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THE ADVISORY BUDGET COMMISSION--

Not as simple as ABC

A report by  
The N.C. Center for Public Policy Research, Inc.

Written by Mercer Doty

N.C. Center for Public Policy Research

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## THE ADVISORY BUDGET COMMISSION

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## INTRODUCTION

The focus of this study is the interaction between the executive and legislative branches of state government in the budget and appropriations process, primarily as reflected in the work of the Advisory Budget Commission (ABC), one of North Carolina's most influential bodies. The budget is a chief instrument of state policy and a primary source of political power in North Carolina and in both of these respects the role of the ABC is pivotal. Recently the role of the ABC has been challenged in a suit filed by Senator I. Beverly Lake, Jr., in which he cited conflicts between the Commission's activities and those sections of the North Carolina constitution that provide for the separation of legislative and executive powers and for the governor's exclusive responsibility for preparation and administration of the budget.<sup>1</sup> On the same constitutional grounds Senator Julian Allsbrook, the senior member of the state senate, has prefiled a bill to abolish the ABC that may be formally introduced in the 1980 Session of the legislature.<sup>2</sup> On the following pages the roles of the Advisory Budget Commission and its members are examined from historical, legal, practical, and theoretical points of view. While the creation of the Commission occurred with the passage of the Executive Budget Act of 1925, the characteristics of both the ABC and this originating legislation flow from a broader stream of state experience in fiscal affairs. This report considers the ABC in its wider context in an effort to increase understanding of both its virtues and its flaws by

those who question its appropriateness as well as by those who respect its accomplishments.

The Executive Budget Act provides that the Advisory Budget Commission shall consist of the "Chairman of the Appropriations and the Finance Committees of the House and of the Senate, two other Senators appointed by the President of the Senate, two other Representatives appointed by the Speaker of the House, and four other persons appointed by the Governor."

The current members of the ABC are:

Mr. H. Edward Knox, Chairman, appointed by the Governor. Charlotte.

Senator Harold H. Hardison, Chairman of the Senate Appropriations Committee. Deep Run.

Senator Marshall A. Rauch, Chairman of the Senate Finance Committee. Gastonia.

Senator Kenneth C. Royall, Jr., appointed by the President of the Senate. Durham.

Senator Joe H. Palmer, appointed by the President of the Senate. Clyde.

Representative Edward S. Holmes, Chairman of the House Appropriations Committee. Pittsboro.

Representative John R. Gamble, Jr., Chairman of the House Finance Committee. Lincolnton.

Representative H. Horton Rountree, appointed by the Speaker of the House. Greenville.

Representative Ben Tison, appointed by the Speaker of the House. Charlotte.

Senator James B. Garrison, appointed by the Governor. Albemarle.

Senator Ralph H. Scott, appointed by the Governor. Haw River.

Representative Liston B. Ramsey, appointed by the Governor. Marshall.

## EXECUTIVE SUMMARY

A suit recently filed in Wake County Superior Court and a bill prepared for the state senate at the end of the 1979 legislative session both focus attention on apparent conflicts between the functions of the Advisory Budget Commission (ABC) and the provisions of the state constitution dealing with the separation of executive and legislative powers and with the governor's authority for the preparation and administration of the state budget.

The 1925 General Assembly passed the Executive Budget Act in an effort to bring order to the state's chaotic budget and appropriations processes. That legislation created the Advisory Budget Commission, a body originally conceived to advise the governor during the preparation of his budget recommendations to the General Assembly. In addition, the ABC was designed to provide a small group of informed legislators who could assist their colleagues during the appropriations process.

In the years that followed 1925 and especially since 1940, the influence of the ABC has been extended by amendments to the original act, by the enactment of other legislation that assigned additional duties to the Commission, and most notably by special provisions inserted in appropriations bills. Today the ABC is involved in a variety of executive functions and its role in budget preparation goes far beyond supplying advice to the governor.

Discussions about the proposed budget between executive and legislative officials are essential to effective budget and appropriations processes and will occur under any circumstances. But some factors that first led to the creation of the ABC--for example,



the extended dispersion of legislators between legislative sessions--have vanished with the advent of annual sessions, frequent legislative meetings in Raleigh, more adequate legislative staff support, abundant budget and expenditure data, good communications, and easier travel. The Advisory Budget Commission is now but one of several formal and informal arrangements to bring together governors, legislators, and state agency officials in the development of budget recommendations for the General Assembly. And there is some question, in light of these changing circumstances, about whether the ABC has outgrown not only its original purpose but also its usefulness.

During the last two decades there has been growing awareness by legislators and governors alike of the extent to which members of the ABC can ease the passage of the governor's budget proposals by the General Assembly. In making the most of this situation, governors have tended to accept all but the most serious meddling by the ABC in executive functions. On the other hand, legislative members of the ABC have encouraged procedures that maintain or increase their own influence while limiting the effective participation of other legislators in matters referred to appropriations committees. As a result, few legislators other than Commission members seem to become familiar with the entire budget, much less with substantive policy matters reaching far beyond questions of funding that have been confined to the money committees.

The combined effects of the burgeoning power of the ABC and of the practices nurtured by its activities have profound effects on state government. They formally involve legislators in the governor's

exclusive constitutional responsibility for the preparation and administration of the budget. They intrude on the independence of the legislature. And they limit the development and participation of legislators in the work of the General Assembly.

There is real need to address these problems in the General Assembly. Even with enlightened leadership, the selection of the best courses of action to alter the role of the ABC will be a difficult and delicate task. The objectives to be sought in making these changes are to:

- eliminate the constitutional conflicts inherent in the activities of the ABC;
- retain an appropriations process that has the political and administrative capacity to produce adequate appropriations bills in a reasonable time;
- assign such authority as is needed to keep the appropriations process moving in the General Assembly to the presiding officers of the senate and the house of representatives; and
- broaden effective legislator participation in the appropriations process.

There are a relatively large number of options that would accomplish some or all of these objectives, including amending the state constitution to exempt the ABC from some of its provisions, amending the Executive Budget Act to redefine the function of the Commission, and abolishing the ABC. Although complete removal of the Advisory Budget Commission from the state government scene may be the surest way to solve the constitutional problems, less drastic changes could also achieve that result while retaining the Commission's more positive features.

It is proposed that the role of the ABC be altered by amending the Executive Budget Act and other statutes to limit the Commission's involvement in the execution

of the governor's constitutional responsibility for the preparation and administration of the budget, to strengthen the influence of the senate and house presiding officers over the ABC and appropriations matters, to reduce the size of the appropriations committees, and to increase the number of legislators who are effectively involved in an appropriations process to review more thoroughly the governor's budget recommendations and their policy implications. These study proposals would essentially establish the ABC as a legislative body that is less subject to the influence of the governor and less capable of projecting the governor's influence into the legislature's appropriations decision. As redefined in these recommendations, the principal functions of the ABC would be to provide a formal group of knowledgeable and responsible legislators and non-legislators with which the governor can discuss his budget recommendations, to assist other legislators in understanding the governor's budget proposals, and to observe the execution of the approved budget as directed by the General Assembly.

The report includes in its appendices additional information to assist citizens, state officials and scholars in evaluating and modifying the role of the ABC. Appendix A traces the most important amendments to the Executive Budget Act from 1929 through 1979; Appendix B provides language to amend the Executive Budget Act and the state open meetings law to accomplish the recommendations of this report; Appendix C shows the current text of the Executive Budget Act, modified to reflect the proposals in this report; and Appendix D lists related areas of study that might be undertaken by the research

community to improve understanding of the Advisory Budget Commission and other aspects of state financial management.

#### A NOTE ON TERMINOLOGY

Financial administration is a broad term that includes the framework within which state budgeting is carried on and consists of fiscal policy determination and accountability, as well as those functions directly associated with budgeting. The discussion that follows is concerned primarily with the three major phases of state budgeting. These are:

1. Budget preparation, which involves the development of department plans, programs, and proposed expenditures, as well as their review within the executive branch and presentation to the legislature in the form of a proposed budget and proposed appropriations bills.
2. Legislative review and appropriations, which includes review of the various proposed department budgets and requests for appropriations, as well as the development and enactment of appropriations bills.
3. Budget execution, which involves the execution of the budget as approved by the legislature and reflected in the appropriations bills, including such functions as allotting the appropriations to the departments, the pre-audit of department requests for payment (by checks or warrants), the disbursing (or spending) or funds authorized in the approved budget, and record keeping necessary for controlling expenditures, accounting, and auditing.<sup>3</sup>

In North Carolina the budget requested by state agencies (and reviewed by the governor and the Advisory Budget Commission) is referred to as "the budget request" or "the requested budget;" the budget recommended to the General Assembly by the governor and the ABC is called "the recommended budget;" and the budget approved

by the General Assembly and transmitted to state agencies by the governor's budget office at the beginning of the fiscal year is called "the certified budget."

## THE NORTH CAROLINA SETTING

The bloodshed and anguish of the Revolutionary War forged more than freedom for a new country. Included in that heritage was a deep-seated suspicion of governors and judges, the functionaries that represented the King of England in colonial America. Embedded in the minds of many patriots was the idea that any concentration of power in the hands of a governor was bound to lead to oppression of the people, and that the legislature was the most reliable agent for preventing this from happening. Professor James Willard Hurst described the roots of these sentiments this way:

"The colonial years left a long memory in the first states of conflicts in which the legislature spoke for home interests against English trade and land policies that were designed to subordinate the American settlements to the British economy and ruling class. Moreover, in these contests, the legislature often spoke immediately in opposition to the colonial executive and courts, which were appointed agents of Crown policy. Because the other branches were creatures of the Crown, the legislative assemblies took direction of the gathering drive for independence, and of the war that followed. Through their committees they exercised a good deal of executive and judicial power... The fight to enlist public opinion for independence planted deep in popular imagination the notions that the people were sovereign and that the locality was a natural unit for their representation. From these ideas the popularly elected, single-member-district assembly derived a firm acceptance as the most direct and authoritative voice of public policy."<sup>4</sup>

Given these sentiments, it is not surprising that the governor of North Carolina was elected by the General Assembly for more than half a century following the revolution. And, until well into the twentieth

century, the primary source of the chief executive's power was his appointments to and ex officio membership on a steady progression of boards and commissions created as new needs arose. There were appropriations, of course, but it is doubtful that the General Assembly prior to the twentieth century gave serious thought to asking the governor to submit a budget for executive agencies or to administer and control expenditures. Instead, as problems occurred, the legislature sought to solve them directly by its own actions, often with some reliance on the state auditor or the state treasurer.<sup>5</sup>

Among the earliest problems confronting the General Assembly was that of holding expenditures to the level of revenues. This was no simple task because both appropriations and tax collections were authorized by any number of individual bills introduced at various times throughout each session. These practices, combined with the rudimentary understanding of economics and revenue estimation prevailing at the time, resulted in expenditures exceeding revenue in over half of the fiscal years between 1868 and 1901.<sup>6</sup> The legislature reacted to these excesses in two ways. Bills containing appropriations began to provide increasing detail about the purposes for which the appropriations were to be spent, and there was also a move to place somewhat more responsibility on administrative officials by requiring them to verify needs before spending appropriations. These efforts took several different forms -- occasionally involving the governor and the Council of State in controlling expenditures, providing

penalties for institutions that spent beyond the amounts appropriated or for purposes other than those specified in the authorizing legislation, and requiring detailed reports to the legislature on how the state's money was spent. The latter part of the nineteenth century also saw the initiation of separate appropriations for each of the two fiscal years between sessions.<sup>7</sup> While these measures undoubtedly had some effect, they were not general or continuing requirements because they appeared in some appropriations bills and not in others. The one most common constraint was language in many bills that authorized expenditures "...out of any moneys in the treasury not otherwise appropriated." Such provisions placed the treasurer in a rather awkward position, but offered scant assurance of improving fiscal management.<sup>8</sup>

#### TRYING TO FIND THE HANDLE

By 1897 the General Assembly had recognized the need for some fiscal constraints that applied to all, or at least to most, appropriations. In that year legislation was enacted that authorized the state treasurer to determine "whether he shall pay any annual appropriation in monthly, quarterly or semi-annual installments or in a single payment."<sup>9</sup> Although the Executive Budget Act of 1925 shifted this authority to the governor as Director of the Budget, it remains the most ancient direct ancestor of the Act as currently in force (GS 143-26).

The finance committees of the General Assembly attempted to monitor agency expenditures, but by



the early 1900's the growth of state programs and the complexities of expenditures and the revenue system had become difficult for legislatures to grasp. By 1905 the treasurer was asked to estimate expenditures and required tax collections for each two years and the larger agencies were directed to provide the General Assembly draft appropriations bills for their support.<sup>10</sup> As an additional aid to budget and appropriations planning, the 1917 session established a requirement for the Legislative Reference Librarian to collect from all state agencies and institutions itemized statements of expenditures for the prior two years and of their needs during the following two years.<sup>11</sup>

Although the 1917 legislature did not include the governor in budget and appropriations planning, it did authorize his extensive involvement in expenditure control through the creation of the Board of Accounting. That Board, which the governor chaired, was directed to set up mandatory accounting procedures for all state departments and institutions. In the same act the governor was authorized to establish a commission to investigate any state agency "upon complaint made to him or upon his own motion."<sup>12</sup> The legislature had moved a long way toward placing reliance on the governor to assure that public funds were properly accounted for and lawfully spent.

#### THE FIRST BUDGET COMMISSION, 1919

Although Governor Thomas W. Bickett, a former state attorney general, was noted primarily for his relatively liberal views in matters of health,

education and corrections, it was he who succinctly stated the budget problem in his message to the General Assembly on January 9, 1919. He said:

"No General Assembly can levy taxes intelligently in the absence of a reasonably accurate knowledge of what the State's liabilities will be for the ensuing two years. It is practically impossible for the finance committees to obtain this knowledge during the session of the General Assembly. North Carolina ought to adopt a modern budget system."<sup>13</sup>

With these comments Governor Bickett began what was to become a decade of intensive negotiation and legislation which culminated in the revised Executive Budget Act ratified in 1929, the parent of today's budgetary procedures and of the Advisory Budget Commission.

The 1919 General Assembly responded to Governor Bickett's call for a "modern budget system" by creating a budget commission headed by the governor and consisting, in addition, of the appropriations and finance committee chairman of the House and Senate. In contrast to many of the earlier legislative fiscal devices to control expenditures, the statute creating the new commission focused attention on budget planning, preparation, presentation to the General Assembly, and review by the appropriations committees.<sup>14</sup>

At first glance this shift in emphasis by the General Assembly, and especially the extensive involvement of the governor, seems surprising. Interest in developing "more business-like" approaches to budgeting, however, was a national phenomenon stimulated by growth in public expectations and expenditures, by the increasing public debt, and by the perennial problem of balancing expenditures.

with revenues. At the same time there was growing recognition among students of state government by the early 1900's that the governor should be given complete responsibility for the preparation of the budget. Between 1911 and 1915 twelve states set up some kind of a budget system and the number grew to 44 by the end of 1919. Most of the earlier systems placed control in the legislatures, but state budget legislation after 1915 tended to accept the theory of executive responsibility.<sup>15</sup>

Although the question of executive control of budget preparation had not yet been resolved here, the North Carolina act of 1919 was consistent with these national trends. That act created a Budget Commission chaired by the governor, but made it clear that the General Assembly was not yet prepared to give the state's chief executive full and effective control of the budget development process. Instead, the legislature seemed to look on the work of the Budget Commission as an extension of its own budget power and a practical way to accomplish more orderly preparation and consideration of the budget.

The 1919 act established many of the procedures for budget preparation and review that were later embodied (frequently with some modification) in the Executive Budget Act of 1925 and its subsequent 1929 revision, including the use of standard forms for itemized budget requests, public hearings on the budget estimates, surveys of all departments by the commission, submission of the budget to the General Assembly, information to accompany the budget, submission of appropriations

bills, joint open meetings of the appropriations committees, precedence of the budget bill over other appropriations measures, the legislative prerogative to increase or decrease proposed appropriations and the employment of staff to assist the commission.<sup>16</sup>

Like many other steps forward, the 1919 act was followed by two steps backward. In the special session of 1920 the 1919 act was amended to exempt from its provisions "the usual current expenses" of the executive, legislative, and judicial departments. The effect of this new provision was twofold: to make a distinction, for these three departments, between usual current expenses and other presumably new or enlarged expenses; and to destroy the comprehensiveness of Budget Commission's responsibility.<sup>17</sup> A second amendment in 1920 deleted the provision in the 1919 act requiring that the commissions appropriation bill be enacted by the legislature before special appropriations bills could be considered.<sup>18</sup> This greatly reduced the capacity of the General Assembly to balance expenses with projected revenue.

The year 1920 was also a bad one for the proposed new federal budget system. Although President Woodrow Wilson favored such legislation, he vetoed the Congress' bill because he felt it unconstitutionally restricted the president's power. A year later, however, Congress passed and President Harding approved the Budget and Accounting Act which established the executive Bureau of the Budget, and many of the current federal budget procedures, as well as the General Accounting Office.<sup>19</sup>

Back in North Carolina, the 1921 and 1923 sessions of the General Assembly resumed their progress toward

a workable budget system and modified the 1919 legislation further to:

- make unlawful the use of current expense appropriations for permanent improvements;
- establish a more realistic time schedule for the Budget Commission's work;
- require biennial reports from agencies to the governor and members of the General Assembly which included statements of income and expenses as well as the agencies' budget requests;
- require monthly financial reports to the governor and the Budget Commission;
- allow the Budget Commission to include in its report to the General Assembly additional recommendations not specified in the 1919 act;
- provide for a Secretary to the Budget Commission; and
- authorize the Budget Commission to make an audit of any state agency and report the results to the General Assembly.<sup>20</sup>

Although most of these changes were logical and well-intended, they did not undo the damage of the 1920 amendments.\*

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\* The seriousness of the state financial situation during this period prompted the governor to call extra sessions of the legislature in 1920, 1921, and 1924 primarily to deal with money matters. The 1923 session of the General Assembly echoed the same concern when it passed Resolution 12 directing a joint committee "to take such steps as they may deem fit and necessary to investigate and ascertain the true and correct fiscal and financial condition of the State." The work of this committee in turn resulted in the Price, Waterhouse Company report on the condition of the state general fund cited in footnote #21.

The resulting budget system was clearly not intended to go too far in the direction of an executive budget. In a report prepared for the governor and the 1923 General Assembly, the State Auditor urged adoption of an executive budget and also recommended that such a system be made more permanent by a constitutional amendment.<sup>21</sup> Although no action was taken on these recommendations in 1923, the stage was set for the arrival of Governor Angus Wilton McLean, a lawyer and banker with Scottish heritage on both sides of his family. When McLean took office in 1925, North Carolina bonds had been repudiated by some New England banks, the budget "system" was still to be perfected, and per capita state debt was among the highest in the nation.<sup>22</sup>

#### THE EXECUTIVE BUDGET ACT OF 1925

In a special message to the General Assembly on January 21, 1925, Governor McLean minced no words in asking the legislature "to enact a law converting the present Legislative Budget Commission into an Executive Budget Commission and to give it enlarged and more effective powers of supervision over the fiscal affairs of the State." McLean went on to say:

"The governor, who is, under the present legislative system, nominally chairman (of the Budget Commission), should be made the real executive head of the commission, constantly directing its affairs, very much in the same way that the president or other chief executive of a large business concern supervises the affairs of its various departments. The commission, through the governor as its executive head, should perform some or all of the following functions: (a) awaken a spirit of economy and efficiency in the public service;

(b) scrutinize and subject to the test of necessity and public welfare all items of proposed expenditures; (c) eliminate waste and extravagance, if any exist; (d) prevent duplication of effort and outlay by the various agencies; (e) constantly supervise the fiscal operations of the state in respect to both revenues and expenditures; (f) formulate and recommend plans for the better coordination, organization and administration of the various institutions; (g) prepare and submit, for action by the General Assembly, a budget of estimated receipts and expenditures for the State as a whole, after receiving, examining and passing upon the reports and estimates of the various departments and institutions, to the end that current operating expenses shall, at no time, exceed current income applicable thereto."<sup>23</sup>

Nine days later Governor McLean was back before the General Assembly again. He cited the numerous deficiencies of the existing budget system, including the operation of some agencies under general authorizations that allowed them to spend whatever they considered necessary, the absence of definitive information on departments that operated out of receipts, and the willingness of the General Assembly in past sessions to appropriate more than the Budget Commission recommended. Again McLean proposed as a cure for these ailments the enactment of an executive budget act.<sup>24</sup> Four weeks later, on February 28, 1925, the first North Carolina Executive Budget Act was ratified.<sup>25</sup> It was amended later in the same session to strengthen the distinction between appropriations for permanent improvements and those for maintenance, and to emphasize the responsibilities of the governor and the department heads to see that appropriations were used only for the purposes for

which they were provided.<sup>26</sup>

The 1925 Executive Budget Act, as amended, accomplished much of what Governor McLean intended. Although the question of the chairmanship of the Advisory Budget Commission was not addressed, the governor, as ex officio Director of the Budget, was given strong influence over the fiscal affairs of the state.\* Only in the preparation of the budget was his responsibility shared with the Advisory Budget Commission. That commission, which was clearly identified as advisory, was to be called into conference in January and July of each year as well as for the biennial consideration of the budget "and at such other times as in the opinion of the Director may be in the public interest." In the event of disagreement between the governor and the commission on the proposed budget, the budget was to reflect the governor's views but incorporate such dissenting recommendations of the commission or its members as they wished to file. Disagreements were also to be pointed out in the presentation of the budget appropriations and budget revenue bills.

