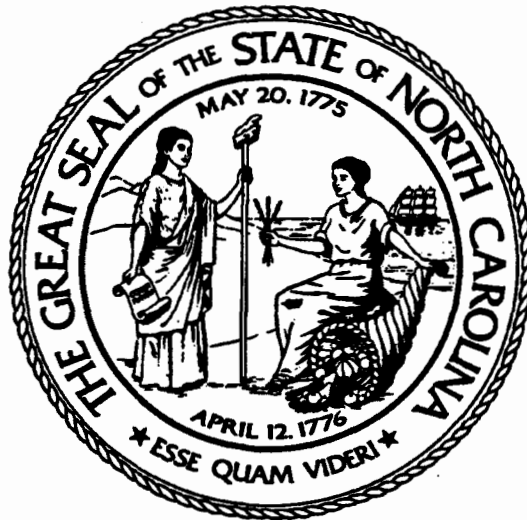


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**LEGISLATIVE
RESEARCH COMMISSION**

THE USE OF PRISON INMATES



**INTERIM
REPORT TO THE
1991 GENERAL ASSEMBLY
OF NORTH CAROLINA
1992 SESSION**

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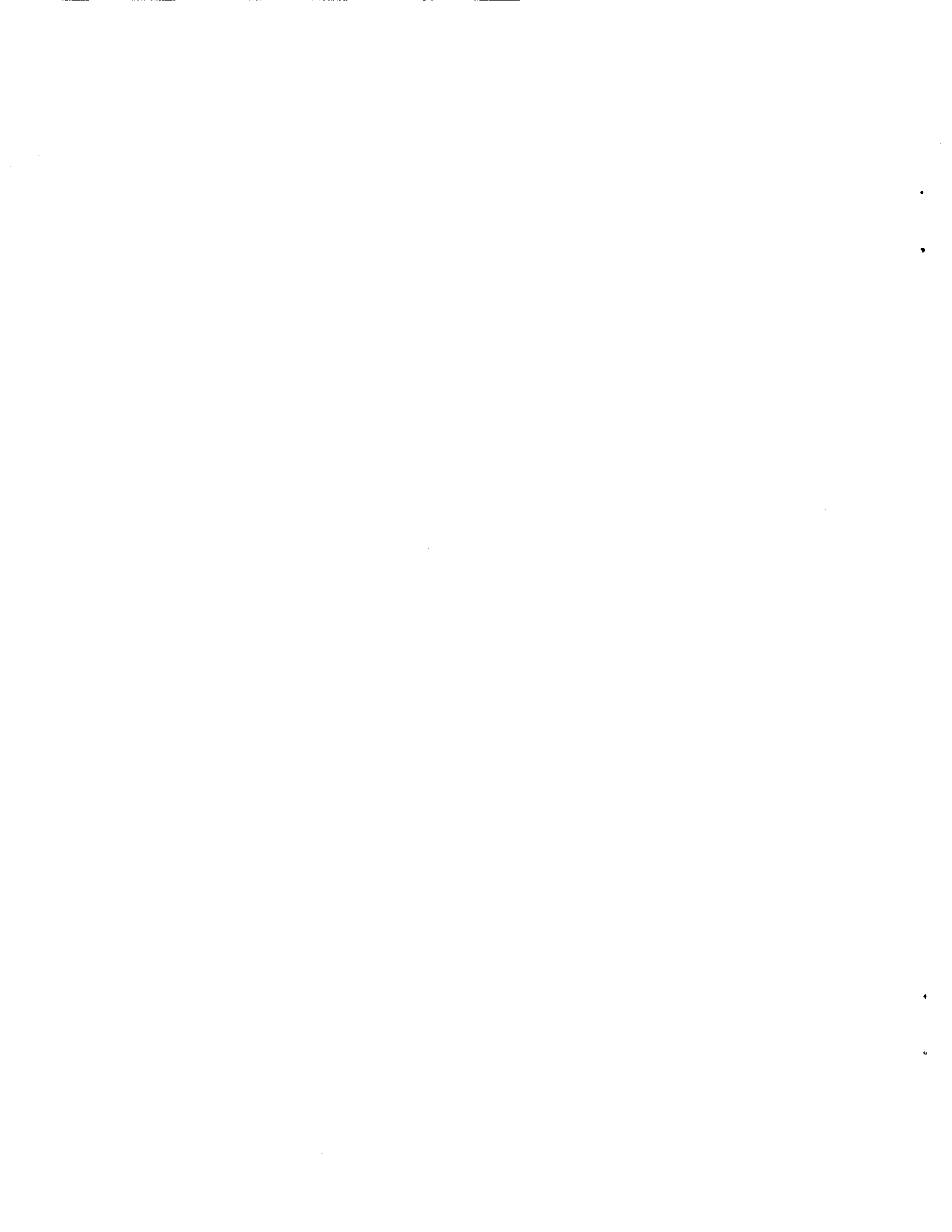
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STATE OF NORTH CAROLINA
LEGISLATIVE RESEARCH COMMISSION
STATE LEGISLATIVE BUILDING
RALEIGH 27611

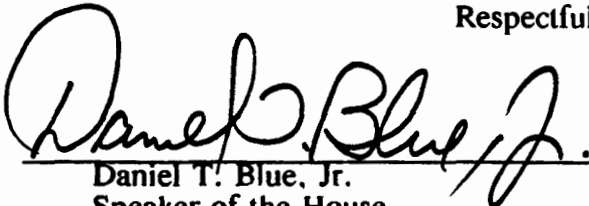


May 26, 1992

TO THE MEMBERS OF THE 1991 GENERAL ASSEMBLY (1992 REGULAR SESSION):

The Legislative Research Commission herewith submits to you for your consideration its interim report on The Use of Prison Inmates. The report was prepared by the Legislative Research Commission's Committee on The Use of Prison Inmates pursuant to Section 2.1 (23) of Chapter 917 of the 1991 Session Laws.

Respectfully submitted,


Daniel T. Blue, Jr.
Speaker of the House


Henson P. Barnes
President Pro Tempore

Cochairmen
Legislative Research Commission



1991-1992

LEGISLATIVE RESEARCH COMMISSION

MEMBERSHIP

President Pro Tempore of
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PREFACE

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

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

The study of The Use of Prison Inmates was authorized by Section 2.1 (23) of Chapter 917 of the 1991 Session Laws (1991 Regular Session). That act states that the Commission may consider House Bill 867 in determining the nature, scope and aspects of the study. Section 1 of House Bill 867 reads in part: "The Legislative Research Commission may: (1) Examine the present use of inmates for work, educational, and program assignments; and (2) Study the feasibility of using inmates for construction of prisons and other State and local facilities, maintenance of State and local facilities, work in expanded prison enterprises, either publicly or privately owned or operated; (3) Study the feasibility of expanding State-supported and private prison enterprises; (4)

Examine the feasibility of expanding local and municipal government use of inmates; and (5) Study the costs and benefits of the above actions." The relevant portions of Chapter 917 and House Bill 867 are included in Appendix A. The Legislative Research Commission grouped this study in its Labor area under the direction of Representative W. Pete Cunningham. The Committee was chaired by Senator Joe Raynor and Representative Charles Albertson. The full membership of the Committee is listed in Appendix B of this report. A committee notebook containing the committee minutes and all information presented to the committee is filed in the Legislative Library.

