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NCINSIGHT



A Surprise Package
Called "Appropriations"

"small change"
at the Utilities
Commission

More Hot Oil

BUTNER:
The City (State)
Town

The Vet School-
A Political Stampede?



by Mercer Doty

FROM THE CENTER OUT

Mercer Doty is a former director of the legislative fiscal staff and currently the Center's acting director.

Opening up government is sometimes expensive and painful, especially for those on the inside. Many state legislators and state employees fretted, for example, when the Administrative Procedures Act got passed in 1974. The Act required state agencies to file their regulations with the Attorney General, and to follow costly and complicated procedures for making rules and conducting public hearings. So controversial was the new law that its initial effective date—July 1, 1975—was delayed a full year. By then key legislators, cheered on by many career government employees, were maneuvering to repeal the bill altogether. Only the timely intervention of the Attorney General, who proposed amendments to clear up some of the law's most troublesome aspects, saved it from oblivion.

So far, the central filing of administrative procedures has produced about 15,000 pages of information, all of which is available to the public at the office of the Attorney General during normal working hours. Buried within this massive accumulation are policy statements; reporting requirements; procedural guidelines for handling decisions, grant proposals, and complaints; budget and personnel procedures; organization charts; and many other important items that explain how state agencies routinely conduct their daily business. Clearly, the effect of the Administrative Procedures Act has been to make more visible these internal operating details of agencies that handle the public's business.

But a question remains—Is access to the administrative procedures filed in the Attorney General's office sufficient to keep the citizens of the state adequately informed? In a recent letter to the Center, Thomas L. Covington, a grants coordinator on the Buncombe County staff, noted that federal regulations are widely publicized in the *Federal Register*, a relatively inexpensive compilation of information about the U.S. government which he called "the single most important document for deciphering Federal law". Mr. Covington asked the Center to study the feasibility of some similar form of dissemination for the procedures and regulations of state departments to local governments and regional organizations in North Carolina.

Leigh Wilson, executive director of the N. C. League of Municipalities, feels that consideration of the local government viewpoint in the development of state regulations and procedures has improved considerably during the last few years. He cited Governor Hunt's recent appointment of a Local Government Advocacy Council as an example of this trend. Wilson acknowledged, however, that the standardization of state agencies' procedures and other measures to keep local governments informed are continuing League concerns. The N. C. Association of County Commissioners has frequently discussed the problem of keeping counties abreast of state activities and has taken steps to do this, according to Ron Aycok, the executive director, but the Association has not analyzed the Administrative Procedures Act in this connection.

Cities, counties and regional organizations are among the most important "clients" of the state and clearly they need to be aware of state and federal regulations, procedures and actions if they are to adequately serve their people. As Mr. Covington points out, state and local governments are kept abreast of the development and interpretation of federal regulation and procedures through the *Federal Register*. Perhaps it is time for the state to consider the publication of a similar "register," either by using the mechanism already set into motion by the Administrative Procedures Act or by establishing a separate activity to compile and publish the needed information. Having put procedures in the Attorney General's office is only a small part of the task—the first step in the process of keeping local officials up-to-date on the activities of state government, not the last.

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The Vet School— A Political Stampede ?

by Jerry Adams

PLANS FOR BUILDING a school of veterinary medicine in North Carolina have been bouncing like a political basketball for the past ten years, but the game may now be in its closing moments. Both the UNC Board of Governors and the administration of Governor Jim Hunt strongly favor building a vet school here, and this summer the General Assembly is likely to be asked for an additional appropriation of \$7.28 million for the project. Already the legislature has put aside \$2 million for capital outlay, and state government is spending about half a million dollars a year on the program.

In spite of these developments, however, serious questions continue to be raised about whether North Carolina needs to build a vet school at all.

Most experts agree that it is large-animal owners in sparsely populated counties who now lack good local veterinary care. But vet schools inevitably turn out many doctors who wish to treat dogs, cats, and canaries in urban areas. Some opponents wonder whether the cost of building and operating a vet school will be justified if it is uncertain whether those most in need of veterinary services will benefit from the investment. Other opponents question whether North Carolina, the South, and the nation can cope with all the veterinarians coming into the field if informed predictions about future graduation figures prove true. Still others say that North Carolina can obtain sufficient veterinary services by continuing its present policy of sending students to schools in other states. With some innovative assignment programs developed in tandem, they argue, returning graduates could be directed to the neediest counties.

Dr. Terrence M. Curtin, the head of the Department of Veterinary Science at N. C. State University and the man who put together plans for a veterinary school in this state, cautions against giving credence

to such dissenting views. He says that although there might be some disagreement at the department level, the minds at the top of the university hierarchy are made up. "The state ought to look at it (the proposed vet school) as an asset," Curtin observed, "and not just an expense." John Sanders, the university system's vice president for planning, agrees that because the Board of Governors and Gov. Hunt have made it a matter of policy to advocate the school, the question is settled. Any state or university administrative employee who cannot support that policy, Sanders suggests, should seek employment elsewhere.

The need for good veterinary services has been evident since settlers first grew dependent on domesticated animals. Today, an industry relies upon veterinarians. North Carolina ranks 10th in the nation in cash receipts from agriculture and 18th in cash receipts from livestock and livestock products. Livestock has come to be known here as "a billion-dollar industry."

AT TIMES, the story of this state's march toward establishing its own veterinary school is reminiscent of George Orwell's *Animal Farm* when the decision was made to build a windmill "and there would be no more debates."

