act is effective upon ratification.

A BILL TO BE ENTITLED

AN ACT TO AMEND GENERAL STATUTES CHAPTER 130 IN RELATION TO MILK SANITATION

The General Assembly of North Carolina enacts:

Section 1. General Statutes Chapter 130 is hereby amended by adding thereto a new Article 13-F, to be entitled "Milk Sanitation" and to read as follows:

ARTICLE 13-F

MILK SANITATION

§ 130-166.78, Definitions:

Milk means the lacteal secretion practically free from colostrum, obtained by the complete milking of one or more cows or goats.

Grade "A" Milk means fluid milk and milk products which have been produced, transported, handled, processed, and distributed in accordance with the provisions of the rules adopted by the Commission for Health Services.

Department means the North Carolina Department of Human Resources or its authorized representatives.

§ 130-166.79, Commission for Health Services to Adopt Rules.

Notwithstanding the provisions of G.S. 106-267 et seq, the Commission for Health Services is hereby authorized and directed to adopt rules relating to the sanitary production, transportation, processing, and distribution of Grade "A" milk. The rules, in order to protect and promote the public health, shall provide definitions and requirements for: (1) the sanitary production and handling of milk on Grade "A" dairy farms; (2) the sanitary transportation of Grade "A" raw milk for processing; (3) the sanitary processing of Grade "A" milk; (4) the sanitary handling and distribution of Grade "A" milk; (5) the requirements for the issuance, suspension, and revocation of permits; and (6) the establishment of quality standards for Grade "A" milk.

§ 130-166.80, Permits Required.

No person shall produce, transport, process, or distribute Grade "A" milk without first having obtained a valid permit from the Department.

§ 130-166.81, Authority to Embargo.

The Department may embargo milk for sale or use as Grade "A" milk which does not meet the provisions of the Commission rules.

§ 130-166.82, Duties of the Department of Human Resources.

The Department of Human Resources or its authorized representatives shall enforce the rules of the Commission for Health Services governing Grade "A" milk by making sanitary inspections of Grade "A" dairy farms, Grade "A" processing plants, Grade "A" milk haulers and Grade "A" distributors; by determining the quality of Grade "A" milk; and by evaluating methods of handling Grade "A" milk to insure compliance with the provisions of the Commission's rules. The Department shall issue permits for the operation of Grade "A" dairy farms, processing plants, and haulers in accordance with the provisions of the Commission's rules and shall suspend or revoke permits for violations in accordance with the rules.

§ 130-166.83, Certain Authorities of Department of Agriculture Not Replaced.

Enforcement by the Department of the Commission for Health Services Rules shall not replace the Department of Agriculture's authority to carry out labeling requirements and required butterfat testing, aflatoxin testing, pesticide testing, and other testing of Grade "A" milk which the Department of Agriculture conducts.

Sec. 2. G.S. 106-267 is amended in the fourth line by inserting between the word "products" and "in" the following: "except for Grade "A" milk as defined in G.S. 130-166.78."

Sec. 3. This act is effective upon ratification.

A BILL TO BE ENTITLED

AN ACT TO AMEND CHAPTER 74C, THE PRIVATE PROTECTIVE SERVICES ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 74C-3(a)(6) is amended on line twenty by inserting the following between "employer" and ";":

", except that if the employee carries a firearm in the performance of those business affairs, the provisions of G.S. 74C-13 shall apply".

Sec. 2. G.S. 74C-5(9) is rewritten to read:

"(9) Establish rules governing private protective services schools and the approval of such schools, and charge fees for reimbursement of costs incurred pursuant to such approval."

Sec. 3. G.S. 74C-6 is amended on line two by deleting the phrase "State Bureau of Investigation" and substituting therefor "Department of Justice".

Sec. 4. G.S. 74C-8(b)(4) is rewritten to read:

"(4) The full name and address of any partners in the business and the principal officers, directors and business manager, if any;"

Sec. 5. G.S. 74C-10(c) is amended on line four by deleting "within 90 days of" and substituting therefor the word "before".

Sec. 6. G.S. 74C-14 is repealed.

Sec. 7. G.S. 74C-16 is amended by adding a new subsection (e) to read:

"(e) No licensee shall hold himself out as employed by or licensed by the State Bureau of Investigation."

Sec. 8. G.S. 74C-17 is amended by adding subsections (c) and (d) to read:

"(c) A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Board against any person or business who violates any provision of this Chapter or any rule of the board adopted pursuant to this Chapter. In determining the amount of any penalty, the Board shall consider the degree and extent of harm caused by the violation.

"(d) Proceedings for the assessment of civil penalties under this section shall be governed by Chapter 150A of the North Carolina General Statutes. If the person assessed a civil penalty fails to pay the penalty to the Board, the Board may institute an action in the superior court of the county in which the person resides or has his principal place of business to recover the unpaid amount of the penalty. An action to recover a civil penalty under this section shall not relieve any party from any other penalty prescribed by law."

Sec. 9. G.S. 74C-4(b) is rewritten to read:

"(b) The board shall consist of 10 members: The Attorney General or his designated representative, two persons appointed by the Attorney General, one person appointed by the Governor, two persons appointed by the Lieutenant Governor, one person appointed by the President pro tempore of the Senate and three persons appointed by the Speaker of the House of Representatives. Those persons appointed by the President pro tempore of the Senate and the Speaker of the House of Representatives shall be licensees under this chapter; all other appointees may not be licensees of the board nor licensed by the board while serving as a board member. All persons appointed shall serve a term of three years. No person shall be eligible for reappointment to the board after six years of continuous service on the board. Board members may continue to serve until their successors have been appointed."

Sec. 10. Schedule. It is the intent of the General Assembly to provide continuity in board membership. Therefore, all current appointments shall expire on June 30, 1983. The following schedule of staggered terms shall apply to all new appointments: with regard to the persons appointed by the Attorney General, one shall serve a two-year term to expire on June 30, 1985, and one shall serve a three-year term to expire on June 30, 1986; the person appointed by the Governor shall serve a one-year term to expire on June 30, 1984; with regard to the persons appointed by the Lieutenant Governor, one shall serve a two-year term to expire on June 30, 1985, and one shall serve a three-year term to expire on June 30, 1986; the person appointed by the President pro tempore of the Senate shall serve a one-year term to expire on June 30, 1984, and with regard to the persons appointed by the Speaker of the House of Representatives, one shall serve a one-year term to expire on June 30, 1984, one shall serve a two-year term to expire on June 30, 1985, and one shall serve a three-year term to expire on June 30, 1986. Upon the expiration of each of the above appointments, the appointing authority shall appoint successors for three-year terms as specified in G.S. 74C-4(b).

Sec. 11. This act shall become effective July 1, 1983.

A BILL TO BE ENTITLED

AN ACT TO AMEND G.S. CHAPTER 143, ARTICLE 38 SO AS TO ELIMINATE OUTMODED AND
INCONSISTENT PROVISIONS CONCERNING THE STATE STREAM SANITATION COMMITTEE AND
THE BOARD OF WATER RESOURCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-356 is hereby repealed.

Sec. 2. G.S. 143-357 is hereby repealed.

Sec. 3. This act is effective upon ratification.

A BILL TO BE ENTITLED

AN ACT TO REPEAL G.S. 143B-282(2)f WHICH CONTAINS AN OBSOLETE REFERENCE TO THE
SAND DUNE LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-282(2), as it now appears in 1978
Replacement Volume 3C of the North Carolina General Statutes, is amended by
deleting paragraph f.