COMMITTEE PROCEEDINGS

The Use of Prison Inmates Study Committee met five times prior to issuing this interim report: November 26, 1991; January 14, 1992; March 3, 1992; April 9, 1992; and April 27, 1992.

November 26, 1991 Meeting

The Committee held its initial meeting on November 26, 1991. The Committee reviewed House Bill 867, which was introduced by Representative Albertson during the 1991 Session (Appendix A). The Committee decided to address the issues outlined in House Bill 867 as part of its responsibilities. The Committee also reviewed Senate Bill 314, Prison Industry Funds, introduced by Senator Cooper during the 1991 Session (Appendix D).

Joe Hamilton, Director of the Division of Prisons, Department of Correction, presented information on inmate programs and assignments. Mr. Hamilton noted that a large majority of prison inmates are involved in programmatic activities, and that most inmates want to work. Hamilton explained that it is difficult to set up programs for everyone in the system due to the different levels of inmates. He estimated that 27% function at the second grade reading level or below and that 52% function at the sixth grade reading level or below. It can especially be difficult to plan programs for inmates serving sentences for misdemeanors, because they are often not in the system long enough to become involved in a program. In response to questions raised by Committee members, Mr. Hamilton stressed the importance of work-release programs, and academic and vocational programs for inmates. He also urged legislators to

support and expand correctional enterprises and to grant more funding to community colleges for inmate program opportunities.

Frank Pace, Roadway Maintenance Unit, Division of Highways, Department of Transportation, presented information regarding inmate labor in the road maintenance program. Since 1975, approximately 1,000 inmates per year have participated in roadway maintenance. Inmates used in the program are generally medium custody level. Of the \$1.00 per day per inmate, the inmate receives 70¢. The program is funded through direct appropriation from the General Assembly.

Danny Stewart, Director of North Carolina Correction Enterprises, presented their Annual Report for the Fiscal Year ending June 30, 1991. Correction Enterprises has 22 operations located through the State, and is self-supporting from sales of products and services. Mr. Stewart reviewed the pay scale for inmates, and indicated his interest in seeing the maximum pay increased from the current level of \$1.00/day.

Senator Roy Cooper asked that the Committee consider Senate Bill 314, introduced by him in the 1991 Session. The bill, which has passed the Senate and is pending in the House, would authorize the Department of Correction to work towards private industry involvement in prison industry.

January 14, 1992 Meeting

Tony R. Ellis, Director of South Carolina Prison Industries, presented information on South Carolina's private enterprise work program for inmates. The program, which

was initiated under federal guidelines, has been operating for over a year and has proven to be successful in the early stages. The prison system provides the location and security, and inmates participate on a voluntary basis. Inmates are trained and paid on a graduated scale during training, and receive at least minimum wage for their work. The program provides at least a 7-hour workday. Ellis indicated that deductions are made for state and federal taxes, along with a 5% deduction for victim's compensation. After these deductions, inmates receive \$50 for personal use, and the rest goes to the family for support (upon approval by Correction officials) or is put into a long-term savings account that goes to the inmate upon release. Each inmate must make a 6-month commitment to the employer, which is waivable upon parole. Many inmates are signed on to regular jobs upon release from incarceration. Ellis stated that the inmates treasure the jobs, and help to keep "trouble-makers" out of the program to preserve it for those who really want to participate. Ellis stressed the importance of communication with local industry, to assure them that jobs are not being taken from the private sector. He issued an invitation for members of the committee to visit South Carolina's operations.

Charles Barham, Director of Special Programs for the North Carolina Community College System, presented information on their involvement with the Department of Correction in providing academic and technical training for inmates. He indicated that about 17% of inmates are participating in educational programs, and that programs are tailored to the average stay of the participating inmates.

March 3, 1992 Meeting

Louis R. Colombo, Chairman of the North Carolina Parole Commission, estimated that there are between 650-700 new admissions into the prison system each week, and that an equivalent number must be released each week. Mr. Colombo stated that until February of this year, the approximate breakdown of admission rates was 49% misdemeanants and 51% felons. These figures changed in late February, when new admissions were 57% felons and 43% misdemeanants. This change affects the movement of inmates into work-release programs, since misdemeanants can generally be moved into such programs quicker than felons. Colombo also noted that in the past three years new admissions increased by 15% in 1989, 15% in 1990, and 17% in 1991. January and February of this year showed increases of 21%. At the same time the prison population is increasing, there is an apparent increase in the use of programs that divert offenders into alternatives to incarceration, such as the Community Penalties Program. The increasing level of felons in the prison system has a significant effect on educational and work release programs in that the Division of Prisons looks first to minimum custody inmates for participation in these programs. Colombo stated that in February 1989 there were 1579 inmates on work release jobs, and in February 1992, there were 935. While the economy could be one factor, the main factor seems to be the makeup of the prison population. The shrinking pool of misdemeanants makes it more difficult to prepare offenders to return to their communities as law-abiding citizens. Colombo suggests that the prison system be reserved for hardened criminals - those who commit serious, or violent crimes. Less serious offenders should be confined in local facilities or diverted to community penalties.

Dr. Jack Early, Director of Education for the Napoleon Hill Foundation, presented information on a motivational program for prison inmates. The "PMA Science of Success" is based on seventeen principles, including definiteness of purpose, personal initiative, a positive mental attitude, and self-discipline. The program is designed to help inmates learn from defeat and mistakes, to close the door on their past and to move forward. Early said that the program not only helps the inmate inside the prison, but helps him after release to get control of his life and become a productive individual. Arkansas and Georgia were named as examples of states who have realized some success with the program.

Richard Templeton, National Director of the Justice Fellowship Program, talked to the Committee about the value of jobs to increase self esteem and prevent idleness that breeds violence. Templeton stated that inmates who sit idle during their incarceration often return to their communities as predators. He stated that prison industries foster training in the work ethic, allow for the payment of restitution, provide for the development of a productive work force, and foster well-managed correctional institutions by reducing costs and reducing inmate idleness. Prison industries are a valuable resource and a means for inmates to make amends, to learn new skills that can prevent offenders from continuing their old habits and return to crime. When inmates are paid comparable wages, they can support their families, and also pay fines and restitution.

April 9, 1992 Meeting

Dallas Cameron, Acting Director of the Administrative Office of the Courts, presented information on Community Penalties. The program is designed to divert offenders from the prison system, and is administered by non-profit corporations in the local community. The corporations submit a proposal and budget to the Administrative Office of the Courts for approval and funding. The cost of each diversion is estimated at \$2,800, while the cost of incarceration for an inmate is estimated at \$16,000/year. There are currently 20 programs in operation; the General Assembly selects areas for expansion of programs, and appropriates funding. Although exact figures are not available, the recidivism rate is thought to be slightly lower than that of offenders who have been incarcerated. Two studies are underway which will provide an analysis of the Community Penalties Program and its effectiveness.