Other provisions of the 1925 Executive Budget Act specified that the Advisory Budget Commission would consist of the chairmen of the House and Senate finance and appropriations committees plus two others appointed by the governor, "whose duties

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\* Although some governors have personally presided over the ABC, the Commission has usually elected its own chairman from among its members. In recent years, however, the governor has indicated his preference for chairman from among his appointees to the ABC and the Commission has elected him.



shall be as hereinafter defined." As noted above, those duties were limited to advice to the governor in the preparation of the budget.

Although the procedures in the 1925 Executive Budget Act for handling the budget and appropriations were similar to those in the 1919 act creating the Budget Commission, there were several important additions. The 1925 legislation greatly strengthened the governor's authority to direct the budget preparation process, restored the requirement that the appropriations bill from the governor and the Advisory Budget Commission be acted on by the General Assembly before other special appropriations bills could be considered, authorized a contingency and emergency fund "to the end that all expenses of the State be brought within the budget," gave the governor the authority to examine state agencies to detect overlapping duties, to assure the adequacy of accounting and control systems, and to provide for the protection of property, and authorized the governor to examine or cause to be examined the accounts of the state treasurer and state auditor. One of the most significant provisions of the 1925 act established the procedures for allotting funds to state agencies (after appropriation by the General Assembly) and gave control of these procedures to the governor. This authority has been useful in controlling expenditures in hard times, and the threat of its use at any time is a powerful tool of governors in the execution of the budget.<sup>27</sup>

Two other features of the 1925 Executive Budget Act are important to note. One made it

clear that the act was to govern all appropriations and all money disbursed from the state treasury. The second authorized the governor to delegate in writing any of his authority under the act. This latter provision provided the potential to cloak the newly created budget bureau with significant power.

When Governor McLean returned to the General Assembly to present his budget message in 1927 he took pains to point out how well the new executive budget system had worked since its enactment two years earlier. He noted that by using his allotment authority he had reduced expenditures by 5 per cent in the 1925-26 fiscal year to keep them within projected revenue for the same period. There is little doubt that the General Assembly was delighted to hear Governor McLean report substantial interest saved as a result of reduced short-term borrowing, reduction of printing costs by approximately 50 per cent, and lower per capita operating costs in some of the state's institutions.<sup>28</sup>

It is interesting to note that Governor McLean had exclusive authority at the beginning of the 1927 Session over the quarterly allotment system. However, when the appropriations bill was ratified that year, the General Assembly included in it language that required concurrence of a majority of the Advisory Budget Commission if the allotment amounts to state agencies were reduced to avoid overspending revenues.<sup>29</sup> The Advisory Budget Commission had begun its steady transformation from an agency with limited advisory functions in budget preparation to one that now firmly straddles both preparation and execution.

## THE REVISED EXECUTIVE BUDGET ACT OF 1929

Even with the passage of the 1925 Executive Budget Act, the major features of state budget planning, preparation, consideration (by the General Assembly), appropriation, and execution were distributed among three different acts. The 1925 Executive Budget Act dealt rather thoroughly with the preparation and presentation of the budget and with the legislature's review and appropriations processes, generally following the pattern established by the 1919 Budget Commission act. But, as noted above, there was also an amendment to the 1925 Executive Budget Act in the same session that made clear the responsibility of the governor in the execution of the budget to "see that all money appropriated for either permanent improvements of maintenance shall be expended in strict accordance with the budget of each institution, and the appropriation made by the General Assembly for such purpose." In addition, the 1925 bill for maintenance appropriations repealed the 1917 authorization for the Board of Accounting and left some uncertainty in that area with respect to the governor's authority. Finally, as might have been expected, there were some inconsistencies among the various acts affecting the budget process, including the language in the 1929 appropriations bill that involved the Advisory Budget Commission in the reduction of allotments to avoid overspending revenues.

The General Assembly dealt with these problems in the 1929 session by revising and re-enacting

the Executive Budget Act. The new act pulled together the provisions of the original legislation, the 1925 amendment that dealt with appropriations for permanent improvements, and the language in the 1927 appropriations bill for maintenance. However, the new legislation also made some significant changes in basic provisions of the Executive Budget Act to tighten the application of the act to all state agencies and funds, to strengthen the authority of the budget bureau over state agencies, to provide for legislation to regulate the listing and collection of local property taxes ("Budget Machinery Bill"), and to establish punishments for failure to comply with the provisions of the Executive Budget Act.<sup>30</sup> Although the 1929 bill reaffirmed the governor's exclusive control of the allotment process, it also incorporated the procedure for reducing appropriations when necessary to avoid overexpenditure "by and with the advice and consent of a majority of the Advisory Budget Commission." This was the only expansion of the Commission's authority in the 1929 bill and was, at that time, the only involvement of the Commission in budget execution authorized in the act.

The budget system that was prescribed by the 1929 Executive Budget Act recognized the three major phases of the budget process, preparation and presentation, review and appropriation, and execution, and established the procedures to accomplish these activities in concert with the development of revenue measures. Although the North Carolina statute was generally consistent with budget legislation in other states, it expanded

the authority of the governor to a rather remarkable degree, given this state's traditions. The Executive Budget Act also gave the General Assembly the orderly and restrained processes it sought for making appropriations and raising revenue and especially for keeping state income and expenditures in balance. The resulting budget system was created just in time to be used in dealing with state financial problems caused by the Great Depression. It was, perhaps, too severe a test of the new law. Although Governor O. Max Gardner reduced expenditures under the authority of the Executive Budget Act, that action was not sufficient to avoid deficits in 1930-31, 1931-32, and 1932-33. These were, however, the last years in this century in which the state's appropriations expenditures exceeded the revenue collected.<sup>31</sup>

#### CHANGES SINCE 1929 IN THE AUTHORITY OF THE ADVISORY BUDGET COMMISSION

Three basic procedures have been used to modify the functions of the ABC since 1929:

- amendments to the Executive Budget Act;
- the enactment of other statutes in which duties are assigned to the ABC; and
- provisions inserted in appropriations bills.

Although there were 58 amendments to the Executive Budget Act from 1929 to 1979, relatively few of them expanded the authority of the ABC. The most significant of these were those measures to increase the independence of the state treasurer

and the state auditor from the fiscal control of the governor in 1955; to require the approval of the Commission of allocation plans for appropriated area vocational training school funds, added in 1957; and to authorize the governor and the ABC to modify the scope and cost of building construction projects within the amounts approved by the legislature and to authorize new projects supported by grants or gifts, passed in 1965.

Appendix A contains a more detailed account of amendments to the Executive Budget Act since 1929 and of the fate of some especially sensitive amendments drafted during the last Republican administration.

Although these amendments to the Executive Budget Act were important additions to the Commission's authority, especially in the execution of the budget, they are only "the tip of the iceberg." Many more expansions of the Commission's role have occurred over the years in other legislation and especially in the appropriations bills. In 1931 the statute enacted to establish the state purchasing system included the involvement of the ABC<sup>32</sup>, but today the state purchasing manual states flatly that the "governing body of the (purchase and contract) Division as to policy is the Advisory Budget Commission."<sup>33</sup> The Commission, or a little-known group of its members called "the board of awards," are also in a position to know about and to intervene in the award of contracts for state supplies and equipment.\*

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\* The current purchasing statute grants extensive influence to the ABC, including the authority to prescribe conditions for waiving competitive bidding procedures, for reviewing purchasing decisions, for making contract awards, and for rejecting bids. (G.S. 143-53) In addition, the ABC "may designate

Legislation passed in 1963 involved the Commission in approving the allocation of appropriated funds to institutions of the community college system. Today the approval of the ABC is required for the establishment of a new institution, for conversion of an institution to a new type, and for the expenditure of state funds for capital improvements at community colleges and technical institutes.<sup>34</sup> Other sections of the general statutes mandate the approval of the Commission before bonds can be issued to finance capital improvement projects at state-supported universities and involve the ABC in administrative matters in such areas as public schools, motor vehicles, highways, salaries, and allowances.<sup>35</sup> Since 1969 the rules governing eligibility for public assistance and the amounts of grants provided under these programs have been subject to the approval of the Commission and the governor.<sup>36</sup>

Such statutory provisions outside of the Executive Budget Act extended the influence of the Advisory Budget Commission over budget execution in ways that are difficult to measure precisely.

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itself" to participate with the secretary of administration or the state purchasing officer in canvassing bids and awarding contracts, according to the state purchasing manual (p41). In this connection a recent operational audit of state equipment leases or rentals is of interest. That report describes the role of the board of awards, documents \$701, 747 in "excess lease payments", and concludes that there is a need "for developing standard, objective criteria upon which a recommendation to lease or purchase can be made." ("Lease or Rental of Capital Equipment in North Carolina State Government," Department of State Auditor, January 1980.)

Nevertheless it seems fair to say that this increase in power has been significant and far beyond anything envisioned in the Executive Budget Act of 1929.

Although opinions vary about the importance of appropriations bills as sources of the Commission's authority over budget execution, it is clear that the delegations of authority to the Commission in appropriations bills have become more numerous with the passage of time. There was no such mention of the Advisory Budget Commission in the 1929 and 1939 appropriations bills, and there was only one mention of the Commission in the 1949 bills and four in the 1959 appropriations bills.<sup>37</sup> However, a more rapid upward trend started in the 1960's and, in the 1979 ratified operating and capital improvements appropriations bills, the Advisory Budget Commission was mentioned in 23 separate instances.<sup>38</sup> The figure is misleading to the extent that some recent appropriations bills have repeated references to the Commission from other legislation, a practice that tends to increase the visibility and apparent influence of the Commission. But it is still clear that the appropriations bills have become a major source of authority for the Commission's involvement in the execution of the budget.\*

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\* The role of the Advisory Budget Commission as defined in appropriations bills may be particularly important because most legislators are somewhat familiar with the language in those bills while relatively few members of the General Assembly are aware of the origins, intent, and provisions of the Executive Budget Act. The contrast between the current budget authority of the governor and the authority provided him in the original Executive Budget Act is made clearer by the comments of the Brookings Institution in a 1930 report on financial control in this state: "The present act as amended in 1929 is one of the most complete executive budget laws we have had the opportunity to observe in actual operation. It gives the Governor entire control over the financial proposals and operations of the state government."<sup>39</sup>



Given the slowness of the rate at which change occurs in the General Assembly and the rapid increase in the size and complexity of the state budget, the expanding role of the Advisory Budget Commission may be understandable. However, these same phenomena raise important questions about the boundaries between executive and legislative actions, about the adequacy of the legislative appropriations process, and about the role of the Advisory Budget Commission in general.

#### THE BUDGET AND APPROPRIATIONS PROCESS TODAY

Although in recent years the General Assembly has met annually, the most important budget sessions occur in odd years, a carryover from the time when those were the only years in which the legislature convened. About midsummer, prior to an odd-year session of the General Assembly, the office of state budget and management of the department of administration sends out budget preparation instructions prescribing the format and the time sequence for submitting agency budget requests. In late summer or early fall the Advisory Budget Commission briefly visits selected state institutions, especially those that will seek funds for renovations and new construction. During this tour, which usually involves 5 to 10 days of travel, the Commission and the accompanying budget office and legislative staff members are shown the facilities, briefed by the responsible

officials, and generously wined and dined. The departments' budget requests for continuing existing programs are submitted in September, followed by their requests for new or expanded programs and capital improvements in October or November. In September or October public hearings are also held on the expansion requests, and in November the Advisory Budget Commission begins its consideration of the entire budget.

The Commission's work usually begins with a review of the anticipated revenue situation for the next two years and a summary of the continuation requests. Of greatest interest to the Commission and the governor is the difference between the total of the continuation requests (which have in some cases been modified by the budget office) and the available resources. This difference establishes a limit within which new or expanded programs and new capital improvement projects may be funded.

The Commission then reviews brief summaries of the departments' expansion requests and their costs which have been prepared by the state budget office. Although most of the requests recommended by the budget office are approved, some are discussed at length, and some are deferred for more information or because of other considerations. When acting on the budget, Commission meetings are usually closed to outsiders.\* Although the departments' expansion requests are screened by the governor's budget office, requests

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\* The North Carolina open meetings law excludes from its provisions "meetings of the Advisory Budget Commission held for the purpose of actually preparing the budget required by the provisions of the Executive Budget Act..."

that are important to department heads or to the governor find their way to the Commission.\*

Once all requests have been considered and acted on by the ABC, the budget preparation work of the Commission is finished and the budget office goes through several hectic weeks preparing the final document for presentation to the General Assembly early in January. This document is commonly referred to as "the recommended budget" because it embodies the recommendations of the governor and the ABC.

A few days after the legislature convenes, the governor presents his budget message to a joint session of the two houses. On that occasion the budget document(s) are placed on the legislators' desks but they are, until that moment, not generally available to the public. About the same time, identical appropriations bills based on the recommended budget are introduced in each house by the chairmen of the appropriation committees.

Within a week or two following the governor's budget message, the 85 or more members of the joint appropriations committee begin their work.\*\*

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\* In accordance with the provisions of the Executive Budget Act this screening process of the budget office is not applied to the budget requests of the state auditor and state treasurer.

\*\* Although the title "joint appropriations committee" is commonly used, the house and senate appropriations committees are separate bodies that sit jointly in considering appropriations matters, as required by the Executive Budget Act. The rules of both houses reserve to each of these committees the right to vote separately.

That committee which has in recent years been composed of over half the members of each house, usually starts its consideration of the budget with a summary of the recommendations of the governor and the Advisory Budget Commission by the budget staff, including the revenue estimates on which the budget is based. During the next several weeks the departments are afforded the opportunity to present to the joint appropriations committee their "supplemental requests" which are essentially petitions for funds that were cut from the departments' original requests submitted to the budget office, with occasional further additions prompted by new circumstances.

Following the presentations of "supplemental requests," the joint appropriations committee is usually organized into subcommittees for more detailed consideration of individual department budgets in four groupings: general government and transportation, education, human resources and corrections, and base budget. In the 1979 session these subcommittees were upgraded to committee status, but they still function essentially as subcommittees of the joint appropriations committee. The base budget committee (or subcommittee) first appeared in the 1973 session and was originally intended to give more thorough consideration to the continuation budget recommendations. The other committees devote most of their attention to the recommendations and supplemental requests for new or expanded programs and for capital improvements. In recent years this division of responsibility has caused considerable difficulty because the actions of the base budget committee were not always consistent with those of the other appropriations committees and because the overlapping subject matter of committees made staff

support very difficult. These problems were largely solved in 1979 by assigning to the base budget committee the same legislators who were assigned to the other three committees, except for the chairmen. The result was that both the continuation and expansion recommendations and the supplemental requests for a department were reviewed by the same group of legislators. However, once the budget comes to the legislature, no one group of its members considers the entire document in the manner of the earlier review by the Advisory Budget Commission.

The legislative review of the recommended budget proceeds very slowly during March, April, and May, accompanied by an enormous volume of paper from the departments, interest groups, and staffs. During the same period, especially in times of economic uncertainty, the joint committee on the economy is considering the administration's revenue estimates and those of the legislative staff. The administration's final estimate is usually presented in early April, following the revenue department's report of first quarter tax collections. Once this estimate is received and accepted or modified by the joint committee on the economy, the pace of legislative budget activity picks up. The appropriations committees finish their work and present their reports to the full committee in late April or early May. Totals are calculated and compared to the estimate of the revenue that will be available. The difference is the amount of projected available revenue that can be appropriated for supplemental requests from the departments or for a few of the hundreds of special appropriations bills introduced

by individual legislators. First, however, the "main" appropriations bills for operations and for capital improvements must be enacted as required by the Executive Budget Act.

As those two bills are being shaped into their final form, legislative activity intensifies as members of the General Assembly attempt to have added to these "main" bills appropriations of particular importance to them. They can be certain that such projects are assured if they are included in these two bills when they are reported out of the joint appropriations committee: few legislators can recall any session in which these bills were substantially amended on the floor of either house. During this period the funds for some special bills and supplemental requests may be added to the two main bills. These final additions and other adjustments are made by a relatively small group of key appropriations committee members that includes the chairmen of the full appropriations committee as well as the chairmen of the other four appropriations (sub) committees. This group of final arbiters is referred to as "the supersub" and it is usually an ad hoc committee appointed near the end of the appropriations process by the chairmen of the senate and house appropriations committees.

As the appropriations bills are being readied to report out of committee, procedures are developed to deal with the numerous special appropriations bills. These procedures vary considerably from one session to the next, depending on the preferences of the leadership and the amount of money that is expected to be available for these purposes. Although there are exceptions, most special bills are designed to appropriate funds for small local projects or department

programs of interest to particular legislators or communities, such as historic sites, studies of various state problems, small state office buildings, and local festivals. Some special appropriations bills duplicate supplemental requests presented by the departments and occasionally result in a major appropriation. For the 18 years through the 1978 session the amount appropriated from the General Fund for special bills averaged about \$9 million per year or less than 1% of the total General Fund appropriation. During the same period net supplemental General Fund appropriations averaged about \$45 million per year or about 4% of the total General Fund appropriation.\*

About mid-June the two appropriations bills for operations and capital improvements are reported out of committee in both houses and described in varying detail by the appropriations committee chairman. Although floor discussion and some debate on these bills is not uncommon, they are rarely amended and are normally ratified by both houses within a week. Soon afterwards the committee chairmen also report out those special bills given favorable reports by their committees. Some of these bills generate serious controversy, especially if they become the focal points for disagreements between the leadership of the two houses. However, most special bills are also ratified within a week or two, opening the way for the General Assembly to consider adjournment.

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\* Net supplemental appropriations are the net appropriations added by the General Assembly to the recommendations of the governor and the ABC, exclusive of appropriations for special bills.

The months of appropriations committee activity are paralleled to some extent by the activities of the finance committees as they consider bills to alter the state tax structure. As with appropriations, the administration's tax measures are usually introduced through identical bills in each house. Other tax bills, often reflecting legislative initiative, may be introduced in either house. In some years the finance committees consider many bills jointly but often their work is done independently. The General Assembly usually takes a more independent stance with respect to finance matters than is the case with appropriations matters. As a result, the resolution of differences in tax measures is often very time consuming although the number of issues raised may be far less than those raised by the appropriations bills. Obviously it is essential for the General Assembly to decide on its tax measures before the joint appropriations committee can determine the revenue expected to be available in the next two years. This need for coordination between tax and appropriations matters was one of the reasons given for the creation of a senate committee on ways and means in 1977.\*

The General Assembly normally adjourns within a week or two following the passage of the appropriations

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\* The Executive Budget Act designates the appropriations and finance committee chairmen of both houses as members of the ABC. This was a logical requirement in 1929 when the state tax system was re-enacted (and often changed) during each session of the legislature. Since 1939, however, the state has had a permanent revenue act, the existence of which has reduced the responsibilities of the finance committees as well as the likelihood of significant changes in the tax structure. Under current circumstances the need for finance committee chairmen to serve on the ABC permanently seems to be questionable.



measures. The budget office of the department of administration, which has followed the entire appropriations process closely, must then translate most of the large single sums in the appropriations bills into the detailed budget structures of the departments that reflect the changes made in the appropriations committees. The resulting "certified budgets" are the initial budgets for the individual departments for the upcoming fiscal year. These budgets will change in the course of the year that follows because of changing circumstances and other factors, using the flexibility provided in the Executive Budget Act and in the appropriations bills themselves. Such modifications are closely controlled by the budget office and may require the approval of the Advisory Budget Commission in some important instances.\*

Appropriated funds for operations cannot be spent until they are allotted to the departments. The amounts allotted are based on quarterly requests from the departments as approved or modified by the budget office. In the event allotments must be reduced because of insufficient revenues, they must be reduced on a pro rata basis with the approval of the

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\* There are many "gray areas" concerning budget execution matters that must be approved by the ABC. Some agencies request the Commission's approval of proposed actions to reduce the possibility that the actions will be questioned or criticized later, even though there may be no clear requirement to take the proposals to the ABC. In these instances the indorsement of the ABC clearly makes it more difficult to assign responsibility for the actions to individuals or even to the executive branch.