Sec. This act is effective upon ratification.

A BILL TO BE ENTITLED

AN ACT TO AMEND ADMINISTRATIVE PROVISIONS OF THE MARINE FISHERIES ACT TO MAKE
A TECHNICAL CHANGE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-221 as the same appears in 1978 Replacement to
Volume 3A, Part II of the General Statutes is amended by deleting the second
sentence of subsection (a) and by deleting subsection (h) in its entirety.

Sec. 2. This act is effective upon ratification.

A BILL TO BE ENTITLED

AN ACT TO CLARIFY AND SIMPLIFY THE COASTAL AREA MANAGEMENT ACT

The General Assembly of North Carolina enacts:

Section 1. G.S. 1 13A-113(b)(2) is rewritten to read:

"(2) Estuarine waters, that is, all the water of the Atlantic Ocean within the boundary of North Carolina and all the waters of the bays, sounds, rivers, and tributaries thereto seaward of the dividing line between coastal fishing waters and inland fishing waters, as set forth in the most recent official published agreement adopted by the Wildlife Resources Commission and the Department of Natural Resources and Community Development;"

Sec. 2. G.S. 113A-114 is repealed.

Sec. 3. G.S. 1 13A-118(d)(1), as it appears in the 1978 Replacement Volume 3A, Part II, is amended on the seventh line by deleting the words and punctuation "or the North Carolina Sedimentation Control Board," and substituting therefor the words and punctuation "the North Carolina Sedimentation Control Board, or any federal agency or authority;"

Sec. 4. G.S. 113A-120(a)(5), as it appears in the 1978 Replacement Volume 3A, Part II, is amended on the first line by deleting the citation "G.S. 113A-113(4)" and substituting therefor the citation "G.S. 113A-113(b)(5)."

Sec. 5. G.S. 113A-120(b), is amended by rewriting the second sentence to read:

"The permit may be conditioned upon the applicant's amending his proposal to take whatever measures or agreeing to carry out whatever terms of operation or use of the development that are reasonably necessary to protect the public interest with respect to the factors enumerated in subsection (a) of this section."

Sec. 6. GS. 113A-126(d)(3), as it appears in the 1978 Replacement Volume 3A, Part II, is amended on the fourteenth line by deleting the citation "G.S. 143-315" and substituting therefor the citation "G.S. 150A-43 et seq."

Sec. 7. This act is effective upon ratification.

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT DEVELOPMENT PURSUANT TO A CAMA PERMIT WHILE A REQUEST FOR A HEARING ON THAT PERMIT IS PENDING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113A-121.1(e) is amended to read:

"(e) In cases where no request for a hearing has been made under paragraph (c) of this section, development authorized by the permit may be undertaken unless prohibited by an order of the superior court."

Sec. 2. G.S. 113A-121.1(d) is amended by adding after the word "review" the words "or request for a hearing".

Sec. 3. This act is effective upon ratification.

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THAT LOCAL GOVERNMENTS APPLY FOR MAJOR DEVELOPMENT PERMITS
FOR ALL DEVELOPMENT UNDER THE COASTAL AREA MANAGEMENT ACT.

The General Assembly of North Carolina enacts:

Section. 1. G.S. 113A-118(d)(1) is amended by adding before the
final period the following:

"; or which a local government which acts as a permit-letting agency
contemplates within its geographical, permit-letting jurisdiction".

Sec. 2. This act is effective upon ratification.

A BILL TO BE ENTITLED
AN ACT TO AMEND G.S. 113-229 RELATING TO PERMITS, APPEALS, AND HEARINGS
REGARDING DREDGING AND FILLING

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-229(e) is amended to rewriting the last sentence to read:

"The Department shall act on an application for permit within 90 days after the completed application is filed, provided the Department may extend such deadline by not more than an additional 90 days if necessary properly to consider the application, except for applications for a special emergency permit, in which case the Department shall act within two working days after an application is filed, and failure to so act shall automatically approve the application."

Sec. 2. G.S. 113-229(f) is rewritten to read:

"(f) Any person who is directly affected by a permit decision under G.S. 113-229(e) or (e1) may submit a written request, within 20 days of such action, for a hearing before the Coastal Resources Commission. Requests for hearings by any person other than the applicant shall be reviewed by the Commission or its duly authorized agent according to G.S. 113A-121A(c) to determine whether a hearing should be granted. Pending final disposition of any such review by the Commission, no action shall be taken which would be unlawful in the absence of a permit. In cases where the request for a hearing has been denied, development authorized by the permit may be undertaken unless prohibited by an order of the superior court."

Sec. 3. G.S. 113-229(g) is rewritten to read:

"(g) Appeals to the Coastal Resources Commission of permit decisions under this section shall follow the procedures and requirements set forth in G.S. 113A-122."

Sec. 4. This act is effective upon ratification.

A BILL TO BE ENTITLED

AN ACT TO REFORM CERTAIN ADMINISTRATIVE PROCEDURES OF THE ENVIRONMENTAL
MANAGEMENT COMMISSION

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-214.1, as it now appears in 1978 Replacement Volume 3C of the North Carolina General Statutes, is amended as follows: by deleting the text of subsection (e) following the word "the" on the line 10 of the subsection and by inserting instead the following: "requirements of G.S. 150A-12."

Sec. 2. G.S. 143-215.1(c), as it appears in 1978 Replacement Volume 3C of the North Carolina General Statutes, is amended as follows:

1. by deleting from paragraph (2)a. thereof the following words, beginning at line 19 and continuing to line 22: "by posting a copy of the notice at the courthouse in the county in which the pretreatment facility, outlet or point source or treatment works or disposal system discharging to the surface waters of the states lies.

2. by deleting from paragraph (3) thereof the following words beginning at line 12 and continuing through line 15: "posted at the courthouse door of the county in which the pretreatment facility, outlet, point source, treatment works or disposal systems lies, and shall cause the notice to be."

Sec. 3. G.S. 143-215.1(c)(3), as it appears in 1978 Replacement Volume 3C of the North Carolina General Statutes, is amended as follows: by deleting the words "hearing" and "hearings" wherever they appear in that paragraph, and inserting instead the words "meeting" and "meetings", respectively.

Sec. 4. G.S. 143-215.5, as it appears in 1978 Replacement Volume 3C of the North Carolina General Statutes, is amended as follows: (a) by deleting from paragraph (b) of the statute the text beginning with "de novo" on line 14 and concluding with "thereto" on line 19, and by inserting instead the following: in accordance with G.S. 150A-50 and G.S. 150A-51."

Sec. 5. G.S. 143-215.(3)(a)(1), as it now appears at the 1981 Cumulative Supplement Volume 3C of the North Carolina General Statutes, is amended by deleting the last sentence.

Sec. 6. G.S. 143-215.3(a), as it now appears at the 1981 Cumulative Supplement to 1978 Replacement Volume 3C of the North Carolina General Statutes, is amended by deleting therefrom the paragraphs numbered (11) and (13) and by renumbering paragraph (12) as (11).

Sec. 7. G.S. 143-215.3(a)(8), as it now appears at the 1981 Cumulative Supplement to 1978 Replacement Volume 3C of the North Carolina General Statutes, is amended by deleting therefrom the third paragraph beginning on line 24, and by inserting instead the following new paragraph: "Notice of hearing shall be given in accordance with the provisions of G.S. 150A-12."