Lee Bounds, Secretary of the North Carolina Department of Correction appeared before the Committee along with Danny Stewart, Director of Correction Enterprises, and Lynn Phillips of the Division of Prisons. Mr. Stewart indicated that N.C. Correction Enterprises is the nation's fifth largest such operation, and is first in productivity. Enterprises realized a \$4.4 million profit in 1991, of which \$1 million went to the Department of Correction and \$750,000 went to incentive wages for inmates not involved in Enterprise operations. Correction Enterprises made \$46 million in sales to tax-supported agencies, the only restriction being in the area of laundry services. Approximately 1600 inmates work in Enterprise operations on an average day, working 6 or 7 hours per day. Stewart indicated his desire to see the \$1/day maximum wage rate increased.

The Department of Correction is generally supportive of private prison enterprises, so long as they don't detract from the existing Enterprises operations. Of the State's 91 prison units, Enterprises has operations at 15 or 16 of them. Stewart suggests that private enterprises be located at units where Correction Enterprises is not operating, but notes that there may be no current appropriate space available on Department of Correction property. He also voiced concern that federal regulations for private prison enterprises requires that inmates be paid the "prevailing local wage" for their work, which may be a difficult standard to meet.

April 27, 1992 Meeting

The Committee met to review and adopt recommendations and draft legislation for its interim report to the 1991 General Assembly, 1992 Session. The Committee heard from the Department of Correction on the current use of inmate labor in prison construction and maintenance projects, and will continue to look at ways to more effectively use inmate labor in these projects.

FINDINGS AND RECOMMENDATIONS

After reviewing current inmate work programs and hearing comments from the Department of Correction and various other state agencies and private groups, the Committee makes the following recommendations and presents a draft bill for consideration.

Recommendation #1

PRISON INDUSTRY FUNDS

The State of North Carolina has a strong interest in making the inmates in its prison system, and the prison system itself, more self-sufficient. The State also has a strong interest in helping inmates develop employable skills and positive work habits. Other states, including South Carolina have had highly successful programs which permit private enterprise to establish manufacturing facilities or other industries within the confines of the State prison system. Such programs do not create the problem of government competition with private enterprise, since it is private enterprise that is carrying on the operation. Because inmates are required to be paid at least the prevailing minimum wage, there is no unfair competition from cheap labor. Inmates who are employed in such programs would be required to pay a portion of their earnings to the State, and would be in a position to provide support for their families, and court-ordered restitution to victims.

The Committee urges the General Assembly to enact Senate Bill 314, Prison Industry Funds (Appendix D), during the 1992 Session. The bill, introduced by

Senator Roy Cooper, has passed the Senate and is in the House Committee on Rules and the Calendar. Senate Bill 314 would authorize the Secretary of Correction to enter a lease with a private corporation for the purpose of establishing and operating a commercial enterprise to provide employment opportunities for inmates in meaningful jobs for wages.

Recommendation #2

SELF-MOTIVATION COURSE

The cost of incarceration is especially high in terms of the waste of human resources. Experts suggest that the negative-thinking patterns of many prison inmates might be changed to help them live better, more successful lives, not only upon release, but also while they remain in prison. Dr. Jack Early, who represents the Napoleon Hill Foundation as Director of Education, talked with the Committee about a "Guides for Better Living" course which was first presented in 1962 as an experimental course in self-motivation at the Chicago House of Corrections. Dr. Early is sent to various prisons, and trains prison staff members - and in many prisons, selected inmates - to teach the course. According to the Foundation, the program has been proven to work in three significant ways: the people who complete the course show increased confidence in controlling the direction of their lives, they are more considerate of the worth and rights of others and exhibit less manipulative behavior while in prison, and they are better parole risks.

The Committee recommends that the Secretary of Correction and the Director of the Division of Prisons examine the feasibility of instituting a self-motivation course in

the State prison system and report their findings to the Committee for consideration prior to its final report to the 1993 General Assembly.

Recommendation #3

PRISONERS TO WORK FOR COUNTIES

A long-standing concern of local law enforcement officials responsible for jails has been the enforced idleness of inmates, and unproductive time that compounds the already difficult task of managing these institutions. Steadily increasing jail populations only serve to complicate the situation further. Rising rates of incarceration and shrinking budgets in the past decade have renewed interest in putting imprisoned persons to work helping to defray the costs of their incarceration and reducing the potential for violence that results from idleness in crowded cellblocks.

The Committee presents a draft bill which would allow counties to require prisoners confined in local facilities to work on the public streets, public highways or public works. Prisoners would be supervised by county employees or by the sheriff. A prisoner who faithfully performs his duties would be entitled to a reduction of four days for each 30 days of work performed.

Recommendation #4

USE OF INMATE LABOR TO PERFORM PRISON CONSTRUCTION

The Department of Correction supports the use of inmate labor for the long-term construction program. At present, the Department is relying heavily on outside contracts to address emergency needs for sufficient beds. The Department believes that

outside contracts allow the fastest response possible to their immediate needs. As the present crisis is abated, the Department envisions an increased use of inmate labor to address the construction needs of an increasing population and a replacement schedule for the oldest prison facilities. By that time, they expect to have reduced inmate turnover so that an appropriately stable inmate workforce could be provided. This, together with increased State staff to supervise such construction, would provide the necessary foundation to successfully use inmate labor.

The Committee finds that there is evidence of significant cost savings in using inmate labor in prison construction projects, and urges the General Assembly to support the efforts of the Department of Correction to establish a plan for increasing the use of inmate labor in prison construction and maintenance projects.

APPENDIX A

**CHAPTER 754
SENATE BILL 917**

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

PART I.-----TITLE

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

.....

PART II.-----LEGISLATIVE RESEARCH COMMISSION

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

.....

(23) Use of Prison Inmates (H.J.R. 867 - Albertson),

.....

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

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

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

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

.....

PART XXI.-----EFFECTIVE DATE

Sec. 21.1. This act is effective upon ratification.

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

HOUSE JOINT RESOLUTION 867

A JOINT RESOLUTION AUTHORIZING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY VARIOUS OPTIONS FOR THE USE OF PRISON INMATES.

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

Section 1. The Legislative Research Commission may:

- (1) Examine the present use of inmates for work, educational, and program assignments; and**
- (2) Study the feasibility of using inmates for**
 - a. Construction of prisons and other State and local facilities;**
 - b. Maintenance of State and local facilities;**
 - c. Work in expanded prison enterprises, either publicly or privately owned or operated;**
- (3) Study the feasibility of expanding State-supported and private prison enterprises;**
- (4) Examine the feasibility of expanding local and municipal government use of inmates; and**
- (5) Study the costs and benefits of the above actions.**

Sec. 2. The Legislative Research Commission may make an interim report, including any recommendations, to the 1991 General Assembly, Regular Session 1992, and a final report to the 1993 General Assembly.