The Southern Regional Education Board (SREB), a research and co-ordinating agency of state governments in the Southeast, began in 1949 to act as broker in matching students from Southern colleges with available positions at veterinary schools. Under the SREB program, prospective veterinary students undergo rigorous preliminary training, calling for pre-veterinary courses that usually take three years of study. The SREB's "contract" program now provides 37 places each year for North Carolina students, and North Carolina pays \$5,500 per student-year for each place at Auburn University and Tuskegee Institute in Alabama and \$8,000 per student-year at Ohio State University. The number of places available to state students is expected to hold steady,

Jerry Adams, a consultant to the Southern Growth Policies Board, is a free lance writer living in Winston-Salem.

if not to grow, in the 1980s. Approximately 100 North Carolina residents now compete for the contract program each year.

In 1967, the executive committee of the N. C. Veterinary Medical Association announced its support for establishment of a veterinary medical school at N. C. State. By 1970, the idea had gained political support, including that of Gov. Robert W. Scott, a dairy farmer. Two investigative studies were commissioned. The first was undertaken for the Governor by Dr. Ronald H. Williams, a Raleigh veterinarian, and a 13-member committee; the second was handled by Dr. Calvin W. Schwabe of the University of California, who reported to state education officials.

In the early 1970s, however, other states were getting the same idea. For 30 years, only Auburn University, Tuskegee Institute, the University of Georgia, and Texas A & M University had had veterinary schools in the South. In 1974, Louisiana State University, the University of Florida, the University of Tennessee, and Mississippi State University either opened or began planning veterinary schools. And all except Texas A & M, which had never admitted outside students, planned to consider out-of-state applicants.

Noting this ferment, the SREB issued a report which suggested opposition to North Carolina's plans for yet another vet school in the region: "We recommend that during the next decade no additional schools of veterinary medicine beyond the approved ones for Mississippi State University and the University of Tennessee be developed in the SREB region. With these new schools in operation, together with those developing at LSU and the University of Florida, the region will have eight schools of veterinary medicine. . . . Dedicated and careful cooperation among these schools and with other states can meet the region's foreseeable needs for opportunity to study veterinary medicine and for supplying the region with adequate veterinary services." In a 1976 follow-up report, the Board pointed out that Southern veterinary schools had graduated 350 animal physicians the preceding year, and that the same schools would graduate 635 veterinarians by 1981. These estimates did not include potential new graduates from Virginia, where the legislature was also considering a veterinary medical school.

In late 1974, the Board of Governors delivered to the General Assembly its rationale for wanting North Carolina to have its own school. "The costs of establishing and operating a school of veterinary medicine are high," the Board acknowledged. "The Southern Regional Education Board has taken the position that the creation of so many new veterinary medical schools may constitute a substantial overbuilding of veterinarian-training capacity in the region. While we are fully aware of the concern that

has been repeatedly expressed by SREB over the possibility that the South may shortly move from a position of having too few schools of veterinary medicine to one of having too many, we believe that that does not answer the question of whether North Carolina should have a school of veterinary medicine."

Does the evidence justify a policy decision to build a school of veterinary medicine in NC?

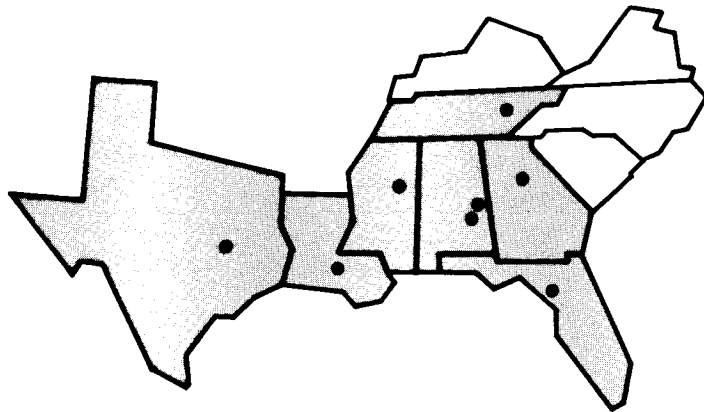
The focus of the state's interest had apparently shifted. The training of practicing veterinarians, once thought to be the primary objective of an in-state vet school, had become a secondary justification. "It is clear to us," the Board of Governors continued, "that without a veterinary medical school of our own, North Carolina cannot expect to obtain the clinical and diagnostic services needed by the various elements of its animal industry, the research and clinical investigation activities vital to the well-being of our animal population, and the continuing education programs needed by veterinarians and others with substantial responsibilities for maintaining the health and well-being of large segments of our animal population. Unlike the training of veterinary practitioners, these services cannot feasibly be contracted across state lines."

The position taken by the Board of Governors late in 1974 soon led to an initial appropriation of money for a school of veterinary medicine in North Carolina, even though the Board had not specified which clinical, diagnostic, and research services were to be established and had not stated whether existing programs in state schools could be used to develop some or all of the needed services. The 1975 General Assembly was asked for more than \$3 million to begin work on the project. The appropriation received for the biennium amounted to \$500,000.

In 1977, the petition for funds was reiterated, this time with specific programs spelled out and with more money in mind. The Board of Governors asked for \$9.28 million for capital outlay, with operating costs for the biennium, weighted toward the second year, set at \$966,199. The General Assembly appropriated only \$2 million as a capital fund, but did continue the \$500,000 yearly outlay for operating planning costs. The request in the coming session of the legislature is expected to be \$7.28 million in capital funds to go with the \$2 million already in reserve.