Sec. 8. G.S. 143-215.4(a), as it now appears as 1978 Replacement Volume 3C of the North Carolina General Statutes is amended by deleting lines 6-8 thereof and the words "on the date when such action is taken" on line 9 thereof, and by inserting instead of the following: "G.S. 150A-12." G.S. 143-214.4(a) is further amended by inserting at the end of thereof the following sentence: "In addition to the manner of giving notice prescribed by G.S. 150A-12, the department shall give notice of any proceeding under G.S. 143-214.1 and 143-215 to all persons on its mailing list."

Sec. 9. This act is effective upon ratification.

A BILL TO BE ENTITLED

AN ACT TO AMEND G.S. CHAPTER 143, ARTICLE 21, PART 8, SO AS TO MAKE FLOOD CONTROL PROJECTS AND ALL LOCAL WATER-BASED RECREATION PROJECTS ELIGIBLE FOR COST-SHARING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-215.71(3) is rewritten to read:

"Construction costs for water management (flood control and drainage) purposes, including utility and road relocations not funded by the State Department of Transportation--sixty-six and two-thirds percent (66 2/3%); but only of that portion of the project specifically allocated for such flood control or drainage purposes."

Sec. 2. G.S. 143-215.71(6) is rewritten to read:

"Land acquisition and facility development for water-based recreation sites operated by local governments--fifty percent (50%)."

Sec. 3. This act is effective upon ratification.

A BILL TO BE ENTITLED

AN ACT TO AMEND THE WELL CONSTRUCTION ACT, G.S. 87-83 et seq., TO PROVIDE FOR CIVIL PENALTIES AND CRIMINAL PENALTIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 87-92 is amended to read as follows:

G.S. 87-92 Hearings; appeals.--Any person wishing to contest a penalty, permit decision or other order issued under this Article shall be entitled to an administrative hearing and judicial review conducted according to the procedures established in G.S. 150A-23 through G.S. 150A-52; provided however, that any such petition for judicial review may be filed in the Superior Court of Wake County or in the county in which the violations occurred. Requests for an administrative hearing must be made in writing and served upon the Environmental Management Commission within thirty (30) days of receipt of notice of the final action giving rise to the hearing.

Sec. 2. G.S. 87-93 is hereby repealed.

Sec. 3. G.S. 87-94 is amended to read as follows:

(a) Civil Penalties.--(1) Any person who violates any provision of this Article, or any order issued pursuant thereto, or any duly adopted regulation promulgated thereunder, shall be subject to an administrative, civil penalty of not more than one hundred dollars (\$100.00) for each violation, as determined by the Environmental Management Commission. Each day of a continuing violation shall be considered a separate offense.

(2) No penalty shall be assessed until the person alleged to be in violation has been

(A) notified of the violation in accordance with the notice provisions set out in G.S. 87-91(a),

(B) informed by said notice of remedial action, which if taken within 30 days from receipt of the notice, will effect compliance with this Article and the regulations under it, and

(C) warned by said notice that a civil penalty can be assessed for failure to comply within the specified time.

(3) In determining the amount of the penalty, the Commission shall consider the degree and extent of harm caused by the violation, the cost of rectifying the damage, the amount of money the violator saved by his non-compliance, whether or not the violation was committed willfully, and the prior record of the violator in complying or failing to comply with this Article.

(4) Any person assessed shall be notified of the assessment by registered or certified mail, or other means calculated to provide actual notice, and the notice shall specify the reasons for the assessment. If the person assessed fails to pay the amount of the assessment to the Department of Natural Resources and Community Development, or request an administrative hearing to contest such assessment, within thirty (30) days after receipt of notice, the Commission may request the Attorney General to institute a civil action to recover the amount of the assessment in the superior court of the county in which the person assessed resides or has his or its principal place of business or in which the well is located.

(b) Criminal Penalties.--Any person who shall be adjudged to have willfully violated this Article shall be guilty of a misdemeanor, punishable by a fine not to exceed two thousand dollars (\$2,000.00) for each violation.

Sec. 4. This act shall become effective upon ratification.

A BILL TO BE ENTITLED

AN ACT TO AMEND CHAPTER 85B, RELATING TO AUCTIONS AND AUCTIONEERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 85B-1 is amended by adding a new subdivision (3) to read:

"'Owner' means the bona fide owner of the property being offered for sale; in the case of corporations, 'owner' means an officer or director of a corporation that owns the property being offered for sale and that is qualified to do business in the State of North Carolina."

Sec. 2. G.S. 85B-2(1) is rewritten to read:

"(1) Sales at auction conducted by the owner of all of the goods or real estate being offered, or an attorney representing the owner, unless the owner's regular course of business includes engaging in the sale of goods or real estate by means of auction;"

Sec. 3. G.S. 85B-2(7) is rewritten to read:

"(7) Sale at auction of automobiles conducted under the provisions of G.S. 20-77, or sale at auction of motor vehicles by a motor vehicle dealer licensed under Article 12, Chapter 20 of the General Statutes;"

Sec. 4. G.S. 85B-3(a) is amended by adding a new sentence at the end to read: "No member shall serve more than two complete consecutive terms."

Sec. 5. G.S. 85B-3(b) is rewritten to read:

"(b) At least three members of the Commission shall be experienced auctioneers who are licensed under this Chapter. One member shall be a person who shall represent the public at large and shall not be licensed under this Chapter. The Governor shall appoint a public member to fill the first vacancy on the Commission after July 1, 1983."

Sec. 6. G.S. 85B-4(b)(2) is repealed.

Sec. 7. G.S. 85B-4 is amended by renumbering subsection (c) as (c1) and adding a new subsection to read:

"(c2) Each apprentice auctioneer application and license shall name a licensed auctioneer to serve as the supervisor of the apprentice. No apprentice auctioneer may enter into an agreement to conduct an auction, or conduct an auction, without the express approval of his supervisor. The supervisor shall regularly review the records his apprentice is required to maintain under G.S. 85B-7 and see that they are accurate and current."

Sec. 8. The second sentence of G.S. 85B-4(e) is amended by deleting "90 days" and substituting "12 months".

Sec. 9. The first sentence of G.S. 85B-5 is rewritten to read:

"Any person who holds a valid auctioneer license in another state may apply for and be granted a North Carolina license if the state in which he is licensed has standards which are acceptable to the Commission but are not more lenient than those required by this Chapter."

Sec. 10. The first sentence of the second paragraph of G.S. 85B-5 is rewritten to read: "An applicant under this section shall file the bond required by G.S. 85B-4."

Sec. 11. The third paragraph of G.S. 85B-5 is repealed.

Sec. 12. The second paragraph of G.S. 85B-6 is rewritten to read:

"No local government or agency of local government may charge any fees or require any licenses for auctioneers, apprentice auctioneers, or auctioneer businesses in addition to those set out in this Chapter."

Sec. 13. G.S. 85B-9(a) is rewritten to read:

"(a) Any person, corporation or association of persons violating the provisions of this Chapter shall upon conviction thereof be deemed guilty of a

misdemeanor and shall be punishable by fine, or imprisonment, or both in the discretion of the court."

Sec. 14. This act shall become effective July 1, 1983.

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THREE-YEAR TERMS FOR MEMBERS OF THE STATE BOARD OF
REGISTRATION FOR FORESTERS AND TO SET A LIMIT OF TWO CONSECUTIVE TERMS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 89B-3(a) is rewritten to read:

"(a) A State Board of Registration for Foresters is created to administer the provisions of this Chapter. The Board shall have five members as follows:

- (1) four duly practicing registered foresters, at least three of whom hold at a minimum a bachelor's degree from an accredited forestry school, and
- (2) one public member.