Advisory Budget Commission. Once a department has received its approved quarterly allotment, it may issue or request the issuance of properly supported checks or warrants drawn on the state treasurer. Such checks or warrants are reviewed prior to their release for payment by the state disbursing officer or, in some agencies, by his counterpart there. This "pre-audit" is an additional control to prevent unauthorized expenditure.

Funds appropriated for capital improvements are excluded from the allotment procedures described above for operating funds. Capital improvement appropriations are normally allotted after contracts are awarded. The funds then move into separate construction accounts for each project from which disbursements may be made generally as described for operating funds but subject to additional control by the office of state construction in the department of administration. As indicated earlier, the Advisory Budget Commission also has a significant role in the execution of some capital improvement projects. When requested by a state agency, the governor and the Advisory Budget Commission, acting together, may increase or decrease the costs and scope of a capital improvement project "within the capital improvement appropriation to that agency or institution for that biennium." The governor and the Commission may also "authorize the construction of a capital improvement project not specifically provided for or authorized by the General Assembly when funds become available by gifts or grants," if requested by a state agency and when, in the opinion of the governor and the Commission, such action is in the best interest of the state.<sup>40</sup> It is generally agreed that some latitude in the execution of construction

projects is highly desirable to allow adjustments to be made in response to cost increases and unforeseen circumstances. And, in most states, the authority to make these adjustments is divided between the governor and some other body that includes legislative representation.

In understanding the budget and appropriations process, it is important to note the roles of the principal staffs, the budget office of the department of administration, and the fiscal research division of the General Assembly. In the preparation of the recommended budget by the governor and the Advisory Budget Commission, staff support is provided exclusively by the executive central fiscal staff, the budget office. The legislative finance and appropriations committees, on the other hand, also rely heavily on staff support from the fiscal research division, which prepares the final main appropriations bills. Both the budget office and the fiscal research division closely monitor all phases of the budget and appropriations process so they can keep their respective leaders informed.

#### HOW ITEMS GET IN THE BUDGET

The budget process involves the complex interaction of state agency personnel, the budget office, the governor, the Advisory Budget Commission, the appropriations and finance committees, the legislative fiscal staff, public interest groups, and 170 legislators with various constituencies. The dynamics of the process are further complicated by the role of the public with its rapidly changing but intense interest in some issues and complete disregard for

others, and by the influence of the news media in muting or amplifying the issues involved as well as the importance of actions by all of these participants. Yet, in spite of these complexities, it is possible to identify some fundamental characteristics of the process and some strategies for using it effectively to get a new program in the budget or to expand an existing program.

Although the annual state budget is about \$5 billion, most of that money is budgeted to support programs that are already in operation as a result of existing state or federal mandates. To be more specific, roughly 90 per cent of the General Fund appropriation is made to continue on-going programs. Since government budgeting encounters great difficulty cutting out existing programs, the 10 per cent available for new or expanded activities must accommodate an enormous number of demands such as pay increases for teachers and state employees, the construction and renovation of office space, new automobiles, and inflationary cost increases of all types, as well as new or expanded programs. Therefore one of the keys to success in this kind of competition is to get what you want in the department's budget request before it comes to the Advisory Budget Commission, if possible. With the enthusiastic support of the department head and the acquiescence of the governor, the project may successfully "ride the coat-tails" of the rest of the governor's budget, provided the project is not too noticeable. If the governor is a strong supporter of the project it is virtually assured of getting to the legislature in the recommended budget, and stands a good chance of staying in the final appropriations bill.

A second strategy is to directly approach one or more members of the Advisory Budget Commission. A member will normally have relatively little difficulty convincing a department head that the proposal should go in the department's budget request. The Commission member will also encounter few problems with his colleagues on the Commission. And, if the Commission member is also the chairman of the senate or house appropriations committee, the proposed project is not likely to run into trouble in the General Assembly. This strategy argues in favor of selling new proposals to the appropriations committee chairmen on the Advisory Budget Commission, if possible. But the same approach with slight modifications can be successfully pursued through other legislative members of the Commission.

The first two strategies outlined above involve getting a new proposal into the budget initially recommended by the governor and the Advisory Budget Commission before it comes to the General Assembly. A third strategy aims at getting a new project in the budget during the legislative appropriations process. Although the chances of success by this method are slimmer, it can be done, especially if there is substantial additional revenue after the recommendations of the governor and the Advisory Budget Commission are provided for. Under these circumstances a special bill accompanied by a supplemental request from the appropriate department may find its way into the main appropriations bill. However, this requires considerable effort on the part of the sponsoring legislator to shepherd the proposal successfully through the appropriations process. He or she is in a better position to do this, of course,

if he or she is a member (or perhaps chairman) of the appropriations committee responsible for the budget of the department in question.

Although not among the strategies discussed above, it is apparent that governors themselves also have ideas about what should be in (or out of) the recommended budget. Some governors have accomplished this primarily by reacting to lists of proposed new programs and capital improvement projects assembled by the budget office from agency requests. Others, especially recent governors, have used a more structured process to identify programs and projects that have been carefully constructed to respond to the needs of the state and to their own political requirements. Regardless of how they are selected, budget items of high interest to the governor are usually included in the budget when it is presented to the Advisory Budget Commission, unless opposition is expected from key members. In that event governors may avoid a confrontation with the ABC by taking the controversial proposal directly to the General Assembly through the use of a special bill or a supplemental budget request.

One final component of the budget preparation process, estimates of available revenue, has a strong bearing on the various techniques for assuring appropriations for favored projects. The initial revenue estimate on which the governor and the Advisory Budget Commission base their recommendations is usually quite conservative for two reasons. In the first place, the initial estimate must be made 8 or 10 months before the beginning of the new budget year, a fact that leads the forecasters to be cautious. There is another reason, however, for the administration to bias its initial revenue estimates toward the low side: when those estimates are increased late in the legislative session

the General Assembly tends to become more interested in how to spend the additional funds than in debating the merits of the recommended budget.

THE ROLES OF THE ADVISORY BUDGET COMMISSION AND ITS MEMBERS IN THE PREPARATION AND PRESENTATION OF THE BUDGET

The state budget is a major instrument for the development of political power as well as for the shaping of policies and programs. Given this importance, all governors seek ways to exchange information about their emerging budget proposals with legislators who can influence the substance of the final appropriations bills. In most states this is a relatively unstructured process--a small breakfast at the mansion, a ribbon-cutting ceremony in a key legislator's district, an industry-hunting trip--during which the governor seeks to line up support for his political and budget needs. Although these same activities occur in North Carolina, there is also a formal forum for the exchange of budget information between the governor and key legislators, the Advisory Budget Commission. As Professor Jack Vogt of the Institute of Government points out, the question is not whether such dialogue will occur but how it will take place.

Many of those who have been involved in the work of the Advisory Budget Commission feel that it is particularly well suited for this role. Dr. William Turner, Governor Scott's secretary of the department of administration, observed that the Commission brings together the interests of the General Assembly as represented by legislators most knowledgeable of budget matters, the governor's interests, and the needs of the departments.

The Advisory Budget Commission is clearly an asset to the governor in preparing the budget. Sam Johnson, a former member of the Commission as chairman of the house appropriations committee, feels that the commission can be extremely helpful to new governors and new budget officers in sensing some of the probable reactions of the General Assembly and the public. Somewhat surprisingly, the Commission was viewed as even more useful to the first Republican administration in this century. Ken Howard, Governor Holshouser's budget officer put it this way: "Holshouser could not wave the party partisan flag and he needed to have bipartisan support for his (budget) ideas going in (to the General Assembly), particularly since he had no veto on the other end. And I came to feel, and I think he did too, that the Advisory Budget Commission was the best set of friends he ever had and was one of the best mechanisms that was ever created to meet his need for going into the legislature with a 'leg up'..." Holshouser himself was somewhat more restrained in his observations, but he clearly viewed the budget as extremely important to his administration and considered the Advisory Budget Commission to be an asset in getting his budget proposals passed by the Democratic legislature.

Some observers at the time expected the Holshouser administration to provide the first use of those provisions of the Executive Budget Act for dealing with disagreements in the recommended budget between the governor and the Advisory Budget Commission. But according to Governor Holshouser, he seriously considered formal disagreement with the Commission on only one occasion during his term, and in the final analysis he thought the potential cost of that action would be too great and eventually abandoned the idea.



A disadvantage of involving the governor and the Advisory Budget Commission in the preparation of the budget is the apparent confusion that results about the responsibility for that document. Although Ken Howard feels that the public invariably holds the governor politically accountable for the recommended budget, and the expressions of most governors about the budget imply their support of this view, there is some evidence that the point is not completely clear. Some who have been close to the process such as Sam Johnson believe that "It's not the governor's budget when it comes from the ABC." On the other hand, at least one former governor seemed to express an opposite view when he said, "Any governor worth his salt is going to send his own budget across the street (to the legislature)."

Perhaps these divergent views are no more than reflections of the negotiations, compromises, and "horse trading" that must go on in putting together a budget that represents some fairly broad consensus. It should surprise no one if members of the Commission go along with some of the governor's budget initiatives to gain his support for proposals they favor. And governors, of course, may compromise in similar ways to keep the support of Commission members.

Reaching these kinds of accommodations within the formal framework of the Advisory Budget Commission, however, seems to make the responsibility for the budget unclear, perhaps most of all to people who are close to the process. To illustrate the point, most recent governors include in their budget messages only minimal acknowledgement of the role of the Advisory Budget Commission in budget preparation. The impression distinctly conveyed is that this is the

governor's budget and that these are the governor's programs. But in the meetings of the joint appropriations committee and in the halls of the legislative building, legislators are often given the impression that the Advisory Budget Commission considered the budget in great detail and supports it. The result seems to be the projection of the very real political power of the Commission into the legislature, power that is enhanced by association with the governor in the preparation of the budget.

The confusion about the ultimate responsibility for the recommended budget also has implications for the independence of the legislative appropriations process. Although there may be few advocates of a separate legislative budget, many students of government believe legislatures must be sufficiently independent of executive influence in the budget process to seriously challenge and debate executive proposals and to offer viable alternatives to them. That is no easy assignment and it may not be a realistic aspiration for a part-time legislature. Movement in the direction of a strong and independent legislative capacity with respect to the budget, however, may well be more difficult under a system that makes the chairmen of the legislative money committees and other key legislators formal parties to the recommended "executive" budget.

There are also some limitations on the thoroughness with which the Advisory Budget Commission itself can examine the proposed budget during its preparation. The staff support and all of the budget documents for the Commission are provided by the governor's budget division. This gives the governor a considerable advantage in determining how budget items are to be

presented to the ABC, including what is to be revealed as well as what is to be concealed. These circumstances, coupled with the natural interest of each Commission member in those relatively few budget items of special concern to him, make it virtually impossible for individual members to gain a comprehensive knowledge of the document that will bear their names when it is presented to the General Assembly. It is probably true, however, that involvement of the ABC in the preparation of the recommended budget equips a nucleus of legislators with an understanding of many budget aspects that can be shared with their less informed colleagues during the appropriations process.

Confusion about responsibility for the recommended budget stems to some extent from uncertainty about the relationship of the Advisory Budget Commission to the executive and legislative branches of state government. In this respect the language used by the General Assembly of 1925 in the original Executive Budget Act may have been prophetic. Governor McLean had asked specifically for the conversion of the then existing "Legislative Budget Commission" into an "Executive Budget Commission." What the General Assembly gave the governor was neither one.

#### IN LEGISLATIVE REVIEW AND APPROPRIATION

Given the fiscal confusion that confronted the General Assembly before 1925, it would be a mistake to overlook the relative order and efficiency of the current appropriations process. The recommended budget and the accompanying appropriations bills are major contributions to this improvement. They are the results of a reasonable budget process that involves

input from the agencies of state government, from the public, from the General Assembly, and from the governor and his staff. Beginning the legislative session with such documents in hand and with their requirements balanced against projected revenue is an important asset to the appropriations process that follows.

In some respects the budget-related activities of the General Assembly stand in marked contrast to the work of the Advisory Budget Commission. That Commission of a dozen members deals for only a month or so with a relatively small amount of material, almost all of it highly summarized by a budget division staff of 70 or more, and makes most of its major decisions in 3 or 4 days.

A legislator on the joint appropriations committee, on the other hand, finds himself at the beginning of the session in a group of 85 crowded legislators confronted initially by a budget document of over 2,000 pages. The legislative fiscal research division of about 20 people may have had the document a week or two longer and will of course assist the joint appropriations committee members along with those legislators on the finance and economy committees. About the time the appropriations committee member begins to understand how the budget document is organized, the departments appear to present their supplemental requests, accompanied by perhaps another 20 pounds of printed matter for each legislator. Next the legislator is usually assigned to a smaller committee of perhaps 20 to 30 legislators who will review about one third of the budget for the next three or four months amongst ever increasing mountains of paper. And of course all legislators are members of five or six other committees, though perhaps none as demanding as appropriations.

Under any circumstances the legislators on the Advisory Budget Commission would enjoy some advantages over their colleagues who are not. They are the only members of the General Assembly who have been exposed to the entire budget before the session begins and they are conceded to have had considerable influence in its preparation. The leaders of the appropriations committees in particular are propelled into especially strong positions, in part because of the advantages enjoyed by all Commission members and in part because of the ways in which the joint appropriations committee functions. It is no accident that this committee consists of over half the membership in each house. The purpose of this arrangement, which began in the mid 1940's, is to minimize the possibility that the appropriations bills reported out of the appropriations committees will be amended on the floor of either house.<sup>41</sup> This strategy has been highly successful over the years, and has had the obvious effect of confining all appropriations decisions to the appropriations committees where there is scant opportunity for the thoughtful consideration of the entire budget by any representative group of committee members.

In recent years there has also been evidence of confusion in the General Assembly about what are and what are not "appropriations" decision. There has been a tendency to include within the purview of the joint appropriations committee policy issues that go far beyond questions of money. The Executive Budget Act itself has been frequently amended in appropriations bills. Recent appropriations bills have also included provisions affecting such policy areas as administrative rule making, criminal procedures, retirement systems, community college personnel

procedures, methods for distributing state publications, mental commitment hearings, and the organization of the Youth Services Commission. Very important education policy questions such as class size in the public schools and the ratio of students to teachers in post-secondary institutions have often been considered to be primarily "money matters." Most of these issues should have received at least equal attention from the substantive committees of the legislature that are designated to address policy issues, but generally they have not.

These factors place members of the Advisory Budget Commission, and especially the leaders of the appropriations committees in positions of very great power compared to other legislators. As one former appropriations committee chairman put it, "You feel like you have real power so you can go ahead and do a job." Those sentiments are echoed by the opinions of other members and observers of the General Assembly. In a survey of legislators, news media representative and lobbyists conducted by the Center in 1978, the respondents ranked appropriations as the "most powerful" of committees. The same survey requested rankings of the ten "most influential" legislators, considering both houses together.<sup>42</sup> Following are the results of that part of the survey:

1. Stewart	House	6. Rountree	House
2. Royall	Senate	7. Holmes	House
3. Ramsey	House	8. Davenport	House
4. Hardison	Senate	9. Scott	Senate
5. Henley	Senate	10. Lawing	Senate

Considering their experience through the 1979 session, six of the ten have been chairmen of the house or senate appropriations committee in the 1970's.

Eight of the ten have been members of the Advisory Budget Commission during the same period.

#### IN BUDGET EXECUTION

Although there seems to be general agreement that budget preparation is the most important function of the Advisory Budget Commission, it is budget execution that requires most of the Commission's time. As noted earlier, the 1925 Executive Budget Act left exclusively to the governor the responsibility of carrying out the budget, once it was enacted by the General Assembly. Over the years since 1925, through amendments to the act itself and through other legislation, the General Assembly has directed extensive expansion of the Commission's involvement in budget execution. Recently, much of this expansion has resulted from provisions in the various appropriations bills.

Some of these provisions are written into the proposed appropriations bills by the budget division staff, especially if they recount other statutory language or reflect the decided preference of recent sessions of the legislature, but many of them originate in the General Assembly. In 1979, for example, the two main appropriations bills introduced at the beginning of the session included 14 references to the Advisory Budget Commission in sections pertaining to budget execution. Six month later when the bills were ratified, they mentioned the Commission 23 times.<sup>43</sup>

Involving the Commission in the execution of the budget produces a number of advantages to the General Assembly. Many a legislator, concerned about some appropriations proposal, has been reassured by the addition of language that will allow the Advisory

Budget Commission to take another look before the money for the project is actually spent. Appropriations details that may be politically risky or time consuming for the General Assembly to resolve can be deferred to the collective wisdom of the governor and the Commission for further consideration after the legislators have gone home. Since the General Assembly is relatively inactive between sessions, the Commission provides some surveillance over executive compliance with the legislative will. When legislative intent is believed to be unclear the Commission can reduce the uncertainty of executive agencies. In certain areas of the budget, such as appropriations for capital improvements, some executive flexibility is essential. The Advisory Budget Commission provides a way to avoid giving the authority for such adjustments to the governor alone.

In the North Carolina context all of the Commission's budget execution functions may seem reasonable enough. Perhaps they are no more than attempts to recognize the faint but lingering fear of putting too much power in the hands of the governor, or they may reflect what are viewed as limitations of a part-time legislature.

In some ways, however, the practices outlined above seem to be designed more for appearances than for actual effect. Although the Commission can create problems for the governor in the execution of the budget, especially with respect to capital improvements, it is far from clear that the Commission makes serious inroads on the governor's authority to carry out the programs the budget supports. Observers of the Commission estimate that, on the average, nine out of ten budget execution proposals presented by the staff get Commission approval. Working with the Commission



requires time and effort on the part of the governor, his staff, and the state agencies. But there is no evidence that executive branch officials would give up the obvious advantages of having the Commission sell the proposed budget to the General Assembly merely to escape the Commission's relatively minor interference in the execution of the final appropriations. Viewed in this perspective, it may well be that the role of the Commission in budget execution is important primarily as a means of sustaining the power and prestige of Commission members until the next budget must go to the legislature, rather than in restraining the power of the governor once the General Assembly has adjourned.

#### CONSTITUTIONAL ISSUES

In both composition and function, the Advisory Budget Commission is a hybrid institution. Its members may be either ex officio or appointed, and appointments to the Commission may be made either by officials of the legislative branch or by the governor, who is the chief executive officer of the state. The roles its members play in budget preparation and execution, moreover, seem to consolidate various legislative and executive powers that are intended by current constitutional design to be kept separate.

Article I, sec. 6 of the state constitution clearly prohibits any consolidation of the powers of different branches of government. "The Legislative, Executive and Supreme Judicial powers of State Government," it stipulates, "shall be forever separate and distinct." Other constitutional provisions spell

out in detail the powers assigned to each of the three branches, vesting legislative power in the General Assembly, executive power in the governor and judicial power "in a Court for the Trial of Impeachments and a General Court of Justice." Article III, sec. 5(3), for example, puts sole power with respect to budget preparation and execution in the executive branch:

"The governor shall prepare and recommend to the General Assembly a comprehensive budget of the anticipated revenue and proposed expenditures of the State for the Ensuing fiscal period. The budget as enacted by the General Assembly shall be administered by the Governor."

Until the ratification of this provision as a part of the Constitution of 1971, the duality of the Advisory Budget Commission had never been perceived as a constitutional issue. Responsibility for budget preparation and execution had been entirely statutory, especially since 1925 when the Executive Budget Act created the ABC and designated the Governor as the "Director of the Budget." But the 1971 Constitution altered the role of the chief executive in the budget process. "The 1971 Constitution of North Carolina included for the first time an explicit provision with respect to the budgetary duties of the governor," said a 1975 Institute of Government Publication. "That provision is a direct constitutional grant of authority to the Governor, so his role as Director of the Budget is no longer dependent on statute alone, as it was from 1925 until 1971. That provision may be construed to give the Governor exclusive responsibility and authority for preparing the proposed budget for legislative consideration and for executing the budget once it has been enacted by the General Assembly."<sup>44</sup>

Since 1971, according to this interpretation, the "separation of powers" clause of the state constitution has been applicable to the budget process and to the provisions of the Executive Budget Act, which in part mandate extensive participation by members of the legislature in activities that now are, in light of Article III, sec. 5(3) of the constitution, exclusively the province of the executive branch. Moreover, the thrust of Article III, sec. 5(3) seems in direct conflict with the language of section 143-4 of the Executive Budget Act. which states: "The Advisory Budget Commission alone shall be responsible for recommending to the General Assembly proposed biennial budgets for the requirements of the state auditor and the state treasurer...(Emphasis added).