Ultimately, according to Curtin's plans, the total capital investment in North Carolina's proposed vet

Existing Vet Schools in the South



Texas A & M University
Louisiana State University
Mississippi State
Tuskegee Institute
Auburn University
University of Florida
University of Georgia
University of Tennessee

school will amount to \$31,960,000. By the sixth year of operation, when plans call for 288 undergraduates, annual operating costs are projected at \$4,269,500. Counting graduate students, interns, residents and post-doctoral candidates, the school would then have a projected enrollment of 345, a faculty of 83, and a student-faculty ratio of 3.5:1.

THE BOARD OF GOVERNORS' 1974 statement and the legislature's response in 1975 seemed to commit North Carolina to the establishment of a school of veterinary medicine, but the process has moved slowly and not without controversy since then. Officials of the N. C. Veterinary Medical Association say that most veterinarians in the state support the idea, but Dr. James W. Eubanks of Winston-Salem, who counts himself in the opposition, claims that "the rank and file are not being listened to." Eubanks suggests that the new veterinary school risks mediocrity by stretching too thin the qualified faculty pool, and that graduates will be unable to find sufficient work. Even the proposed site of the school provoked a dispute between proponents of an NCSU location and others who felt that it should be installed at North Carolina A & T in Greensboro. A federal court ruled in July, 1976, that placement of the vet school at N. C. State would not be a racially unacceptable decision, but the issue may be far from settled.

There has also been dissension inside state government about the proposed school, mainly in the form of reports produced at taxpayers' expense and then quietly shelved because they suggested alternatives to prevailing policy. Two recent studies, conducted separately, have concluded that a school of veterinary medicine in North Carolina would be an expensive redundancy.

Employees of the Fiscal Research Division of the General Assembly surveyed 377 respondents throughout the state to arrive at findings published in *A Survey of Large Animal Owners in North Carolina, 1973-74*. Their research indicated that among large animal owners the most frequent users of veterinary services are dairymen, and that the chief deterrent to using veterinary services was cost. Many owners apparently treated sick or injured animals themselves, on the theory that it is more economical to lose a \$100 investment than to spend \$150 on veterinary services. Some 66 per cent of the respondents said veterinarians in their areas were willing to treat large animals, and the research showed that the average distance to the nearest vet was 15.2 miles. Only 2.7 percent (10 respondents) cited the lack of veterinary services as the major reason for not expanding their businesses, while 64 per cent cited the lack of profit potential as the reason for not expanding. "On the basis of the findings," the report stated, "we conclude that low use of veterinary services is due more to economic reasons than to lack of access, and that vet services are more available than used." So far, the study has produced no shift in the state's vet school policy.

The second study, done by an employee of the Division of State Budget and Management (DBM), has been similarly ignored by state and university officials. Titled *The Veterinary Medical School Issue Analysis*, it suggested that, while the state's animal population is holding steady, North Carolina is already moving toward the American Veterinary Medical Association's goal of 17.5 veterinarians per 100,000 population and will reach this mark by 1985. In addition, the study concluded that the maldistribution of practicing veterinarians in the state---roughly 20 counties have no resident vets---

would not be corrected, or even significantly affected, by establishment of a veterinary school. This conclusion is at least as old as the Schwabe study, which recognized that veterinarians, following economic dictates, gravitate toward urban areas and small-animal practices. Perhaps one-fourth of the total practicing hours among all veterinarians across the state are devoted to large animals, both studies concluded, and nearly all such time is used by vets who practice on both small and large animals. The Budget Division study found, furthermore, that having an in-state vet school does not necessarily insure that graduates will remain within the state to practice. Not surprisingly, this study recommended continuation of the SREB contract program for North Carolina students, including the expenditure of \$1.064 million a year for about 38 graduate veterinarians rather than a \$32 million investment in construction costs and more than \$4 million in yearly operating costs to double the number of graduates.

There is a compelling, dollars-and-cents logic about this conclusion. For the equivalent of the projected \$4 million annual veterinary school budget, 100 veterinarians could be hired at \$40,000 apiece and sent to every county in the state. But as recently as March 15, 1978, the DBM and the Hunt Administration have both disavowed any respect for the study. "It would be . . . accurate to state," wrote John Williams of the Budget Division on that date, "that the Division of Budget and Management has never . . . agreed with" the conclusions reached in *The Veterinary Medical School Issue Analysis*. Indicating that the Budget Division lacked adequate staff and information to do a satisfactory study, Marvin Dorman, deputy state budget officer, said the administration does "not consider the conclusion of the (DBM) paper to be based on valid and accurate assumptions and data."

THE NEED FOR a veterinary school in North Carolina is viewed by many proponents as involving far more than merely providing local vet services to isolated communities. Echoing the Board of Governors, Curtin insists that the training of veterinarians is a necessary adjunct to attracting researchers for whom "the thrill of discovery is reflected in their teaching." These are the researchers, Curtin says, who draw government and commercial research grants and who will be a natural addition to the Research Triangle. "I don't think I'll live long enough to see enough veterinarians in North Carolina," he adds. "We could use 40 in the Triangle right now."

But alternatives to the costly and controversial establishment of a vet school in North Carolina have been proposed both inside and outside state government. One such alternative, suggested in the disavowed Budget Division study, bears directly on the desire for more research and diagnostic service.

