

Library

Esser BPR
Mem. Study Com
8-12-58
15 Copies

Institute of Government
University of North Carolina
Chapel Hill

Staff Memorandum

Prepared for

The Municipal Study Commission

by

George H. Esser, Jr.
Assistant Director
Institute of Government

August 12, 1958

Table of Contents

I.	Introduction	1
II.	"The governmental services and functions provided. . ."	2
III.	How North Carolina Cities Are Growing.	5
	A. Population	5
	B. Patterns of Growth	9
IV.	Service Demands of Urban Development	11
	A. What Are the Demands	11
	B. How Should These Demands or Needs Be Met?	15
V.	Financial Capacity of North Carolina Cities to Meet the Demands of Urban Growth.	18
	A. The Present Municipal Tax and Revenue System in North Caro- lina	18
	1. General Operations	19
	2. Water and Sewer Operations	19
	3. Capital Improvements	20
	B. Factors to Be Considered in Analyzing the Tax and Revenue System	20
	1. Adequacy to Produce Necessary Revenue.	21
	2. Equity	24
VI.	Proposals for Changing the Municipal Tax and Revenue Structure .	31
	A. General Approaches	31
	B. The Proposals.	32
	1. The Property Tax	32
	2. The Privilege License Tax.	36
	3. State-Collected, Municipally-Shared Taxes.	38
	4. Financing Streets.	42
	5. New Sources of Revenue	52
	6. Utilities.	54
	7. Miscellaneous.	56
VII.	Powers and Procedures Needed to Further Orderly Growth and Sound Development.	61
	The Economic and Social City	61
	Role of Local Government	63
	Sound Growth Demands Coordinated and Intelligent Policy-making .	65
	"Governmental Setting for Growth: Some Alternatives".	67
	Criteria or Standards to Be Considered in Making Governmental Changes.	68
	The Range of Proposals	69

VIII. Delegation of Planning Powers	69
IX. Annexation	74
Annexation in North Carolina to 1958	75
Why Should Cities Consider Annexation?	77
Basic Considerations in Establishing an Annexation Policy.	77
To Annex or Not to Annex	78
Who Should Determine When an Area Should Be Annexed?	80
What Standards Should Determine When an Area Should Be Annexed?.	81
Annexation as a Case Study in Public Relations	82
General Approaches to Annexation	82
Review of Procedures for Annexation Found Among the Several States	83
Proposals.	83

I. Introduction

This memorandum reviews the assignment of the Municipal Study Commission and the problems which have been under study, seeks to narrow the issues presented, and finally offers alternative solutions which the Commission may want to consider.

The scope of the Commission's assignment was set forth in general terms in Resolution 51 of the 1957 General Assembly:

Sec. 2. It shall be the duty of the Commission to make a detailed and comprehensive study of the problems of municipal government in North Carolina which may include, but shall not be limited to a study, of the following:

(a) The procedures, powers and authority which are granted by the General Assembly and are available to municipalities that govern and limit the ability of municipal government to provide for orderly growth, expansion and sound development.

(b) The governmental services and functions provided and the increase or additional services and functions needed to meet the requirements for orderly growth, expansion and sound development of cities and towns and the capacity of municipal government to finance such services and functions.

At its meeting on February 20-21, as confirmed at the meeting on March 28-29, the Commission voted to concentrate its attention on these two major problems, recognizing that sufficient time was not available to give more detailed attention to other problems of importance. From time to time, however, the Commission has evidenced interest in the allied problem of "home rule,"--the manner in which, and the extent to which, the General Assembly should delegate discretionary powers of government to cities and towns. This additional question is also considered in this memorandum.

Since ability to finance extension of urban services is perhaps a sine qua non to effective extension of services for "orderly growth, expansion and sound development" of cities and towns, this problem received initial emphasis and is treated first in this memorandum.

II. "The governmental services and functions provided. . ."

Traditionally, responsibility for governmental services at the local level in this, and other states, was accomplished as follows:

The county: "The leading and principal purpose in establishing counties is to effectuate the political organization and civil administration of the state, in respect to its general purposes and policy which require local direction, supervision and control, such as matters of local finance, education, provisions for the poor, the establishment and maintenance of highways and bridges, and in large measure, the administration of public justice. It is through them, mainly, that the powers of government reach and operate directly upon the people and the people direct and control the government. . . ." White v. Commissioners of Chowan, 90 N.C. 437 (1884)

Cities and towns were carved out as governmental units within counties where

". . . in the opinion of the Legislature, the population of a particular locality has become so dense that it cannot be well governed by the ordinary county regulations, and requires the special 'rules and by-laws' of an incorporated town to secure its good order and management" Manly v. Raleigh, 57 N.C. 370 (1857)

(and because)

". . . cities and towns are not incorporated for the primary purposes of government, the protection of person and property, since that could be done by the justices of the peace and constables, as in the county districts, without the expensive machinery of municipal government, but municipalities are in fact not so much for governmental purposes as for business needs, such as paving, lights, security against fire, water, sewerage and the like, which are the necessities of dense population, and which can be furnished more cheaply and effectively by the representatives of the municipality chosen to administer its common interests, than by subjecting each citizen to the unrestricted demands of private capital." Mayo v. Commissioners, 122 N.C. 5, 29 S.E. 343 (1898).

Special districts were first organized to perform one or more governmental functions where (1) an area less than the full area of a county wanted or needed a particular service and (2) where financial support had to be derived from the property and population receiving the service, and for other miscellaneous reasons.

This simple structure of government was more than adequate in an agrarian society where the line between cities and towns and the surrounding countryside was sharply drawn. During the last half century, however, the emphasis

has shifted. This country has become an industrial nation and its population, increasing on a rapid scale, has become largely an urban population. Furthermore, there has been a massive movement of population away from the well-defined boundaries of the average city, and there have been resultant demands for municipal-type services wherever people live in urban or densely-populated communities. A steady increase in standards of living has also created demands for additional governmental services in rural areas, services of a type formerly limited to cities. Counties and special districts have experienced a tremendous increase in the number and type of functions performed, and there are some counties in this country which have all of the corporate powers formerly associated only with city governments.

Thus, in general, while a county continues to be a subdivision of the state to which responsibility for a share of specific state governmental functions is given, it may also have the power to perform any or all of the functions necessary to serve concentrations of population. The distribution of governmental powers to local governmental units is more and more based on the criterion of what powers are needed to serve the population rather than on the basis of the type of governmental unit.

Allocation of responsibility for governmental functions has been affected by other factors. The need for finding a more productive and more stable tax base for the support of major functions, such as highways and education, has resulted in a transfer of more and more responsibility for these functions from the local to the state level. In some states this has taken the form of greatly increased state financial aid to local governmental units. In North Carolina it has taken the form of more direct state responsibility for these functions.

Similarly, there have been transfers of responsibility from the city to the county, in cases where more effective area-wide administration of services

such as public welfare and public health could be accomplished by the governmental unit with wider jurisdiction, or where greater tax equity would result from county responsibility, or where economies of scale could be realized.

The fortunate end product in North Carolina, as compared with other states, is a logical division of governmental responsibility between the county and the city. The county is responsible for those governmental functions required by, or provided for, everybody within the county; the city is responsible for those functions required by, or provided for, those persons living in urban areas. The degree of overlapping and duplication in North Carolina--that is, performance by the city or functions benefitting everyone in the county, or of functions also performed by the county--or performance by the county of municipal-type functions for those living outside the city--is remarkably small.

In brief we have the county responsible for these major functions:

1. Local judicial administration
2. Recording of documents
3. Law enforcement
4. Public welfare
5. Public health
6. Construction and maintenance of schools and school administration
7. County homes

The city is responsible for these major functions:

1. Police protection
2. Fire protection
3. Street construction and maintenance
4. Storm drainage
5. Refuse disposal and collection

6. Parks and recreation
7. Water supply
8. Sewage disposal

In addition the city has broad discretionary powers for the regulation of persons and property, reflected in such activities as the following:

1. Building regulation
2. Regulation of the use of streets and parking
3. Zoning and subdivision control

This breakdown of responsibility is the general rule, and there are always exceptions to the general rule. Nor does the listing of functions specify responsibility for such functions as libraries (more now operated by counties than by cities), airports (supported in whole or in part by a number of counties as well as cities), gas and electrical systems (all municipal), auditoriums (all municipal), and public housing (all municipal except for a multi-county project in Eastern North Carolina).

Special districts in North Carolina are responsible for the following types of functions:

1. Water supply and sewer systems (sanitary districts)
2. Fire protection (districts subject to some county control)
3. Drainage

III. How North Carolina Cities Are Growing

A. Population

North Carolina always has been, and largely still is, an agricultural state. This state still ranks near the bottom of all the states with respect to total urban population and near the top with respect to number of farms and persons engaged in agriculture.

Success in the campaign for industrial development now underway will change the character of the entire state, as it has changed the character of many of the larger counties in the Piedmont already.

Technical definitions of urban population were changed by the Bureau of the Census in 1950, and it is a lengthy process to define particularly the trend of urban growth in North Carolina. Briefly, however, it is sufficient to point out that about one third of the population of the state in 1950 lived in places defined as "urban areas" by the Bureau. This percentage is increasing steadily, and will continue to increase if economic development continues to emphasize industrial development.

For example, the percentage of North Carolinians living in municipalities has increased from 33% in 1930, to 34% in 1940, to 37% in 1950, and is now estimated at 42%. (See Table 1)

The percentage of North Carolinians living in municipalities of 2,500 population or more has increased from 27% in 1930, to 28% in 1940, to 30% in 1950, and is now estimated at 34%.