Each member shall be appointed by the Governor for a three-year term. No member may serve more than two complete consecutive terms."

Sec. 2. Notwithstanding Section 1 of this act, all members currently serving on the Board may continue in office until the expiration of their current terms.

Sec. 3. This act is effective upon ratification.

A BILL TO BE ENTITLED

AN ACT TO AMEND CHAPTER 89D, CONCERNING LANDSCAPE CONTRACTORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 89D-4(a) is rewritten to read:

"(a) There is created the North Carolina Landscape Contractors' Registration Board (hereinafter called the Board) which shall issue registration certificates of title to landscape contractors. The Board shall be composed of nine members appointed as follows: Two by the Governor to represent the public at large; two by the Commissioner of Agriculture; two practicing nurserymen operating a nursery certified by the North Carolina Department of Agriculture Plant Pest Inspection Program appointed by the Board of Directors of the North Carolina Association of Nurserymen, Inc.; two registered landscape contractors in the business of landscape contracting appointed by the Board of Directors of the North Carolina Landscape Contractors' Association, Inc.; and one registered landscape architect appointed by the Board of Directors of the North Carolina Chapter of the American Society of Landscape Architects. All appointments shall be for three-year terms and no member shall serve more than two complete consecutive terms.

"Any vacancy on the Board created by death, resignation or otherwise shall be filled for the unexpired term by the initial appointing authority and all members shall serve until their successors are appointed and qualify."

Sec. 2. The last sentence of G.S. 89D-4(a) is repealed.

Sec. 3. G.S. 89D-5(b) is rewritten to read:

"(b) Any person who applies to the Board to be registered and titled as a landscape contractor shall be required to take an oral or written examination to determine his qualifications. Each application for registration by examination shall be accompanied by an application fee of fifty dollars (\$50.00).

"The Board shall compile a manual from which the examination will be prepared. The examination fee shall not exceed twenty-five dollars (\$25.00). Anyone failing to pass an examination may be reexamined upon payment of the same fee as that charged to persons taking the examination for the first time, in accordance with such rules as the Board may adopt pertaining to examinations and re-examinations.

"If the results of the examination are satisfactory, the Board shall issue the applicant a certificate authorizing him to be titled as a landscape contractor in the State of North Carolina upon payment of the initial certification fee as outlined in subsection (c)."

Sec. 4. Schedule. All members of the Board serving on the effective date of this act shall complete their respective terms. No member appointed on or after the effective date of this act shall serve more than two complete consecutive three-year terms.

In order to stagger the terms of board members, the following initial appointments shall be made:

The Board of Directors of the North Carolina Association of Nurserymen, Inc., shall appoint one member on December 1, 1983, and one on December 1, 1985.

The Board of Directors of the North Carolina Landscape Contractors Association, Inc., shall appoint one member on December 1, 1983, and one member on December 1, 1985.

The Governor shall appoint one member on December 1, 1984, and one member on December 1, 1985.

The Commissioner of Agriculture shall appoint two members on December 1, 1984.

The Board of Directors of the North Carolina Chapter of the American Society of Landscape Architects shall appoint one member on December 1, 1983.

Sec. 5. This act is effective upon ratification.

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A SEVEN-MEMBER BOARD OF MORTUARY SCIENCE, TO SET THREE-YEAR TERMS, AND TO LIMIT SERVICE TO TWO CONSECUTIVE TERMS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-210.18(b) is rewritten to read:

"(b) The North Carolina Board of Mortuary Science is created as a continuation of the North Carolina Board of Embalmers and Funeral Directors. The Board is the agency for regulation of the practice of funeral service in this State. The Board shall have seven members as follows:

- (1) four funeral service licensees or persons holding both a funeral director's license and an embalmer's license,
- (2) two persons holding a funeral director's license or a funeral service license, and
- (3) one public member.

A member's terms shall be three years and shall expire on December 31 or when his successor has been duly elected or appointed. No member may serve more than two complete consecutive terms.

The six seats on the Board for licensees shall be filled in an election in which every person licensed to practice embalming, funeral directing, or funeral service in this State may vote. No licensee may be nominated, elected, or serve unless he holds a North Carolina license in the class designated for the seat and unless he is engaged in full-time employment in this State in a practice authorized by his license. Any vacancy occurring in an elective seat on the Board shall be filled for the unexpired term by majority vote of the remaining Board members.

The public member of the Board shall have full voting authority. He shall be appointed by the Governor and may neither be licensed under this

Article nor employed by a person who is. A vacancy occurring in the public member's seat shall be filled for the unexpired term by the Governor."

Sec. 2. G.S. 90-210.18(c)(1) is rewritten to read:

"(1) An election shall be held each year to elect two persons for membership on the Board of Mortuary Science, each to take office on the first day of January following the election. If in any year the election of a member of the Board is not completed by January 1, the member elected that year shall take office immediately after completion of the election."

Sec. 3. G.S. 90-210.18(c)(5a) is repealed.

Sec. 4. G.S. 90-210.18(c)(6) is amended by deleting from the first sentence the phrase "containing, in alphabetical order, the names of all nominees; and each" and substituting the following: "containing identification of the seats for election and, in alphabetical order, the names of all nominees for each seat. Each".

Sec. 5. G.S. 90-210.25(e)(1) is amended by adding a new paragraph at the end to read:

"In any case in which the Board is entitled to suspend, revoke or refuse to renew a license, the Board may accept from the licensee an offer in compromise to pay a penalty of not more than one thousand dollars (\$1,000). The Board may either accept a compromise or revoke or refuse to renew a license, but not both. The Board may accept a compromise and suspend the license in the same case."

Sec. 6. Notwithstanding Section 1 of this act:

(a) The term of the funeral director or funeral service licensee to be elected in 1983 shall be two years. Thereafter the term shall be three years.

(b) The term of the public member to be appointed in 1985 shall expire on December 31, 1988. Thereafter the term shall be three years.

(c) Members currently serving on the Board may complete their terms and shall be eligible for election to one additional consecutive term. When the term of the funeral service licensee member expires on December 31, 1984, that seat shall be eliminated.

Notwithstanding Section 2 of this act, only one member shall be elected to the Board in 1984.

Sec. 7. This act is effective upon ratification.

A BILL TO BE ENTITLED

AN ACT TO AMEND THE NURSING HOME ADMINISTRATOR ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-286 is rewritten to read:

"§ 90-286. Renewal of license.--Every holder of a nursing home administrator's license shall renew it biennially by application to the Board. The Board shall grant renewals when the applicant has paid the fee required by this Article and has satisfactorily completed continuing education courses as may be prescribed by the Board, unless the board finds that the applicant has acted or failed to act in such a manner as would constitute grounds for suspension, revocation or denial of a license as provided by this Article. The Board shall certify and administer continuing education courses for nursing home administrators and shall keep a record of the courses successfully completed by each licensee."

Sec. 2. This act is effective upon ratification.