According to the study, the existing Department of Veterinary Science at N. C. State could be expanded to meet this need without requiring an investment of millions of additional dollars. The Department already offers many of the same graduate programs a new veterinary school would provide, and its contin-

For the equivalent of the projected \$4 million annual vet school budget, 100 veterinarians could be hired at \$40,000 each.

uing education programs could be enlarged in conjunction with those of the state Department of Agriculture and the office of the State Veterinarian to extend research and diagnostic services to those who need them most. In addition, UNC-Chapel Hill, Duke University and Bowman Gray Medical School all have existing research capabilities which could be called into play. In fact, thirty-one veterinarians were engaged in animal-medical research programs at N. C. State, UNC-CH, Duke, Bowman Gray and Research Triangle Park Laboratories at the same time this study was underway.

Several other alternatives have come from E.W. Glazner of N. C. State, who administers the SREB contract program for North Carolina residents and who describes himself as a supporter of the proposal to build a vet school here. Glazner suggests that candidates for the contract program might be required to obligate for a period of practice in certain areas. A similar concept is widely used in the awarding of scholarships in other professional disciplines. Glazner also says that veterinarians, who have considerable medical training, could overlap their duties with responsibilities pertaining to public health. Although such a program is not suited for an urban area with specialized needs, Glazner points out that "in sparsely populated areas it would provide a service the people might not have."

While alternatives such as these for better deployment of existing veterinary resources do not necessarily preclude the establishment of a vet school in North Carolina, they do suggest that further careful consideration of the proposed facility is in order. The American Veterinary Medical Association (AVMA) will publish its nationwide manpower study in July, and its findings are almost certain to bear heavily on this state's situation. But the AVMA's report will probably appear too late to prompt a serious review of the options which are now still open. By early summer the General Assembly will have been asked to appropriate an additional \$7 million for the controversial program. Depending on the legislature's response, it may be too late in July to turn back. ●

A Surprise Package Called "Appropriations"

by Fred Harwell

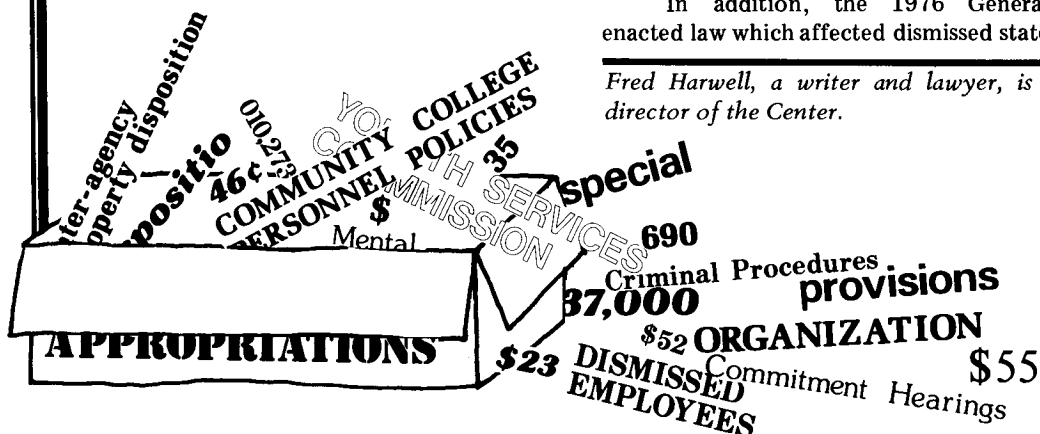
The process of enacting a comprehensive appropriations bill for state government has undergone swift and sometimes sweeping transformation since the General Assembly decided in 1973 to experiment with annual rather than biennial sessions. Some of the recent innovations have been laudable; some have not. When the legislature passed a revised 1976-77 budget during the brief 1976 session, it discovered a way to short-circuit legislative deliberation by packing the "appropriations" bill with substantive (or non-money) provisions having policy implications far beyond the mere expenditure of state funds. The same thing could occur again when the General Assembly convenes in May for the summer session of 1978.

During the dark days of the 1975 recession, the legislature enacted a biennial budget and coincidentally resolved to return for a review of the bill the following year. The 1976 session was supposed to be limited to budgetary matters, and indeed only three additional subjects (medical malpractice, Utilities Commission nominations, and appointments to senate committees) were ever approved for consideration by the leadership. Yet this short session produced substantive legislation affecting:

- The rule making procedures of administrative agencies;
- State criminal procedures;
- The retirement program for local government employees;
- Community college personnel policies;
- The methods of distributing state publications;
- The site of mental commitment hearings; and,
- The organization of the Youth Services Commission.

In addition, the 1976 General Assembly enacted law which affected dismissed state employees,

Fred Harwell, a writer and lawyer, is an associate director of the Center.



the disposition of property transferred between agencies of state government, and the internal redistribution of funds by the Governor and his administration. All of these matters were dealt with exclusively as additions to the revised appropriations bill, though none directly involved new expenditures of state money. All had detailed policy implications apart from any indirect effect on the state budget, but none was ever sent to a substantive committee for evaluation.

Political and economic circumstances undoubtedly conspired to produce the bloated appropriations revision of 1976. Money was tight, and a governor from the opposition party occupied the Mansion. But the main impetus for loading the budget bill with these "special provisions" seemed to come from the legislature's own 1975 adjournment resolution, which strictly limited the subjects available for consideration the following year. To overcome this self-imposed impediment, the leadership adopted a broad but politically selective definition of "budgetary matters" and then swept various favored provisions into the appropriations bill. Other disfavored topics, such as day-care licensing, were blocked by the leadership and simply never reached the floor.