The percentage of North Carolinians living in municipalities of 10,000 or more population increased from 19% in 1930, to 21% in 1940, to 23% in 1950, and is now estimated at 28%. (See Table 1)

Note particularly the more rapid rate of increase since 1940. While the population of the state as a whole has been increasing at a rate of about 10% every ten years, the population of all municipalities, and of all classifications of cities (See Table 2) has been increasing at more than double this rate.

What this can mean in particular parts of the state is made clear by recent estimates of population growth in and around Winston-Salem, Greensboro, High Point, Lexington, and Thomasville (Guilford, Forsyth, Davidson and Randolph Counties). In 1950 the combined population of these four counties

Table 1

North Carolina Municipal Population: 1930-1957

	<u>1930</u>	<u>1940</u>	<u>1950</u>	<u>1957</u>
Total State Population (000)	3,170	3,572	4,062	4,469
Total Municipal Population (000)	1,071	1,246	1,521	1,881
Percent Municipal Population of Total State Population	33.8	34.9	37.4	42.1
Population in Places over 10,000	592,814	740,344	952,442	1,237,546
Percent of Municipal Population in Places over 10,000	55.3	59.4	62.6	65.8

Note: All populations are those reported by the Census except for 1957 which are estimates.

The State's municipal population is growing at an increasing rate. Between 1930 and 1940 the increase was 16 percent; between 1940 and 1950 it was 22 percent; and between 1950 and 1957 it is estimated at 23 percent.

Table 2

Distribution of North Carolina Municipal Population: 1930-1957

<u>Population Group</u>	<u>Percent of Total Municipal Population</u>				<u>Change in Percent</u>
	<u>1930</u>	<u>1940</u>	<u>1950</u>	<u>1957</u>	<u>of Population</u> <u>1930-1957</u>
Over 100,000	7.7	8.1	8.8	8.6	.9
50,000-100,000	25.1	23.9	23.2	22.5	-2.6
25,000-50,000	9.7	9.2	9.7	9.6	- .1
10,000-25,000	18.8	20.1	21.0	21.0	2.2
5,000-10,000	10.1	10.8	10.8	11.0	.9
2,500-5,000	8.4	8.5	8.3	8.9	.5
1,000-2,500	11.8	11.5	11.1	11.2	- .6
Under 1,000	8.5	8.0	7.1	7.2	-1.3

Note: All municipalities are grouped according to 1950 populations for each year. Thus the same cities are in each group for all years listed. Populations for 1930, 1940, and 1950 are those reported by the Census. Estimates by the municipalities or by the Institute were made for all municipalities for 1957.

was 450,240. By 1980 it is estimated that the total population of these counties will be 900,000. In 1950 the combined population of Greensboro, High Point, Winston-Salem, Thomasville and Lexington was 226,898 or about 50% of the four-county total. By 1980 it is estimated that 396,000 persons, or 44% of the total, will live inside the boundaries of those cities as they existed in 1950. It is clear that hundreds and thousands of acres of now agricultural or undeveloped land will be required to accommodate 450,000 more people. What will be the face of Forsyth, Guilford, Randolph and Davidson Counties in 1980? Will they be attractive or will they be slums? Will there be five cities or one city? How can the city and county governments involved prepare themselves to handle this doubling in population?

B. Patterns of Growth

If cities grew in a regular pattern out from the center, there would be little problem in determining the service requirements for expansion of the city. Urban development in the mid-20th century, however, does not follow a simple pattern. While North Carolina is not faced with the pyramiding of chaotic development upon chaotic development, such as is found in the older American cities, it is faced with the prospect of exaggerated and wasteful distribution of urban development similar to the pattern found in the Houston (Texas) region and in Southern California. Beginning with the fact that North Carolina is today a state of relatively small cities and towns, here are some of the factors which have in the past and may in the future condition urban development in this state, particularly in the Piedmont backbone of the state.

1. Because North Carolina has been, and still is, predominantly a rural state, a larger than usual proportion of North Carolinians still live on the farm and commute to industrial jobs in town.

2. A good system of roads has encouraged people to live away from town, to get "open space and fresh air," and the location of the interstate highway system, connecting the major urban centers, will encourage this movement more.
3. Many new industries, those which do not require municipal utilities and services, are seeking rural locations because a commuting labor force is available and because land costs are lower.
4. Development today requires lots of land. Industries and commercial establishments need land for one-story buildings and for parking. Residential developers want land for large subdivisions, and notably, large lots.
5. As in other parts of the country, increased standards of living have led rural residents to want many of the governmental services formerly confined to municipalities.
6. Many industries, commercial businesses, and homeowners settle in the rural areas initially to get away from municipal taxes. Yet they are often the first to demand municipal-type services.

In short, despite the efforts of cities and towns to encourage development within their borders--and many cities and towns seek to impose controls by refusing to extend water and sewer services unless those desiring the service are annexed to the city--there are many factors at work which may, in the years to come, spread industrial, residential and commercial land uses throughout the rural areas between cities, rather than in the immediate vicinity of cities.

IV. Service Demands of Urban Development

A. What Are the Demands

Answers to the urban problem will not arise simply from a study of, and recommendations on, the power of the city to expand its boundaries. Urban development in North Carolina is going to demand a flexible system of local government capable of meeting demands where they arise. There are only two basic alternatives--to rigidly control new development on the one hand, or to relax and "enjoy" the consequences of completely unplanned and unregulated development on the other.

The critical point has not yet been reached in this state. With a few exceptions, such as the Kannapolis area, urban development in North Carolina is still city-oriented. But we have no assurance that it will remain so during the next ten years, when new growth is expected to take advantage of the new highway system and the locational whims of new industry.

As of today - 1958 - the "services and functions needed to meet the requirements for orderly growth, expansion and sound development" can be summed up as follows.

The city. North Carolina cities provide high level services, better than the average of all American cities. Some North Carolina cities rank at the top of their population class.

When a city expands its service boundaries, either to take in developed land or to take in land ripe for development, it is prepared to provide services of a quality needed where population density is relatively high. But what we need and do not have is a clear definition of the breaking point between a population density requiring city services and a population density which does not. No formulae enable us to identify a specific density cutoff point, but competent evidence indicates that it is within the range of one to two dwellings per acre or from four to eight persons per acre. These are some of the reasons leading to this conclusion:

1. Fire protection and a sewage collection system are possible only where there is a public water supply meeting specific technical standards of distribution pressure.
2. The septic tank system of sewage treatment clearly breaks down when development exceeds an average density of two homes per gross acre. In good soil septic tanks will work well up to three houses per acre; in average soil they will work well up to that density when only a few acres are developed; in poor soil, two households per acre will discharge more waste than septic tanks can handle.
3. A water distribution system can be constructed and financed in an equitable manner in areas where the average density of development is one house per acre or more. But it is probably uneconomical, under present financing plans, to construct both water and sewer systems throughout a large area where the average density of development is one house per acre or less. If the people in such area are willing to pay for both systems, well and good. But for the larger urban community to subsidize such systems in sparsely-developed territory is open to question.
4. In sparsely-developed territory, drainage ditches are usually sufficient to handle the runoff of surface water. But as development becomes more intensive, as more and more trees are sacrificed to lawn and highway purposes, the absolute need for storm drainage systems increases. City engineers generally accept an average density of two households per acre as the maximum beyond which such a system is necessary.
5. The greater the density of development, the more expensive it becomes to build a street adequate even for traffic on a residential street. A residential street in a fully-developed neighborhood

must meet high engineering specifications if it is to be a trouble-free street. In contrast, less expensive streets are adequate in more sparsely-developed communities.

6. Removal and disposal of solid organic wastes and other refuse is less important for protection of the public health in sparsely-developed areas. It is essential in intensively-developed areas.

It is significant that the theme throughout these statements is that as areas are more intensively developed, large-scale and expensive community facilities become necessary to provide the protection necessary for the public health, safety and welfare. And since it is not fair for people to help build facilities that are of minimal benefit to them, the dividing line between a city and its rural and suburban periphery can be based on the idea that only that land or those people who benefit from these facilities (or who will soon have need of them) should be within the city.

If such a basis is adopted, it will not mean that there are not other service differentials in a city as compared to the unincorporated suburban area. But these differentials are not tied to expensive community facilities. They are expressions of value on the part of the taxpayer. Thus there is no magic line where municipal-type police protection is necessary. How much police protection should be provided and by whom is purely a question of value to be determined through existing political subdivisions.

It is important to emphasize that in general the problem is not one of different services provided by the city or in an urban community, but one of degree. If a person lives in the country, he must get water, provide for waste disposal, provide for road or highway access, provide for fire protection. Some of these services he can provide for himself; some of them he can get at a level less than that required if he were within a city or congested suburban area.

But there is one area of governmental activity where perhaps too strict a line has been drawn between city and country. This area is the regulation of land developed. Land is one of our basic resources. Traditionally, nobody likes to be told how to use his land--and yet individuals can harm the health and safety of their neighbors or their neighbor's property if regulations are not adopted for the protection of the whole community.

For example, if building and fire regulations are not enacted, congested areas may become fire traps. There is no immutable law preserving structures outside the city from the threat of fire, and furthermore the improperly built stores and homes in the countryside today may be the center of congested areas tomorrow.

If there are no zoning regulations, home owners have no protection from the construction adjacent to their lots of conflicting business or industrial uses. Similarly, commercial and industrial uses have no protection from adjacent residential construction. Undesirable, inadequately planned, and helter-skelter mixtures of land uses can result in a general depression of land values throughout an area, lead to the development of what is frequently called the "suburban or rural slum," discourage the development of vacant land adjacent to poorly-developed areas, and fritter away sites which might be very desirable for large-scale industrial, commercial or residential development. This last after-effect has already hindered potential development in a number of North Carolina cities.