Who does now have the power to prepare, present, and administer the state's five billion dollar annual budget--the governor, the Advisory Budget Commission, or both? Does the constitution ratified in 1971 in effect dismantle a budget process implemented half a century ago and employed with success for more than 50 years? The answers are still unclear, because the questions have so far remained entirely theoretical. The process of preparing, presenting, and executing the biennial budget in North Carolina has varied little since 1971 from the precedents established in preceding years, despite the latent and fundamental ambiguity that now exists about the very constitutionality of the ABC.

But the time is fast approaching when the validity of the state's traditional budgeting process may come under close scrutiny in both the legislature and the courts. One state senator prefiled legislation at the close of the 1979 session of the General

Assembly to abolish the ABC,<sup>45</sup> and another filed suit against the Governor later in the year charging that the Commission had "usurped and circumvented the powers and prerogatives (sic) of both the Legislative and Executive Branches of State Government and ha(d) interwoven and co-mingled the legislative and executive powers and functions of the State Government with respect to the preparation and administration of the State Budget and the application and expenditure of State monies, all in violation of ...the Consitution of North Carolina."<sup>46</sup> The lawsuit was subsequently withdrawn, but the bill (entitled "An Act to Amend the Executive Budget Act to Conform to Constitutional Principles") is still pending and could be considered during the 1980 session of the General Assembly.

Because the Advisory Budget Commission is an especially valuable political tool for the governor and for some key legislators, it has survived thus far the implications of the Constitution of 1971. But the ABC is not without enemies. Significant concentrations of power tend eventually to alienate those who cannot tap the resource, as well as to entrench those who can. In the language of the current constitution, foes of the ABC may have discovered an Achilles Heel that could bring down the whole budget process in North Carolina and destroy the single most powerful body within state government.

#### PROBLEMS AND IMPLICATIONS

When it was originally passed, the Executive Budget Act was a reasonable solution to the very serious problem of disciplining the appropriation process so that the expenditures authorized by the General Assembly would not exceed the revenue that

would become available. The original role of the Advisory Budget Commission, advising on budget preparation, was largely an attempt to compensate for the part-time nature of the legislature. The Commission gave the governor a group of responsible and usually informed legislators with whom he and other executive branch officials could interact face-to-face about budget matters in the absence of the General Assembly. The same legislators provided an informed cadre for the General Assembly during the appropriations process and made it possible for the legislature to dispose of its business in three months or so every two years.

This role changed rather slowly from 1929 until the early 1940's, as did state general fund expenditures (which grew from about \$18 million in 1929-30 to about \$46 million in 1941-42). As the size and importance of the state budget accelerated during the 1940's and 1950's, the influence of the Advisory Budget Commission kept pace as a result of the Commission's increasing involvement in the execution of the budget and the growing power of the appropriations committees of the legislature. Today the Commission is an extremely influential political force in the preparation of a multi-billion dollar budget and in the legislative appropriations process, roles that are reinforced by its various responsibilities in the execution of the budget.\*

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\* A factor frequently cited as contributing to the influence of the ABC in the 1960's is the role of former Senator Tom White who was on the Commission for more than a decade and its chairman for most of that period. Prior to 1977 neither governors nor legislative leaders served more than one term in office, but some legislators were able to retain their positions on the Commission for several years and thus accrued

What began in 1925 as a largely administrative mechanism to compensate for the absence of the General Assembly during the preparation of the executive budget has become a major vehicle for the projection of executive power into the appropriations process and for involving key legislators in the execution of the budget. In the intervening half century the part-time nature of the General Assembly has become largely an illusion. While clinging tenaciously to that image, the legislature has in fact moved rapidly in recent years toward becoming a full-time body. Since 1973 it has met every year although the even-year sessions are still relatively short. Odd-year sessions, on the other hand, have doubled in length since the 1920's from about three months to about six. Legislators themselves spend more time in Raleigh between sessions than ever before, in part because of the growing number of legislative study groups. The 1979 General Assembly authorized 53 studies to be completed between 1980 and 1981, at least 40 of which will involve legislators.<sup>47</sup> The accessibility of governors and legislators to each other and to state agencies has also been vastly increased by fleets of state cars and aircraft, a state telephone system, and by the dispersal of state offices to many communities outside of Raleigh.

Other changes over the years have strengthened the capacities of both the governor and the legislature to deal with the budget. The Executive Budget Act

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influence that might have resided elsewhere under other circumstances. According to the North Carolina Manual, the record for tenure on the Commission belongs to Mr. J.H. Clark, who served as an appointee of four governors from 1933 to 1945.

itself is perhaps the most important source of the governors' power over state departments and their budgets. This influence has been further strengthened by organizational and administrative changes that include the establishment of the department of administration, the creation of a uniform court system, and the major reorganization of the executive branch in 1971. The chief executive is served by a large budget staff as well as by other staffs in the department of administration in the areas of purchasing, property control, policy development, data processing, and personnel management.

Since 1972 the General Assembly has also been served by its own fiscal staff. Although small in comparison to the executive budget staff, the fiscal research division follows the development of the recommended budget by the governor and the Advisory Budget Commission, provides staff support for the money and economy committees of the legislature, prepares the final appropriations bills, and responds to questions about fiscal matters from individual legislators. The legislative fiscal staff also analyzes selected major budget issues, develops alternatives for the consideration of the General Assembly, and follows the execution of the budget in areas of special interest to legislators.

A final but little noted development of importance to both the governor and the General Assembly is the departmental accounting system, initiated by the state auditor in the early 1970's. This computer-based system provides standardized accounting categories and procedures for all state agencies and has vastly improved the collection and dissemination of financial data. The budget preparation capacity of

the system was first fully utilized in the development of the 1979-81 recommended budget. Other capabilities of the departmental accounting system can provide a variety of other types of assistance to both executive and legislative agencies.

While many of these changes reflect the rapid expansion of state government activities since the 1950's, they are also solid indications that the facilities for conducting executive and legislative fiscal affairs have changed remarkably since the creation of the Advisory Budget Commission in 1925. The original administrative rationale for the Commission has now all but vanished.

The importance of the Advisory Budget Commission today, however, results more from its political prowess than from its administrative effectiveness. The Commission has become the governor's most important asset in protecting the recommended budget from legislative changes. At the same time, the success of the Commission in this defense has propelled its members, and especially its legislative members, into positions of great power. Commission members are key actors in getting things done or undone by state agencies whether this results from a formal Commission decision or from an individual member's informal comment to a state agency head.

To maintain this position of influence, members of the Advisory Budget Commission must continue to be effective in the selling of the governor's budget proposals to the General Assembly. This suggests that it is in the interest of the legislative members of the Commission to retain or strengthen their influence over the appropriations process. This incentive to limit legislative activity that could



seriously challenge the governor's budget appears to be one of the most important consequences of the current role of the Advisory Budget Commission and, to a great extent, explains the peculiarities of legislative appropriations activities. In this sense the Commission may well intrude more on the prerogatives of the General Assembly than on those of the executive branch.

It is ironic that the most recent criticism of the Advisory Budget Commission has come from two legislators who seem to view the Commission primarily as a poacher on the governor's constitutional game preserve. While it is true, as their actions suggest, that the Advisory Budget Commission blurs the boundary between the executive and legislative branches and infringes on the governor's constitutional authority to prepare the recommended budget and to administer the approved budget, these are not the most serious results of the Commission's role. The greater threat to sound government in this state are those practices that encourage a concentration of power in the hands of a few legislators who are vulnerable to executive influence and the virtual exclusion of most other members of the General Assembly from effective participation in the appropriations process. As a minimum that process ought to include the opportunity for all legislators to see and understand the budget as a whole in relationship to the major problems confronting the state, the thorough public review of the entire recommended budget by a single small joint appropriations committee that is not dominated by members of the Advisory Budget Commission, the procedural and staff arrangements necessary to encourage extensive and informed debate of budget issues, and the review of

the policy implications of proposed appropriations actions by the appropriate substantive committees.

At first glance, it would seem that all of these procedures could be installed by rule and procedural changes within the General Assembly. Although that is technically true, the proposed changes have significant political implications for the key individuals in the present legislative appropriations system, as well as for the governor. Given this political dimension and the incentives already noted for legislative and executive leaders to maintain the status quo, it is unlikely that significant changes in the appropriations process can occur without broad and active support from less influential legislators for some modification of the role of the Advisory Budget Commission. This political reality coupled with the constitutional ambiguity about the ABC that now exists, requires the consideration of alternatives for modifying the Commission's functions.

#### ALTERNATIVES FOR MODIFYING THE ROLE OF THE ADVISORY BUDGET COMMISSION

The preceding analysis suggests that alternatives for modifying the role of the Advisory Budget Commission must have at least four objectives. Of prime importance is the need to preserve an effective appropriations process, a political and administrative process that produces adequate appropriations bills within a reasonable period of time. There is increasing and justifiable concern that the fragmentation of political power among large numbers of single-issue interest groups has made decisive action more difficult for legislative bodies at all levels. To avoid this effect in the General Assembly it may be necessary to

retain some features of the current system and to risk some centralization of legislative authority.

This suggests a second objective to be considered in assessing any revision in the role of the Advisory Budget Commission. If there must be some source of power in the legislature to keep the appropriations process moving, that source ought to be the presiding officers of the senate and the house of representatives. While this may seem obvious, it is not generally understood that there have been times in the recent past when the presiding officer of one chamber or the other has lost control of his appropriations committee chairman. Under such circumstances it is unlikely that presiding officers can exercise the leadership necessary to make the process work. Yet they clearly have the responsibility to do so and should, therefore, be armed with the authority essential to getting the job done.

These two objectives can be achieved in several ways. First, serious consideration should be given to retaining the Advisory Budget Commission in some form while at the same time reducing its power in favor of greater influence over the appropriations process by the president of the senate and the speaker of the house. The influence of the Commission can be restrained by amending the Executive Budget Act to affirm the governor's exclusive responsibility for the recommended budget and for budget administration, and to bar the Commission from functioning in ways that are inconsistent with its purely advisory status. An example of a Commission action that might no longer be permitted under such amendments is endorsing the recommended budget in whole or in part by voting or by any other means. The Commission might still be fully briefed on the recommended budget and on

other fiscal matters by the governor or his staff, and Commission members might discuss the substance of these briefings with the governor or among themselves. The governor, of course, might also choose to modify his budget proposals on the basis of these discussions. There is no obvious reason why these briefings and discussions should not be open to the public.

To further increase the influence of the leaders of the General Assembly, membership on the Commission might be limited solely to legislators appointed by the speaker of the house and president of the senate. This approach would, in effect, make the Commission a legislative body, a modification that could also be accomplished in amendments to the Executive Budget Act. Another option--limiting the governor's appointees on the Commission to non-legislators--would also tend to increase the power of the presiding officers.

Perhaps the most obvious objective for any modification in the functions of the Advisory Budget Commission should be to remove the uncertainties about the governor's constitutional responsibility for preparing the recommended budget and for administering the budget once appropriations have been made by the General Assembly, as well as to clarify the obligation of the legislature to execute its appropriations responsibilities without direct gubernatorial influence. There will always be attempts by individual legislators to shape the way the budget is prepared and executed, just as there will be attempts by governors to sway legislators during the appropriations process. But the procedures and practices of the executive and legislative branches ought to reflect rather than conflict with the mandates of the state constitution.

It is apparent that this objective can be achieved by

amending either the state constitution or the Executive Budget Act and other statutes that seem to collide with the intent of the constitution. Altering the constitution would presumably require the insertion of language exempting the functions of the Advisory Budget Commission from those provisions that deal with the separation of powers (Article I, Section 6) and the governor's budget authority (Article III, Section 5(3)). While this approach may be feasible, it tends to erode the principles involved and to invite further amendments to the constitution to accomodate the roles of legislators in the performance of other executive functions.\*

It seems both more perferable and more practical to amend the Executive Budget Act (and other statutes that cloud the issue) to align them with the state constitution. Such amendments should remove the Commission from involvement in any functions related to the preparation and administration of the budget, except functions that are purely advisory in nature. The governor might still be required to brief the Commission on some types of proposed executive actions, but the Commission presumably would not be authorized to indorse or oppose a particular proposal by voting or by any other means. If the Executive Budget Act is to be amended to modify the role of the Advisory Budget Commission, it would be essential to include reaffirmation of the governor's constitutional budget authority and to bar from future bills (and especially appropriations bills) language that would erode this

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\* One obvious example is the role of legislators on the state Board of Transportation.

executive responsibility. Such an amendment might at least retard apparently unconstitutional extensions of the Commission's authority such as those that have occurred in past money bills and in other legislation passed by the General Assembly.

In recent sessions of the legislature there have been signs of increasing unrest among legislators who felt that they were excluded from effective participation in the appropriations process. Some of this restiveness may have arisen from what might be termed as insufficient access to the pork barrel, but there is also evidence that the current appropriations process has limited the participation of competent legislators in a wide range of policy choices that have been arbitrarily confined within the money committees.

This suggests the need for broadening legislator participation in the appropriations process in at least two ways. One would require bringing appropriations matters with non-fiscal implications to the attention of the appropriate substantive committees in order to provide greater assurance that proposed appropriations decisions may be adequately considered with respect to their impact on substantive policies.

The second way would require the consideration of all budget matters by a single smaller joint appropriations committee. This would reduce the fragmentation of the process that now encourages only a few legislators other than the members of the Advisory Budget Commission to become familiar with the entire budget, usually quite late in the sessions. For obvious reasons the smaller joint appropriations committee should include at least enough legislators to avoid dominance by members of the ABC.

To some extent the lack of legislative interest in the recommended budget stems from the view shared by many members of the General Assembly that the most they can hope to achieve in the appropriations process is the passage of a small special appropriations bill of particular interest to their constituents, once the estimate of available revenue is increased late in the session. As discussed earlier, the strategy appears to be to introduce a higher revenue estimate late in the odd-year session, an action that has the effect of tossing a side of beef into a cage full of hungry tigers. This maneuver distracts legislators from the budget recommendations of the governor and the ABC, assures the reward of legislators who cooperate in protecting that budget from their fellow lawmakers, and guarantees that all of the available revenue will be appropriated, whether needed or not. By eliminating this second revenue estimate and requiring the General Assembly to fit all appropriations within the total of the governor's original budget recommendations, or raise taxes, it is highly probable that legislative attention to the budget would markedly increase.

The combined effects of these kinds of changes might well make the defense of the governor's budget in the General Assembly more difficult, and persuasive legislators might marshal enough support to amend the appropriations bills in the floor of the house or the senate. In addition, more members of the General Assembly would be confronted more often with the difficult task of weighing the desires of their constituents against the needs of the state as a whole. Unsettling as these prospects may be to

legislators and the public, as well as to state officials, these kinds of legislative opportunities and dilemmas seem more likely to produce quality law makers and better laws than a system under which legislators can claim ignorance or impotence on most issues.

A discussion of options available for modifying the role of the Advisory Budget Commission cannot end without some consideration of the proposal to completely abolish the Commission already embodied in the prefiled bill discussed earlier. While this is perhaps the surest solution to the constitutional problems generated by the Commission's activities it raises the question of the wisdom of erasing from the state government scene an old and effective institution. Perhaps it would be best for each new governor and each new set of legislative leaders to construct the budget and appropriation procedures they would apply to achieve the necessary legislative-executive coordination in the preparation, legislative consideration, and execution of the budget while maintaining the independence of their respective branches as required by the constitution. It may be that the essentials of the budget-appropriations processes are now clear enough and that the staff capacities are sufficient to allow this difficult job to be done well without any reliance on the Advisory Budget Commission. On the other hand, a less sweeping approach may be desirable in a period when the strains on the appropriations process are increasing along with the size and complexity of the budget.



## RECOMMENDATIONS

To accomplish the objectives discussed above it is recommended that:

1. The Executive Budget Act be amended to:
  - affirm the provisions of the state constitution that prescribe the separation of executive and legislative powers and the governor's exclusive responsibility for the preparation and administration of the budget;
  - change the composition of the ABC to include only the chairman of the senate and house appropriations committees, three other members of the senate and two other persons appointed by the president of the senate, and three other representative and two other persons appointed by the speaker of the house;
  - limit the ABC to purely advisory functions by prohibiting ABC concurrence in or approval of matters related to the preparation or execution of the budget, or to the administration of state agencies;
  - state that the major purposes of the ABC are to provide a group of legislators and other informed persons with whom the governor can discuss matters related to the preparation and execution of the budget, to inform some members of the General Assembly on these matters so they can assist other legislators in understanding the budget and related policy matters during

the subsequent legislative session, and to observe the execution of the budget as directed by the General Assembly.

- limit the size of the senate and house appropriations committees to 12 members each;
- require that the entire state budget as recommended by the governor be jointly reviewed by the full appropriations committees of both houses;
- require the consideration of major department or program recommended budgets, as well as related supplemental requests and special appropriations bills, by the appropriate substantive committees and comment from these committees to the joint appropriations committee on the policy aspects of proposed appropriations measures;
- prescribe that, in odd-year sessions, of the General Assembly, the two main appropriations bills be initially reported out of the appropriations committees not less than 30 days prior to adjournment;
- continue the authority of the General Assembly to reduce appropriations but limit the authority of the General Assembly to increase appropriations above the total figure recommended by the governor unless such increases are accompanied by corresponding amendments to the tax laws to increase revenue;
- authorize the General Assembly to include in appropriations bills matters related to subsequent budget execution and budget preparation concerning which it wishes the

governor to keep the ABC or the General Assembly informed;

--retain the independence of the state auditor and the state treasurer from executive control without the substantial involvement of the ABC in the administration of these two agencies.

2. The state open meetings law be amended to require that all meetings of the Advisory Budget Commission be open to the public.
3. Other statutes be amended to delete or modify provisions that authorize the ABC to participate in the administrative, budget or policy decisions of executive agencies.

(Amendments to accomplish the recommendations in 1. and 2. above are in Appendix B. Appendix C shows the current text of the Executive Budget Act as well as the text that would result if the Act were amended in accordance with the above recommendations.)

## APPENDIX A

## Amendments to the Executive Budget Act since 1929

The revised Executive Budget Act of 1929 has undergone 58 changes by the General Assembly through the 1979 session, distributed as follows:

1929-39	2
1940-59	1
1950-59	29
1960-69	14
1970-79	12
	<u>58</u>

The first amendment, passed before the close of the 1929 session, authorized the Director of the Budget (the governor) to prescribe the manner in which agencies and institutions disbursed state funds.<sup>48</sup> In 1931 the Executive Budget Act was changed to provide for the replacement of legislative members of the Advisory Budget Commission who died or were removed from office by the governor "upon recommendation" of the presiding officer of the appropriate house.<sup>49</sup> The creation of a personnel department in 1949 resulted in the addition of a new section to the Executive Budget Act that required payrolls to be submitted for review to the "Assistant to the Director", a position now roughly analogous to that of the state budget officer.<sup>50</sup>

Although there were a large number of amendments to the Executive Budget Act from 1950 to 1959, most of them resulted from two pieces of legislation. One was a 1955 bill to clarify the roles of the state auditor and the state treasurer and to increase their insulation from the influence of the governor.<sup>51</sup> The General Assembly recognized that the 1929 Executive Budget Act gave the governor strong authority over these two agencies as well as over the rest of state government. The 1929 act also tended to blur the responsibilities of these agencies and especially the responsibility for the adequacy of accounting

systems. The 1955 amendments made it clear that the auditor and the treasurer were to be under the fiscal control of the Advisory Budget Commission only and not that of the governor. The amendments also installed procedures to assure this result. Other provisions of the 1955 amendments transferred the disbursing and pre-audit functions from the state auditor to the budget bureau.