The political and economic circumstances of the 1978 legislature will, of course, be quite different from those of the 1976 session. But the General Assembly will come to Raleigh this year under an adjournment resolution that is similar to the one passed in 1975. Resolution 75 (Senate Joint Resolution 915) in effect limits this year's session to consideration of certain bills pending from 1977 (of which liquor-by-the-drink is the most prominent), a few bills implementing current study reports, and "bills directly affecting the state budget for fiscal year 1978-1979." If such language appears to prohibit the addition of substantive riders to the revised budget bill, it also creates a situation very similar to the one which induced passage in 1976 of an appropriations law hastily encumbered with diverse and significant substantive provisions.

The inclusion of non-money legislation in a short-session appropriations bill is a dubious practice for several reasons. Doing so may require the leadership to trample on the spirit of an adjournment resolution and compel one chamber, the House, to ignore its own Rule 43, which states that no amendment "shall be in order unless (it is) germane to the bill under consideration." But the most persuasive

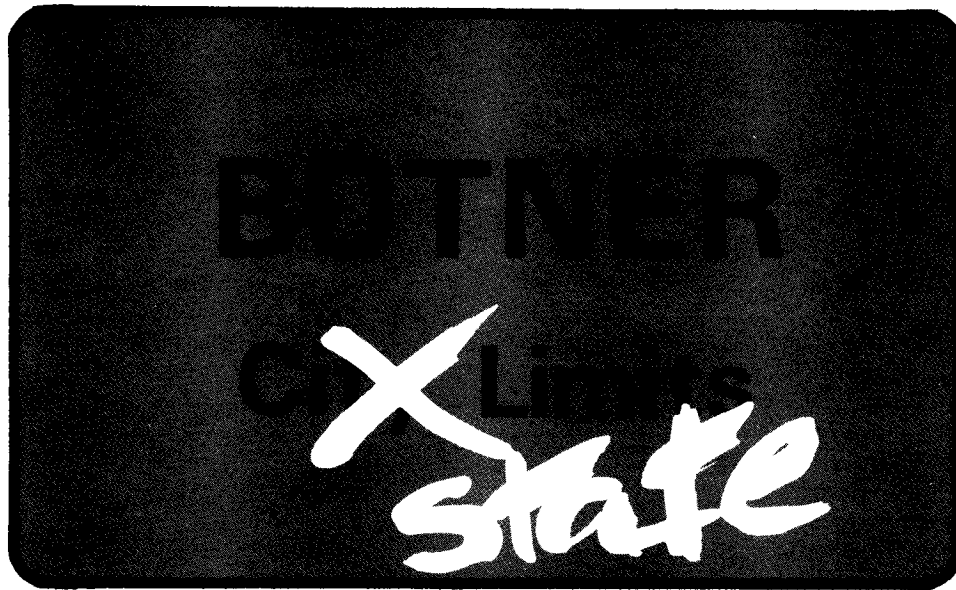
objection to this procedurally quixotic activity is that it concentrates too much power in the hands of a select group of legislators and precludes the substantive debate in committee and on the floor which is essential if the policy implications of proposed legislation are to be explored before it passes into law.

For practical as well as political reasons, the complicated appropriations process is controlled by a "super subcommittee" of about a dozen Senators and Representatives, usually the chairmen of the various appropriations committees and the leaders of both chambers. Substantive debate is virtually unheard of in an appropriations committee meeting, where the focus is necessarily on monetary rather than policy matters and the size of the group generally limits intensive consideration of pending measures. Because more than half the legislators are members of at least one appropriations committee, and therefore have presumably participated in organizing the bill, there is almost never any real debate on the floor once the unwieldy money bill finally gets there. Many legislators, effectively estranged from the process, never know the details of the law they vote to enact.

All of the circumstances which ordinarily depress debate on appropriations matters are intensified during a short session, effectively stifling any opportunity for detailed consideration of the policy implications of the legislation which gets passed. Because of time constraints, there are greater than usual pressures on all legislators not to crack the fragile compromises, including the addition of "special provisions," which have already been struck among the members of the "super sub." As a result, the likelihood increases that substantive matters with potentially profound policy dimensions will slip through uncontested in the appropriation process and be enacted unwittingly before their practical ramifications can be adequately considered.

Liquor-by-the-drink may get most of the publicity during this summer's session of the North Carolina General Assembly, but much of the legislature's real work will be done within supposedly limited confines of the appropriations bill. If past practices are followed, the reins of state government will fall into the hands of a few powerful legislators during the month of June, and policy decisions of possibly far-reaching consequence may be made in haste and without due deliberation. It has happened before, and it could happen again. ●

Not just another small town....



by Howard Covington

Residents of the Granville County community of Butner drive on paved streets, have professional police and fire protection, use a central water and sewer system, and enjoy most of the other civic conveniences usually found in any small town in North Carolina. Butner is not just any small town, however. Its residents don't pay a cent in municipal taxes, and the state foots most of the bill for city services.