If there are no subdivision regulations, residential development may take place on undersized lots leading to dangerous sanitation problems; streets may be laid out improperly and with inadequate widths, resulting either in unnecessary congestion or expensive reconstruction; land may be improperly laid out so that there will be no market for the subdivided sites.

All these things argue for extension of building, zoning and subdivision controls, not necessarily by the city but by some responsible governmental unit so that tomorrow's generation will not have to pay for today's mistakes.

B. How Should These Demands or Needs Be Met?

It would be presumptuous to say that the boundary of a city as a legal, political or economic community should be established by either the need for or the ability to pay for expensive systems of community facilities. Other factors must and do play a part in defining the boundaries of an urban community. Even if we remain concerned with community facilities alone, it is clear that these facilities play a large part in the economic development of the urban community. It is also clear that the urban area has an interest in the development of the entire community, not only those areas which will need community facilities but those areas which, while not needing the facilities, contain factories or business establishments which are a part of the city's economic life or which contain homes for those who work in the city.

Thus

Any North Carolina city has an interest in seeing that suitable industrial sites are available near the city, sites to which the city's utility systems can be economically connected and to which the city's residents can easily travel to work.

Any North Carolina city has an interest in seeing that the community facilities in which it has invested are used by those for whom the facilities were constructed--people living in congested areas.

Any North Carolina city has an interest in seeing that the new part of the city complements the old part of the city in providing an attractive, pleasant, convenient community in which to live.

In short, the Commission can precisely define the services and functions needed to meet the general requirements for orderly growth and sound development.

But it cannot precisely determine, according to easily-defined standards, the type and jurisdiction of the governmental units which should be given responsibility for these services.

More and more the facts of urban development demonstrate that no single unit of government can be vested with complete responsibility for serving urban areas and encouraging orderly growth and sound development.

Rather there are several types of governmental units--the state, the counties, the cities, and special districts--which must be given responsibility for different aspects of sound urban development. The policy in North Carolina is reasonably clear-cut:

1. The state is responsible for design, construction and maintenance of the highway system needed to carry traffic wherever it is to be found--in urban as well as rural areas.
2. The cities generally are responsible for construction and operation of water and sewerage systems, with technical aid and advice from the state.
3. The cities generally are responsible for providing the high level of police and fire protection and sanitation required in the more congested areas.

With the increase in the rate of urban development, however, there are some questions of policy which have not been clearly decided. Looking at

all the governmental activities which are essential for sound urban growth and development, for example, it is clear that all of these activities are not carried out or available throughout all of the areas where urban development is taking place. The questions for the Commission, then, are these:

1. In order to encourage orderly growth and sound urban development, what governmental units should have responsibility for some or all of the functions and services needed wherever urban development is found?
2. What powers and responsibilities should each of these types of governmental units have?
3. How should each of these governmental units finance the functions and services required for sound urban development?

Of course the incorporated municipality is the principal governmental unit directly concerned with urban development in North Carolina, but it is perhaps not the only one which must be or should be. To what extent shall the municipality have power and responsibility outside the area served by its system of facilities? How should services be provided in areas not served by the municipality, or incapable of being served by the municipality? How should control of new urban development be exercised, both adjacent to existing municipalities and in what are now rural areas removed from urban centers? How should urban services be financed, both in municipalities and outside of municipalities?

Since a sound system of financing governmental activities is essential to a sound system of allocating governmental responsibility, the problem of financing urban functions will be considered first.

V. Financial Capacity of North Carolina Cities to Meet the Demands of Urban Growth

All of the research on municipal finance has been undertaken with these questions in mind:

Does the present municipal tax and revenue system produce enough revenue to support necessary municipal services at an acceptable level of service and at the same time permit municipalities to extend these services to newly-developed areas?

Does the present municipal tax and revenue system raise this money in a way that is manifestly unfair to any particular class or classes of taxpayers? That is, is the burden of local taxation too high on all taxpayers, or does it unfairly discriminate in favor of some taxpayers and against others?

Are there outstanding needs in North Carolina municipalities, or in urban areas outside municipalities, which cannot presently be met because of inability of the present tax and revenue system to raise the necessary funds in an equitable manner when they are needed?

A. The Present Municipal Tax and Revenue System in North Carolina

The Municipal tax and revenue system in North Carolina is very simple.

It consists of the following sources:

1. The levy of taxes on real and personal property.
2. The levy of poll, motor vehicle license, and business privilege license taxes.
3. The imposition of service charges for services performed, such as the sale of water, sewerage collection, garbage collection, use of recreational and transportation facilities, and inspections.
4. The levy of benefit assessments against abutting property owners to pay for improvements specifically benefitting such property.

Part of the property tax--the tax on intangible personal property--is collected by the state and distributed back to cities and counties. In addition, the state distributes to municipalities part of the taxes collected by the state on the sale of beer and wine, public utility franchises and the sale of gasoline.

These revenues can either be spent to provide personal services or to meet the cost of community facilities. To meet the cost of community facilities, some or all of these revenues can be pledged for the payment, over a period of years, of the principal and interest on bonds sold to pay for the construction of major facilities.

If a composite statement of successful operation of the present municipal and tax structure can be made, it would include the following points.

1. General Operations.

Primary source of revenue - the property tax.

Secondary sources of revenue - fees and charges, municipal share of state-collected taxes, license taxes, special assessments.

Functions covered - administration, police and fire protection, street construction and maintenance, garbage collection and disposal, storm drainage, recreation and parks, libraries.

General policies - Powell Bill is allocated to streets; parking meter fees allocated to traffic control; other state-collected taxes supplement the property tax; ditto for license taxes.

Residential streets, storm drainage and curb and gutter are financed from special assessment procedures and general tax funds, or are constructed by developers.

2. Water and Sewer Operations.

Primary sources of revenue - water rates and sewer charges.

Secondary sources of revenue - connection fees and special assessments.

Functions covered - water supply system, water distribution system, sewage collection system, sewage treatment plant.

General policies - For extension of distribution system to newly-developed areas, either the developer installs or the property owner pays in whole or in part through special assessments, or the rate structure is fixed sufficiently high to pay for part or all of the cost of extension.

Sewer lines may be extended through the use of bond funds supported by rates.

3. Capital Improvements:

Cost of capital improvements is met either from funds appropriated from the annual budget or through the issuance of bonds, the payment of principal and interest on which is appropriated annually for the life of the bonds.

B. Factors to Be Considered in Analyzing the Tax and Revenue System

"It should also be clear that the tenets of a good tax system cannot be applied to the tax garnering methods of single localities--the largest metropolitan regions probably excepted. . . . The criteria applicable to a good tax system apply to the systems of central rather than local governments."

These are the words of a noted economist who has worked most of his life with the complex problems of local finance. It is his thesis, and indeed the thesis of most economists, that only a few taxes, principally the property tax, can be effectively and fairly levied and collected by local governments. It is his thesis that only the state and federal governments can do a good job in levying and collecting income, sales and gross receipts taxes. For example,

Those who argue for local autonomy base their case largely on tradition. Nonetheless, it must be realized that many of the metropolitan units are too small to assure effective tax administration. The areas of jurisdiction, likewise, are often ill-suited to the use of certain taxes, particularly where whole market areas or income sources do not coincide with the boundaries of the tax jurisdictions. Allocations of income, profits, sales and so on are artificial and often inequitable in operation, even where the formulas are carefully constructed. Limited territories make tax evasions easy and enable the "avoiders" to play off one local political unit against another. These difficulties emphasize how unwise it is to carve up a national, or even a state-wide economy into small pieces to permit local taxation. The dislocations and disturbances of trade, economic activity, and earning power should be conclusive arguments against the practice, but the need of money often drives governments to it. . . . The political ideal of local autonomy may thus be in conflict with the promotion of the economic interests of the citizens of the region.

This is not to say that economists favor transferring all fiscal powers to states or the federal government. They are merely saying that creation must be employed, and that it is impossible to construct a completely equitable local taxing system because of limiting economic and legal factors inherent in a governmental unit of limited jurisdiction. It is for these reasons, for example, that North Carolina moved to state financial responsibility for schools and highways.

Against this background, some of the factors which should be considered in evaluating the North Carolina municipal tax and revenue structure are set forth below.

1. Adequacy to Produce Necessary Revenue.

The basic standard is simple. Are present tax and revenue powers sufficient to bring in the revenue needed to provide

- Adequate levels of service for existing municipal functions,
- The expanded services and new facilities needed to meet demands for the future,

There are, of course, many criteria for judging levels of service, and an adequate level of service for Wilmington may not satisfy Greensboro. An adequate level of fire protection in the judgment of the city council may be inadequate according to the fire chief. Measurement of the quality of municipal functions is still an imprecise art and may never be a science. Most of our standards today are not much better than rules of thumb.

Some of our standards are technical, such as the standards which determine the safety of water for drinking purposes.

Some of our standards are semi-technical, such as the grading schedule for fire protection.

Some of our standards are related to social values, such as the standards which try to determine the number and types of recreational facilities needed in a community.

Some of our standards are frankly rules of thumb, such as personnel per 1,000 population or dollars per capita expended.

No attempt has been made to make a scientific evaluation of service levels in North Carolina cities. In some cases reliance has been placed on comparative data; in some cases on informed opinion; in some cases on community opinion.

In general, however, the quality of municipal government in North Carolina is at least average in comparison with municipal government in other states, and in most communities it is probably above average. We compare favorably in personnel available, in average expenditures other than salaries, in equipment, in facilities. In short, cities in this state are not so far behind the rest of the country that either a great many cities or the state as a whole must enter into a crash program of money expenditures in order to move up to a heretofore-unattained average level.