A BILL TO BE ENTITLED

AN ACT TO AMEND ARTICLE 7 OF CHAPTER 90 OF THE GENERAL STATUTES RELATING TO THE BOARD OF OSTEOPATHIC EXAMINATION AND REGISTRATION AND TO PERMIT HIGHER REGISTRATION FEES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-130 is rewritten to read:

"§ 90-130. Board of Examiners; membership; officers; meeting.--There shall be a State Board of Osteopathic Examination and Registration consisting of three members appointed by the Governor, whose duty it shall be to administer the provisions of this Article. The members of the Board shall be reputable practitioners of osteopathy and appointed by the Governor from a list provided by the North Carolina Osteopathic Society. For each vacancy, the Society must submit at least three names to the Governor, the recommendation of the president and secretary being sufficient proof of the appointees' standing in the profession. Their term of office shall be for three years and so designated by the Governor that the term of one member shall expire each year. Thereafter annually the Governor shall in like manner appoint one person to fill the vacancy in the Board thus created.

All Board members serving on June 30, 1983, shall be eligible to complete their respective terms. In order to reduce the membership of the Board from five to three, the Governor shall make no appointments to fill the first two vacancies occurring on the Board after June 30, 1983. A vacancy occurring from any other cause shall be filled by the Governor for the unexpired term in the same manner as stated above.

The Board shall meet annually and elect a president, secretary, and treasurer, each to serve one year. The Board shall have a common seal, and shall adopt rules to govern its actions; and the president and secretary shall

be empowered to administer oaths. The Board shall meet annually upon the call of the president. Two members of the Board shall constitute a quorum, and no certificate to practice osteopathy shall be granted on an affirmative vote of less than two. The Board shall keep a record of its proceedings and a register of all applicants for certificates giving the name and location of the institution granting the applicant the degree of doctor of or diploma in osteopathy, the date of his or her diploma, and whether the applicant was rejected or a certificate granted. The record and registers shall be prima facie evidence of all matters recorded therein."

Sec. 2. The first sentence of the third paragraph of G.S. 90-132 is rewritten to read:

"Every person licensed to practice osteopathy by the Board of Osteopathic Examination and Registration shall, during January of each year, register his name, office and residence addresses, and such other information as the Board may deem necessary with the Board secretary and shall pay a registration fee fixed by the Board not exceeding fifty dollars (\$50.00)."

Sec. 3. This act shall become effective July 1, 1983.

A BILL TO BE ENTITLED

AN ACT TO AMEND THE PRACTICING PSYCHOLOGISTS LICENSING ARTICLE.

The General Assembly of North Carolina enacts:

Section 1. The first sentence of G.S. 90-270.6 is rewritten to read: "For the purpose of carrying out the provisions of this Article, there is created a North Carolina State Board of Examiners of Practicing Psychologists, which shall consist of seven members appointed by the Governor."

Sec. 2. The second sentence of G.S. 90-270.6 is rewritten to read: "At all times three members shall be licensed practicing psychologists, two members shall be licensed psychological examiners (associates), and two members shall be members of the public who are not licensed under this Article."

Sec. 3. G.S. 90-270.6 is amended by adding the following at the end of the section: "The Governor shall appoint the two public members on July 1, 1983. One member shall serve an initial term of two years and one member shall serve an initial term of three years. Thereafter all terms shall be for three years. As the term of a public member expires, or if one should become vacant for any reason, the Governor shall appoint a new public member within 60 days of the vacancy's occurring. No member, either public or licensed under this Article, shall serve more than two complete consecutive terms."

Sec. 4. G.S. 90-270.11 is amended by deleting the words and figures "sixty dollars (\$60.00)" each time they appear and by substituting the words and figures "not more than one hundred twenty dollars (\$120.00)."

Sec. 5. The first sentence of the second paragraph of G.S. 90-270.4(a) is amended by deleting the words "has served in this capacity

prior to July 1, 1979" and substituting therefor "was serving in this capacity on December 31, 1979".

Sec. 6. Article 18A of Chapter 90 is amended by adding a new section to read:

"§ 90-270.19. Injunctive Authority.--The Board may apply to the superior court for an injunction to prevent violations of this Article or of any rules enacted pursuant thereto. The court is empowered to grant such injunctions regardless of whether criminal prosecution or other action has been or may be instituted as a result of such violation."

Sec. 7. This act is effective upon ratification.

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE LEGISLATIVE COMMITTEE ON AGENCY REVIEW TO STUDY THE
NEED FOR NEW LICENSING LAWS AND PROGRAMS ACCORDING TO CRITERIA AND
PROCEDURES SPECIFIED HEREIN.

The General Assembly of North Carolina enacts:

Section 1. Chapter 120 of the General Statutes is amended by adding
a new Article to read:

"ARTICLE 17.

"Review of Proposals to Establish New Licensing Laws and Programs.

"§ 120-124. Findings and purposes.--The General Assembly finds that the
number of occupational and professional licensing boards has substantially
increased and that licensing boards have occasionally been established without
sufficient attention to whether such regulation is a reasonable exercise of
the police powers of the state. The General Assembly further finds that by
establishing criteria and procedures for reviewing proposed occupational and
professional licensing statutes, it will be in a better position to evaluate
the need for new regulatory bodies and programs.

No new licensing law or program shall be established unless the following
criteria are met:

(1) The unregulated practice of the profession or occupation can
substantially harm or endanger the public health, safety or welfare, and the
potential for such harm is recognizable and not remote or dependent upon
tenuous argument;

(2) The profession or occupation possesses qualities that
distinguish it from ordinary labor;

(3) Practice of the profession or occupation requires specialized
skill or training;

(4) A substantial majority of the public does not have the knowledge or experience to evaluate whether the practitioner is competent; and

(5) The public is not effectively protected by other means.

Source: This section is similar to some provisions of G.S. 143-34.10, the findings and purposes section of the old Sunset law, and it loosely tracks other language in the Virginia Code (§ 54-1.17) and in the bill establishing the new occupational licensing boards study. It also tracks North Carolina case law which limits licensure to situations in which the law bears a rational, real or substantial relation to the public health, safety or welfare.

Comment: This sets forth the General Assembly's reasons for a system to assess the need for new occupational or professional licensing boards or laws. This section applies only to laws establishing new licensure programs. Thus, for example, bills changing the composition of existing boards or establishing a registration program for a profession or occupation would not be subject to the criteria listed in this section.

"§ 120-125. Definitions.--As used in this Chapter,

(1) "Assessment report" means a report that initially describes the need for and fiscal impact of an occupational or professional licensing board or law as proposed by a bill, resolution, amendment, or committee substitute.

(2) "Committee" means the Legislative Committee on Agency Review as established by G.S. 143-34.25.

(3) "Licensing" means a regulatory system that requires persons to meet certain qualifications before they are eligible to engage in a particular occupation or profession.

(4) "Supplementary report" means a report that assesses the changes proposed by an amendment or committee substitute to a bill, resolution, amendment, or committee substitute for which an assessment report has already been prepared.

Comment: "Licensing" is defined to ensure that proposed laws that can exclude persons from an occupation or profession are reviewed, regardless of whether the proposal is called a licensing law or something else.

"§ 120-126. Proposed occupational and professional licensing board or law; assessment reports.--

(a) Every bill, resolution, amendment, or committee substitute introduced in the General Assembly proposing (1) the licensing of any occupation or profession or (2) a study of the need for the licensing of an occupation or profession shall have attached to it at the time of its consideration by any committee of either house of the General Assembly an assessment report which shall describe the need for the proposed new board or law. This report shall be attached to the original of each proposed bill, resolution, amendment, or committee substitute which is reported favorably by any committee of either house of the General Assembly, but shall be separate therefrom, shall be clearly designated as an assessment report, and shall not constitute a part of the law or other expression of legislative intent proposed by the bill, resolution, amendment, or committee substitute.

Source: Similar to G.S. 120-114(a), the actuarial note law, and Rule 42.2, actuarial notes.