For more than 20 years Butner has been run by the state of North Carolina, and taxpayers across the state have been paying for just about every town expense from police pay to replacement parts for worn-out water lines. It has been this way since the state Board of Mental Health bought Camp Butner from the U. S. Army at the end of World War II. In the deal, the state acquired about 14,000 acres of land, an enormous hospital, and a ready-made town with paved streets, a forest of fire hydrants, a fire station, barracks, homes, the works. And the state has been supporting the town ever since.

Butner is certainly unique in North Carolina, and it may be the only state-run town in the nation. The anomaly made some sense in the beginning when the state owned all the buildings and land and when nearly all the Butner residents worked at John Umstead Hospital, the first and most imposing of the nine state institutions located there. The hospital business manager looked after the town's utility system, public safety department, and 140 or so

Howard Covington, a former associate director of the Center, is a reporter for the Charlotte Observer in the Raleigh bureau.

rental houses, just as he did the hospital laundry and repair shops.

Today, however, most of the state-owned houses in Butner have been sold and so have most of the town's immediately developable lots. Private businesses line Central Avenue, Butner's main street, and major private industries have settled in the area. About three quarters of the 800 or so Butner households still depend on a state government paycheck, but Butner is one of the fastest growing communities in the area. The living is easy in this community of about 2,700 people, though it is not the company town it once was.

As the character of Butner has changed, the state's role in running the town has not. Today, for example, about one-third of the calls answered by the public safety department (24 men cross-trained as policemen and firemen) come from private residences and businesses, not from state facilities. The state still subsidizes the water and sewer operation, which may not break even this year though rates have recently been increased. Municipal decisions and functions that normally would be made by a locally-elected town board or a full-time clerk consume "35

to 40 per cent" of the time of the hospital business manager. Even local ordinances are written by non-elected state officials.

During the administration of Gov. James Holshouser, top-level officials in the Department of Human Resources (DHR), which assumed control of Butner from the old Board of Mental Health, questioned whether the state could afford to continue running the town. Expenses were climbing, and serious constitutional questions were raised as more services were provided to Butner's citizens but not to other North Carolinians. Studies were ordered, and at least four groups looked at the situation.

In one report, the Governor's Efficiency Study Commission said in late 1973 that the state could save \$143,000 annually if the town were incorporated and local taxpayers shared the cost of managing Butner. In another, the Department of Community Assistance recommended that town and state be separated with Butner residents left to pay for and perform their own civic duties. A special committee of the powerful Advisory Budget Commission reported in 1973 that "special problems exist with these arrangements for providing utilities and services to Butner." But the committee said it had insufficient information and recommended a professional study of the town-state connections.

Berry A. Williams headed up the special study recommended by the Advisory Budget Commission. He and others in the Division of Community Planning mapped the town, conducted extensive interviews with state officials and surveyed Butner residents as well. Particular attention was paid to services provided by the state which Butner residents did not pay for. "There had to be some justification for that, and frankly I didn't find it," Williams said recently.

Accordingly, Williams and his colleagues came up with three alternatives to the present situation. The first, a special tax district, would be supported solely by property taxes. The other two involve incorporation and depend on property taxes and taxes collected by the state but returned to local governments. Because Butner is unincorporated, it receives none of this money. For example, Butner's streets are maintained by the state Division of Highways and in 1974 the Transportation Department spent \$8,000 in Butner. If the town had been incorporated, it would have been due about \$58,000 in state gas tax money earmarked for municipalities.

At one point, Williams requested a formal opinion from the Attorney General which would have helped determine whether the present arrangement between Butner and the state is legal. His questions were sensitive. Answered the "wrong" way, they threatened to leave Butner high and dry without the easy transition DHR officials hoped to achieve. The questions were eventually withdrawn before being formally answered. "When you ask for legal

opinions and you're not prepared for the consequences, you'd better not ask for those legal opinions," said Ben Aiken, a former John Umstead business manager who now heads all of the mental health operations in DHR.

Should it be the policy of the state to subsidize municipal services in Butner more than in other North Carolina towns?

Technically, DHR had done about all it could do to prepare Butner residents for such "consequences." Psychologically, Butner residents were far from prepared. They were outraged, and Williams' public hearings drew larger and larger crowds of angry people. The entire issue was drowned in opposition. The report requested by the Advisory Budget Commission was never put in writing.

Butner residents had their own way of viewing the situation. They argued that as long as the state dominated Butner there was no way the residents could afford to maintain an incorporated town. Many also indicated that they had settled in Butner with an understanding from the state that town services would be provided, and they said changing the situation was just plain dirty pool. Most were concerned because they thought incorporation would have meant higher taxes. "It would double our taxes," said Elbert Oakley, a Central Avenue barber who though heavily involved in the debate apparently failed to see all of Williams' figures that showed taxes would rise, but modestly. It would be hard to change Oakley's mind, particularly since the issue of state-control is now dormant and most Butner residents feel secure in their victory. Working in Butner on the eve of the nation's celebration of the Bicentennial, Williams had hoped the town's residents would pick up on the spirit of the occasion. Instead he found that "they were not at all interested (in self government). They did not want public determination. They were satisfied."

"I'm not going to do anything to upset the present situation," said R. D. Milliken, who opened Mt. Hope Finishing Company in some abandoned Army tank repair sheds in 1951. Mt. Hope is one of the community's oldest and biggest employers. His company saves substantially on the cost of fire insurance and enjoys what amounts to a subsidy from the state for the 30 million gallons of water piped monthly to its plant. Mt. Hope pays less than what it costs the state to process the water, a substantial saving that Milliken candidly admits he's "happy with...."