Sec. 3. This resolution is effective upon ratification.

APPENDIX B

USE OF PRISON INMATES MEMBERSHIP - 1991-1992

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Clerk:

Ms. Gayle Christian

APPENDIX C

Selected North Carolina Statutes on Labor of Prisoners

§ 148-26. State policy on employment of prisoners.

(a) It is declared to be the public policy of the State of North Carolina that all able-bodied prison inmates shall be required to perform diligently all work assignments provided for them. The failure of any inmate to perform such a work assignment may result in disciplinary action. Work assignments and employment shall be for the public benefit to reduce the cost of maintaining the inmate population while enabling inmates to acquire or retain skills and work habits needed to secure honest employment after their release.

In exercising his power to enter into contracts to supply inmate labor as provided by this section, the Secretary of Correction shall not assign any inmate to work under any such contract who is eligible for work release as provided in this Article, study release as provided by G.S. 148-4(4), or who is eligible for a program of vocational rehabilitation services through the State Vocational Rehabilitation Agency, unless suitable work release employment or educational opportunity cannot be found for the inmate, and the inmate is not eligible for a program of vocational rehabilitation services through the State Vocational Rehabilitation Agency, and shall not agree to supply inmate labor for any project or service unless it meets all of the following criteria:

- (1) The project or service involves a type of work by which inmates can develop a skill to better equip themselves to return to society;
- (2) The project or service is of benefit to the citizens of North Carolina or units of State or local government thereof;
- (3) Repealed by Session Laws 1977, c. 824, s. 2.
- (4) Wages shall be paid in an amount not exceeding one dollar (\$1.00) per day per inmate by the local or State contracting agency.

(b) As many minimum custody prisoners as are available and fit for road work, who cannot appropriately be placed on work release, study release, or other full-time programs, and as many medium custody prisoners as are available, fit for road work and can be adequately guarded during such work without reducing security levels at prison units, shall be employed in the maintenance and construction of public roads of the State. The number and location of prisoners to be kept available for work on the public roads shall be agreed upon by the governing authorities of the Department of Transportation and the State Department of Correction far enough in advance of each budget to permit proper provisions to be made in the request for appropriations submitted by the Department of Transportation. Any dispute between the Departments will be resolved by the Governor. Prisoners so employed shall be compensated, at rates fixed by the Department of Correction's rules and regulations for work performed; provided, that no prisoner working on the public roads under the provisions of this section shall be paid more than one dollar (\$1.00) per day from funds provided by the Department of Transportation to the Department of Correction for this purpose. The Department of Correction and the Department of Transportation shall develop a program to be implemented no later than July 1, 1982, to the extent money is herein appropriated, which shall include:

- (1) The use of portable toilets for inmate road crews.

(c) As many of the male prisoners available and fit for forestry work shall be employed in the development and improvement of state-owned forests as can be used for this purpose by the agencies controlling these forests.

(d) The remainder of the able-bodied inmates of the State prison system shall be employed so far as practicable in prison industries and agriculture, giving preference to the production of food supplies and other articles needed by state-supported institutions or activities.

(e) The State Department of Correction may make such contracts with departments, institutions, agencies, and political subdivisions of the State for the hire of prisoners to perform other appropriate work as will help to make the prisons as nearly self-supporting as is consistent with the purposes of their creation. The Department of Correction may contract with any person or any group of persons for the hire of prisoners for forestry work, soil erosion control, water conservation, hurricane damage prevention, or any similar work certified by the Secretary of Environment, Health, and Natural Resources as beneficial in the conservation of the natural resources of this State. All contracts for the employment of prisoners shall provide that they shall be fed, clothed, quartered, guarded, and otherwise cared for by the Department of Correction. Such work may include but is not limited to work with State or local government agencies in cleaning, construction, landscaping and maintenance of roads, parks, nature trails, bikeways, cemeteries, landfills or other government-owned or operated facilities.

(f) Adult inmates of the State prison system shall be prohibited from working at or being on the premises of any schools or institutions operated or administered by the State Division of Youth Development. (1933, c. 172, ss. 1, 14; 1957, c. 349, s. 5; 1967, c. 996, s. 13; 1971, c. 193; 1973, c. 1262, s. 86; 1975, c. 278; c. 506, ss. 1, 2; c. 682, s. 2; c. 716, s. 7; 1977, c. 771, s. 4; c. 802, s. 25.36; c. 824, ss. 1-3; 1981, c. 516; 1981 (Reg. Sess., 1982), c. 1400; 1989, c. 727, s. 218(156).)

§148-26.1. Definitions.

The following definitions apply:

- (1) to (3) Repealed by Session Laws 1983, c. 709, s. 1, effective July 1, 1983.
- (4) to (7) Repealed by Session Laws 1985, c. 226, s. 2, effective May 23, 1985.
- (8) "State public work project" or "State public work": A useful service other than the construction of buildings performed on any land, or any structure thereon, belonging to any principal department of State government as defined in subdivision (6) above, including, but not limited to, State parks, campuses, playgrounds, highways, roads, lakes, forests and waterways.
- (9) Repealed by Session Laws 1985, c. 226, s. 2, effective May 23, 1985. (1975, c. 682, s. 3; 1983, c. 709, s. 1; 1985, c. 226, s. 2.)

§148-26.5. Pay and time allowances for work.

The provisions of G.S. 148-18 and 148-13 shall be applicable to inmate work on local or State public work projects contracted for by the Secretary of Correction as provided by G.S. 148-26 through 148-26.4. Travel, cost of inmate wages and custodial supervision expenses incurred by the Department of Correction and arising out of a local or State public work project shall be reimbursed on a cost basis to the Department of Correction by the local or State contracting agency. (1975, c. 682, s. 3.)

§148-27. Women prisoners; limitations on labor of prisoners.

The State Department of Correction may provide suitable quarters for women prisoners and arrange for work suitable to their capacity; and the several courts of the State may assign women convicted of offenses, whether felonies or misdemeanors, to these quarters. No woman prisoner shall be assigned to work under the supervision of the State Department of Correction whose term of imprisonment is less than six months, or who is under 16 years of age. (1931, c. 145, s. 32; 1933, c. 39; c. 172, s. 18; 1935, c. 257, s. 3; 1943, c. 409; 1953, c. 1230; 1957, c. 349, s. 10; 1967, c. 996, s. 13.)

§148-66. Cities and towns and Department of Agriculture may contract for prison labor.

The corporate authorities of any city or town may contract in writing with the State Department of Correction for the employment of convicts upon the highways or streets of such city or town, and such contracts when so exercised shall be valid and enforceable against such city or town, and the Attorney General may prosecute an action in the Superior Court of Wake County in the name of the State for their enforcement.