A second major bill in the 1950-59 period was the act to create a department of administration, ratified in 1957.<sup>52</sup> This legislation gathered into the new department the budgeting and purchasing functions and authorized the creation of additional divisions for architecture and engineering, property control, administrative analysis, and long range planning. A major effect of this act was to separate the governor from the new budget division (the former budget bureau) by deleting the governor as the bureau (division) head and by reassigning the statutory responsibilities of the budget bureau to either the new department of administration or the governor, an organizational arrangement that was bound to produce tension as the responsibilities of the department and the importance of the budget increased.\*

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\* The "Report of the Commission on Reorganization of State Government," dated November 15, 1956, which recommended the establishment of a department of administration included the following statement: "Since the Director of Administration will be the Governor's right-hand man in all fiscal affairs, it is only logical that he be his chief assistant in budgetary affairs." Chapter 269 of the 1957 Session Laws which created the department of administration included amendments to the Executive Budget Act that transferred many of the duties of the budget office to the department of administration and made clear the intent of the General Assembly in the following language: "All of the powers, duties, functions, records, property, supplies equipment, personnel, funds, credits, appropriations, quarterly allotments, and executory contracts of the Budget Bureau are hereby transferred to the Department of Administration, effective July 1, 1957. All statutory references to the "Budget Bureau" or to the "Bureau of the Budget" shall be deemed to refer to the Department of Administration." The 1979 Executive Order number 38 that shifted the budget office from the department of administration to the governor's office apparently had the effect of reversing the 1957 legislation

In the 1940s much of the work of the Advisory Budget Commission had been conducted by mail and, in some years, the Commission rarely met except to consider the budget. Although this practice had ended by about 1950, the legislature discouraged it further in 1951 by amending the Executive Budget Act to require a quorum of three members for the conduct of Commission business.<sup>53</sup>

Other legislation between 1950 and 1959 amended the Executive Budget Act to authorize the Advisory Budget Commission to hire a photographer, and to increase the responsibilities of the governor and the department of administration for seeing that new construction, renovations, and other capitol improvement projects were needed and were accomplished economically in ways consistent with the purposes mandated by the General Assembly.<sup>54</sup> To some extent these last actions reflected the growing importance of capital improvements which were, after 1945, authorized in a separate appropriations bill. The appearance of separate capital improvements appropriations bills in turn led to provisions in these bills that increasingly involved the Advisory Budget Commission in the execution of construction projects. At about the same time the substance of Commission meetings also changed; agendas that before 1946 were largely devoted to salary and related matters became cluttered with decisions about

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cited above. Presumably, the General Assembly will have the opportunity to decide which organizational arrangement it prefers for the budget office when Executive Order number 38 is submitted to the legislature for concurrence, disapproval, or modification in accordance with Article III, Section 5(10) of the state constitution. The transfer of the budget function to the governor's office is a return to the organization concept of the original 1925 Executive Budget Act, which stated that "the Governor shall be ex officio the Director of the Budget, and shall be the head of the Budget Bureau which is hereby created and established in connection with his office."

capital improvement projects.<sup>55\*</sup>

Two other notable amendments to the Executive Budget Act occurred during this period. In 1953 the General Assembly passed a bill that allowed the joint appropriations committee or its subcommittees to meet in closed session provided that final decisions of the joint committee were made in open meetings.<sup>56</sup> This may have been an attempt to recognize the realities of the appropriations process, but the action was unpopular and was repealed in 1955.<sup>57</sup>

Although the authority of the Advisory Budget Commission in matters related to the execution of the budget steadily broadened over the years, especially after 1945, this expansion of the ABC's role was accomplished solely by legislative actions that did not amend the Executive Budget Act, until 1957. In that year, however, the first significant change was made in the act itself to involve the Commission in budget execution by requiring its approval of the allocation plan for appropriated area vocational training school funds.<sup>58</sup>

From 1960 to 1969 the major amendments to the Executive Budget Act clarified and strengthened the governor's authority in the disbursing area and consolidated the state auditor's responsibility for establishing sound accounting systems in all departments.<sup>59</sup> In 1963 an amendment was added to give greater executive control over the appropriation and allotment of funds for archaeological and historical projects.<sup>60</sup>

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\* The post-World War II appropriations for capital improvements were the first large authorizations for these purposes that occurred after the creation of the Advisory Budget Commission. The 1947 appropriation for capital improvements exceeded the total of all such appropriations from 1921 through 1945.

A 1965 amendment recognized the creation of the judicial department with minor conforming changes.<sup>61</sup> In the same year the Executive Budget Act was amended to reflect language that had been common in prior capital appropriations bills to allow the governor and the Advisory Budget Commission to modify construction projects approved by the General Assembly and to authorize additional projects under certain circumstances.<sup>62</sup> The General Assembly also began to be concerned about federal grants that started new programs in the state. As a result, the Executive Budget Act was amended in 1965 to require agencies to submit to the department of administration and to the Advisory Budget Commission copies of requests for non-state funds "which do or may impose" any substantial financial obligation on the state. The same general problem was again addressed in 1969 by a further amendment to broaden the reporting requirements for such requests.<sup>63</sup>

Although successfully opposed by Governor Scott during the 1969 session, the creation of a legislative fiscal staff was authorized by legislation passed in 1971. The same bill amended the Executive Budget Act to allow legislative fiscal staff members to attend all meetings of the Advisory Budget Commission and to receive all materials provided the Commission.<sup>64</sup> The remainder of the significant amendments to the Executive Budget Act during 1970-79 resulted from the election of a Republican governor in 1972. These included doubling the size of the Advisory Budget Commission in 1973 (from six to twelve members) by adding two more senators appointed by the president of the senate, two more representatives appointed by the speaker of the house, and four more members appointed by the governor.<sup>65</sup> However the ratio of legislative members to executive members remained the same as previously and, according to former Governor James Holshouser, who was in office at that time, the larger Commission did not cause him any particular concern.



What did upset Governor Holshouser, however, was a move on the part of the legislative commission on governmental operations to amend the Executive Budget Act in ways that would have seriously reduced the governor's power and would have expanded the role of the Advisory Budget Commission in both the preparation and execution of the budget. Some of the proposed changes were constructive and accomodated the changing of circumstances over the years. But there is no doubt that many of them were also politically motivated. Holshouser sought help in stopping the proposed legislation from other statewide elected officials, the members of the Council of State, including Lieutenant Governor James B. Hunt. Holshouser got the assistance he needed and that draft bill to amend the Executive Budget Act was never introduced.

Other actions during 1970-79 to change the Executive Budget Act included the establishment (in 1971) and repeal (in 1977) of a requirement for the state budget officer to furnish the principal clerk of each house the salary schedule for those employees not subject to the state personnel act.<sup>66</sup> In 1976 an amendment was passed to require all agencies to send copies of budget transfers to the legislative commission on governmental operations,<sup>67</sup> and in 1977 a provision was added to make the improper expenditure or transfer of funds a misdemeanor. In the same year the Executive Budget Act was amended to provide that programs supported by federal grants would be continued only if state funds were appropriated for the same purposes.<sup>68</sup> Two final amendments in 1979 authorized the payment of severance pay under certain circumstances and required non-state health and welfare agencies to request grants through the department of human resources.<sup>69</sup>

APPENDIX B

Draft amendments to the Executive Budget Act and to the state Open Meetings Act to accomplish the recommendations of the report.

1. Amendments to the Executive Budget Act

G.S. 143-1 is amended by deleting from lines 4 through 7 the following language: "if the context shows that it is used with reference to any power or duty belonging to the Department of Administration and to be performed by it, but it shall mean when used otherwise any State agency, and any other agency, person or commission by whatever name called, that uses or expends or receives any State funds."

G.S. 143-2 is amended by inserting the following sentence before the first sentence of the first paragraph: "The Governor is responsible for the budget recommended to the General Assembly and for the administration of the budget as enacted by the General Assembly."

G.S. 143-2 is further amended by deleting at the end of the fourth paragraph the following words: "and shall be subject only to such control as may be exercised by the Advisory Budget Commission."

G.S. 143-3.2 is amended by deleting from line 31 the following words: "and Advisory Budget Commission"

G.S. 143-4 is amended by deleting the first two paragraphs beginning with the words "The Chairman" and ending with the words "the public interest." and substituting therefor the following:

"The Advisory Budget Commission shall consist of the Chairman of the Appropriations Committee of the Senate and of the House, three other Senators and two other persons appointed by the President of the Senate, and three other Representatives and two other persons appointed by the Speaker of the House. The members of the Commission shall elect their own Chairman.

The purposes of the Advisory Budget Commission are: to provide a group of legislators with whom the Director of the Budget can discuss matters related to the preparation and execution of the budget, to insure that members of the Advisory Budget Commission are sufficiently informed on such budget matters to be of assistance to members of the General Assembly in understanding the budget and related policy matters during the subsequent legislative session, and to observe the execution of the budget as directed by the General Assembly. In recognition of the constitutional requirement for the separation of legislative and executive powers, the Advisory Budget Commission shall not become a party to executive decisions or to executive recommendations to the General Assembly and shall not take positions as a Commission by vote or otherwise on executive budget, administrative, or policy matters. Members of the Commission as individuals may fully discuss and debate all matters that come before them.

The Advisory Budget Commission shall be called to meet in November of each even-numbered year, upon ten days notice by the Director of the Budget, and at such other times as the Director, the President of the Senate, or the Speaker of the House may request. Members of the Advisory Budget Commission shall receive compensation for their services as provided for in G.S. 138-5. Eight members of the Commission shall constitute a quorum for performing the duties of the Commission. The budget for all activities of the Advisory Budget Commission shall be included in the budget of the General Assembly."

G.S. 143-4 is further amended by deleting the fourth paragraph beginning with the words "The Advisory Budget Commission" and ending with the words "Department of Administration."

G.S. 143-4 is further amended by adding the following new paragraph after the fifth paragraph:

"The State Auditor and State Treasurer shall maintain records and submit budget reports on their respective departments in the same manner and form as do other State agencies, and such requests and reports shall be filed in the Office of State Budget and Management."

G.S. 143-4 is further amended by deleting the sixth paragraph beginning with the words "In all matters" and ending with the words "by the Commission."

G.S. 143-10 is amended by deleting the first paragraph of the section and by deleting from line 1 of the second paragraph the words  
", together with the Commission,".

G.S. 143-10 is further amended by adding the following language at the end of the second paragraph:  
"In addition, in November of each even-numbered year and at such other times in odd-numbered years as he may select, the Director of the Budget will present to the Advisory Budget Commission a full explanation of the budget recommendations, tax proposals, and revenue estimates he will present to the next session of the General Assembly, along with such other information as the General Assembly may have requested in preceding appropriations bills."

G.S. 143-11 is amended by substituting for the word "December" in line 2 the word "November", and by deleting the second and third sentences of the section, beginning with the words "If the Director" and ending with the words "representing their views."

G.S. 143-11.1 is repealed and the following section is inserted in lieu thereof: "G.S. 143-11.1. Biennial inspection of State facilities by the Advisory Budget Commission. The Advisory Budget Commission shall make a biennial inspection

of the facilities of the State in order to obtain a clear understanding of the needs of the various institutions requesting permanent improvements and of the effectiveness of State services."

G.S. 143-12 is amended by deleting from lines 1 and 2 the words ", by and with the advice of the Commission,"; by deleting from lines 3 and 4 of subdivision (2) the words "and the Commission"; by deleting from line 7 of subdivision (3) the words "the Commission and"; and by deleting the last paragraph of the section.

G.S. 143-14 is amended by deleting on lines 1 through 2 the words "The appropriations committees of the House of Representatives and the Senate and subcommittees thereof shall sit jointly in open sessions while considering the budget" and substituting therefor the following words: "The appropriations committees which shall consist of not more than 12 members of the House of Representatives and 12 members of the Senate shall consider the entire budget sitting jointly in open sessions"

G.S. 143-14 is further amended by deleting from line 15 the words "or subcommittees"; by deleting from lines 18 and 19 the words "or subcommittees thereof."; by deleting from line 19 the words "or any subcommittee thereof"; and by inserting on line 26 before the sentence beginning with "In so far as this section" the following sentences: "Major department or program recommended budgets and related supplemental requests and special appropriations bills shall also be considered with respect to their policy aspects by the appropriate substantive committees of the House and of the Senate, and the recommendations of these substantive committees shall be considered by the joint appropriations committee in preparing their appropriations recommendations. In odd-numbered years the Senate and House Appropriations Committees will report the two main appropriations bills for operations and for capital improvements to their respective houses not less than thirty days prior to adjournment."

G.S. 143-15 is amended by inserting the words "except in their committees" between the word "consider" and

the word "further" in line 3 of the second paragraph; by deleting in line 5 of the third paragraph the words "Budget Revenue Bill" and inserting in lieu thereof the words " the General Statutes, or by adjustments to the recommended budget within the total revenues from all sources projected by the Governor when he submitted his budget recommendations to the General Assembly."; by deleting in lines 9 and 10 of the third paragraph the words "or unless it appears from the budget report or the Budget Revenue Bill that there is sufficient revenue therefor" and substituting in lieu thereof the words "or unless it appears that there is sufficient revenue available therefor as a result of amendments to the General Statutes or from within the total revenues from all sources projected by the Governor when he submitted his budget recommendations to the General Assembly."; and by adding a new paragraph at the end of the section, as follows:

"The General Assembly may, through provisions in the appropriations bills and in other legislation, specify any matters about which it wishes the Director of the Budget to keep the Advisory Budget Commission informed, whether related to the execution of the appropriated budget or to the preparation of the subsequent budget, as well as matters about which members of the General Assembly wish to be kept informed by the Advisory Budget Commission or by the Director of the Budget."

G.S. 143-17 is amended by deleting lines 13 through 16 and inserting in lieu thereof the following language: "Provided, that quarterly allotments made to the Auditor's office and the Treasurer's office shall be in such amounts as they may request."

G.S. 143-18.1 is amended by deleting the words "and the Advisory Budget Commission" from lines 1 through 2 of the first paragraph, and from line 1 of the second paragraph; and by deleting the word "their" from line 3 of the first paragraph and from line 2 of the second paragraph, and by inserting in lieu thereof in each instance the word "his".

G.S. 143-21 is amended by deleting the words "or the Commission" from line 4 and from line 15.

G.S. 143-23 is amended by deleting from lines 5 through 6 the words "and the Advisory Budget Commission,".

G.S. 143-23.1 is repealed and the following section is inserted in lieu thereof: "143-23.1. Operating appropriations for the State Auditor and State Treasurer. The operating budget requests of the State Auditor and State Treasurer will be included without change in the budget recommended by the Governor to the General Assembly. If the Director of the Budget believes changes are needed in the requested and recommended operating budgets of the State Auditor and State Treasurer, the Director will bring such changes to the attention of the Advisory Budget Commission during his explanation of his budget recommendations provided for in G.S. 143-10."

G.S. 143-25 is amended by deleting from lines 12 through 13 and from lines 18 through 19 the words "by and with the consent of a majority of the Advisory Budget Commission".

G.S. 143-27.1 is amended by deleting from lines 3 through 4 the words "upon approval of the Advisory Budget Commission."

G.S. 143-28 is amended by deleting at the end of the section the words ", and shall be subject only to such control as may be exercised by the Advisory Budget Commission."

G.S. 143-30 is amended by deleting from line 15 the words "and Advisory Budget Commission".

G.S. 143-33 is amended by deleting from lines 6 through 7 the words "and the Advisory Budget Commission".

G.S. 143-34.4 is repealed and the following section is inserted in lieu thereof:

"143-34.4. Legislative staff participation. Staff support for the Advisory Budget Commission shall be provided by the legislative fiscal research division and by such

other legislative agencies as the Commission may designate. Members of the legislative fiscal research division and members of other legislative staff agencies designated by the Advisory Budget Commission may attend all meetings of the Commission called pursuant to G.S. 143-10, and may accompany the Commission to inspect the facilities of the State. The Director of Fiscal Research shall be notified of all such meetings, hearings, and visits in the same manner and at the same time as notice is given to members of the Commission. The Director of Fiscal Research shall be provided with a copy of all reports, memoranda, and other informational material which are distributed to members of the Commission by the Director of the Budget or his staff; and these reports, memoranda and materials shall be delivered to the Director of Fiscal Research at the same time that they are distributed to members of the Commission."

G.S. 143-16.1 is amended by deleting from lines 3 through 4 the words "and Advisory Budget Commission".

2. Amendments to the North Carolina Open Meetings Law.

G.S. 143-318.10 is amended in line 1 of subsection (a) by deleting the letters and figures "G.S. 143-318.15."

G.S. 143-318.15 is amended in subsection (a) by deleting in lines 1 through 5 the clause beginning with the words "The provisions of" and ending with the words "Executive Budget Act (Article 1, Chapter 143, General Statutes of North Carolina), but" and by changing the word "nothing" on line 5 to "Nothing".

G.S. 143-318.18 is amended by deleting subsection "(10) The Board of Awards" and by renumbering the remaining subsection accordingly.



3. Other conforming changes.

To accomplish the recommendations of this report there is also a need to modify or delete references to the Advisory Budget Commission in other statutes that involve the Commission in administrative functions of executive agencies, such as Article 3 of Chapter 143 on state purchasing, Chapter 115D on the community college system, Chapter 116 on the University of North Carolina, Chapter 115 on public schools, Chapter 20 on motor vehicles, Chapter 136 on roads and highways, and Chapter 138 on salaries, fees and allowances.

## APPENDIX C

The text of the current Executive Budget Act modified to reflect the recommendations in this report. Deleted portions are struck through; added or revised portions are underlined.

## ARTICLE 1.

*Executive Budget Act.*

§ 143-1. Scope and definitions. — This Article shall be known, and may be cited, as "The Executive Budget Act." Whenever the word "Director" is used herein, it shall be construed to mean "Director of the Budget." Whenever the word "Commission" is used herein, it shall be construed to mean "Advisory Budget Commission," ~~if the context shows that it is used with reference to any power or duty belonging to the Department of Administration and to be performed by it, but it shall mean when used otherwise any State agency, and any other agency, person or commission by whatever name called, that uses or expends or receives any State funds.~~ "State funds" are hereby defined to mean any and all moneys appropriated by the General Assembly of North Carolina, or moneys collected by or for the State, or any agency thereof, pursuant to the authority granted in any of its laws. (1925, c. 89, s. 1; 1929, c. 100, s. 1; 1957, c. 269, s. 2.)

143-2. Purposes. — The Governor is responsible for the budget recommended to the General Assembly and for the administration of the budget as enacted by the General Assembly.

It is the purpose of this Article to vest in the Governor of the State a direct and effective supervision of all agencies, institutions, departments, bureaus, boards, commissions, and every State agency by whatsoever name now or hereafter called, including the same power and supervision over such private corporations and persons and organizations of all kinds that may receive, pursuant to statute, any funds either appropriated by, or collected for, the State of North Carolina, or any of its departments, boards, divisions, agencies, institutions and commissions; for the efficient and economical administration of all agencies, institutions, departments, bureaus, boards, commissions, persons or corporations that receive or use State funds; and for the initiation and preparation of a balanced budget of any and all revenues and expenditures for each session of the General Assembly.

The Governor shall be ex officio Director of the Budget. The purpose of this Article is to include within the powers of the Department of Administration all agencies, institutions, departments, bureaus, boards, and commissions of the State of North Carolina under whatever name now or hereafter known, and the change of the name of such agencies hereafter shall not affect or lessen the powers and duties of the Department of Administration in respect thereto.

The test as to whether an institution, department, agency, board, commission, or corporation or person is included within the purpose and powers and duties of the Director of the Budget shall be whether such agency or person receives for use, or expends, any of the funds of the State of North Carolina, including funds appropriated by the General Assembly and funds arising from the collection of fees, taxes, donations appropriative, or otherwise.

Notwithstanding the general language in this Article the expenditure of funds by or under the supervision and control of the State Auditor and the State Treasurer for their respective departments shall not, except as provided in G.S. 143-25, be subject to the powers of the Director of the Budget or the Department of Administration, it being intended that the State Auditor and the State Treasurer shall be independent of any fiscal control exercised by the Director of the Budget, ~~and shall be subject only to such control as may be exercised by the Advisory Budget Commission.~~ (1925, c. 89, s. 2; 1929, c. 100, s. 2; 1955, c. 578, s. 1; c. 743; 1957, c. 269, ss. 1, 2.)

**Editor's Note.** — Pursuant to Session Laws 1957, c. 269, s. 1, "Department of Administration" has been substituted for "Budget Bureau" twice in the second paragraph. See § 143-344(a).

As Director of the Budget, the Governor has large powers in supervising the expenditures of State funds and in determining what

appropriations shall be made by the General Assembly. The idea that our governments, federal, State and local, should be run in a businesslike fashion is gaining prevalence and the budget system in government is an attempt to carry out the wishes of the people that government shall be administered economically and efficiently. 4 N.C.L. Rev. 17.

**§ 143-3. Examination of officers and agencies; disbursements.** — The Director shall have power to examine under oath any officer or any head, any clerk or employee, of any department, institution, bureau, division, board, commission, corporation, association, or any agency; to cause the attendance of all such persons, requiring such persons to furnish any and all information desired relating to the affairs of such agency; to compel the production of books, papers, accounts, or other documents in the possession or under the control of such person so required to attend. The Director or his authorized representative shall have the right and the power to examine any State institution or agency, board, bureau, division, commission, corporation, person, and to inspect its property, and inquire into the method of operation and management.