The state could save \$143,000 annually if the town were incorporated and the local taxpayers shared the cost of managing Butner.

—*Governor's Efficiency Study Commission, 1973*

Today Butner residents feel that if the state has police and fire protection on hand anyhow, and if it costs no more, then the state should serve the private residents as it always has. Some, like Oakley, argue that police calls answered on private property are legitimate public expenses if they involve a patient who has wandered from the hospital or a juvenile who has escaped from the prison located there. Other residents point out that the state owns a third or more of the property inside what might become the city limits. This land would be tax-exempt and could possibly inhibit private development of the town. Oakley, for example, had to go through 18 months of paperwork and bureaucratic delays before the state finally agreed to sell him land for his small barbershop.

The feelings of Butner's citizenry run deep. Positions on the issue of state or local control are set. "What you basically boil down to," said one Granville County businessman, is that "it's going to have to be done by the legislature." And that could provoke quite a fight with local legislators. Millikin said he had been promised by Rep. Billy Watkins, an influential Democrat from nearby Oxford, that there will be no changes in the town's situation.

So far, Watkins has been as good as his word. When the issue threatened to blossom again in the 1977 General Assembly over deficits in the so-called revolving fund that pays for municipal services, Watkins, vice chairman of the Base Budget Committee, helped to arrange for the addition of more than \$500,000 to the John Umstead Hospital budget to cover deficits in the operation of the public safety department. The increased appropriation passed without any questions about the state running a town.

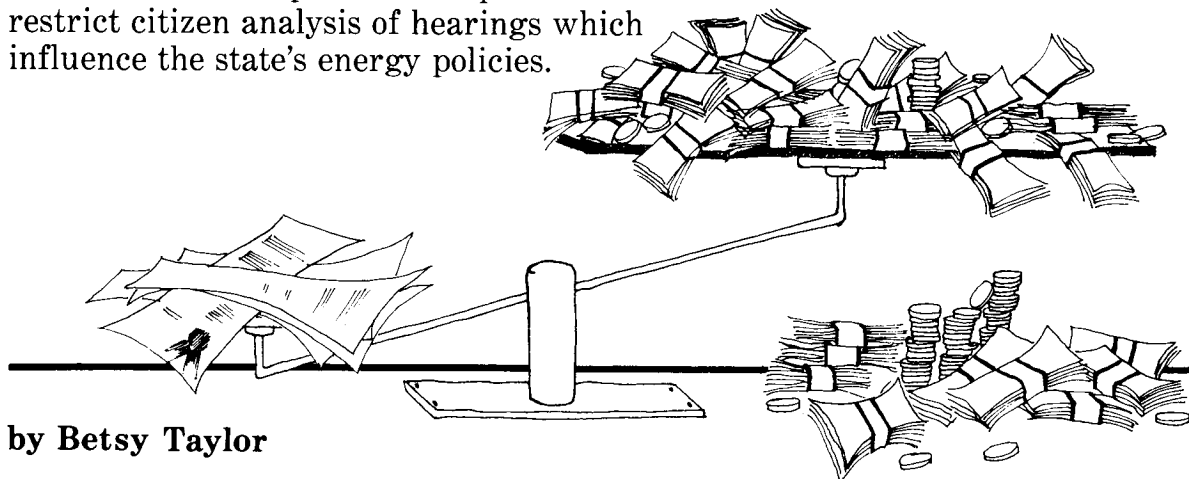
Business manager Perkinson was happy to get the extra money. It will help forestall Butner's immediate fiscal crisis, but needs still are piling up. A new fire engine and repairs to the water tanks are only two. Perkinson has a long list, and all the needs are expensive. "Either the people outside of Butner don't care or they would have risen up in arms about paying for these services," he said.

Billy Watkins concurs, saying he is going to vote to maintain the status quo "until a majority of the people want a change." Watkins says, too, that if state officials had been serious about not running the town, then Butner should have been planned so that it could support itself without having large blocks of untaxed state property inside its corporation limits.

Watkins indicated, however, that he would support legislation requiring Butner residents to pay a fee for services they received from the state, though no such law has ever been introduced in the General Assembly. Such legislation might raise complex legal questions and it would surely open a Pandora's box of problems in other cities, like Raleigh, where the reverse situation--the state's reluctance to pay for city services--is a continuing source of concern.

"Small change" at the Utilities Commission

The Commission's policies and practices restrict citizen analysis of hearings which influence the state's energy policies.



by Betsy Taylor

Every person in North Carolina is touched by the work of the state Utilities Commission. Decisions are made by the Commissioners which affect everything from the cost of turning on an electric light to the construction of mammoth and potentially dangerous nuclear power plants. The business of the Commission is clearly the business of the people of this state. But how are the people to find out what the Commission is doing?

In theory, the work of the Commission seems accessible. Anyone may attend its formal hearings, and transcripts of such hearings are public documents. Commission policy allows anybody to purchase a transcript, although the law requires only that transcripts be sold at a "reasonable" price to registered participants ("parties"). Complete information apparently can be secured easily through one of these methods. In practice, however, citizens attempting to obtain Commission records and documents confront many unseen obstacles.

Present Commission policies effectively erode the intent of the public hearings law (G.S. 62-71). A person could attend a hearing from start to finish and still not hear all testimony presented to the Commissioners. Expert witnesses frequently submit testimony in writing prior to a hearing, and make no verbal statement during the public proceeding itself. Although these testimonies can be purchased, the 20 cents per page fee discourages most citizens from buying them.