General statements can be misleading of course. There are cities in this state where services of the best quality available are not being provided. In some cases there is a limit, at least in the minds of local leaders, to the ability of the community to pay the taxes necessary to provide better services. In some cases there is simply inadequate administration. But the Commission should keep the following questions in mind.

Do small North Carolina communities have the wealth to provide the water supply and sewerage system facilities necessary for urban communities? If not, is the absence of such facilities constituting a threat to the public health and safety of other, adjacent communities so that additional state aid is necessary or desirable?

Do some North Carolina communities have so little wealth that they cannot maintain desired levels of services without raising property taxes unfairly high? If so, is there some way that these communities can get additional tax revenues?

If it is determined that the tax and revenue structure is presently bringing in enough revenue to support adequate levels of service, are there long-term trends which indicate that costs will rise so high and so fast that present revenue sources will be either insufficient or will have to be tapped at increasingly higher rates?

The financial studies made by the Institute do not justify a clearly affirmative answer to these questions. Costs for most municipal functions in most cities have increased out of proportion to population increases, giving consideration to cost-of-living increases, but there is much evidence to indicate that these increases can be attributed to service level improvements with the possible exception of street construction costs in the large cities.

Average property tax payments in North Carolina cities are not increasing out of proportion to average income.

There is no crisis in obtaining municipal credit and at this time the Local Government Commission will not say that there is any town which cannot borrow the money it needs for absolutely necessary improvements. This is not to say that every town can afford to issue the bonds it might want to issue for desirable improvements.

The cost of new services required as cities grow does not seem to increase out of proportion to the ability of the cities to meet these costs except in the case of major street construction. Additional exceptions may arise in the future in the areas of urban redevelopment and sewage treatment. But services can be extended to new residential, commercial and industrial areas at costs which average no more than average revenues realized if (a) street and utility costs are paid in part by abutting property owners and (b) property is valued somewhere in the vicinity of 45% of true value. This result seems to be true in all sizes of cities, and applies to an average density of development ranging upwards from one home or four persons per acre.

Making due allowance therefore

For the exceptions found in cities where the county has applied very low assessment ratios, and

For the exceptions found in some cities where costs are running higher than average, and

For the exceptions found in some cities which are bearing the burden of unwise financial policies in the past, and

For the exceptions found in some cities which simply have a low per capita wealth in the form of property, and

For the exceptions found in cities where very expensive major street construction seems to be necessary, still

The evidence is strong that the present tax and revenue system, as a system, is adequate to provide the revenue needed to meet the demands of increasing urban development. This does not imply that a city can extend its facilities willy-nilly over large areas of sparsely-developed land, but it can reach and serve those areas developed at a density requiring community facilities for the protection of the public health, safety and welfare. Nor does the evidence indicate that the city can or should reach out to serve with its facilities areas needing community facilities but at such a distance from the city that connection with the city's facilities is uneconomical.

If the tax and revenue system is basically adequate, then what of the exceptions cited above? Does the state have a responsibility in the case of any one or all of these exceptions to take corrective action?

2. Equity.

But a system that can, if employed to a reasonable degree, produce the needed revenue is not necessarily a system that produces revenue in a fashion that is as fair and equitable as possible.

As pointed out above, it is very difficult to construct a tax system for a city that meets all the criteria of an ideal tax system. It is possible, however, to insure that within the limits of a limited jurisdiction, the tax system is as equitable as possible.

Some of the questions which have arisen and which should be considered are these.

Do the cities have the power to tax those persons and activities who receive city services and have resources to pay taxes? The question here concerns the equity of using the property tax to support services, the demand for which is attributable in whole or in part to nonresidents, or to residents who do not pay property taxes, or to particular types of land use which receive services far out of proportion to their tax payments.

In the case of taxes levied by the city, is the tax base and the system of administration fair and equitable? The principal complaint is generally with the valuations placed on property by tax-assessing officials. For years city residents have alleged that urban property is valued at an unfairly higher rate than rural and suburban property, that commercial property is valued at an unfairly higher rate than residential property, and that personal property is valued at an unfairly higher rate than real property.

Is it equitable for some cities to be limited to the property tax as the major source of revenue while other cities have major sources of revenue in addition to the property tax? The question here is whether cities which do not have electrical systems or ABC stores should have additional sources of revenue to further broaden their tax and revenue base.

Is the basis of distribution for state-collected taxes basically fair and equitable?

Is the basis of distribution of gasoline taxes fair and equitable?

Is the average property tax payment an unfair burden on the property owner, assuming that the property tax is fairly administered?

The Tax Study Commission has carefully studied the problem of tax assessment, and this Commission has had the benefit of that Commission's work. But some additional comment may be helpful in studying the other major problems of equity raised above.

a. Does the Tax System Fail to Get Proper Contribution from Nonresidents?

There are two situations to which this allegation refers.

The first occurs where the city supports cultural, recreational or public health facilities and activities which are used in substantial fashion by nonresidents without compensating tax or revenue payments. Perhaps the best theoretical solution to this inequity is to transfer responsibility for the function to a governmental unit, such as the county, containing all or a majority of the persons using the services. This is difficult to do if the county government is not agreeable, and the solution as such must have political agreement. The only other solution is to shift support from taxes to user charges or simply to bar participation by nonresidents. But who will deny a person entrance to a hospital? And is it practical to attempt to charge nonresidents for admission to a library or to a park when residents are not required to pay?

The second is the downtown business district of the city, where retail trade and industrial locations necessitate heavy use of, and corresponding concentration of, public services. This concentration includes more walking police and traffic patrols, more traffic patrol cars, more traffic signalization, more fire protection in the downtown area, more parking facilities, more street widening projects, and more garbage collection. Theoretically these additional expenses will be paid for from downtown businesses whose profits lead to higher property values, but the property tax is often slow to respond to changes in the economic system.

But there is an additional factor here. We are concerned here with those who come to work in the city and those who come to shop and play in the city. A good case can be made that there should be no overt attempt to tax the shoppers who bring the business on which the city relies for economic

prosperity. But what about the worker who lives outside the city? He benefits from every additional service made available by the city, including street improvements which speed his way in and out of the city. Yet he pays no property tax. On the other hand, his colleague who lives in the city pays taxes, often additional taxes to make services possible to his out-of-city colleague. It is because of this situation, admittedly inequitable, that many cities insist they need new tax sources.

b. Is the Municipal Property Tax Too High in North Carolina?

This is a question of values which cannot be precisely answered. There are a number of considerations which can be laid before the Commission.

If the question is approached from the point of view of how much the property tax is used in North Carolina as compared with other states, these facts are important. The property tax provides only 27% of all state and local revenues in this state as against 45% for the national average. Municipal property tax levies in proportion to average per capita income are one half as large as they were in 1940 and have not been rising. Municipal property tax payments represent less than 1% of the true market value of property in North Carolina cities; property taxpayers in cities in many states pay up to 4 and 5%.

If the question is approached from the point of view of whether the property tax is an appropriate tax for the support of municipal functions, these facts are important. While the property tax is not historically a so-called benefit tax, many of the services supported by the property tax have a direct relationship to the value and use of urban property. Fire protection services result in a direct saving in insurance costs. Garbage collection costs would be paid for directly if not paid for by the city. The availability of water and sewer lines, and paved streets, increases the value of property. This relationship is dramatized by the fact that in many

North Carolina cities, property owners annexed by a city actually pay less in taxes and service charges after annexation than they do when purchasing less adequate services prior to annexation.

Despite these close relationships, property tax collections in most North Carolina cities are not sufficient to pay the costs of general administration, police and fire protection, and garbage collection and disposal.

If the question is approached from the point of view that the property tax falls hardest on commercial and industrial properties, these facts are important. In the average North Carolina city over one half of the property valuation is represented by residential real and personal property, while the cost of more than 50% of the city's services is attributable to the downtown business district. Furthermore, property taxes are an ordinary business expense that a business can pass on to some extent in cost of goods sold. On the other hand any shift to a sales or payrolls tax would, in most cities, increase the burden on the residential homeowner, although it would in some cases get a greater contribution from the renter.

If the question is approached from the point of view that the owner of rental properties bears an unfairly high burden as compared to the renter, these facts are important. While rental property formerly constituted over one half of all housing in North Carolina, since 1950 more than half of all housing in the state has been owner-occupied. Furthermore, present home financing policies are accelerating the trend toward home ownership. The point is that many of the sources of revenue which derive additional taxes from a renter also hit the homeowner. Perhaps the most important consideration is the extent to which a property owner can pass along his taxes to his tenant in the form of rent. In cities where housing is in demand, the taxes are generally passed along. In cities where there is no shortage, the proportion to which taxes are passed on is much less.

c. Other Factors in Revising Local Tax Systems.

But these are not the only factors which the Commission must consider. It must not only determine whether the present system brings in enough revenue, and whether it brings it in in a fair manner. It must also look at the consequences of suggested changes.

It must consider whether suggested alternative tax sources can be fairly and effectively collected by local governmental units. For example, the cost of collection of local income and sales taxes is relatively high, up to 10% of revenue collected, and there are very complicated rules which must be adopted in order to permit effective collection.

It must consider the effect of changes in the municipal tax structure on the state tax revenues. For example, the 1955 Tax Study Commission stated that the state should withdraw from the field of license taxation but it refused to make a recommendation to that effect because to do so would cause the state to lose annual income of \$7 million.

It must consider the overall impact of changes in the municipal tax structure as they affect the overall state tax structure. For example, the 1955 Tax Study Commission also opposed further distribution of state revenues to local units of government on the ground that such taxes made the state taxes seem higher than they were in reality and discouraged prospective new industries.