The Director shall have power to have the books and accounts of any of such agencies or persons audited, and supervise generally the budget accounts of such departments, institutions and agencies within the terms of this Article. The Director may require that the cost of making all audits shall be paid from the regular maintenance appropriation made by the General Assembly for such department, institution or agency which may be thus audited.

It shall be the duty of the Director to recommend to the General Assembly at each session such changes in the organization, management and general conduct of the various departments, institutions and other agencies of the State, and included within the terms of this Article, as in his judgment will promote the more efficient and economical operation and management thereof.

The Director of the Budget under the provisions of the Executive Budget Act shall prescribe the manner in which disbursements of the several institutions and departments shall be made and may require that all warrants, vouchers or checks, except those drawn by the State Auditor and the State Treasurer, shall bear two signatures of such officers as will be designated by the Director of the Budget. (1925, c. 89, s. 3; 1929, c. 100, s. 3; c. 337, s. 4; 1969, c. 458, s. 3.)

**§ 143-3.1. Transfer of functions.** — Effective July 1, 1955, or as soon thereafter as practical but not later than July 1, 1956, the functions of preaudit of State agency expenditures, issuance of warrants on the State Treasurer for same, and maintenance of records pertaining to these functions shall be transferred from the Auditor's office to the Director of the Budget. All books, papers, reports, files and other records of the Auditor's office pertaining to and used in the performance of these functions shall be transferred to the Department of Administration, and office machinery and equipment used primarily in the performance of these functions shall be transferred to the Department of Administration. The Governor, with the advice and consent of the Advisory Budget Commission, is authorized to determine and declare the effective date of the transfer of these functions and to do all things necessary

to effect an orderly and efficient transfer; and the Governor, with the advice and consent of the Advisory Budget Commission, is further authorized to transfer to the Department of Administration the unused portion of such funds as may have been appropriated to the Auditor's office for the 1955-57 biennium for the performance of the functions and duties transferred to the Director of the Budget under the provisions of this section. (1955, c. 578, s. 2; 1957, c. 269, s. 2.)

§ 143-3.2. Issuance of warrants upon State Treasurer. — Upon the transfer of functions from the Auditor's office to the Director of the Budget, as provided in G.S. 143-3.1, the Director of the Budget shall have the exclusive responsibility for the issuance of all warrants for the payment of money upon the State Treasurer; and to carry out this responsibility the Director shall designate a State Disbursing Officer whose duties shall be performed as a function of the Department of Administration. All warrants upon the State Treasurer shall be signed by the State Disbursing Officer, who before issuing same shall determine the legality of payment and the correctness of the accounts; provided that the State Auditor and the State Treasurer shall have the exclusive authority to issue all warrants for the operation of their respective department and such warrants shall be paid by the State Treasurer from the appropriations provided therefor; and provided further, that when considered expedient, due to its size or location, a State agency may upon approval of the Director of the Budget make expenditures through a disbursing account with the State Treasurer. All deposits in such disbursing accounts shall be by the State Disbursing Officer's warrant, and a copy of each voucher making withdrawals from such disbursing accounts, together with such supporting data as may be required by the Director of the Budget, shall be forwarded to the Department of Administration monthly or otherwise as may be required by the Director of the Budget; provided, however, that a central payroll unit operating under the Department of Administration may make deposits and withdrawals directly to and from a disbursing account which shall constitute a revolving fund for servicing payrolls passed through such central payroll unit. The State Disbursing Officer is authorized to use a facsimile signature machine in affixing his signature to warrants. The Director of the Budget shall secure insurance and/or a bond in an amount of not less than twenty-five thousand dollars (\$25,000) to protect the State of North Carolina against any misuse or unauthorized use of the facsimile signature machine by any person. It is further required that the State Disbursing Officer shall be placed under an official bond in a penal sum to be fixed by the Governor and Advisory Budget Commission at not less than fifty thousand dollars (\$50,000). Such official bond shall be a bond with corporate surety and furnished by a company admitted to do business in the State, and the premiums will be paid by the State out of the appropriations to the Department of Administration. Such bond shall be made as part of the blanket bond of State officers and employees provided for in G.S. 128-8. (1955, c. 578, s. 2; 1957, c. 269, s. 2; 1961, c. 1194; 1969, c. 844, s. 12.)

§ 143-4. Advisory Budget Commission. — ~~The Chairman of the Appropriations and the Finance Committees of the House and of the Senate, two other Senators appointed by the President of the Senate, two other Representatives appointed by the Speaker of the House, and four other persons appointed by the Governor shall constitute the Advisory Budget Commission. The members of the Advisory Budget Commission shall receive as full compensation for their services ten dollars (\$10.00) per day for each day which they shall serve and their expenses. The Advisory Budget Commission shall be called in conference in January and July of each year, upon 10 days' notice by the Director of the Budget, and at such other times as in the opinion of the Director may be for the public interest.~~

The Advisory Budget Commission shall consist of the Chairman of the Appropriations Committee of the Senate and of the House, three other Senators and two other persons appointed by the President of the Senate, and three other Representatives and two other persons appointed by the Speaker of the House. The members of the Commission shall elect their own Chairman.

The purposes of the Advisory Budget Commission are: to provide a group of legislators with whom the Director of the Budget can discuss matters related to the preparation and execution of the budget, to insure that members of the Advisory Budget Commission are sufficiently informed on such budget matters to be of assistance to members of the General Assembly in understanding the budget and related policy matters during the subsequent legislative session, and to observe the execution of the budget as directed by the General Assembly. In recognition of the constitutional requirement for separation of legislative and executive powers, the Advisory Budget Commission shall not become a party to executive decisions or to executive recommendations to the General Assembly and shall not take positions as a Commission by vote or otherwise on executive budget, administrative, or policy matters. Members of the Commission as individuals may fully discuss and debate all matters that come before them.

The Advisory Budget Commission shall be called to meet in November of each even-numbered year, upon ten days notice by the Director of the Budget, and at such other times as the Director, the President of the Senate, or the Speaker of the House may request. Members of the Advisory Budget Commission shall receive compensation for their services as provided for in G.S. 138-5. Eight members of the Commission shall constitute a quorum for performing the duties of the Commission. The budget for all activities of the Advisory Budget Commission shall be included in the budget of the General Assembly.

A vacancy in a seat on the Commission filled by the chairman of a finance or an appropriations committee shall be filled by appointment by the officer who appointed the chairman causing the vacancy. A vacancy in one of the other seats on the Commission shall be filled by appointment by the officer who appointed the person causing the vacancy.

~~The Advisory Budget Commission alone shall be responsible for recommending to the General Assembly proposed biennial budgets for the requirements of the State Auditor and the State Treasurer, and for such purposes the Advisory Budget Commission shall require the State Auditor and State Treasurer to maintain records and to submit budget requests and periodic reports on their respective departments in the same manner and form as do other State agencies, and may further direct that such requests and reports be filed for safekeeping in the office of the Department of Administration.~~

Before the end of each fiscal year or as soon thereafter as practicable, the Advisory Budget Commission shall contract with a competent certified public accountant who is in no way otherwise affiliated with the State or with any agency thereof to conduct a thorough and complete audit of the receipts and expenditures of the State Auditor's office during the immediate fiscal year just ended, and to report to the Advisory Budget Commission on such audit not later than the following October first. A sufficient number of copies of such audit shall be provided so that at least one copy is filed with the Governor's Office, one copy with the Department of Administration and at least two copies filed with the Secretary of State.

The State Auditor and State Treasurer shall maintain records and submit budget reports on their respective departments in the same manner and form as do other State agencies, and such requests and reports shall be filed in the Office of State Budget and Management.

~~In all matters where action on the part of the Advisory Budget Commission is required by this Article, eight members of the Commission shall constitute a quorum for performing the duties or acts required by the Commission. (1925, c. 89, s. 4; 1929, c. 100, s. 4; 1931, c. 295; 1951, c. 768; 1955, c. 578, s. 3; 1957, c. 269, s. 2; 1973, c. 820, ss. 1-3.)~~

§ 143-5. Appropriation rules. — All moneys heretofore and hereafter appropriated shall be deemed and held to be within the terms of this Article and subject to its provisions unless it shall be otherwise provided in the act appropriating the same; and no money shall be disbursed from the State treasury except as herein provided. (1925, c. 89, s. 5; 1929, c. 100, s. 5.)

Cited in O'Neal v. Wake County, 196 N.C. 184, 145 S.E. 28 (1928).

§ 143-6. Information from departments and agencies asking State aid. — On or before the first day of September biennially, in the even-numbered years, each of the departments, bureaus, divisions, officers, boards, commissions, institutions, and other State agencies and undertakings receiving or asking financial aid from the State, or receiving or collecting funds under the authority of any general law of the State, shall furnish the Director all the information, data and estimates which he may request with reference to past, present and future appropriations and expenditures, receipts, revenue, and income.

Any department, bureau, division, officer, board, commission, institution, or other State agency or undertaking desiring to request financial aid from the State for the purpose of constructing or renovating any State building, utility, or other property development (except a railroad, highway, or bridge structure) shall, before making any such request for State financial aid, submit to the Department of Administration a statement of its needs in terms of space and other physical requirements, and shall furnish the Department with such additional information as it may request. The Department of Administration shall then prepare preliminary studies and cost estimates for the use of the requesting department, bureau, division, officer, board, commission, institution, or other State agency or undertaking in presenting its request to the Director of the Budget. (1925, c. 89, s. 6; 1929, c. 100, s. 6; 1957, c. 584, s. 4; 1965, c. 310, s. 4.)

§ 143-7. Itemized statements and forms. — The statements and estimates required under G.S. 143-6 shall be itemized in accordance with the budget classification adopted by the Director, and upon forms prescribed by him, and shall be approved and certified by the respective heads or responsible officer of each department, bureau, board, commission, institution, or agency submitting same. Official estimate blanks which shall be used in making these reports shall be furnished by the Director of the Budget. (1925, c. 89, s. 7; 1929, c. 100, s. 7; 1957, c. 269, s. 2.)

§ 143-8. Statements of State Disbursing Officer as to legislative expenditures. — On or before the first day of September, biennially, in the even-numbered years, the State Disbursing Officer shall furnish the Director a detailed statement of expenditures of the General Assembly for the current fiscal biennium, and an estimate of its financial needs, itemized in accordance with the budget classification adopted by the Director and approved and certified by the President pro tempore of the Senate and the Speaker of the House for each year of the ensuing biennium, beginning with the first day of July thereafter; and a detailed statement of expenditures of the judiciary and any other institution or commission that may be requested by the Director for each year of the current fiscal biennium, and upon such request by the Director an estimate of its financial needs as provided by law, itemized in accordance with the budget classification adopted by the Director for each year of the ensuing biennium, beginning with the first day of July thereafter. The State Disbursing Officer shall transmit to the Director with these estimates an explanation of all increases or decreases. These estimates and accompanying explanations shall be included in the budget by the Director with such recommendations as the Director may desire to make in reference thereto. (1925, c. 89, s. 8; 1929, c. 100, s. 8; 1961, c. 1181, s. 1; 1971, c. 1200, s. 7.)

§ 143-9. Information to be furnished upon request. — The departments, bureaus, divisions, officers, commissions, institutions, or other State agencies or undertakings of the State, upon request, shall furnish the Director, in such form and at such time as he may direct, any information desired by him in relation to their respective activities or fiscal affairs. The State Auditor shall also furnish the Director any special, periodic, or other financial statements as the Director may request. (1925, c. 89, s. 10; 1929, c. 100, s. 9.)

§ 143-10. Preparation of budget and public hearing. — ~~The members of the Commission shall, at the request of the Director, attend such public hearing and other meeting as may be held in the preparation of the budget. Said Commission shall act at all times in an advisory capacity to the Director on matters relating to the plan of proposed expenditures of the State government and the means of financing the same.~~

The Director, ~~together with the Commission~~, shall provide for public hearings on any and all estimates to be included in the budget, which shall be held during the months of October and/or November and/or such other times as the Director may fix in the even-numbered years, and may require the attendance at these hearings of the heads or responsible representatives of all State departments, bureaus, divisions, officers, boards, commissions, institutions, or other State agencies or undertakings, and such other persons, corporations and associations, using or receiving or asking for any State funds.

In addition, in November of each even-numbered year and at such other times in odd-numbered years as he may select, the Director of the Budget will present to the Advisory Budget Commission a full explanation of the budget recommendations, tax proposals, and revenue estimates he will present to the next session of the General Assembly, along with such other information as the General Assembly may have requested in the preceding appropriations bills.

November

**§ 143-11. Survey of departments.** — On or before the fifteenth day of ~~December~~, biennially in the even-numbered years, the Director shall make a complete, careful survey of the operation and management of all the departments, bureaus, divisions, officers, boards, commissions, institutions, and agencies and undertakings of the State and all persons or corporations who use or expend funds as hereinbefore defined, in the interest of economy and efficiency, and a working knowledge upon which to base recommendations to the General Assembly as to appropriations for maintenance and special funds and capital expenditures for the succeeding biennium. ~~If the Director and the Commission shall agree in their recommendations for the budget for the next biennial period, he shall prepare their report in the form of a proposed budget, together with such comment and recommendations as they may deem proper to make. If the Director and Commission shall not agree in substantial particulars, the Director shall prepare the proposed budget based on his own conclusions and judgment and shall cause to be incorporated therein such statement of disagreement and the particulars thereof, as the Commission or any of its members shall deem proper to submit as representing their views.~~ The budget report shall contain a complete and itemized plan of all proposed expenditures for each State department, bureau, board, division, institution, commission, State agency or undertaking, person or corporation who receive or may receive for use and expenditure any State funds as hereinbefore defined, in accordance with the classification adopted by the Director, and of the estimated revenues and borrowings for each year in the ensuing biennial period beginning with the first day of July thereafter. Opposite each item of the proposed expenditures, the budget shall show in separate parallel columns the amount expended for the last preceding appropriation year, for the current appropriation year, and the increase or decrease. The budget shall clearly differentiate between general fund expenditures for operating and maintenance, special fund expenditures for any purpose, and proposed capital outlays.

The Director shall accompany the budget with:

- (1) A budget message supporting his recommendations and outlining a financial policy and program for the ensuing biennium. The message will include an explanation of increase or decrease over past expenditures, a discussion of proposed changes in existing revenue laws and proposed bond issues, their purpose, the amount, rate of interest, term, the requirements to be attached to their issuance and the effect such issues will have upon the redemption and annual interest charges of the State debt.
- (2) An itemized and complete financial statement for the State at the close of the last preceding fiscal year ending June 30.
- (3) A statement of special funds.
- (4) A statement showing the itemized estimates of the condition of the State treasury as of the beginning and end of each of the next two appropriation years.

It shall be a compliance with this section by each incoming Governor, at the first session of the General Assembly in his term, to submit the budget report with the message of the outgoing Governor, if he shall deem it proper to prepare such message, together with any comments or recommendations thereon that he may see fit to make, either at the time of the submission of the said report to the General Assembly, or at such other time, or times, as he may elect and fix. (1925, c. 89, s. 12; 1929, c. 100, s. 11.)

~~§ 143-11.1. Photographs to aid in determining needs of institutions requesting permanent improvements. — When the Advisory Budget Commission makes its biennial inspection of the facilities of the State and receives requests from the State institutions in the preparation of the report of the Advisory Budget Commission, the Director of the Budget may secure the services of a qualified photographer to accompany the Advisory Budget~~



~~Commission on such tour of inspection and to take such photographs as the members of the Advisory Budget Commission may deem advisable in order to assist the Advisory Budget Commission and the members of the General Assembly in obtaining a clear conception of the needs of the various institutions requesting permanent improvements. The Director of the Budget may furnish sufficient copies of such photographs to the General Assembly at the time it is considering requests for appropriations from such institutions to enable each member of the General Assembly to have ready access to such photographs.~~

~~For the purpose of securing the service provided in this section, the Director of the Budget is authorized to obtain the services of any regular photographer in the employment of the State and if no such photographer is available the Director of the Budget may secure the services of a professional photographer and the expense of such service shall be borne from the regular funds of the Department of Administration, and if necessary, additional funds may be secured from the Contingency and Emergency Fund. (1953, c. 982; 1957, c. 269, ss. 1, 2.)~~

Editor's Note. — Pursuant to Session Laws "Budget Bureau" near the end of the section. 1957, c. 269, s. 1, ... "Department of Administration" has been substituted for See § 143-344(a).

143-11.1. Biennial inspection of State facilities by the Advisory Budget Commission.—The Advisory Budget Commission shall make a biennial inspection of the facilities of the State in order to obtain a clear understanding of the needs of the various institutions requesting permanent improvements and of the effectiveness of State services.

~~§ 143-12. Bills containing proposed appropriations. — The Director, by and with the advice of the Commission, shall cause to be prepared and submitted to the General Assembly the following bills:~~

- (1) A bill containing all proposed appropriations of the budget for each year in the ensuing biennium, which shall be known as the "Budget Appropriation Bill."
- (2) A bill containing the views of the Director of the Budget with respect to revenue for the ensuing biennium, which shall be known as the "Budget Revenue Bill," which will in the opinion of the Director ~~and the Commission~~ provide an amount of revenue for the ensuing biennium, sufficient to meet the appropriations contained in the Budget Appropriation Bill.
- (3) A bill containing proposed methods and machinery for the collection of taxes and the listing of property for taxation, in the several counties of the State, and municipalities, which shall be known as the "Budget Machinery Bill," and such bill shall contain the judgment and the result of all the latest, most improved methods of listing and collection of taxes, for counties and municipalities, according to the best information obtainable by ~~the Commission and the Director~~, with a view to the ease and simplification of the methods of the listing of property for such taxation and for the collection of the same, having in view the necessity of counties and municipalities to collect the highest percentage possible of taxes levied at the minimum cost.

To the end that all expenses of the State may be brought and kept within the budget, the Budget Appropriation Bill shall contain a specific sum as a contingent or emergency appropriation. The manner of the allocation of such contingent or emergency appropriation shall be as follows: Any institution,

department, commission, or other agency or activity of the State, or other activity in which the State is interested, desiring an allotment out of such contingent or emergency appropriation, shall upon forms prescribed and furnished by the Director of the Budget, present such request in writing to the Director of the Budget, with such information as he may require, and if the Director of the Budget shall approve such request, in whole or in part, he shall forthwith present the same to the Governor and Council of State, and upon their order only shall such allotment be made. If the Director shall disapprove the request of such an allotment out of the emergency or contingent appropriation, he shall transmit his refusal and his reason therefor to the Governor and Council of State for their information.

~~If the Director and the Commission shall not agree as to the Appropriation, Revenue and Machinery Bills in substantial particulars, the Director shall prepare the same, based on his conclusions and judgment, and shall cause to be submitted therewith such statements of disagreement, and the particulars thereof, as the Commission, or any of its members, shall find proper to submit as representing their own views. (1925, c. 89, s. 13; 1929, c. 100, ss. 12, 13, 14; 1957, c. 269, s. 2.)~~

**§ 143-13. Printing copies of budget report and bills and rules for the introduction of the same.** — The Director shall cause to be printed one thousand copies each of the budget report, the Budget Appropriation Bill, the Budget Revenue Bill, and the Budget Machinery Bill. The Governor shall present copies thereof to the General Assembly, together with the biennial message, except incoming Governors may, at the first session of the General Assembly in their respective terms, submit the same after the biennial message has been presented to the General Assembly. The Budget Appropriation Bill shall be introduced by the chairman of the committee on appropriations in each house of the General Assembly, and the Budget Revenue Bill and the Budget Machinery Bill shall be introduced by the chairmen of the finance committees in each branch of the General Assembly: Provided, that for the years in which the Governor is elected, the Director shall deliver the budget report and the Budget Appropriation Bill and the Budget Revenue Bill and the Budget Machinery Bill to the Governor-elect, on or before the fifteenth day of December, and the said budget report, Appropriation, Revenue and Machinery Bills, shall be presented by the Governor to the General Assembly with such recommendations in the way of amendments, or other modifications, together with such criticism as he may determine. The provisions herein contained as to the introduction of the bills mentioned in this section shall be considered and treated as a rule of procedure in the Senate and House of Representatives until otherwise expressly provided for by a rule in either, or both, of said branches of the General Assembly. (1925, c. 89, s. 14; 1929, c. 100, s. 15.)