Finding attendance at a hearing unsatisfactory, a citizen could, like a "party" to the hearings, pur-

chase a transcript at a "reasonable" price. But the transcript fee seems far from "reasonable" or fair. The 1977 legislature raised the cost of one transcript page from 30 cents to \$1, a price beyond the reach of most interested citizens. The bill establishing the higher fee was introduced by Rep. David Parnell at the request of the Base Budget Committee.* According to Parnell, the transcript fee was raised to bring it into line with fees charged by state courts. But Parnell also indicated that the legislature did not investigate copying fees charged by other state departments (e.g., 10 cents per page for documents in the state library, 20 cents per page for copies from the Division of Archives and Records) before raising the fees for copies from the Utilities Commission. No attention was given, Parnell said, to the real cost of producing one page of copy or the effects of a high fee on the public's ability to purchase transcripts.

Utilities Commission hearings in February to help determine the state's long-range energy policies and to consider construction of Carolina Power & Light Company's \$4.2 billion Shearon Harris nuclear power plant in Wake County produced 1,392 pages of transcript. At a cost of \$1,392, the complete record of these critical hearings has not become a best-seller. No private citizen or private citizens group has purchased a transcript, but all of the utilities---CP&L, Duke Power, and Virginia Electric Power Company---have done so. These companies

* This legislation (G.S. 62-300.9) seems to conflict with G.S. 62-71, which states that transcript fees are to be determined by the Commission, not the legislature.

Betsy Taylor, formerly a teacher in England, is the Center's administrative assistant.

The cost of a transcript page increased from 30 cents to a dollar. Excessive production costs were cited. IBM says it costs 3.5¢ per page in actual production.

represent the interests of largely out-of-state shareholders, not North Carolina citizens, and can deduct the price of transcripts from their taxes as a business expense while passing the costs of attending the hearings (including the purchase of transcripts) through to their North Carolina customers. Theirs is, in effect, a free ride irrespective of the price per page. Private citizens, who cannot deduct such expense or pass along their costs to consumers, get no such advantage. Utilities Commission Chief Clerk Katherine Peele attributed the high fee to excessive production costs, even though an IBM salesman handling business with the state said the direct cost of producing one page of copy is only about 3.5 cents.

Finally, unable to obtain complete information by attending the hearings and lacking funds to buy an entire transcript, a citizen can try to read the public record which is ostensibly available during normal working hours at the Commission's office. But even this option has a flaw. During a recent unannounced visit to the office, the transcript and several testimonies pertaining to the February nuclear plant hearings could not be located. Commission Chairman Robert Koger had the public's copy in his office, and he was out of town.

The effect of these policies and practices is to restrict citizen analysis of hearings which influence this state's energy policies. The media and citizens' representatives are also constrained. According to Loyd Little of the Durham Morning Herald, the only reporter who regularly covers the Utilities Commission, no newspaper will free up the resources to buy more than a few testimonies, let alone a full transcript, while the fees remain so high. Mark Sullivan, representing a coalition of citizen groups during the February hearings, contends that in the event of an appeal Commission policies would obstruct his efforts to analyze the record and handicap him in preparing witnesses for testimony.

Both legislative action and changes in the internal procedures of the Utilities Commission are called for to ensure real public accessibility to the Commission's business.

Specifically:

1. The price of a page of transcript should be reduced.
2. Upon request:
 - copies of pre-filed testimonies should be given to the press prior to the hearings.
 - copies of pre-filed testimonies should be loaned to any interested North Carolina citizen prior to the hearings.
 - any individual attending a public hearing should receive a free copy of any pre-filed testimony so as to follow cross-examination of the witness in question.
3. A minimum of two copies of all hearing transcripts should be made available to the state library---one to be kept as a reference and one to be put on loan.

More Hot Oil

An article in the Winter issue of *N. C. Insight* questioned the wisdom of the state's \$1.4 million investment in an undisclosed oil re-refining process which has not passed accepted tests by a reputable independent laboratory. Although the process is still a closely held secret of the Phillips Petroleum Company, the state is now moving to take a closer look at the re-refined oil which will be produced.

According to John Talton, Assistant Secretary of Administration, the oil will be tested to insure that it meets the same specifications as the virgin oil the state buys. More importantly, the tests will be conducted by an independent laboratory prior to the acceptance of the Phillips plant by the state. Phillips maintains that this has always been a part of their agreement to install the oil recycling process, although there is no language in the contract requiring independent laboratory tests. The contract provides merely that the re-refined oil must be tested before the plant is accepted by the state. Having independent tests conducted is of enormous importance to North Carolina taxpayers because the use of substandard oil could result in actions by automobile manufacturers to void the warranties on the thousands of vehicles purchased each year by state and local governments.

Another problem with the state's oil recycling plans may be more difficult to resolve. For years the Department of Transportation has been "recycling" large quantities of waste oil in its asphalt plants, using five special burners purchased at a cost of \$90,000 so that waste oil could be used without polluting the air. About 185,000 gallons of waste oil were consumed in this way last year, according to department officials, and more could have been used if it had been available. Based on the current price of # 2 fuel oil, 42 cents a gallon, this DOT practice saves the state about \$78,000 a year. Now, however, the department is being pressured to contribute its waste oil to the new recycling program, even though doing so would leave it with five expensive but useless burners and put a \$78,000 dent in its budget.

ARTICLE II

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