Comment: This subsection does not seek to limit or prohibit the introduction of (1) legislation establishing new licensing boards or initiating licensure of a profession by an existing board or (2) studies to determine the need for licensing an occupation or profession. Instead, it follows the same method used with fiscal and actuarial notes; before the bill, resolution, amendment, or committee substitute can be considered, it must be accompanied by the required assessment report.

(b) If the proposal to license an occupation or profession is first contained in a bill, resolution, amendment or committee substitute the sponsor shall present a copy of the measure to the Legislative Committee on Agency Review which shall prepare an assessment report. If the proposal is not in the form of a bill, resolution, amendment, or committee substitute, the person or organization that seeks establishment or licensing of the profession or occupation may obtain an assessment report from the Committee only if a legislator requests the Committee to prepare a report.

Source: Similar to G.S. 120-114, the actuarial note law.

Comment: This subsection allows requests for the establishment of new licensing boards or laws made during the session or between sessions to be addressed by the Legislative Committee on Agency Review. Other sections set forth the procedures the Committee must follow in preparing an assessment report.

(c) When any committee reports a bill or resolution to which an assessment report was attached at the time of committee consideration which is accompanied by any amendment that would affect the substantive provisions of the bill or resolution, the chairman of the committee reporting the bill or resolution shall obtain a supplementary report assessing the changes proposed by the amendment from the Legislative Committee on Agency Review. This report shall be attached to the committee report on the bill or resolution. An amendment to any bill or resolution shall not be in order if the amendment proposes the licensing of any occupation or profession, unless the amendment is accompanied by an assessment report prepared by the Legislative Committee on Agency Review. A substantive amendment to any bill or resolution to which an assessment report is attached shall not be in order unless it is accompanied by a supplementary report.

(d) When any committee reports a committee substitute for a bill or resolution to which an assessment report was attached at the time of committee consideration of the original bill or resolution, the chairman of the committee reporting the committee substitute shall obtain a supplementary report assessing the changes proposed by the committee substitute from the Legislative Committee on Agency Review. This report shall be attached to the committee report on the bill or resolution. A committee substitute for any bill or resolution shall not be in order if the committee substitute proposes the licensing of any occupation or profession, unless the committee substitute is accompanied by an assessment report prepared by the Legislative Committee on Agency Review.

Source: G.S. 120-114, the actuarial note law.

Comment: These two subsections are intended to require an evaluation of the changes in a bill's substantive provisions proposed by a floor or committee amendment or by a committee substitute. For example, an amendment could be introduced that would exempt certain people from coverage of the licensing law, such as a grandfather clause, and these kinds of changes should be evaluated by the Committee before the amendment is eligible for consideration. Subsection (c) also requires that amendments establishing new licensing boards or laws which are attached to totally unrelated bills receive an assessment report before they may be considered.

(e) Assessment reports shall be prepared and returned to the sponsor or requesting party not later than two months after the Committee receives the request, provided that if the volume of requests makes preparation of all such reports impossible within that time, the Committee may extend the time for preparation of any report to a maximum of three months from the time the request is received. Supplementary reports shall be prepared and returned to the appropriate committee chairman or sponsor not later than two weeks after the Committee receives the request. The Committee shall not consider any request until it has received the information required by G.S. 120-127(a).

Comment: Since most licensing proposals are discussed and formulated over a fairly long time, it is hoped--and encouraged--that sponsors will present proposed legislation to the Committee for review between legislative sessions. The Committee will be able to review proposals more quickly when its members are not also busy with duties during legislative sessions. To give the Committee more time during legislative sessions, it is authorized to take up

to three months before it issues an assessment report. Obviously, a three-month delay during a session could prevent consideration of a proposal during that session, giving the sponsor a good reason to make his request to the Committee at another time.

In order to prevent the Committee's not having sufficient time to consider the supporting information required by the act, the request will not be considered to have been made until that information is furnished to the Committee.

(f) The Committee shall make all assessment and supplementary reports available to the membership of the General Assembly. At least one copy of all draft and final reports shall be kept in the Legislative Library for public inspection.

"§ 120-127. Procedure and criteria to be used in preparation of assessment reports.--(a) The Legislative Committee on Agency Review shall conduct an evaluation of the need for each proposed occupational or professional licensing board or law. The person or organization seeking licensure shall have the burden of demonstrating that the criteria listed in Section 1 are met and to this end shall provide the Committee with the following information:

(1) Whether the unregulated practice of the occupation or profession may be hazardous to the public health, safety, or welfare;

(2) The number of people who would be regulated and the number of persons who use those services;

(3) Whether the occupational or professional group has an established code of ethics, a voluntary certification program, or other measures to ensure a minimum quality of service;

(4) Whether other states have regulatory provisions similar to the one proposed;

(5) How the public would benefit from regulation of the occupation or profession;

(6) How the occupation or profession would be regulated, including the qualifications and disciplinary procedures to be applied to practitioners;

(7) The purpose of the proposed regulation and whether there has been any public support for licensure of the profession or occupation;

(8) Whether any other licensing board regulates similar or parallel functions; and

(9) Any other information the Committee considers relevant to the proposed regulatory plan.

The Committee shall adopt a form for use by applicants. The form shall contain a list of questions to be completed by the person or organization requesting the assessment report and a statement of General Assembly policy as to when regulation of an occupation or profession is in the public interest.

(b) In preparing the assessment report, the Committee shall evaluate, but shall not be limited to considering, the issues listed in subsection (a). Upon completion of the evaluation, the Committee shall submit its final report to the requesting party. The report shall analyze the effects of licensing the occupation or profession and shall include the Committee's recommendation on whether the General Assembly should approve the proposal. In preparing its report the Committee shall make specific findings on each of the following:

(1) Whether the unregulated practice of the profession or occupation can substantially harm or endanger the public health, safety or welfare, and whether the potential for such harm is recognizable and not remote or dependent upon tenuous argument;

(2) Whether the profession or occupation possesses qualities that distinguish it from ordinary labor;

(3) Whether practice of the profession or occupation requires specialized skill or training;

(4) Whether a substantial majority of the public has the knowledge or experience to evaluate the practitioner's competence; and

(5) Whether the public can be effectively protected by other means.

(c) The Committee shall furnish a draft copy of the final assessment report to the requesting party at least ten days before the final report is released. The requesting party shall have an opportunity to respond to the Committee draft. The Committee shall consider all such responses in the preparation of its final report.

(d) If the Committee recommends against licensure, it may suggest alternative measures for regulation of the occupation or profession.

Source: The items listed in subsection (a) are generally taken from the list of questions suggested in the Virginia legislation. Because it is impossible (or would be too lengthy) to list all items the Committee may want to consider, there is catchall language in subdivision (9). The Committee is also required to adopt a form containing questions incorporating the items listed in subsection (a). These questions can be as detailed as the Committee

needs (for an example, see pages 7 through 12 of the Virginia "Information for Parties Requesting Occupational Regulation").

Subsection (b) is loosely taken from G.S. 143-32.16, which sets forth some procedures for the old Sunset Commission.

Comment: The items listed in subsection (a) broadly incorporate some of the major items to be considered in determining whether an occupation or profession should be licensed. They follow the philosophy of State v. Ballance, 229 N.C. 764 (1949), which states that regulation which "is addressed to the interests of a particular class rather than the good of society as a whole" is not a valid exercise of the state's police power.

Subsection (c) ensures that the sponsor of the proposal will have an opportunity to comment on the assessment report before it is finalized.