**§ 143-14. Joint meetings of committees considering the budget report and appropriation bill.** — ~~The appropriations committees of the House of Representatives and the Senate and subcommittees thereof shall sit jointly in open sessions while considering the budget~~

The Appropriations Committee, which shall consist of not more than 12 members of the House of Representatives and 12 members of the Senate, shall consider the entire budget sitting jointly in open sessions

and such consideration shall embrace the entire budget plan, including appropriations for all purposes, revenue,

borrowings and other means of financing expenditures. Such joint meetings shall begin within five days after the budget has been presented to the General Assembly by the Governor. This joint committee shall have power to examine under oath any officer or head of any department or any clerk or employee thereof; and to compel the production of papers, books of account, and other documents in the possession or under the control of such officer or head of department. This joint committee may also cause the attendance of heads or responsible representatives of a department, institution, division, board, commission, and agency of the State, to furnish such information and answer such questions as the joint committee shall require. To these sessions of the joint committee ~~or subcommittees~~ shall be admitted, with the right to be heard, all taxpayers or other persons interested in the estimates under consideration. The Director or a designated representative shall have the right to sit at these public hearings and to be heard on all matters coming before the joint committee, ~~or subcommittees thereof~~. The said joint committee ~~or any subcommittee thereof~~ shall have full power and authority to punish for disobedience of its writs or orders requiring persons to attend such hearings and to answer under oath such questions as may be put to them by such committee or anyone acting in its behalf; such punishment shall be as is now, or may hereafter be prescribed for direct contempt, but with the right of such offender to appeal from the judgment of such committee to the Superior Court of Wake County, upon the giving of such bond as may be required by such committee.

Major department or program recommended budgets and related supplemental requests and special appropriations bills shall also be considered with respect to their policy aspects by the appropriate substantive committees of the House and of the Senate, and the recommendations of these substantive committees shall be considered by the joint appropriations committee in preparing their appropriations recommendations. In odd-numbered years the Senate and House Appropriations Committees will report the two main appropriations bills for operations and for capital improvements to their respective houses not less than thirty days prior to adjournment.

In so far as this section prescribes the method and manner of hearings before such committees this section shall be considered and have the force of a rule of each branch of the General Assembly until and unless a change has been made by an express rule of such branch thereof. (1925, c. 89, s. 15; 1929, c. 100, s. 16; 1953, c. 501; 1955, c. 5.)

§ 143-15. Reduction and increase of items by General Assembly. — The provisions of this Article shall continue to be the legislative policy with reference to the making of appropriations and shall be treated as rules of both branches of the General Assembly until and unless the same may be changed by the General Assembly either by express enactment or by rules adopted by either branch of the General Assembly.

The General Assembly may reduce or strike out such item in the Budget Appropriation Bill as it may deem to be the interest of the public service, but neither House shall consider , except in their committees,

further or special appropriations until the Budget Appropriation Bill shall have been enacted in whole or in part or rejected, unless the Governor shall submit and recommend an emergency appropriation bill or emergency appropriation bills, which may be amended in the manner set out herein, and such emergency appropriation bill, or bills, when enacted, shall continue in force only until the Budget Appropriation Bill shall become effective, unless otherwise provided by the General Assembly.

The General Assembly may also increase any appropriation set out in the Budget Appropriation Bill and may provide additional appropriations for other purposes if additional revenue or revenues, equal to the amount of such additional appropriations and increases, are provided for by corresponding amendment ~~to the Budget Revenue Bill~~ to the General Statutes, or by adjustments to the recommended budget within the total revenues from all sources projected by the Governor when he submitted his budget recommendations to the General Assembly. No bill carrying an appropriation shall thereafter be enacted by the General Assembly, unless it be for a single object therein described and shall provide an adequate source of revenue for defraying such appropriation, ~~or unless it appears from the budget report or the Budget Revenue Bill that there is sufficient revenue available therefor.~~ or unless it appears that there is sufficient revenue available therefor as a result of amendments to the General Statutes or from within the total revenues from all sources projected by the Governor when he submitted his budget recommendations to the General Assembly.

The appropriation, or appropriations, in such bills shall be in accordance with the classification used in the budget.

The General Assembly may, through provisions in the appropriations bills and in other legislation, specify any matters about which it wishes the Director of the Budget to keep the Advisory Budget Commission informed, whether related to the execution of the appropriated budget or to the preparation of the subsequent budget, as well as matters about which members of the General Assembly wish to be kept informed by the Advisory Budget Commission or by the Director of the Budget.

**§ 143-16. Article governs all departmental, agency, etc., appropriations.**—Every State department, bureau, division, officer, board, commission, institution, State agency, or undertaking, shall operate under an appropriation made in accordance with the provisions of this Article; and no State department, bureau, division, officer, board, commission, institution, or other State agency or undertaking shall expend any money, except in pursuance of such appropriation and the rules, requirements and regulations made pursuant to this Article. (1925, c. 89, s. 17; 1929, c. 100, s. 18.)

**Art Museum Building Commission.**—There is nothing in the Executive Budget Act or § 143B-58 which indicates a legislative intent to exempt the Art Museum Building Commission

from the requirements of the Executive Budget Act. *Lewis v. White*, 287 N.C. 625, 216 S.E.2d 134 (1975).

§ 143-16.1. Federal funds. — All federal funds shall be expended and reported in accordance with provisions of the Executive Budget Act. Proposed budgets recommended to the General Assembly by the Governor and ~~Advisory Budget Commission~~ shall include all appropriate information concerning the federal expenditures in State agencies, departments and institutions. (1977, 2nd Sess., c. 1219, s. 45.)

Editor's Note. — Session Laws 1977, 2nd Sess., c. 1219, s. 59, makes the act effective July 1, 1978.

Session Laws 1977, 2nd Sess., c. 1219, s. 57, contains a severability clause.

§ 143-17. Requisition for allotment. — Before an appropriation of any spending agency shall become available, such agency shall submit to the Director, not less than 20 days before the beginning of each quarter of each fiscal year a requisition for an allotment of the amount estimated to be required to carry on the work of the agency during the ensuing quarter and such requisition shall contain such details of proposed expenditures as may be required by the Director. The Director shall approve such allotments, or modifications of them, as he may deem necessary to make, and he shall submit the same to the State Auditor who in the course of his audits shall check for compliance with such allotments. No allotment shall be changed nor shall transfers be made except upon the written request of the responsible head of the spending agency and by approval of the Director of the Budget in writing: ~~Provided, that quarterly allotments made to the Auditor's office and the Treasurer's office shall be in such amounts as may be designated by the Advisory Budget Commission, and shall be made available in accordance with procedures determined by the Advisory Budget Commission.~~

Provided, that quarterly allotments made to the Auditor's office and the Treasurer's office shall be in such amounts as they may request.

§ 143-18. Unencumbered balances to revert to treasury; capital appropriations excepted. — All unencumbered balances of maintenance appropriations shall revert to the State treasury to the credit of the general fund or special funds from which the appropriation and/or appropriations, were made and/or expended, at the end of the biennial fiscal period; except that capital expenditures for the purchase of land or the erection of buildings or new construction shall continue in force until the attainment of the object or the completion of the work for which such appropriations are made. (1925, c. 18, s. 19; 1929, c. 100, s. 20.)

§ 143-18.1. Increase or decrease of projects within capital improvement appropriations; requesting authorization of capital projects not specifically provided for. — The Director of the Budget and the ~~Advisory Budget Commission~~ may, upon the request of the administration of a State agency or

his institution when, in ~~their~~ opinion, it is in the best interest of the State to do so, increase or decrease the costs and scope of a capital improvement project within the appropriation made to that State agency or institution within the capital improvement appropriation to that agency or institution for that biennium.

The Director of the Budget and the ~~Advisory Budget Commission~~ may when,

his in ~~their~~ opinion, it is in the best interest of the State to do so and upon the request of the administration of any State agency or institution authorize the construction of a capital improvement project not specifically provided for or authorized by the General Assembly when funds become available by gifts or

grants. All expenditures under this authorization shall be handled in full compliance with the provisions of the Executive Budget Act.

The agency shall support its request for such capital improvement project, or projects, with the following information: the estimated annual operating costs for (i) utilities; (ii) maintenance; (iii) repairs; (iv) additional personnel; (v) any and all other expenses to the State resulting from the addition of this facility to the plant of the institution. (1965, c. 841, s. 1.)

**§ 143-19. Help for Director.** — The Director is hereby authorized to secure such special help, expert accountants, draftsmen and clerical help as he may deem necessary to carry out his duties under this Article; and shall fix the compensation of all persons employed under this Article; which shall be paid by the State Treasurer upon the warrant of the State Disbursing Officer. A statement in detail of all persons employed, time employed, compensation paid, and itemized statement of all other expenditures made under the terms of this Article, shall be reported to the General Assembly by the Director, and all payments made under this Article shall be charged against and paid out of the emergency contingent fund and/or such appropriations as may be made for the use of the Department of Administration. (1925, c. 89, s. 20; 1929, c. 100, s. 21; 1957, c. 269, s. 2; 1961, c. 1181, s. 2.)

**§ 143-20. Accounting records and audits.** — The Director shall be responsible for keeping a record of the appropriations, allotments, expenditures, and revenues of each State department, institution, board, commission, officer, or other agency in any manner handling State funds. These records shall be kept in summary form, or in as much detail as the Director may deem advisable. Audits of the records of the State Auditor and the State Treasurer for the periods preceding the transfer of preaudit and related functions from the Auditor's office to the Director of the Budget may be accomplished by the Department of Administration at the direction of the Director of the Budget. (1925, c. 89, s. 22; 1929, c. 100, s. 22; 1955, c. 578, s. 5; 1957, c. 269, s. 2.)

**§ 143-21. Issuance of subpoenas.** — The Director shall have and is hereby given full power and authority to issue the writ of subpoena for any and all persons who may be desired as witnesses concerning any matters being inquired into by the Director ~~or the Commission~~, and such writs when signed by the Director shall run anywhere in this State and be served by any civil process officer without fees or compensation. Any failure to serve writs promptly and with due diligence, shall subject such officer to the usual penalties and liabilities and punishment as are now provided in the cases of like kind applying to sheriffs, and any persons who shall fail to obey said writ shall be subject to punishment for contempt in the discretion of the court and to be fined as witnesses summoned to attend the superior court, and such remedies shall be enforced against such offending witnesses upon motion and notice filed in the Superior Court of Wake County by the Attorney General under the direction of the Director. Any and all persons who shall be subpoenaed and required to appear before the Director ~~or the Commission~~ as witnesses concerning any matters being inquired into shall be compellable and required to testify, but such persons shall be immune from prosecution and shall be forever pardoned for violation of law about which such person is so required to testify. (1925, c. 89, s. 25; 1929, c. 100, s. 23; 1953, c. 675, s. 18.)

**§ 143-22. Surveys, studies and examinations of departments and institutions.** — The Director is hereby given full power and authority to make such surveys, studies, examinations of departments, institutions and agencies of this State, as well as its problems, so as to determine whether there may be an overlapping in the performance of the duties of the several departments and institutions and agencies of the State, and to make surveys, examinations and inquiries into the matter of the various activities of the State, and to survey, appraise, examine and inspect and determine the true condition of all property of the State, and what may be necessary to protect it against fire hazard, deterioration, and to conserve its use for State purposes, and to make and issue

and to enforce all necessary, needful or convenient rules and regulations for the enforcement of this Article. (1925, c. 89, s. 26; 1929, c. 100, s. 23; 1969, c. 458, s. 2.)

§ 143-23. All maintenance funds for itemized purposes; transfers between objects and items. — All appropriations now or hereafter made for the maintenance of the various departments, institutions and other spending agencies of the State, are for the purposes and/or objects enumerated in the itemized requirements of such departments, institutions and other spending agencies submitted to the General Assembly by the Director of the Budget and the Advisory Budget Commission, and/or as amended by the General Assembly. Transfers or changes as between objects and items in the budget of any department, institution or other spending agency, may be made at the request in writing of the head of such department, institution or other spending agency by the Director of the Budget. (1929, c. 100, s. 24.)

Transfer of Funds within School Commission, 40 N.C.A.G. 286 (1970).  
Appropriations for Transportation Lawful. Cited in *Styers v. Phillips*, 277 N.C. 460, 178  
—See opinion of Attorney General to Mr. S.E.2d 583 (1971).  
Thomas J. White, Chairman, Advisory Budget

~~§ 143-23.1. Maintenance funds for the State Auditor and State Treasurer. — All appropriations now or hereafter made for the support of the functions and responsibilities of the State Auditor and the State Treasurer are for the purposes and objects enumerated in the itemized requirements of such activities recommended to the General Assembly by the Advisory Budget Commission, and/or as amended by the General Assembly. Transfers or changes as between objects and items in the budgets of the State Auditor and the State Treasurer may be authorized by the Advisory Budget Commission in accordance with procedures established by the Commission. (1955, c. 578, s. 6.)~~

Operating appropriations for the State Auditor and the State Treasurer.— The operating budget requests of the State Auditor and the State Treasurer will be included without change in the budget recommended by the Governor to the General Assembly. If the Director of the Budget believes changes are needed in the requested and recommended operating budgets of the State Auditor and the State Treasurer, the Director will bring such changes to the attention of the Advisory Budget Commission during his explanation of his budget recommendations provided for in G.S. 143-10.

§ 143-24. Borrowing of money by State Treasurer. — The Director of the Budget, by and with the consent of the Governor and Council of State, shall have authority to authorize and direct the State Treasurer to borrow in the name of the State, in anticipation of the collection of taxes, such sum or sums as may be necessary to make the payments on the appropriations as even as possible and to preserve the best interest of the State in the conduct of the various State institutions, departments, bureaus, and agencies during each fiscal year. (1929, c. 100, s. 25.)

**§ 143-25. Maintenance appropriations dependent upon adequacy of revenues to support them.** — All maintenance appropriations now or hereafter made are hereby declared to be maximum, conditional and proportionate appropriations, the purpose being to make the appropriations payable in full in the amounts named herein if necessary and then only in the event the aggregate revenues collected and available during each fiscal year of the biennium for which such appropriations are made, are sufficient to pay all of the appropriations in full; otherwise, the said appropriations shall be deemed to be payable in such proportion as the total sum of all appropriations bears to the total amount of revenue available in each of said fiscal years. The Director of the Budget is hereby given full power and authority to examine and survey the progress of the collection of the revenue out of which such appropriations are to be made, and ~~by and with the advice and consent of a majority of the Advisory Budget Commission~~ to declare and determine the amounts that can be, during each quarter of each of the fiscal years of the biennium properly allocated to each respective appropriation. In making such examination and survey, he shall receive estimates of the prospective collection of revenues from the Secretary of Revenue and every other revenue collecting agency of the State. The Director of the Budget, ~~by and with the advice and consent of a majority of the Advisory Budget Commission~~, may reduce all of said appropriations pro rata, including appropriations for the State Auditor and the State Treasurer, when necessary to prevent an overdraft or deficit for the fiscal period for which such appropriations are made. The purpose and policy of this Article are to provide and insure that there shall be no overdraft or deficit in the general fund of the State at the end of the fiscal period, growing out of appropriations for maintenance and the Director of the Budget is directed and required to so administer this Article as to prevent any such overdraft or deficit. (1929, c. 100, s. 26; 1955, c. 578, s. 7; 1973, c. 476, s. 193.)

**§ 143-26. Director to have discretion as to manner of paying annual appropriations.** — Unless otherwise provided, it shall be discretionary with the Director of the Budget whether any annual appropriation shall be paid in monthly, quarterly or semiannual installments or in a single payment. (1897, c. 368; Rev., s. 5372; C. S., s. 7683; 1925, c. 275, s. 9; 1929, c. 100, s. 27.)

**§ 143-27. Appropriations to educational, charitable and correctional institutions are in addition to receipts by them.** — All appropriations now or hereafter made to the educational institutions, and to the charitable and correctional institutions, and to such other departments and agencies of the State as receive moneys available for expenditure by them, are declared to be in addition to such receipts of said institutions, departments or agencies, and are to be available as and to the extent that such receipts are insufficient to meet the costs of maintenance of such institutions, departments, and agencies. (1929, c. 100, s. 28.)

**§ 143-27.1. Allocation of funds appropriated for area vocational training schools.** — Funds appropriated to the Budget Bureau for area vocational training schools shall be allocated and disbursed for training programs under terms and conditions as may be prescribed by the Director of the Budget ~~upon approval of the Advisory Budget Commission~~. (1957, c. 1885.)

**Cross Reference.** — For provision that a statutory reference to the "Budget Bureau" shall be deemed to refer to the Department of Administration, see § 143-344.



§ 143-27.2. Severance wages for certain State employees.'— The Director of the Budget, upon written request of a State department and recommendations of the State Personnel Officer, is authorized to pay severance wages to a State employee when employment is terminated as the result of the closing of a State institution. (1979, c. 838, s. 22.)

Editor's Note. — Session Laws 1979, c. 838, s. 123, makes this section effective July 1, 1979. Session Laws 1979, c. 838, s. 122, contains a severability clause.

§ 143-28. All State agencies under provisions of this Article. — It is the intent and purpose of this Article that every department, institution, bureau, division, board, commission, State agency, person, corporation, or undertaking, by whatsoever name now or hereafter called, that expends money appropriated by the General Assembly or money collected by or for such departments, institutions, bureaus, boards, commissions, persons, corporations, or agencies, under any general law of this State, shall be subject to and under the control of every provision of this Article. Any power expressed in this Article or necessarily implied from the language hereof or from the nature and character of the duties imposed, in addition to the powers and duties heretofore expressly conferred herein, shall be held and construed to be given hereby to the end that any and all duties herein imposed and made and all purposes herein expressed may be fully performed and completely accomplished, and to that end this Article shall be liberally construed. Provided, that notwithstanding the general language in this Article the expenditure of funds by or under the supervision and control of the State Auditor and the State Treasurer for their respective departments shall not, except as provided in G.S. 143-25, be subject to the powers of the Director of the Budget or the Department of Administration, it being intended that the State Auditor and the State Treasurer shall be independent of any fiscal control exercised by the Director of the Budget, ~~and shall be subject only to such control as may be exercised by the Advisory Budget Commission.~~ (1925, c. 89, s. 28; 1929, c. 100, s. 29; 1955, c. 578, s. 8; 1957, c. 269, s. 2.)

Quoted in *Lewis v. White*, 287 N.C. 625, 216 S.E.2d 134 (1975).

§ 143-29. Delegation of power by Director. — Any power or duty herein conferred on the Governor as Director may be exercised and performed by such person or persons as may be designated or appointed by him from time to time in writing. (1925, c. 89, s. 29; 1929, c. 100, s. 30.)

§ 143-30. Budget of State institutions. — The several institutions of the State, boards, departments, commissions, agencies, persons or corporations, included with the terms hereof to which appropriations are made now or hereafter for permanent improvements or for maintenance, shall, before any of such appropriations, whether for permanent improvements or for maintenance, are available or paid to them or any one of them, budget their requirements and present the same to the Director of the Budget on or before the first day of June of each odd-numbered year hereafter. There shall be a separate budget presented for permanent improvements and for maintenance. Each of said budgets shall contain the requirements of said institutions, boards, commissions, and agencies, persons and corporations, and undertakings, as hereinbefore defined, for the succeeding two years. Each institution, board, department, commission, agency, person or corporation, in the preparation of such budget, shall follow as nearly as may be the itemized recommendations of the Director of the Budget ~~and Advisory Budget Commission~~ and/or as amended by the General Assembly. The forms, except when modified and changed by authority of the Director of the Budget, shall be the forms used in presenting the requests. (1925, c. 230, s. 2; 1929, c. 100, s. 32.)

Purpose of these statutory provisions is to guard against improvident, extravagant or unauthorized expenditure of State funds in the construction of a building by any commission or agency of the State. *Lewis v. White*, 287 N.C. 625, 216 S.E.2d 134 (1975).

**§ 143-31. Building and permanent improvement funds spent in accordance with budget.** — All buildings and other permanent improvements, which shall be erected and/or constructed, and carried on and the money spent therefor in strict accordance with the budget requests of such institution, board, commission, agency, person, or corporation filed with the Director of the Budget. The expenditure of appropriations for maintenance shall be in strict accordance with the budget recommendations for such institution, board, commission, agency, person or corporation and/or as amended or changed by the General Assembly. It shall be the duty of the Director of the Budget to see that all money appropriated for either permanent improvements or maintenance shall be expended in strict accordance with the budget recommendations and/or as amended by the General Assembly, for each department, institution, board, commission, agency, person or corporation. If the Director of the Budget shall ascertain that any department, institution, board, commission, agency, person or corporation has used any of the moneys appropriated to it for any purpose other than that for which it was appropriated and budgeted, as herein required, and not in strict accordance with the terms of this Article, the Director of the Budget shall have the power and he is hereby authorized to notify such institution, board, commission, agency, person or corporation that no further sums from any appropriation made to it will be available to such department, institution, board, commission, agency, person or corporation until and after the persons responsible for the diversion of the said funds shall have replaced the same, and the Director of the Budget shall have the power and he is hereby authorized to notify the State Disbursing Officer not to approve or issue any further warrants for such department, institution, board, commission, agency, person or corporation for any unexpended appropriation and the State Disbursing Officer is hereby prohibited from approving or issuing any further warrants for such department, institution, board, commission, agency, person or corporation until he shall have been otherwise directed by the Director of the Budget. (1925, c. 230, s. 3; 1929, c. 100, s. 33; 1961, c. 1181, s. 3.)