The Department of Agriculture of the State of North Carolina is hereby authorized and empowered to contract, in writing, with the State Department of Correction for the employment and use of convicts under its supervision to be worked on the State test farms and/or State experimental stations. (1881, c. 127, s. 1; Code, s. 3449; Rev., s. 5410; C.S., s. 7758; 1925, c. 163; 1931, c. 145, s. 35; 1933, c. 172, s. 18; 1943, c. 605, s. 1; 1957, c. 349, s. 10; 1967, c. 996, s. 13; 1985, c. 226, s. 10(1).)

§148-22.1. Educational facilities and programs for selected inmates.

(a) The State Department of Correction is authorized to take advantage of aid available from any source in establishing facilities and developing programs to provide inmates of the State prison system with such academic and vocational education as seems most likely to facilitate the rehabilitation of these inmates and their return to free society with attitudes, knowledge, and skills that will improve their prospects of becoming law-abiding and self-supporting citizens. The State Department of Public Instruction is authorized to cooperate with the State Department of Correction in planning academic and vocational education of prison system inmates, but the State Department of Public Instruction is not authorized to expend any funds in this connection.

(b) In expending funds that may be made available for facilities and programs to provide inmates of the State prison system with academic and vocational education, the State Department of Correction shall give priority to meeting the needs of inmates who are less than 21 years of age when received in the prison system with a sentence or sentences under which they will be held for not less than six months nor more than five years before becoming eligible to be considered for a parole or unconditional release. These inmates shall be given appropriate tests to determine their educational needs and aptitudes. When the necessary arrangements can be made, they shall receive such instruction as may be deemed practical and advisable for them. (1959, c. 431; 1967, c. 996, s. 13; 1985, c. 226, s. 1.)

§148-70. Management and care of inmates; prison industries; disposition of products of inmate labor.

The State Department of Correction in all contracts for labor shall provide for feeding and clothing the inmates and shall maintain, control and guard the quarters in which the inmates live during the time of the contracts; and the Department shall provide for the guarding and working of such inmates under its sole supervision and control. The Department may make such contracts for the hire of the inmates confined in the State prison as may in its discretion be proper. In accordance with the provisions of Article 11 of Chapter 66 of the General Statutes, the Department may use the labor of inmates confined in the State prison in work on farms and manufacturing, either within or without the State prison. The Department may dispose of the products of the labor of the inmates, either in farming or in manufacturing or in other industry at the State Prison System to any public institution owned, managed, or controlled by the State, or to any county, city or town in this State, or to any federal, state, or local public institution in any other state of the union. Provided however, no manufacturing or other industry shall be established, supervised or controlled by the Department unless specifically approved by the Governor pursuant to G.S. 66-58(f).

All departments, institutions and agencies of this State which are supported in whole or in part by the State shall give preference to Department of Correction products in purchasing articles and commodities which these departments, institutions, and agencies require and which are manufactured or produced within the State prison system and offered for sale to them by the Department of Correction, and no article or commodity available from the Department of Correction shall be purchased by any such State department, institution, or agency from any other source unless the prison product does not meet the standard specifications and the reasonable requirements of the department, institution, or agency as determined by the Secretary of Administration, or the requisition cannot be complied with because of an insufficient supply of the articles or commodities required. The provisions of Article 3 of Chapter 143 of the General Statutes respecting contracting for the purchase of all supplies, materials and equipment required by the State government or any of its departments, institutions or agencies under competitive bidding shall not apply to articles or commodities available from the Department of Correction, but the Department of Correction shall be required to keep the price of such articles or commodities substantially in accord with that paid by governmental agencies for similar articles and commodities of equivalent quality as determined by the Secretary by reference to competitive bidding as required by law. (1917, c. 286, s. 2; 1919, c. 80, s. 1; C.S., s. 7762; 1925, c. 163; 1931, c. 145, s. 35; 1933, c. 172, s. 18; 1957, c. 349, s. 10; 1959, c. 170, s. 2; 1967, c. 996, s. 13; 1975, c. 730, s. 1; 1983, c. 717, s. 14; 1985, c. 118; c. 226, s. 11.)

§148-18. Wages, allowances and loans.

(a) Prisoners employed in prison enterprises shall be compensated, at rates fixed by the Department of Correction's rules and regulations, for work performed; provided, that no prisoner working for prison enterprises shall be paid more than one dollar (\$1.00) per day from funds made available by the Prison Enterprises Fund.

Prisoners employed other than by prison enterprises and those involved in the maintenance and housekeeping of the prison system, shall be compensated at rates fixed by the Department of Correction's rules and regulations; provided, that no prisoner so paid shall receive more than one dollar (\$1.00) per day. The source of wages and allowances provided inmates who are not employed by prison enterprises shall be funds provided by the Department of Transportation to the Department of Correction for this purpose.

(b) A prisoner shall be required to contribute to the support of any of his dependents residing in North Carolina who may be receiving public assistance during the period of commitment if funds available to the prisoner are adequate for such purpose. The dependency status and need shall be determined by the department of social services in the county of North Carolina in which such dependents reside.

(c) The Department of Correction shall establish a revolving fund from inmate welfare funds available to the Department to be used for loans to prisoners and parolees in accordance with regulations approved by the Department of Correction. (1935, c. 414, s. 19; 1967, c. 996, s. 3; 1969, c. 982; 1973, c. 1262, s. 10; 1975, c. 506, s. 3; c. 716, s. 7.)

§ 148-13. Regulations as to custody grades, privileges, gain time credit, etc.

(a) The Secretary of Correction may issue regulations regarding the grades of custody in which State prisoners are kept, the privileges and restrictions applicable to each custody grade, and the amount of cash, clothing, etc., to be awarded to State prisoners after their discharge or parole. The amount of cash awarded to a prisoner upon discharge or parole after being incarcerated for two years or longer shall be at least forty-five dollars (\$45.00).

(b) With respect to prisoners who are serving prison or jail terms for offenses not subject to Article 81A of Chapter 15A of the General Statutes and prisoners serving a life term for a Class C felony, the Secretary of Correction may, in his discretion, issue regulations regarding deductions of time from the terms of such prisoners for good behavior, meritorious conduct, work or study, participation in rehabilitation programs, and the like.

(c) With respect to all prisoners serving prison or jail terms for felonies that occurred on or after the effective date of Article 81A of Chapter 15A of the General Statutes, the Secretary of Correction and local jail administrators must grant credit toward their terms for good behavior as required by G.S. 15A-1340.7. The provisions of this subsection shall not apply to persons convicted of Class A or Class B felonies or persons sentenced to a life term for a Class C felony.