Subsection (d) authorizes, but does not require, the Committee to make alternative suggestions for regulating the profession or occupation, such as a registration system or stronger civil or criminal penalties, if it finds licensure to be unwarranted.

"§ 120-128. Hearings by Legislative Committee on Agency Review; final action by Committee.--(a) Before submitting an assessment report concerning the need for a proposed occupational or professional licensing board or law, the Committee shall hold one or more public hearings. The Committee shall notify the public of every hearing and shall offer any person an opportunity to present data, views and arguments regarding the proposed report. The notice shall be published in at least one newspaper of general circulation in this state at least 10 days before the public hearing and at least 20 days before the adoption of the report. The notice shall include:

- (1) The time and place of the hearing;
- (2) A statement of the manner in which data, views, and arguments may be submitted either at the hearing or at other times;
- (3) A statement or summary of the proposed report's contents or a description of the issues involved; and
- (4) Where and when the proposed report may be inspected and how copies may be obtained.

(b) The Committee shall send a notice of public hearing to all persons who have made a written request to the Committee for such advance notice. The notice shall be in writing and shall be forwarded by mail or otherwise to the last address specified by the person.

(c) If at least one hearing that meets the notice requirements of subsections (a) and (b) has been held, subsequent hearings concerning the same assessment report may be conducted without meeting those requirements if the hearing date, time, place and content are announced at the immediately preceding meeting that addresses that assessment report.

(d) Any hearing notice shall be delivered by hand to the Press Office and the offices of the Speaker and Speaker pro tempore of the House of Representatives, President pro tempore of the Senate, Lieutenant Governor, Governor and Principal Clerks of both houses. If the notice is issued during a legislative session, it shall be read on the floor of each house at least two times before the scheduled hearing date.

(e) The Committee may set reasonable time limits for the oral presentation of views by any one person at any hearing. The Committee shall permit anyone to file a written statement regarding a proposed report within

10 days after the conclusion of any relevant public hearing or within such additional time as may be described in the notice of hearing.

(f) Upon completion of all relevant hearings and consideration of all data and arguments submitted regarding the proposed assessment report, and after distribution of a draft report to the sponsor or requesting party as described in G.S. 120-127(c), the Committee shall adopt its final report and shall deliver it to: (1) the sponsor, if the proposal is contained in a bill or resolution; (2) the legislator who has requested preparation of the report in behalf of the person or organization seeking establishment of the proposed board or law, if the proposal is not in the form of a bill, resolution, amendment or committee substitute; (3) the appropriate committee chairman, if a committee amendment or committee substitute requires preparation of a report under G.S. 120-126; or (4) the sponsor of any floor amendment that requires preparation of a report under G.S. 120-126.

(g) Upon a determination that the public health, safety or welfare requires that an assessment report be prepared and adopted as soon as possible, the Committee may waive the public hearing requirements of this section. No public hearing shall be required before preparation or adoption of any supplementary report.

(h) When assessment or supplementary reports involving the same or similar occupations or professions are pending before the Committee, the Committee may order joint hearing of any or all of the matters to be addressed by the reports. The Committee may also make such other orders concerning related proceedings as may tend to avoid unnecessary costs or delays.

(i) The Committee shall not be subject to the provisions of G.S. Chapter 150A, the Administrative Procedure Act. Other matters regarding Committee

procedures and operations shall be as provided in Article 1.2 of Chapter 143 of the General Statutes.

(j) Upon the request of a member of the General Assembly, the Committee shall review a proposed amendment to an existing statute which establishes or licenses an existing occupation or profession. After completing its review, the Committee shall publish a report describing the effect of the proposed amendment. The Committee may hold one or more public hearings while preparing the report. Any amendment for which a report is requested under this subsection shall not be eligible for further consideration by the General Assembly until the final report has been prepared and made available to all members of the General Assembly and to the Legislative Library."

Source: Loosely taken from portions of G.S. 143-34.18, the hearing procedure for the old Sunset Commission and G.S. Chapter 150A, the Administrative Procedure Act.

Comment: The time limits and notice requirements of the public hearing generally follow accepted practice for legislative committees and State agencies. Changes have been made to reflect the appropriate differences in who should receive hearing notices, etc.

Subsection (c) attempts to expedite subsequent hearings on matters that have already been the subject of at least one hearing that has been properly noticed under subsections (a) and (b). The language requires the announcement of time, place, etc. to be made at the immediately preceding meeting that addressed the same assessment report. Thus, if a number of hearings are held by the Committee it would not be necessary to announce the next hearing time

and place until the need becomes apparent at the immediately preceding hearing.

Subsection (g) allows the Committee to waive the public hearing requirement. A waiver provision can be helpful if an amendment or committee substitute that would require an assessment report is proposed near the end of the session. On the other hand, the purpose of having an assessment report prepared by an independent committee is to apply the same criteria to all groups seeking licensure. In the interest of conformity to these standards, the Committee can exercise the waiver only if it determines that the public health, safety or welfare requires such action. Supplementary reports do not require public hearings, although the Committee may call a hearing if the subject matter warrants. This subsection does not carry forth the old Sunset law requirement that a public hearing also be held before the legislative committee of reference in each house.

Subsection (j) extends the bill's review requirement to proposed changes in an existing statute that provides for establishment or regulation of a profession or occupation, but only upon the request of a member of the General Assembly. Thus the Committee would have the option of looking at selected changes in existing statutory schemes. Some possible kinds of amendments that could be brought in under this subsection include those adding new disciplinary grounds, changing the definition of the practice of a particular profession or occupation, giving an existing board new powers, etc. Limiting reviews under this subsection to requests by legislators will prevent automatic review of technical, noncontroversial, or unimportant matters.

Sec. 2. This act shall be effective on July 1, 1983.

A BILL TO BE ENTITLED

AN ACT TO MAKE PERMANENT THE LEGISLATIVE COMMITTEE ON AGENCY REVIEW, TO
AUTHORIZE LAY SUBCOMMITTEES, AND TO MAKE INCIDENTAL CHANGES

The General Assembly of North Carolina enacts:

Section 1. General Statutes Chapter 143, Article 1.2, rewritten to
read as follows:

"ARTICLE 1.2.

"Legislative Committee on Agency Review.

"§ 143-34.25. Legislative Committee on Agency Review created; staffing;
compensation.

(a) There is created a permanent legislative committee to be known as
the Committee on Agency Review (herein after referred to as "The Committee").
The Committee is composed of 10 members, five Representatives appointed by the
Speaker of the House and five Senators appointed by the President Pro Tempore
of the Senate. The appointing officers shall designate two of the members to
serve as cochairmen.

(b) Members shall serve two-year terms, beginning July 1 of the
odd-numbered years, or until they cease to be members of the General Assembly,
whichever occurs first. The Committee may request, and shall thereupon
receive, the resignation of any member who does not attend any four or more
successive Committee meetings. Any vacancy that occurs in the membership of
the Committee shall be filled for the remainder of the unexpired term by the
officer making the original appointment.

(c) A quorum consists of a cochairman and any four other Committee
members.

(d) Committee members shall be compensated pursuant to G.S. 120-3.1.

" § 143-34.26. Committee functions and powers.