It must consider the attitude of the public. For example, there has long been strong opposition on the part of North Carolinians to the levy of taxes on cigarettes and tobacco products on the ground that such taxes would indirectly affect one of the major markets for North Carolina products.

And it must consider existing constitutional restrictions on the delegation of the taxing power.

With these factors in mind the Commission must look at the present tax structure, consider the possible impact of suggested changes, and make final determinations. In doing so consideration should be given to the general conclusions to be drawn from the research studies already submitted to the Commission as well as to the comments and attitudes of city officials (see summary of meeting of July 23).

VI. Proposals for Changing the Municipal Tax and Revenue Structure

A. General Approaches

A large number of proposals have been submitted to the Commission concerning the municipal tax and revenue structure. When going through the proposals one by one, it is sometimes difficult to gain perspective. How does each recommendation fit into the whole picture of municipal finance? What will be the total impact of a group of recommendations?

In order to give perspective as these proposals are considered, several different approaches which the Commission might adopt are set forth below--for study purposes only. Each approach represents a different philosophy of local governmental finance and responsibility. By comparing the approaches and determining the type of approach which best fits the point of view of the members of the Commission as a body, the Commission may be able to gain a better perspective of the over all direction of its findings, recommendations, and report.

1. If the Commission believes that the present tax and revenue structure, based primarily on the property tax and user charges, is both adequate to provide for continued sound extension of urban services and is at the same time basically equitable, then its recommendations should center around making the present structure more equitable.

2. If the Commission believes that the present tax and revenue structure is both adequate and basically equitable, but further believes that cities should have a greater area of discretion in determining who should bear the burden in financing local services, then its recommendations should center around (a) making the present structure more equitable and (b) adding additional sources of local revenue.

3. If the Commission believes that the present tax and revenue structure is adequate for continued urban growth, but that the property tax is perhaps too high in some or many cities, and that the choice for relieving the burden on the property taxpayer should be made by local governing boards rather than the state, then its recommendations would closely parallel those recommended in (2) above.

4. If the Commission believes that the present tax and revenue structure is adequate for continued urban growth, but that the property tax is perhaps too high in some or many cities, and that the responsibility for relieving the burden on the property taxpayer rests with the General Assembly, then its recommendations should center around (a) making the present structure more equitable and (b) increasing the amount of state aid and assistance.

B. The Proposals

1. The Property Tax

Problem 1: Granting the theoretical defects of the property tax, and assuming that it is and should continue to be the primary source of revenue for local units of government, administration of the property tax has broken down to such an extent that there are major inequities "between taxing districts, between types of property, between persons and between amounts of property developed."

Discussion. The Tax Study Commission has had under study this biennium the property tax and the manner in which the property tax base is determined under constitutional and statutory provisions. A property tax rate is then applied against this tax base to raise revenue for local governmental purposes. In contrast, this Commission has had under study whether the property tax is a proper and appropriate source of revenue for the support of municipal governmental functions, and the extent to which it is a proper source.

If this Commission decides that the property tax is an appropriate source of municipal revenue, then the conclusions of the Tax Study Commission with respect to determination of the property tax base should be studied and considered.

The major problems considered by the Tax Study Commission are discussed in "Basic Legal Problems in the Taxation of Property" by Henry W. Lewis of the staff of the Institute of Government and in memoranda submitted to the Tax Study Commission by the Department of Tax Research. That Commission has reached tentative conclusions and recommendations which will be restated at the meeting on August 12, but at the present time no written copy is available for inclusion in this memorandum.

It should be noted that the recommendations of the Tax Study Commission, if adopted and if carried out, will eliminate the major complaints of municipal officials to the present administration of the property tax.

That is,

1. Real property would be revalued periodically on a competent basis.
2. All property would be assessed on a uniform basis at market value and the same assessment ratio would be applied to all property to determine taxable value, unless the General Assembly classified a particular type of property for different treatment on a state-wide basis.
3. Minimum standards for appraisal would be established to help insure uniformity of treatment.

Alternatives. The Municipal Study Commission has these alternatives:

1. Make no recommendation concerning administration of the property tax.
2. Endorse the recommendations of the Tax Study Commission, with or without conditions.

3. Make recommendations for a system of property tax administration in which control of assessment within municipalities is the responsibility of the municipal governing board.

Problem 2: If the recommendations of the Tax Study Commission are adopted, some cities will still face a problem in raising adequate revenues if a county selects a very low assessment ratio.

Discussion. At the meeting of the Municipal Study Commission on June 18, it was suggested that those cities in any county which applied a low assessment ratio to taxable property should have authority to apply a higher assessment ratio to the appraised value of property in the city for the purpose of determining taxable value within the city for municipal tax purposes. The purpose of this proposal would be (1) to permit the city to raise more money than the present statutory limit of \$1.50 for general purposes on a low taxable value would make possible and (2) to establish a higher statutory debt limit for the city and otherwise permit the city, through existence of higher taxable values, to sell bonds at a more favorable rate of interest.

At the suggestion of the Commission, this proposal was discussed with both Senator Eagles of the Tax Study Commission and Mr. W. E. Easterling of the Local Government Commission. Senator Eagles was sympathetic with the problem that cities and towns might possibly face and indicated a willingness to go along with the proposal provided (1) that no city could raise its ratio higher than 50%, (2) that no city would raise its ratio unless the county's ratio was impairing the ability of the city to issue bonds, and (3) that the proposal to increase the ratio for municipal tax purposes be reviewed and confirmed by the Local Government Commission.

Mr. Easterling expressed interest in the suggestion but would not express an opinion as to the effect that it would have on a city's ability

to issue bonds until he had had an opportunity to discuss the proposal with some out-of-state investors. He acknowledged that in his opinion all assessment ratios should be fixed at no less than 40% so that more adequate tax valuations would improve the market for sale of bonds.

At the meeting with city officials, the possibility of such a change was alluded to, and the officials in two of the groups were notably cool to the suggestion.

Alternatives.

1. Make no recommendation.
2. Recommend that city governing boards be given authority to apply a higher assessment ratio than the county ratio to the value of property in the city for the purpose of determining property valuations for municipal tax purposes. This recommendation could be made subject to any one or more of the following conditions.
 - a. That no city be permitted to increase its assessment ratio beyond a limit of 50%.
 - b. That no city be permitted to increase its assessment ratio except for the purpose of making it possible to issue more bonds at better rates. If this condition were adopted, it should be supplemented by (2) below.
 - c. That no increase in the municipal assessment ratio be effective until approved by the Local Government Commission. The scope of review by the Local Government Commission would consist of determining whether statutory conditions had been met.
3. Recommend enactment of a statute permitting cities to exceed the statutory tax rate limit when the county's recorded assessment ratio was less than a stated amount. Hypothetically, the law might provide that the \$1.50 limit would apply in all counties having an assessment

ratio of 45% or higher; that the limit would be \$1.75 in cities located in counties having an assessment ratio of from 35% to 45%; and that the limit would be \$2.00 in cities located in counties having an assessment ratio of less than 35%. (See Table 3 below.)

<u>Market Value</u>	<u>Assessed Value</u>	<u>Table 3</u>		
		<u>Rate:</u>	<u>Tax Levy</u>	
		\$1.50	\$1.75	\$2.00
1000	600	\$9.00		
1000	450	6.75		
1000	350	5.25	6.13	
1000	250	3.75	4.38	\$5.00

4. Recommend enactment of a statute requiring the board of county commissioners to confer with the governing boards of all municipalities in the county before fixing the assessment ratio to be applied in that county, and to take the financial capacity of those municipalities into account in fixing the assessment ratio.
5. Recommend that the Local Government Commission closely observe the experience of cities following adoption of the Tax Study Commission recommendations, and that if adoption of a low assessment ratio does in fact impose an unfair limitation on some cities, then the Local Government Commission should recommend to the General Assembly legislation permitting cities to apply a different assessment ratio as set forth under alternative (1) above.

2. The Privilege License Tax

Problem: For years municipalities in North Carolina have complained about the current status of license taxation in North Carolina. Their principal complaints were confirmed by the 1955 Tax Study Commission. With present state limitations on municipal license tax powers -- principally limitations on the amount of tax cities can levy on some but not all business activities --

it is almost impossible for a city or town to draft an ordinance which at the same time produces enough revenue to pay the cost of administration and is relatively equitable in its impact on businesses.

Discussion. The 1955 Tax Study Commission recommended a complete overhaul of license taxation at all levels of government. This proposal was not adopted by the 1957 General Assembly. But, as the meeting with officials indicated, the problem is still one of concern --more from the point of view of being able to adopt an equitable ordinance than from the point of view of deriving substantial additional sums of money.

Alternatives.

1. Maintain the status quo.
2. Remove the present limitations in Schedule B of the Revenue Act on the municipal power to levy privilege license taxes. This proposal has been advanced for many years by the North Carolina League of Municipalities. Since it would potentially put an additional burden on those businesses already paying license taxes to the state, it would no doubt be bitterly opposed in the General Assembly.
3. Remove the present limitations but impose an overall limit on the amount of tax which municipalities could impose. Depending upon the amount of the limitation, this suggestion would be subject to the same objections as the present system.
4. Reallocate license taxing powers so that municipalities would have full control, with or without limitations, over the license taxation of retail businesses and selected services having their principal situs inside the municipality. Leave unchanged the taxes on amusements, other services, contractors, professions, and financial institutions. Transfer to the state the municipal power to tax

selected activities such as tobacco jobbing, sale of soft drinks, and operation of music machines. A proposal along these lines has been drawn up and can be outlined at the meeting on August 12. It would not cost the state any additional revenue, would not result in the levy of state taxes higher than the total license taxes now paid by any business in the state, would simplify administration at both the state and municipal levels, and would permit adoption of much more equitable taxes at the municipal level.