(d) With respect to prisoners serving prison or jail terms for felonies that occurred on or after the effective date of Article 81A of Chapter 15A, the Secretary of Correction shall issue regulations authorizing gain time credit to be deducted from the terms of such prisoners, in addition to the good behavior credit authorized by G.S. 15A-1340.7. Gain time credit may be granted for meritorious conduct and shall be granted for performance of regular work and regular participation in study, training, work release, and other rehabilitative programs inside or outside the prison or jail. Gain time credit earned pursuant to regulations issued under this subsection shall not be subject to forfeiture for misconduct. Gain time shall be administered to qualified prisoners as follows:

- (1) Gain Time I. In addition to the good behavior credit authorized by G.S. 15A-1340.7, prisoners who perform work assignments requiring at least four hours of actual work per day, and prisoners who participate in study, training, or other rehabilitative programs requiring at least four hours of productive activity per day, shall receive gain time credit at the rate of two days per month.
- (2) Gain Time II. In addition to the good behavior credit authorized by G.S. 15A-1340.7, prisoners who perform work assignments requiring at least six hours of actual work per day, prisoners who perform in part-time work release programs, and prisoners who participate in study, training, or other rehabilitative programs requiring at least six hours of

productive activity per day, shall receive gain time credit at the rate of four days per month.

- (3) **Gain Time III.** In addition to the good behavior credit authorized by G.S. 15A-1340.7, prisoners who perform work assignments requiring special skills or special responsibilities and requiring at least six hours of actual work per day, prisoners who perform in full-time work release programs, and prisoners who participate in full-time study, training, or other rehabilitative programs shall receive gain time credit at the rate of six days per month.

The Secretary of Correction may, in his discretion, grant gain time credit at a rate greater than the rates specified in this subsection for meritorious conduct or emergency work performed, provided, however, that gain time granted for emergency work performed shall not exceed 30 days per month, nor shall gain time granted for meritorious conduct exceed 30 days for each act of meritorious conduct.

(e) The Secretary's regulations concerning time deductions authorized by this section and his regulations concerning prisoner conduct issued pursuant to G.S. 15A-1340.7 shall be distributed to and followed by local jail administrators with regard to sentenced jail prisoners.

(f) The provisions of this section do not apply to persons sentenced to a term of special probation under G.S. 15A-1344(e) or G.S. 15A-1351(a) or to persons convicted pursuant to G.S. 130A-25 of failing to obtain the treatment required by Part 3 or Part 5 of Article 6 of Chapter 130A or of violating G.S. 130A-144(f) or G.S. 130A-145. (1933, c. 172, s. 23; 1935, c. 414, s. 15; 1937, c. 88, s. 1; 1943, c. 409; 1955, c. 238, s. 6; 1979, c. 760, s. 4; 1979, 2nd Sess., c. 1316, ss. 43-46; 1981, c. 662, ss. 8, 9; 1983, c. 560, s. 3; 1985, c. 310, ss. 1-4; 1987 (Reg. Sess., 1988), c. 1086, s. 120(a); 1991, c. 187, s. 3.)

APPENDIX D

SESSION 1991

**SENATE BILL 314
Second Edition Engrossed 6/27/91**

Short Title: Prison Industry Funds. (Public)

Sponsors: Senator Cooper.

Referred to: Appropriations.

March 27, 1991

A BILL TO BE ENTITLED

**1 AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF
2 CORRECTION FOR THE DEVELOPMENT AND IMPLEMENTATION
3 OF MANUFACTURING OR OTHER INDUSTRIES WITHIN STATE
4 PRISON FACILITIES BY PRIVATE ENTERPRISES.
5**

6 The General Assembly of North Carolina enacts:

**7 Whereas, there is currently a Correction Enterprises in North
8 Carolina which provides products and services for the State while making a
9 profit and alleviating the burden on the taxpayer; and**

**10 Whereas, Correction Enterprises was started in 1915 with the
11 Central Prison printing plant and has since grown to include 24 manufacturing,
12 farming and service operations throughout the State; and**

**13 Whereas, Correction Enterprises' operations include the license
14 plate shop, sign plant, printing plant, paint plant, woodworking plant, sewing
15 plant, oil refinery, soap plant, furniture plant, reupholstery plant, cannery,
16 meat processing plant, forestry service, three farms and six laundries providing
17 products and services for government only; and**

**18 Whereas, no money is appropriated by the General Assembly for
19 the operation of Correction Enterprises, therefore each operation is self-
20 sufficient and profits derived by Correction Enterprises are used by the
21 Department of Correction for capital improvements or other uses as determined
22 by the Secretary of Correction and the Advisory Budget Commission; and**

**23 Whereas, the State of North Carolina has a strong interest in
24 making the inmates in its prison system, and the prison system itself, more**

1 self-sufficient and in helping inmates develop employable skills and positive
2 work habits; and

3 Whereas, other states have had highly successful programs as part
4 of a U.S. Department of Justice Bureau of Justice Assistance pilot project
5 program to permit private enterprise to establish manufacturing facilities or
6 other industries within the confines of the State prison system; and

7 Whereas, such programs do not create the problem of government
8 competition with private enterprise since it is private enterprise that is carrying
9 on the operation and inmates are required to be paid at least the prevailing
10 minimum wage, and there is therefore no unfair competition from cheap labor;
11 and

12 Whereas, inmates who are employed in the program are required to
13 pay a portion of their earning to the State as is now required of work release
14 inmates; and

15 Whereas, this will be a one-time cost to the State of North Carolina
16 for the development and implementation of such a program administered
17 through Correction Enterprises; Now, therefore,
18 The General Assembly of North Carolina enacts:

19 Section 1. The Department of Correction shall use funds available
20 to it including the Prison Enterprises Fund for the 1991-92 fiscal year for the
21 purpose of developing, seeking approval from the Bureau of Justice Assistance,
22 and implementing a program of manufacturing or other industries within State
23 prison facilities by private enterprises to be administered through Correction
24 Enterprises.

25 Sec. 2. G.S. 148-70 reads as rewritten:

26 **"§ 148-70. Management and care of inmates; prison industries; disposition**
27 **of products of inmate labor.**

28 The State Department of Correction in all contracts for labor shall provide
29 for feeding and clothing the inmates and shall maintain, control and guard the
30 quarters in which the inmates live during the time of the contracts; and the
31 Department shall provide for the guarding and working of such inmates under
32 its sole supervision and control. The Department may make such contracts for
33 the hire of the inmates confined in the State prison as may in its discretion be
34 proper. In accordance with the provisions of Article 11 of Chapter 66 of the
35 General Statutes, the Department may use the labor of inmates confined in the
36 State prison in work on farms and manufacturing, either within or without the
37 State prison. The Department may dispose of the products of the labor of the
38 inmates, either in farming or in manufacturing or in other industry at the State
39 Prison System to any public institution owned, managed, or controlled by the
40 State, or to any county, city or town in this State, or to any federal, state, or
41 local public institution in any other state of the union. Provided however, no
42 manufacturing or other industry shall be established, supervised or controlled
43 by the Department unless specifically approved by the Governor pursuant to
44 G.S. 66-58(f).