(a) The Committee shall:

(1) Receive and evaluate recommendations from state agencies concerning elimination of outmoded or duplicative programs, consolidation of overlapping programs, and improvements in program administration, including proposed changes in enabling laws;

(2) Review the need for new licensing laws or programs as required by Article 17 of Chapter 120 of the General Statutes and publish a report outlining its findings as specified in that Article;

(3) Receive and evaluate suggestions and recommendations from state agencies, legislators, and interested persons concerning the organization and functions of state government departments and agencies;

(4) Review laws enacted upon recommendation of the Committee or the Governmental Evaluation Commission to determine whether the provisions contained therein have been beneficial and if so, whether they should be included in other enabling statutes. Provisions to be evaluated shall include, but not be limited to, those adding public members to boards and commissions, limiting terms of board members, and requiring licensing agencies to establish public awareness programs; and

(5) Conduct studies and, if necessary, propose legislation to continue productive, efficient, and active programs which are in the public interest, eliminate inactive programs, and repeal or consolidate overlapping or duplicative programs.

(b) In conducting its review of the need for new licensing boards or laws under Article 17 of Chapter 120, the Committee may establish one or more subcommittees to advise it concerning the proposals under study. These

subcommittees may include lay members appointed by the Committee co-chairmen to provide expertise on the matters being studied. Subcommittee members who are not legislators shall be reimbursed at the same per diem travel expense allowances as members of occupational licensing boards pursuant to G.S. 93B-5. The term of a lay member shall coincide with the time during which the subcommittee of which he is a member is in existence, and vacancies in lay membership shall be filled by the co-chairmen.

"§ 143-34.27. Procedure in developing Committee recommendations.

(a) On the basis of the recommendations, data submitted under G.S. 143-34.26, and other available information, the Committee shall prepare tentative recommendations concerning the programs, agencies, and laws that it has studied and make tentative recommendations available to the responsible departments and offices. The Committee shall hold at least one public hearing concerning any program, function, agency, or law as to which it tentatively recommends termination or statutory amendment, at which the affected agency and any other interested persons may present data, views and arguments. Hearings for more than one agency program, function, or law may be held on the same day. The Committee shall give notice of the public hearing by publication in at least one newspaper of general circulation in this state at least ten days before the hearing and at least 20 days before adoption of its final recommendation. The notice shall include:

(1) the time and place of the hearing;

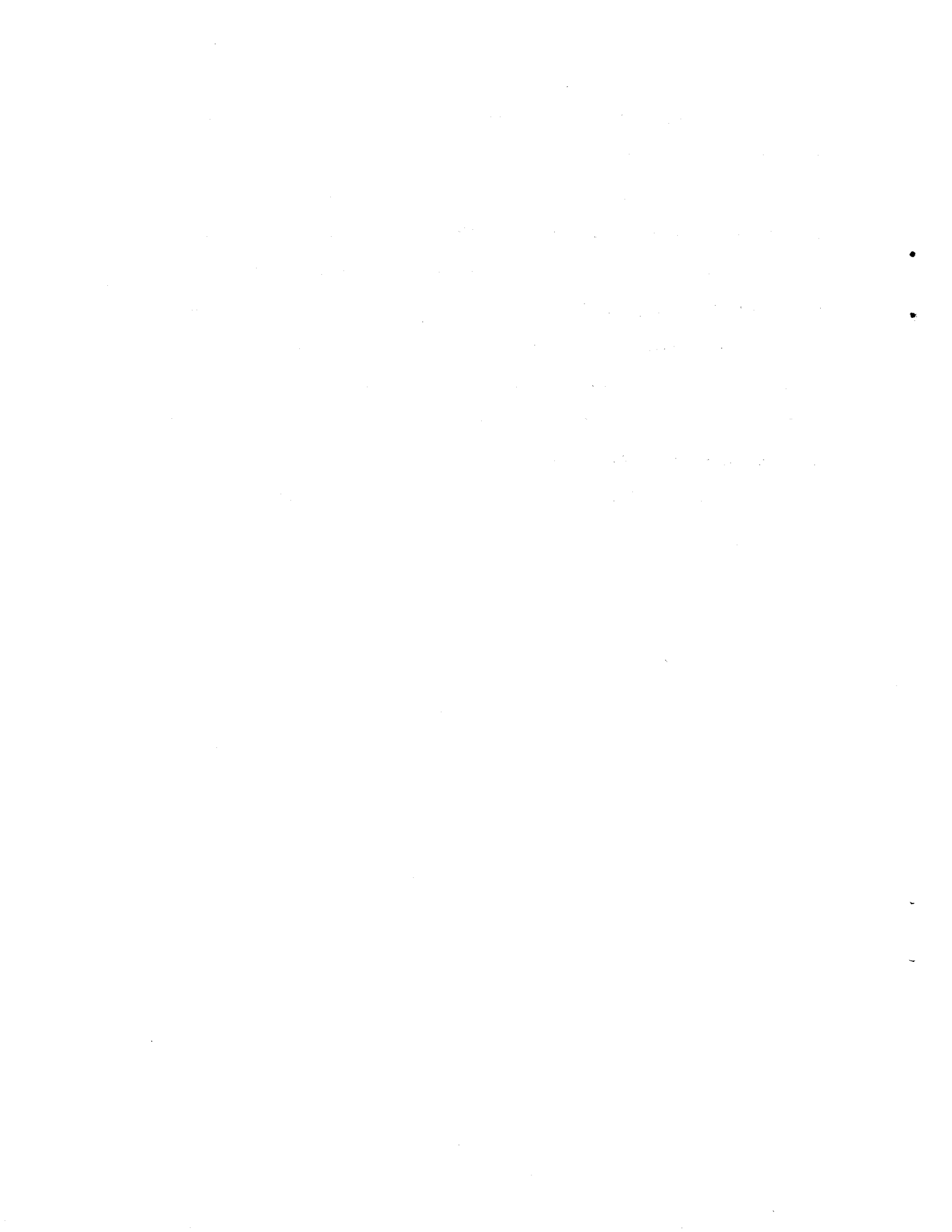
(2) a statement of the manner in which data, views, and arguments may be submitted either at the hearing or at other times by any person; and

(3) a brief summary of the Committee's recommendations.

(b) Upon completion of the hearing and consideration of written statements or other data submitted, the Committee shall make its final decisions with respect to the program, function, or law and prepare a report thereon for the General Assembly together with any recommended legislation. Copies of the report shall be mailed or delivered to the agency that administers the program, function, or law that is the subject of the report.

(c) The Committee is authorized to meet in the State Legislative Building or Legislative Office Building during or between legislative sessions subject to determination by the Chairman of the appropriate Rules Committee or the Legislative Services Commission that space is available."

Sec. 2. This act is effective upon ratification.



APPENDIX E

The LCAR endorses training for public members of state boards and commissions. This training would include instruction in board procedures, the legal requirements under which boards operate (open meetings, Administrative Procedure Act, etc.), where information is available on the particular laws under which the board or commission is operating, responsibilities of a public member, etc. The Institute of Government has offered to coordinate this training, and it is anticipated that the Institute would work closely with the Governor's Office to ensure that all public members receive notice that this training is available at the time of their appointment. Currently there is no uniform, formal training for public members; training, if there is any, is handled by individual boards.

Depending on the number of appointments made, it is anticipated that the course would be offered quarterly, but this could be done more or less often to meet demand.

The General Assembly has recognized that public membership on state boards and commissions is desirable. For public members to effectively represent the viewpoint of the general public, they need to have a basic knowledge of board procedures. They also need to be made aware of sources of unbiased information on the issues that the board or commission is dealing with.

Some states, such as Maryland, have established public member training, and it is likely that North Carolina's training would be patterned somewhat after others already offering this kind of instruction.