3. State-Collected, Municipally-Shared Taxes

a. The Intangible Property Tax

No problems concerning the levy and collection of this tax were brought to the attention of the Commission. The municipalities are generally satisfied with state collection and state distribution.

b. The Beer and Wine Tax

Problem: At the present time 47 1/2% of the total proceeds of the state tax on beer and 50% of the proceeds of the state tax on unfortified wine are distributed to counties and municipalities in which the sale of beer and wine is permitted on the basis of population. Some cities have suggested that the distribution is unfair in that it does not take into consideration the extra policing problem in cities and counties where consumption is great -- such as cities and counties adjacent to armed services installations.

Discussion. The staff has given consideration to various suggestions for altering the method of distribution, but it can think of only one change which might be suggested -- a change that would take into consideration amount of consumption and would, at the same time, be simple to administer. No satisfactory way of actually measuring the impact of beer and wine sales on the policing problem could be determined.

Alternatives:

1. Maintain the status quo.
2. That of the 50% distributed to cities and counties, one half continue to be distributed on the basis of population, and that the remaining one half be distributed according to the number of outlets licensed in each jurisdiction for on-premises consumption as of July 1 of each year. The number of outlets licensed to sell is a measure of the number of outlets to be policed.

c. The Utilities Franchise Tax

Problem: The State of North Carolina first levied a tax on the gross receipts of public service corporations in 1923, and the tax was increased from 1% in 1923 to its present level of 6% in 1933. As adopted in 1933 and amended in 1937 the section imposing this tax provided that "no city or town shall impose a greater privilege or license tax upon such companies than the aggregate privilege or license tax which is now imposed by such city or town." Following the action of the city of Greensboro in increasing its franchise tax on Duke Power Company in 1947, an action upheld by the Supreme Court as not prohibited by the section quoted above, (Bowles v. Power Co., 229 N.C. 143) the franchise tax statute was amended in 1949 to provide that 12 1/2% of the tax proceeds collected from sales within each municipality should be returned to that municipality. At the same time the statute was amended to forbid cities and towns from levying a franchise tax in excess of the tax levied prior to January 1, 1947.

Since 1949 the cities of North Carolina have consistently maintained that the percentage distributed to the cities is not fair in view of the extra burdens imposed on city governments by the normal operations

of public service corporations, and that the percentage of the tax returned to the cities and towns should be increased.

Discussion. This type of tax is levied by cities in many other states, either directly or in the form of a tax on utility bills. The franchise tax can be included within the cost of doing business for the purpose of computing rates, and to this extent is passed on to the consumer. The tax on utility bills is directly paid by the consumer.

As to whether it is more appropriate for a city to have the right to impose a franchise tax than the state, there is no clear answer. Admittedly public service corporations obtain valuable privileges from cities and impose some additional burdens on cities. Likewise, there are strong arguments for levy by the state.

But probably the major source of annoyance in North Carolina lies in the fact that in about ninety cities and towns, revenues from electrical distribution, over and above operating expenses, go to support the cost of municipal government. In all other cities in the state, some of the equivalent revenues in the form of this gross receipts tax go to support state activities. That is, the electrical consumer in Greensboro helps support state activities for the benefit of his neighbor in High Point, where the proceeds of the electrical distribution system are used to reduce local property taxes.

If attempts are made to relieve this inequity through increasing the proportion returned to cities and towns by the state, the state would lose revenue which must be replaced.

Alternatives

1. Maintain the status quo.
2. Increase the cities' share of utility franchise taxes by a stated percentage. The cities' share in 1955-56 was \$939,253. Doubling the cities'

share to 25% would thus cost the state approximately \$1,000,000 in revenue.

3. Suggestions have been made that the state tax on electrical, gas, transportation and telephone companies should be reduced to 5% with municipalities having the power to levy a tax of up to 3% on these companies. The distribution by the state would be discontinued. This proposal fails to take into account that taxes on all receipts outside of municipalities would drop and that the net return to the state, even without distribution to municipalities, would be substantially less than at present.

4. Permit cities to levy a tax on utility bills. This would be a sales tax paid by the consumer who, in effect, is already paying the 6% gross receipts tax.

4. Financing Streets

Problem 1: As pointed out repeatedly by city officials, as emphasized by the director of the Highway Commission, as shown by the Institute staff research, and as demonstrated in common experience every day, the effective movement of traffic into, out of, and through cities is one of the major problems in urban areas. When people go to work, or go into the city to shop, or go into the city to see a doctor, to see a movie or just to sight see, they drive. More than a million and a half motor vehicles, supplemented by out-of-state vehicles, travel in and out of North Carolina's cities and towns every day, and the street systems simply can't handle the load. But neither can cities afford the expensive type of highway needed to expedite this traffic.

Discussion. Two theories of financial responsibility for city traffic-bearing streets were presented to the Commission.

1. The Position of the State Highway Commission.

North Carolina has committed itself to a state-wide system of highways. Such a system should be designed and constructed not only to carry traffic from one urban center to another but also to carry that traffic into and out from urban centers. Otherwise the economic function of the highway system is not served.

Demonstrated construction requirements for the primary highway system of the state, including urban connections, approach \$750 million in amount and far exceed available revenues. Thus it is essential that priorities be established by adequate planning at the state level and that new construction take place according to those priorities, whether the new construction is to be on the rural primary system or on the system within urban areas. Present priorities call for increasing attention to getting traffic into

and out from urban centers, and it is the policy of the State Highway Commission to consider needs within urban centers as part of the overall needs for the state primary system. This policy stems from the statutory directive (G. S. 136-41.1) which requires that ". . . all streets within municipalities which now or hereafter may form a part of the State highway system shall be maintained, repaired, improved, widened, constructed and reconstructed by the State Highway Commission, to the same extent and in the same manner as is done on roads and highways of like nature outside the corporate limits . . . [with the exception of rights-of-ways whose acquisition shall be paid for in part by municipalities]"

If additional state funds are allocated to municipalities, it will be difficult to carry out this program. First, money needed for primary construction will not be available to the state. Second, allocations to municipalities cannot satisfactorily be made on the basis of need. Third, additional allocations to municipalities will lend support to the point of view that municipalities should be primarily responsible for major improvements within their corporate limits. In view of the limitations on municipal ability to finance expensive urban construction, the adoption of such a point of view by the State Highway Commission might long delay essential improvements in many cities.

The concept of a state-wide system of highways, linking inter-community highways and the urban traffic systems, does not recognize state responsibility for all urban streets. Just as the state now requires homeowners and subdividers to meet basic standards of street construction before streets outside of corporate limits are added to the state highway system, so municipalities should continue to require homeowners and subdividers to meet basic standards for residential streets before such streets are added to the municipal system.

While it is more expensive to build residential streets to accepted standards for municipal street systems, a good street will be comparatively inexpensive to maintain and will add to the value of the property served.

By accepting responsibility for extensions of the primary highway system and connecting links to state highway system roads within corporate limits, the state is accepting responsibility for constructing and maintaining those streets which carry most of the traffic burden in cities and towns. At the present time the state is engaged in a re-examination of the traffic-bearing volume on municipal streets, and when this study is completed, all streets will be re-classified and streets meeting certain standards will be added to the state system. This will leave municipalities responsible for residential streets, for streets collecting traffic from municipal residential streets and carrying that traffic into those streets and thoroughfares maintained by the state, and for streets in commercial areas that are needed purely to provide access to and between business locations in business districts.

Already the state is allocating the proceeds from one half cent of the gasoline tax to municipalities for use on non-system streets. These proceeds should be sufficient for maintenance of all non-system streets at an acceptable level of service. Maintenance, as used here, does not include minor improvements or substandard paving of dirt streets. Nor are these funds adequate for street construction or traffic control.

In summary, the State of North Carolina has a state highway system supported by state taxation. This system includes extensions of the highway system within cities and connecting links between secondary state roads leading into cities. Since the state has the responsibility for getting traffic into and out of cities, and since amounts available for construction

are not sufficient to meet all needs, and since the need for urban street construction varies from city to city, the most effective use of state funds in meeting the problem of moving traffic in cities as well as out lies in continued state responsibility, with urban projects treated on a basis of relative priority.

2. The Position of the Municipalities

The cities adopt a different philosophy, one based in part on equity to the taxpayer and in part on a different concept of relative state-municipal responsibilities.

First of all, the cities point out that the degree of state responsibility for urban streets is much less than the degree of state responsibility for rural roads. The property owner in rural areas pays none of the cost of maintenance of roads and highways giving him access to his property, and only recently has the state required him to make any contribution toward building new streets in subdivisions. In contrast, the urban property owner, who pays the same gasoline taxes as the rural property owner, and from whose streets over 40% of all gasoline tax revenues are derived, must continue to pay (1) stiffer assessments for the construction of higher-grade residential streets and (2) property taxes and other taxes for the construction and maintenance of traffic-bearing streets not a part of the state highway system. This, maintains the urban dweller, is unfair.

Second, while the state has been cooperating in urban projects and while many of the traffic-bearing streets are under state control, there are still many traffic-bearing streets which are the responsibility of the city and which must be redesigned and rebuilt if the city is to remain free from strangulation by traffic. Since the cost of these improvements is so great, and since the need is immediate, many cities want to go ahead with many of these projects in the near future. However, because urban dwellers believe

that there is a basic inequity in meeting part or all of these costs from property and other municipal revenues, the cities cannot proceed until additional state revenues or additional local revenue sources are made available. Furthermore, since much of the traffic on these city streets originates outside the city, city taxpayers are understandably reluctant to pay for improvements which will be of more benefit to non-residents than to residents.