**Purpose of these statutory provisions is to** construction of a building by any commission or  
guard against improvident, extravagant or agency of the State. *Lewis v. White*, 287 N.C.  
unauthorized expenditure of State funds in the 625, 216 S.E.2d 134 (1975).

**§ 143-31.1. Study and review of plans and specifications for building, improvement, etc., projects.** — It shall be the duty and responsibility of the Director of the Budget to determine whether buildings, repairs, alterations, additions or improvements to physical properties for which appropriations of State funds are made have been designed for the specific purpose for which such appropriations are made, that such projects have been designed giving proper consideration to economy in first cost, in maintenance cost, in materials and type of construction. Architectural features shall be selected which give proper consideration to economy in design. The Director of the Budget shall have prepared a complete study and review of all plans and specifications for such projects and bids on same will not be received until the results of such study and review have been incorporated in such plans and specifications, and until economic conditions of the construction industry are considered by the Department of Administration to be favorable to the letting of construction contracts. (1953, c. 1090; 1963, c. 423; 1975, c. 879, s. 46.)

**Editor's Note.** — The 1975 amendment Cited in *Lewis v. White*, 287 N.C. 625, 216  
deleted "the Division of Property Control of" S.E.2d 134 (1975).  
preceding "the Department of Administration"  
in the last sentence.

§ 143-31.2. Appropriation, allotment, and expenditure of funds for historic and archeological property. — No funds of the State of North Carolina shall be appropriated, allotted, or expended for the acquisition, preservation, restoration, or operation of historic or archeological real and personal property, and the Director of the Budget shall not allot any appropriations for a particular historic site until (i) the property or properties shall have been approved for such purpose by the Department of Cultural Resources according to criteria adopted by the North Carolina Historical Commission, (ii) the report and recommendation of the North Carolina Historical Commission has been received and considered by the Department of Cultural Resources, and (iii) the Department of Cultural Resources has found that there is a feasible and practical method of providing funds for the acquisition, restoration and/or operation of such property. (1963, c. 210, s. 3; 1973, c. 476, s. 48.)

Cited in *Lewis v. White*, 287 N.C. 625, 216 S.E.2d 134 (1975).

§ 143-31.3. Grants to nonstate health and welfare agencies. — Nonstate health and welfare agencies shall submit their appropriation requests for grants-in-aid through the Secretary of the Department of Human Resources for recommendations to the Director of the Budget and the Advisory Budget Commission and the General Assembly, and agencies receiving these grants, at the request of the Secretary of the Department of Human Resources, shall provide a postaudit of their operations that has been done by a certified public accountant. (1979, c. 838, s. 35.)

§ 143-32. Person expending an appropriation wrongfully. — (a) Any trustee, director, manager, building committee or other officer or person connected with any institution, or other State agency as herein defined, to which an appropriation is made, who shall expend any appropriation for any purpose other than that for which the money was appropriated and budgeted or who shall consent thereto, shall be liable to the State of North Carolina for such sum so spent and the sum so spent, together with interest and costs, shall be recoverable in an action to be instituted by the Attorney General for the use of the State of North Carolina, which action may be instituted in the Superior Court of Wake County, or any other county, subject to the power of the court to remove such action for trial to any other county, as provided in G.S. 1-83, subdivision (2).

(b) Any member or members of any board of trustees, board of directors, or other controlling body governing any of the institutions of the State, or any officer, employee of, or person holding any position with any of the institutions of the State, or other State agency as herein defined, who willfully acts to divert, use, or expend any funds appropriated for the use of said institution or agency, in a manner designed to circumvent the provisions of this section, including normal reversions of State funds, by failing to properly receive or deposit funds, or by the improper expenditure or transfer of funds for any purpose other than that for which the funds were appropriated and budgeted, shall be guilty of a misdemeanor, punishable by fine or imprisonment, or both, in the discretion of the court. All offenses against this section shall be held to have been committed in the County of Wake and shall be tried and disposed of in the General Court of Justice for Wake County. If such offender be not an officer elected by vote of the people, conviction of such offense shall be sufficient cause for removal from office or dismissal from employment by the Governor upon 30 days' notice in writing to such offender. (1925, c. 230, s. 4; 1929, c. 100, s. 34; 1977, c. 980.)

Editor's Note. — The 1977 amendment designated the former provisions of this section as subsection (a) and added subsection (b). The editors have substituted "this section" for "this act" in the first sentence of subsection (b) of the section as set out above.

**§ 143-33. Intent.** — It is an intent and purpose of this Article that all departments, institutions, boards, commissions, agencies, persons or corporations to which appropriations for permanent improvements and/or maintenance are made, shall submit to the Director of the Budget their requests for the payment of such appropriations in the form of a budget, following the recommendations made by the Director of the Budget and the Advisory Budget Commission and/ or as amended by the General Assembly. (1925, c. 280, s. 5; 1929, c. 100, s. 85.)

**§ 143-34. Penalties and punishment for violations.** — A refusal to perform any of the requirements of this Article, and the refusal to perform any rule or requirement or request of the Director of the Budget made pursuant to, or under authority of, the Executive Budget Act, shall subject the offender to penalty of two hundred and fifty dollars (\$250.00), to be recovered in an action instituted either in Wake County Superior Court, or any other county, by the Attorney General for the use of the State of North Carolina, and shall also constitute a misdemeanor, punishable by fine or imprisonment, or both, in the discretion of the court. If such offender be not an officer elected by vote of the people, such offense shall be sufficient cause for removal from office or dismissal from employment by the Governor upon 30 days' notice in writing to such offender. (1929, c. 100, s. 36.)

**§ 143-34.1. Payrolls submitted to the Director of the Budget; approval of payment of vouchers.** — All payrolls of all departments, institutions, and agencies of the State government shall, prior to the issuance of vouchers in payment therefor, be submitted to the Director of the Budget, who shall check the same against the appropriations to such departments, institutions and agencies for such purposes, and if found to be within said appropriations, he shall approve the same and return one to the department, institution or agency submitting same and transmit one copy to the State Disbursing Officer, and no voucher in payment of said payroll or any item thereon shall be honored or paid except and to the extent that the same has been approved by the Director of the Budget. (1949, c. 718, s. 5; 1957, c. 269, s. 2; 1961, c. 1181, s. 4.)

**§ 143-34.2. Information as to requests for nonstate funds for projects imposing obligation on State; statement of participation in contracts, etc., for nonstate funds.** — All State agencies, funds, or state-supported institutions shall submit to the Department of Administration, as of the original date thereof, copies of all applications and requests for nonstate funds, (including federal funds), to be used for any purpose to which this section is applicable. This section shall be applicable to all projects and programs which do or may impose upon the State of North Carolina any substantial financial obligation at the time of or subsequent to the acceptance of any funds received upon any such application or request. Every State agency, fund or state-supported institution seeking nonstate funds for any such project or program shall furnish to the Department of Administration and the Advisory Budget Commission with each such copy of application or request, a statement of the purposes for which any such project or program is desired or advocated, the source and amount of funds to be granted or provided therefor, and a statement of the conditions, if any, upon which such funds are to be provided.

It shall be required of all State agencies, funds, or state-supported institutions, commissions or regional planning and development bodies to submit to the Department of Administration a statement of participation in any contract, agreement, plan or request for nonstate funds (including federal funds).

Any contract entered into by a State agency, department, or institution for a federal grant shall include a limiting clause which specifically states that continuation of the grant program by the State of North Carolina is subject to State funds being appropriated by the General Assembly for that program. (1965, c. 1181; 1969, c. 1210; 1977, c. 802, s. 15.25.)

§ 143-34.3: Repealed by Session Laws 1977, c. 802, s. 15.20.

~~§ 143-34.4. Legislative fiscal research staff participation. — Legislative fiscal research staff members may attend all meetings of the Advisory Budget Commission and all hearings conducted by or for the Commission, and may accompany the Commission to inspect the facilities of the State. The Legislative Services Officer shall be notified of all such meetings, hearings and trips in the same manner and at the same time as notice is given to members of the Commission. The Legislative Services Officer shall be provided with a copy of all reports, memoranda, and other informational material which are distributed to the members of the Commission; these reports, memoranda and materials shall be delivered to the Legislative Services Officer at the same time that they are distributed to the members of the Commission. (1971, c. 659, s. 2.)~~

Legislative staff participation. — Staff support for the Advisory Budget Commission shall be provided by the legislative fiscal research division and by such other legislative agencies as the Commission may designate. Members of the legislative fiscal research division and members of other legislative staff agencies designated by the Advisory Budget Commission may attend all meetings of the Commission called pursuant to G.S. 143-10, and may accompany the Commission to inspect the facilities of the State. The Director of Fiscal Research shall be notified of all such meetings, hearings, and visits in the same manner and at the same time as notice is given to members of the Commission. The Director of Fiscal Research shall be provided with a copy of all reports, memoranda, and other informational material which are distributed to members of the Commission by the Director of the Budget or his staff; and these reports, memoranda, and materials shall be delivered to the Director of Fiscal Research at the same time that they are distributed to members of the Commission.

§ 143-34.5. Budget transfers. — Every State department, institution, and agency shall provide to the chairman of the legislative commission on governmental operations a copy of every approved budget transfer which permits the expenditure of funds for a purpose for which the General Assembly made no appropriation. (1975, 2nd Sess., c. 983, s. 124.)

§§ 143-34.6 to 143-34.9: Reserved for future codification purposes.

APPENDIX D

Related Areas for Study by the Research Community

1. What were the parallels and differences in the careers and especially the ABC tenures of former Senator Tom White, who served on the Commission from 1961 to 1971, and Mr. J. H. Clark, who served on the Commission from 1933 to 1945?
2. Was the North Carolina Executive Budget Act based on similar legislation in another state? Has any other state used the North Carolina Executive Budget Act as a model for its own legislation? If either of these circumstances apply, to what extent has subsequent experience in these other states been similar to or different from the North Carolina experience with the Executive Budget Act?
3. What events influenced the personalities who were involved in the development and enactment of the Executive Budget Act, such as Senators L. R. Varser of Lumberton, R. S. McCain of Henderson, and W. L. Long of Roanoke Rapids?
4. To what extent has the General Assembly relied on the Council of State to monitor and control state fiscal activities, what changes have occurred in this respect over the years, and what were the reasons for the changes?
5. How has the role of the state auditor developed in North Carolina?
6. How has the role of the state treasurer developed in North Carolina?
7. What were the activities, findings, and recommendations of the joint legislative committee created in response to Resolution 12 of the 1923 Session "to investigate, and ascertain the true and correct fiscal and financial condition of the State?"
8. What evidence can be assembled concerning the activities of the ABC during the period 1925 to 1939, to compensate for the lost minutes of the Commission for the same period?

9. What was the relationship between the 1915 report of the Board of Internal Improvements, composed of Alexander Webb of Raleigh and George W. Montcastle of Lexington, and the executive budget movement in North Carolina? (See editorial in the Raleigh News and Observer, p4, March 2, 1925.)
10. What were the circumstances that caused the 1925 joint appropriations committee to hold no meetings until the last week of the session? (The Executive Budget Act was passed on February 28, 1925. The joint appropriations committee held its first meeting the following week, after the General Assembly had been in session more than 50 days.)
11. What kinds of powers and duties have governors as Director(s) of the Budget delegated to others as provided for in G.S. 143-29?
12. When and under what circumstances have governors and the ABC disagreed on items in the recommended budget and expressed those differences as provided for in G.S. 143-11?

APPENDIX E

Footnotes

1. Complaint filed by I. Beverly Lake, Jr., against the State of North Carolina, et al, August 8, 1979, Wake County Superior Court.
2. Senate Bill 944 prefiled with the Senate Principal Clerk June 8, 1979.
3. John M. Pfiffner and Robert V. Presthus, Public Administration, The Ronald Press, 1960, p377.
4. James Willard Hurst, The Growth of American Law: The Law Makers, Little, Brown & Company, 1950, p24.
5. Max Cogburn, Origins of the North Carolina Executive Budget Act, preliminary draft, The Institute of Government, The University of North Carolina at Chapel Hill, 1951, p5.
6. State of North Carolina, Reports of the State Auditor, 1883 and 1901.
7. N. C. Public Laws and Resolutions of 1869-70, Chapter 13.  
Public Laws of North Carolina of 1885, Chapters 143 and 247.  
Public Laws of North Carolina of 1891, Chapter 590.  
Public Laws of North Carolina of 1895, Chapter 408.  
Public Laws of North Carolina of 1901, Chapters 543 and 737.  
Public Laws of North Carolina of 1903, Chapter 402.  
Public Laws of North Carolina of 1907, Chapter 871.
8. Public Laws of North Carolina of 1887, Chapter 186.  
Public Laws of North Carolina of 1895, Chapter 146.  
Public Laws of North Carolina of 1897, Chapter 207.  
Public Laws of North Carolina of 1907, Chapter 1001.  
Resolutions of North Carolina of 1895.
9. Public Laws of North Carolina of 1897, Chapter 368.
10. Section 5373 of the Revisal of 1905.
11. Public Laws of North Carolina of 1917, Chapter 180.
12. Public Laws of North Carolina of 1917, Chapter 58.



13. North Carolina Historical Commission, Letters and Papers of Governor Thomas Walter Bickett, 1923 p38.
14. Public Laws of North Carolina of 1919, Chapter 38.
15. Austin F. McDonald, American State Government and Administration, Thomas Y. Crowell Company, 1946, p. 350.
16. Public Laws of North Carolina of 1919, Chapter 38.
17. Public Laws of North Carolina, Extra Session of 1920, Chapter 2.
18. Ibid.
19. Claudius O. Johnson, Government in the United States, Thomas Y. Crowell Company, 1947, p652.
20. Public Laws of North Carolina of 1921, Chapter 232. Public Laws of North Carolina of 1923, Chapters 174 and 197.
21. The State Auditor, Plan of Reorganization of State Departments, Boards and Commissions, 1923, p13.  
Many of the Auditor's recommendations apparently resulted from the inadequacies of the existing fiscal system as documented in the reports of two outside consultants. See also "Report on the Condition at December 31, 1922, and on the Transactions for the 25 months to December 31, 1922 of the Current General Fund and on the Bonded Indebtedness at December 31, 1922," submitted by Price, Waterhouse and Company on July 7, 1923, to W. L. Long, Chairman, Joint Committee of the Senate and House of Representatives of the State of North Carolina, appointed to investigate the financial conditions of the State; and "State of North Carolina Accounting Methods" submitted by W. B. Richards and Company on July 31, 1922, to Baxter Durham, the State Auditor.
22. Hugh Talmage Leffler and Albert Ray Newsome, The History of a Southern State: North Carolina, The University of North Carolina Press, 1963, p569.
23. North Carolina Historical Commission, Papers and Letters of Governor Angus Wilton McLean, 1931, pp20-21.

24. North Carolina Historical Commission, Papers and Letters of Governor Angus Wilson McLean, 1931, pp39-41.
25. Public Laws of North Carolina of 1925, Chapter 89.
26. Public Laws of North Carolina of 1925, Chapter 230.
27. Public Laws of North Carolina of 1925, Chapter 89.
28. North Carolina Historical Commission, Papers and Letters of Governor Angus Wilton McLean, 1931, pp84-86.
29. Public Laws of North Carolina of 1927, Chapter 79, Section 20.
30. Public Laws of North Carolina of 1929, Chapter 100.
31. Office of State Budget and Management, Department of Administration, tabulation of data from State Disbursing Office "Statement of Condition of the General Fund" 1929-1975.
32. Public Laws of North Carolina of 1931, Chapter 261.
33. State of North Carolina, Purchasing Manual, 1972 revision, p35.
34. 1963 Session Laws of North Carolina, Chapter 448, Article 5.
35. 1963 Session Laws of North Carolina, Chapter 847, and Chapters 20, 115, 136, and 138 of the General Statutes.
36. 1969 Session Laws of North Carolina, Chapter 546, Article 1.
37. Public Laws of North Carolina of 1929, Chapters 280 and 332.  
Public Laws of North Carolina of 1939, Chapters 1, 185, 340, and 403.  
1949 Session Laws of North Carolina, Chapters 1248, 1249, 1291, and 1295.  
1959 Session Laws of North Carolina, Chapters 1038, 1039, and 1053.

38. 1969 Session Laws of North Carolina, Chapters 755 and 807.  
1973 Session Laws of North Carolina, Chapters 523 and 533.  
1975 Session Laws of North Carolina, Chapters 874 and 875.  
1979 Session Laws of North Carolina, Chapters 731 and 838.  
The expanding role of the Advisory Budget Commission is also reflected in the minutes of the Commission. In 1940 the Commission met seven times in November to work on the 1941-43 budget. There were no other meetings. In 1956 the Commission met seven times in addition to its meetings to prepare the budget recommendations, primarily to consider such diverse matters as capital improvements, salaries, the use of consultants, and allocations from the contingency and emergency fund. (Source: Minutes of the Advisory Budget Commission, 1940-1956.)
39. The Brookings Institution, Institute for Government Research, Report on a Survey of the Organization and Administration of the State Government of North Carolina, 1930, p31.
40. G.S. 143-18.1
41. Office of the Secretary of State, The North Carolina Manual, 1905, 1909, 1911, 1915, 1919, 1921, 1925, 1929, 1935, 1939, 1943, 1945, 1947, 1949, 1959, and 1969. North Carolina General Assembly, House of Representatives Rules-Directory and Senate Rules-Directory, 1979. In the years cited above through 1939 the size of the House and Senate appropriations committees varied rather widely but remained at less than 50 per cent of the membership of each house. The Senate appropriations committee reached 50 per cent of the membership of that body in 1943. Beginning in 1945 both the House and the Senate appropriations committees exceeded 50 per cent of their respective membership.
42. North Carolina Center for Public Policy Research, Article II: A Guide to the N.C. Legislature, 1978.
43. 1979 Session Laws of North Carolina, Chapters 731 and 838.
44. The Institute of Government, The University of North Carolina at Chapel Hill, Stephen N. Dennis, Editor, The North Carolina Executive Budget Act Topically Arranged, Sixth Edition, 1975, p iii.

45. Senate Bill 944, prefiled with the Senate Principal Clerk, June 8, 1979.
46. Complaint filed by I. Beverly Lake, Jr., against the State of North Carolina, et al, August 8, 1979, Wake County Superior Court.
47. The Institute of Government, The University of North Carolina at Chapel Hill, Joan G. Brannon and Ann L. Sawyer, Editors, North Carolina Legislation 1979: A summary of legislation in the 1979 General Assembly of interest to North Carolina public officials, 1979, pp275-281.
48. Public Laws of North Carolina of 1929, Chapter 337.
49. Public Laws of North Carolina of 1931, Chapter 295.
50. 1949 Session Laws of North Carolina, Chapter 718, Section 5.
51. 1955 Session Laws of North Carolina, Chapter 578.
52. 1957 Session Laws of North Carolina, Chapter 269.
53. Minutes of the Advisory Budget Commission, 1940-49. 1951 Session Laws of North Carolina, Chapter 768.
54. 1953 Session Laws of North Carolina, Chapters 982 and 1090.  
1957 Session Laws of North Carolina, Chapter 584.
55. Minutes of the Advisory Budget Commission, 1940-1960.
56. 1953 Session Laws of North Carolina, Chapter 501.
57. 1955 Session Laws of North Carolina, Chapter 5.
58. 1957 Session Laws of North Carolina, Chapter 1385.
59. 1961 Session Laws of North Carolina, Chapter 1181.  
1969 Session Laws of North Carolina, Chapter 458
60. 1963 Session Laws of North Carolina, Chapter 210.
61. 1965 Session Laws of North Carolina, Chapter 310.
62. 1965 Session Laws of North Carolina, Chapter 841.
63. 1965 Session Laws of North Carolina, Chapter 1181.  
1969 Session Laws of North Carolina, Chapter 1210.

64. 1971 Session Laws of North Carolina, Chapter 659, Section 2.
65. 1973 Session Laws of North Carolina, Chapter 820.
66. 1971 Session Laws of North Carolina, Chapter 728.
67. 1975 Session Laws of North Carolina, Chapter 983 (Second Session, 1976).
68. 1977 Session Laws of North Carolina, Chapters 930 and 802, Section 15.25.
69. 1979 Session Laws of North Carolina, Chapter 838, Sections 22 and 35.