1 All departments, institutions and agencies of this State which are supported
2 in whole or in part by the State shall give preference to Department of
3 Correction products in purchasing articles and commodities which these
4 departments, institutions, and agencies require and which are manufactured or
5 produced within the State prison system and offered for sale to them by the
6 Department of Correction, and no article or commodity available from the
7 Department of Correction shall be purchased by any such State department,
8 institution, or agency from any other source unless the prison product does not
9 meet the standard specifications and the reasonable requirements of the
10 department, institution, or agency as determined by the Secretary of
11 Administration, or the requisition cannot be complied with because of an
12 insufficient supply of the articles or commodities required. The provisions of
13 Article 3 of Chapter 143 of the General Statutes respecting contracting for the
14 purchase of all supplies, materials and equipment required by the State
15 government or any of its departments, institutions or agencies under
16 competitive bidding shall not apply to articles or commodities available from
17 the Department of Correction, but the Department of Correction shall be
18 required to keep the price of such articles or commodities substantially in
19 accord with that paid by governmental agencies for similar articles and
20 commodities of equivalent quality as determined by the Secretary by reference
21 to competitive bidding as required by law.

22 In addition to the industries authorized above, the Secretary of Correction or
23 his designee, consistent with sound business judgment, may construct,
24 reconstruct or lease one or more buildings or portions of buildings on the
25 grounds of any State correctional institution or location under Department of
26 Correction control, together with the real estate needed for reasonable access
27 to such buildings, for a term not to exceed 20 years, to a private corporation
28 for the purpose of establishing and operating a factory for the manufacture and
29 processing of products or any other commercial enterprise deemed by the
30 Secretary to provide employment opportunities for inmates in meaningful jobs
31 for wages. Each lease negotiated and concluded pursuant to this section shall
32 include and shall be valid only so long as the lessee adheres to the following
33 provisions:

- 34 (1) All persons employed in the factory or other commercial
35 enterprise operated in or on the leased property, except the
36 lessee's supervisory employee and necessary training
37 personnel, shall be inmates of the institution where the leased
38 property is located who are approved for such employment by
39 the Secretary or his designee.
40 (2) The factory or other commercial enterprise operated in or on
41 the leased property shall observe at all times such practices
42 and procedures regarding security as the lease may specify or
43 as the Secretary may stipulate.

1 (3) The factory or other commercial enterprise operated on the
2 leased property shall be deemed a private enterprise and
3 subject to all the laws and lawfully adopted rules of this State
4 governing the operation of similar business enterprises
5 elsewhere, except that the provisions of G.S. 66-58 shall not
6 apply to the industries or products of such private enterprise.

7 The Secretary shall adopt rules for the administration and management of
8 personnel policies for prisoner workers including wages, working hours, and
9 conditions of employment.

10 Except as prohibited by applicable provisions of the United States Code,
11 inmates of correctional institutions of this State may be employed in the
12 manufacture and processing of products for introduction into interstate
13 commerce, so long as they are paid no less than the prevailing minimum
14 wage."

15 Sec. 3. G.S. 66-58(b) is amended by adding a new subdivision to
16 read:

17 "(17) The activities and products of private enterprise carried on or
18 manufactured within a State prison facility pursuant to G.S.
19 148-70."

20 Sec. 4. G.S. 148-2(b) reads as rewritten:

21 "(b) All revenues from the sale of articles and commodities manufactured or
22 produced by prison enterprises shall be deposited with the State Treasurer to
23 be kept and maintained as a special revolving working-capital fund designated
24 'Prison Enterprises Fund.' The Prison Enterprises Fund shall be used for
25 capital and operating expenditures, including salaries and wages of supervisory
26 personnel, necessary to develop and operate prison industrial and forestry
27 enterprises to provide diversified employment for prisoners. When, in the
28 opinion of the Governor, the Prison Enterprises Fund has reached a sum in
29 excess of requirements for these purposes, the excess shall be used for other
30 purposes within the State prison system or shall be transferred to the general
31 fund as the Governor may direct. The provisions of this section shall not
32 apply to revenues generated from private prison enterprises conducted pursuant
33 to G.S. 138-70."

34 Sec. 5. G.S. 148-18(a) reads as rewritten:

35 "(a) Prisoners employed in prison enterprises shall be compensated, at rates
36 fixed by the Department of Correction's rules and regulations, for work
37 performed; provided, that no prisoner working for prison enterprises shall be
38 paid more than one dollar (\$1.00) per day from funds made available by the
39 Prison Enterprises Fund.

40 Prisoners employed other than by prison enterprises and those involved in
41 the maintenance and housekeeping of the prison system, shall be compensated
42 at rates fixed by the Department of Correction's rules and regulations;
43 provided, that no prisoner so paid shall receive more than one dollar (\$1.00)
44 per day. The source of wages and allowances provided inmates who are not

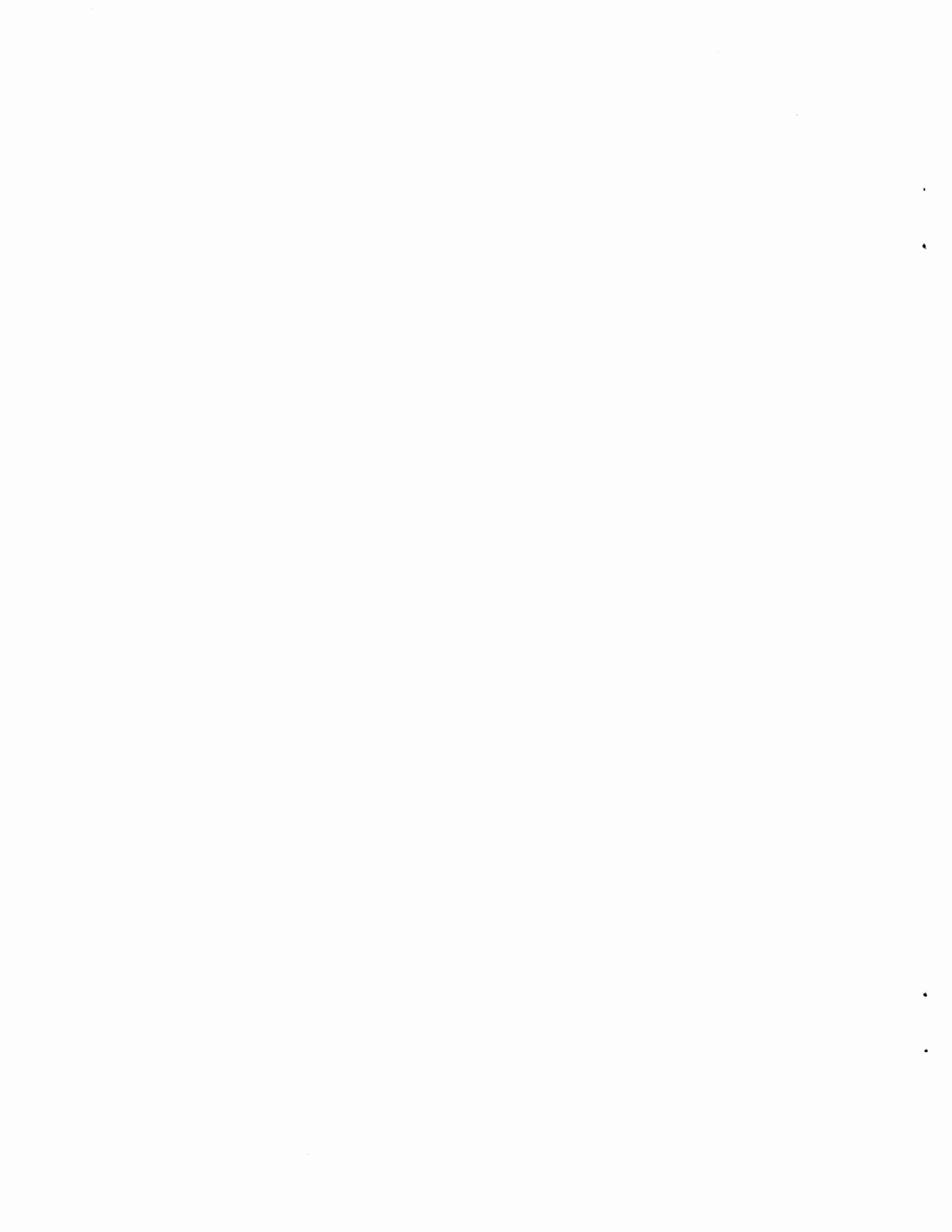
1 employed by prison enterprises shall be funds provided by the Department of
2 Transportation to the Department of Correction for this purpose. The
3 provisions of this subsection shall not apply to wages paid by private prison
4 enterprises conducted pursuant to G.S. 148-70."