While the needs of the city are great, the cities also recognize that the State has demonstrated needs which will require all of its present revenues. As a result, even though the cities believe that a greater share of the gasoline tax should be allocated to cities, they are not now asking for an increased allocation. On the other hand, because greater revenues are justified and because such revenues should come from some source connected with the automobile, and to which non-resident users of streets contribute, they recommend that the Commission study their suggestion that the state motor vehicle license tax be increased \$4.00 and the proceeds from this increase in the tax be distributed to cities and towns in North Carolina.

Limitations of time, staff and money make it impossible for the research staff for this Commission to undertake intensive research to substantiate one position or the other. In fact, highway research can be designed to prove either one of these basic positions. Perhaps these points will be helpful to the Commission.

1. The State Highway Commission has broad discretion in administering the primary and secondary highway systems. If the State Highway Commission recognizes the fact of urban congestion as justifying a high priority in the state's construction program, if it recognizes that cities are the primary centers for economic activity in this state and that they must be

easy to get into and out from as well as easy to reach, the Commission can make funds available to urban projects voluntarily far in excess of the amount of money to be made available from a \$4.00 increase in the license tax. Similarly, the Highway Commission has discretion to limit its expenditures in urban areas to a minimum.

2. Because of the accidents of historical development, it will cost millions to rebuild traffic-bearing streets in some municipalities, a relatively small amount in others. Thus, state funds, if used for urban construction, can probably be used to better advantage by the state than by the individual municipalities.

3. A distinction must be made between those street improvements necessary (a) to get traffic from a residential area into a traffic-bearing artery, (b) to make it more convenient to reach stores and industrial establishments, and (c) simply to move volumes of traffic. If the state does not have the capacity to meet the demand for (a) and (b), either inside or outside the city, then the city must be willing to spend money for the added convenience or economic benefit that (a) and (b) will produce. The question is whether it is fair for the urban taxpayer to bear the full cost of (a) and (b).

4. A good state-wide highway system is essential to the economic health of the whole state. And the total cost of the rural roads of the system is much greater than the cost of the urban mileage. Thus even though more than 40% of all traffic takes place on urban streets, highway system financing cannot be based simply on proportion of use.

Alternatives

1. Maintain the present system of responsibility and financing.
2. If (1) is adopted, it may be desirable to make a statement to this effect: "In a period of rapid industrialization and resultant urban

development, it is important for the economy of the state that its retail, wholesale and industrial centers not be strangled with increasing traffic volumes on city streets of inadequate width and design. The concept of a state highway system to meet the needs of the entire state includes not only moving traffic between urban centers but also getting traffic into and out from these cultural and economic centers. We commend to the State Highway Commission the problem of urban traffic and recommend that it continue its basic studies in order that traffic-bearing system streets in urban areas will be accorded equal consideration in priority with other segments of the primary system.

If the State Highway Commission follows through on this concept, we believe that the best interests of the cities, as well as of the entire state, will be served. We urge that cities, however, take an active role in cooperating with the State Highway Commission in planning for major highway improvements, in acquiring rights-of-way in advance of such improvements, and in making the studies needed to justify major improvements. We further urge that cities recognize that the State cannot bear the full cost of the entire urban street system, and indeed should not. Where improvements are necessary for the convenience of the urban resident, or for improved parking and communication in central business districts, we think that the cities should undertake these improvements. These are improvements where the non-resident is not directly involved, and we believe that these improvements should be financed from local resources."

3. Recommend that the General Assembly increase the state motor vehicle license tax to \$15, with the proceeds from the additional \$4 to be distributed in whole or in part to municipalities for construction of traffic-bearing streets in municipalities.

4. Recommend that the cities be authorized to levy higher local motor vehicle taxes [up to \$5 or to \$10] for use in the construction and maintenance of local non-system streets.

5. Recommend that cities be authorized to increase parking meter fees up to 10¢ per hour. The amount of 5¢ an hour was first approved prior to World War II, and an increase to 10¢ would, it is argued, merely reflect increases in the cost of living.

6. Increase the proportion of the gasoline tax returned to cities, or recommend an increase in the gasoline tax to increase the proportion returned to cities.

Problem 2: Cost of Rights-of-Way. When the Powell Bill was passed in 1951, the only exception to full state responsibility for construction and maintenance of system streets within cities was a requirement that cities pay at least one-third the cost of obtaining rights-of-way for new state highways within the city limits. That requirement was reduced to 20% in 1957. There is still objection to payment of this cost.

Discussion. Cities object to this requirement for the following reasons:

1. Streets and roads which are a part of the State Highway System are considered to be of general benefit to all the people of the State. Highways of this type should be financed entirely from state-wide revenues. While roads within a particular city are of special benefit to the people of that city, the same may be said of roads in one section of a county with respect to the people of that section. But only the city residents are asked to share in the cost of the right-of-way. This is unfair.
2. In many cases the cities, and in particular small towns, are called upon to pay part of the cost of rights-of-way when the improvement

does not materially help the city or town, but instead, is needed primarily to facilitate through traffic.

The state rejoins:

1. Most highway improvements in city limits are of direct economic benefit to the city as well as to the entire highway system.

2. Experience has shown that when the city retains some responsibility, the city will plan new highways long years in advance and will acquire pieces of the right-of-way for years in advance. The result is that the eventual cost of the right-of-way is lower, as well as the fact that the city's effort may make it possible for the state to undertake the project sooner. City acquisition over a period of years also permits acquisition in advance without requiring the project to be begun within five years after federal funds have been allocated.

Alternatives.

1. Maintain the status quo.
2. Recommend that the state assume all right-of-way costs.
3. Recommend that the maximum payment for rights-of-way on a single project by a municipality shall not exceed the total of two years' gasoline tax payments to the town.

Problem 3: Cost of Relocating Water and Sewer Lines

Municipalities point out that their bearing of the cost of relocating water and sewer lines following construction by the State Highway Commission is inequitable. This occurs where municipal water and sewer lines are located in the street right-of-way and must be taken up and relocated as part of a construction or reconstruction project.

Discussion. Here again is a question of concept. If the street were the full responsibility of the city, there would be no question. If the street

is paid for by the state as part of the state highway system, the argument is that the state should pay for the additional cost of relocating the lines.

Alternatives

1. Maintain the status quo.
2. Recommend that the state pay all or a stated percentage of the cost of relocating these lines.

5. New Sources of Revenue.

The argument of cities for new sources of revenue is based on the following factors:

(1) That costs are increasing faster than the rate of population increase and the cost of living, and that existing revenue sources do not increase so rapidly.

(2) That the average property tax levy is already as high as it should go and that increased property tax levies will constitute an unfair burden on property owners.

(3) That many of the expenditures borne by cities are stimulated either by non-property owning residents or by non-residents, and that these persons do not pay adequate taxes in the one case or any taxes in the other.

(4) That within reasonable limits, the state should leave the conduct of local government to the discretion of elected representatives of local political subdivisions, and that these local representatives should have a broader choice of revenue than the property tax, the license tax, special assessments and fees and charges. If more local authority is not granted, then additional shares of state-collected taxes should be made available.

The suggestions for broadening the local tax base include the following.

a. The Sales Tax

(1) That municipalities have the power either (a) to levy and collect a sales tax or (b) to levy a surcharge on the sales tax to be collected by the state on all sales within the city.

(2) That the state increase the state sales tax or eliminate exemptions on the sales tax and distribute a portion of the state sales tax to municipalities.

Only one of the cities represented at the July 23 meeting evidenced any interest in a local sales tax. Any city would, of course, be happy to receive additional funds from the state but none of the cities represented indicated a desire to support a proposal for municipal sharing of state sales tax proceeds.

b. The Payrolls Tax

(1) That municipalities have the power to levy a tax of up to 1% on the gross wages and salaries and/or income of persons employed or earning income within the city.

None of the cities having a population of less than 25,000 were interested in this source of revenue. Most of the cities having a population of more than 25,000 were definitely interested in this source of income as a possible replacement for a portion of the property tax.

Preliminary estimates are that a 1% tax on salaries and wages would bring in around \$10 per capita, on earned income up to \$15 per capita. Thus addition of a payrolls tax in these cities would not permit cutting the property tax more than 50% and more likely in the range of 30-35%.

If this source were made available to cities of over 25,000, it could be purely permissive or it could be made contingent on a referendum. Proceeds of the tax could be made available for all general purposes, or a part or all of the proceeds could be earmarked for such purposes as major capital improvements.

c. The Cigarette Tax

(1) That municipalities be permitted to levy a tax of up to 5¢ on each package of cigarettes sold in the city.

No cigarette tax as such is now levied in this state, and levy of the tax by individual cities is both expensive and a deterrent to retail business in the city. A tax of 3¢ would produce in the neighborhood of \$2.00 per capita.

d. Hotel Occupancy Tax

(1) That municipalities be permitted to levy a tax of 3 or 5% on the total cost of lodging in hotels, motels and boarding houses.

Only one city--Charlotte--has requested or indicated that it would use this source of revenue.

e. Fire Insurance Premium Tax

(1) That a premium tax be levied by the state and distributed to governmental units operating fire departments for fire protection purposes.

6. Utilities

Problem 1: In most cities and towns the sanitary sewer service charge is collected with the water bill, and its collection can be enforced by cutting off water service. In cities and towns without public water systems (Morehead City, Beaufort, Hamlet, Rutherfordton, and Spindale are the principal ones), there is no way of collecting these charges.

Discussion. Means of enforcing collection of municipal revenue are limited. Generally, the levy of a property tax imposes a lien on the land or on the property of the taxpayer. Failure to pay a privilege license tax constitutes a misdemeanor. The city or town can sue for unpaid water and sewer bills.