5 Sec. 6. G.S. 148-33.1 is amended by adding a new subsection to
6 read:

7 "(j) The provisions of subsections (f), (g), and (h) of this section shall also
8 apply to prisoners employed in private prison enterprises conducted pursuant
9 to G.S. 148-70."

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

11



APPENDIX E
Legislative Proposal

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

S/H

D

92-RVZ-101
THIS IS A DRAFT 30-APR-92 12:35:48

Short Title: Prisoners Work for Counties

(Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW COUNTIES TO REQUIRE PRISONERS TO WORK
3 ON PROJECTS TO BENEFIT UNITS OF STATE OR LOCAL
4 GOVERNMENT.
5 The General Assembly of North Carolina enacts:
6 Section 1. Article 4 of Chapter 162 of the General Statutes is
7 amended by adding four new sections to read:
8 **"§ 162-58. Counties may work prisoners.**
9 The board of commissioners of the several counties may enact by resolution
10 all necessary rules and regulations for work on projects to benefit units of State
11 or local government by persons convicted of crimes and imprisoned in the local
12 confinement facilities or satellite jail/work release units of their respective
13 counties. Prisoners working under this section shall be supervised by county
14 employees or by the sheriff. The rules enacted by the board of county
15 commissioners shall specify a procedure for ensuring that county employees
16 supervising prisoners pursuant to this section be provided with notice that the
17 persons placed under their supervision are inmates from a local confinement
18 facility or a satellite jail/work release unit.
19 **"§ 162-59. Person having custody to approve prisoners for work.**
20 No prisoner shall perform work pursuant to G.S. 162-58 unless the prisoner
21 has been approved for the work by the person having custody of the prisoner.

1 The decision to approve a prisoner for work shall be based on the prisoner's
2 history of violence, if any, past criminal convictions, and current sentence.
3 For purposes of this section, the person having custody of the prisoner is the
4 sheriff, except that when the prisoner is confined in a district confinement
5 facility the person having custody of the prisoner is the jail administrator. The
6 person having custody of the prisoner may use his discretion to revoke his
7 approval at any time and to return the prisoner to the local confinement facility
8 or satellite jail/work release unit. Neither the person having custody of the
9 prisoner nor any jailer may be held liable for the actions of any prisoner,
10 including those actions committed during and after the escape of a prisoner,
11 while the prisoner is outside their supervision pursuant to this section.

12 **"§ 162-60. Reduction in sentence allowed for work.**

13 In addition to any gain time credit to which he is otherwise entitled, a
14 prisoner who has faithfully performed the duties assigned to him pursuant to
15 G.S. 162-58 is entitled to a reduction in his sentence of four days for each 30
16 days of work performed. The person having custody of the prisoner, as
17 defined in G.S. 162-59, shall be the sole judge as to whether the prisoner has
18 faithfully performed his duties. A prisoner who escapes or attempts to escape
19 while performing work pursuant to G.S. 162-58 shall forfeit any reduction in
20 sentence that he would have been entitled to under this section."

21 **"§ 162-61. Liability of County.**

22 The county working prisoners pursuant to G.S. 162-58 shall remain liable
23 for emergency medical services for those prisoners pursuant to G.S. 153A-224
24 while the prisoners are working. The county working the prisoners shall be
25 liable to third-parties for injuries incurred by the third-parties through the
26 negligence of the working prisoners to the same extent as the county is liable
27 for the actions of its other employees. Chapters 96 and 97 of the North
28 Carolina General Statutes shall have no application to prisoners working
29 pursuant to G.S. 162-58.

30 Sec. 2. G.S. 14-255 reads as rewritten:

31 **"§ 14-255. Escape of hired working prisoners from custody.**

32 If any prisoner, who shall be removed from the prison of the respective
33 counties, cities and towns under the law providing for the hiring out of
34 prisoners by counties and towns, prisoner removed from the local confinement
35 facility or satellite jail/work release unit of a county pursuant to G.S. 162-58
36 shall escape from the person or company having him in custody, custody or
37 the person supervising him, he shall be guilty of a misdemeanor,
38 misdemeanor, and shall be imprisoned at hard labor not more than 30 days, or
39 fined not more than fifty dollars (\$50.00)."

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

Analysis of Proposed Legislation

The bill would authorize county commissioners to enact rules and regulations for working prisoners of county correctional facilities on projects to benefit units of State or local government. Prisoners working under this bill would have to be supervised by county employees or the sheriff. County employees would have to be given notice that persons under their supervision were inmates.

No prisoner would be allowed to work unless approved by the person having custody of that prisoner. That person would have the discretion, at any time to, revoke that approval. Approval would be based upon consideration of the prisoner's history of violence, if any, past criminal convictions, and current sentence. Neither the person having custody or the jailer could be held liable for actions of any prisoner while outside of their supervision.

Any county working prisoners pursuant to the provisions of the bill would remain liable for emergency medical services for those prisoners while the prisoners are working. The county working the prisoners would also be liable to third-parties for injuries incurred by the third-parties through the negligence of the working prisoners to the same extent as the county is liable for the actions of its other employees. Employment Security law and the Workers Compensation Act would have no application to prisoners working pursuant this bill.

In addition to any gain time credit, prisoners who faithfully perform their assigned duties under this bill would be entitled to a reduction in sentence of four days for each 30 days of work. Escape or attempted escape would result in forfeiture of any earned credit. Prisoners who escape while working pursuant to this bill would be guilty of a misdemeanor and could be punished by a fine, imprisonment for up to two years, or both.

The bill would become effective upon ratification.

LEONARD J. BERRY