Chapel Hill, which does not own its own water system, has special legislation making the sewer charge a lien upon the land of the taxpayer. There have been suggestions that in the towns mentioned above, the water company might be required to collect sewer charges. Actually, there is no law which now prohibits the company from collecting the charge if it wants to cooperate, and in a number of towns banks collect municipal revenues. There is some question, however, as to whether the General Assembly could require a private water company to suspend water service for nonpayment of the municipal sewer charge.

Alternatives:

1. Specifically authorize private water companies to collect municipal sewer charges.

2. In cities where there is no public water supply, make nonpayment of the sewer charge a lien upon land or upon personal property of the taxpayer.

Problem 2: Many of the smaller cities and towns find it difficult, if not impossible from their point of view, to raise the money needed to construct sewage treatment plants. As the State Stream Sanitation Committee completes its classification of streams, more and more towns have been warned or ordered to construct such plants. In order to speed up sewage treatment construction, limited forms of state aid have been suggested.

Discussion. As the statement of Mr. Hubbard explained, there is as yet no formal proposal for state aid. However, investment in sewage treatment facilities is running behind the average figure which should be maintained if the state is to improve the condition of its streams, not just hold its own. On the other hand, Mr. Easterling of the Local Government Commission is unwilling to say that any town which needs sewage treatment cannot sell the bonds for such purposes, either on the open market or to the Housing and Home Finance Agency.

Whether or not such aid will become necessary in the future, no state of emergency seems to exist at the present.

Alternatives:

1. No action,
2. Recommend establishment of a state loan fund of \$10,000,000 from which loans are to be made to localities by the Local Government Commission at 2% interest for sewage treatment facilities certified by the State Stream Sanitation Committee. Such a recommendation would require accompanying standards to define the municipalities eligible for such loans.

3. Recommend that the state guarantee local bond issues for sewage treatment facilities, with appropriate standards.

4. Recommend that the state establish a small fund from which loans or grants could be made to municipalities for planning and engineering assistance.

7. Miscellaneous

Several miscellaneous suggestions concerning municipal finance might be covered by the Commission in its report.

Problem 1: In undertaking the analysis of the case study cities, much difficulty was encountered in determining how much money was spent for specific municipal purposes. In the case of street construction, for example, few municipalities keep records which separate maintenance expenditures from minor street improvements, storm drainage construction and maintenance, and resurfacing expenditures. The absence of good records makes comparative studies of doubtful value, makes it very difficult for local governing boards to budget funds effectively, and encourages sloppy administration.

Discussion. Uniform accounting as such is difficult to attain, but great improvement can be made in the accounting systems and practices of North Carolina municipalities. Improvement can come in two ways. First, the Local Government Commission has long had the power to recommend and help install improved accounting systems, but the Commission has never been given the appropriation necessary for this program. The necessary appropriation would be in the neighborhood of \$30,000 for salaries and travel expense. Some improvement might come through a simple statement from the Commission urging improvement in accounting methods. Such a statement would encourage some cities to make improvements and call attention of all cities to existing weaknesses.

Alternatives:

1. No action.
2. Recommend that the Local Government Commission's accounting division be activated.
3. Recommend simply that cities overhaul and improve their accounting systems.

Problem 2: The case study analyses make quite clear the fact that those cities which do not provide for some of their capital expenditures from the annual budget are the cities which quite possibly are going to have difficulty in meeting their major needs during the next ten years.

Discussion. It is impractical, of course, to require cities to adopt any sort of financial policies. A statement pointing out the desirability of moving to a partial pay-as-you-go system might, however, encourage some cities to re-examine their financial policies and move to such a system.

Alternatives:

1. No action.
2. Include a statement in the final report urging re-examination of financial policies for meeting capital expenditure requirements and adoption of partial pay-as-you-go policies now so that later debt limitations will not make desirable improvements difficult to undertake.

Problem 3: The case study analysis disclosed that many cities simply do not know their needs and requirements for the next five years. Without some idea of their needs, it is almost impossible for these cities to undertake effective financial planning. Furthermore, inadequate planning has led in many cases to either (1) construction of inadequate facilities that had to be replaced within a few years (as in the case of street improvements), or (2) failure to make improvements or to require developers to make improvements that has had the long-term result of forcing municipalities to spend large sums of money to correct mistakes of omission.

Discussion. From the point of view of sound municipal finance, entirely apart from sound physical development, failure to initiate sound planning programs and procedures in North Carolina cities has resulted in some wasteful construction and in unnecessary emergencies in financing overdue improvements. While all cities and towns cannot afford fulltime technical planning assistance, they should be encouraged to (1) take advantage of the planning assistance offered by the State Highway Commission and the State Department of Conservation and Development, and/or (2) make it possible for city engineers and other fulltime personnel to take additional planning training on an in-service basis so that some planning responsibility can be carried out at the municipal level.

Alternatives:

1. No action.
2. Include a statement in the final report urging cities and towns to take the necessary steps to secure technical planning assistance wherever possible to the end that (a) needs can be anticipated, (b) effective budgeting for capital improvements can be installed, (c) public funds can be used to better advantage, and (d) better urban development will result.

Problem 4: Many cities are in financial difficulties simply because they are not putting sound financial policies into practice. For example, failure to keep water and sewer systems on a self-supporting basis is draining off needed tax revenues in some cities. In other cities and towns the governing boards are attempting to pave streets and extend water and sewer systems from general tax and utility funds with the result that funds are not available for needed community-wide projects.

Discussion. The experience of a number of North Carolina cities demonstrates that present revenues will produce more if expenditure policies are reviewed

and revised. Too many cities put all their revenues in a pot and pull them out as needs arise from week to week. Re-examination of water and sewer rate schedules, re-examination of improvement and subdivision policies, re-examination of street maintenance and construction policies, and re-examination of compensation plans are some of the steps that can lead to more effective use of existing revenues.

Alternatives:

1. No action.

2. Include a statement urging cities and towns to re-examine all their financial policies in order to insure most effective use of their revenues.

Problem 5: The difficulty in compiling information on the activities of North Carolina cities for the Commission indicates a need for a regular and continuing channel through which fairly detailed information would be collected. At the present time a number of organizations collect some information. The Local Government Commission issues regular reports on indebtedness. The Department of Tax Research sends a brief financial questionnaire to all municipalities every two years to collect information published in Statistics of Taxation. The Institute of Government and the League of Municipalities both conduct surveys from time to time on various aspects of municipal government. The collection of adequate information on a regular basis would be most helpful to the General Assembly, to the governing boards of the municipalities and to the various research organizations concerned with municipal operations.

Alternatives:

1. No action.

2. Recommend that the Department of Tax Research revise and enlarge its questionnaire after consultation with the various research organizations of

the state and other interested parties and that it be issued once each year. Compilations from this basic source could then be made by the Department, or by other organizations.

VII. Powers and Procedures Needed to Further Orderly Growth and Sound Development

The starting point in discussing this problem is to consider to what extent the legal and political city should include the area which constitutes the economic and social community. Too often problems of local government are considered in a narrow sense, without attention to the economic development of the entire urban area; and as economists will point out, too many political subdivisions in one economic area can put firm obstacles in the path of the best form of economic growth.

The Economic and Social City

This interdependence of city and suburb can be approached in two ways. Take for example where people live and work. Population studies both in North Carolina cities and elsewhere establish that people in a community move more or less at will across city boundary lines. In some of our North Carolina cities, for example, almost the entire increase in population from 1940 to 1950 was due to births alone, while the much larger increase in the population of suburban areas outside corporate limits was based on movement of families from the city to the suburbs. Why?

Families move into the suburbs for a variety of reasons. They build homes where they can best afford to buy land and still be able to pay for the kind of house they want to build, or they buy new homes where developers can afford to build houses to satisfy the market. They want to live near friends and families with similar backgrounds and interests. Convenience to places of work, to schools and to other facilities is important, as is the lure of open space, freedom from regulation, and escape from the congestion normally associated with city life. The availability of necessary governmental services will also, in part, determine the choice of a home site.

But in leaving the city, these families are not leaving the broader community. Largely they hold jobs within the city and travel into the city to work, as demonstrated by the fact that there are many more jobs in the average city than there are resident workers to fill them. They also depend on the city for shopping and entertainment facilities. They cannot participate in city government, however, and they receive city services only on agreement of the city.

The assumption in North Carolina is that our cities, particularly those over 5,000, will continue to grow. Some will grow more rapidly than others, depending on the vitality of the local economy. Population growth depends on continued economic growth, for new people will not come into a town unless there are new jobs to be filled. To provide those new jobs, there must be new industry and new commercial activity.

Future growth in every city does not necessarily depend on the familiar cycle of new industry providing new jobs for new people who want new homes and services, leading to further commercial development with an emphasis on services. Commercial growth may come to a city which is strategically located as a retail and wholesale center and which has a good transportation system, if, as well, its residents also have a high average income. That city may attract new stores, new businesses selling personal services, business services and repair services without a significant increase in new manufacturing jobs. Furthermore those new services make life in a community more interesting, more varied, more effortless--and more attractive to new industries, particularly industries transplanting from the metropolitan centers.

So we see that both new industry and new business mean more jobs. More jobs mean more people. More people mean more homes. More homes mean more

schools and local governmental services. And the reverse is true--for if a community has an ample labor supply and enough good and well-located homes to accommodate new workers, then new industry may be attracted to the community. The cycle begins all over again in a new way.

If, however, industrial development is one of the principal keys to further growth, what does industry (or distribution services) look for in a community, and how do our cities measure up? Certainly these seem to be standard objectives:

1. Good vacant land in the vicinity of a good highway and railway system.
2. A good source of skilled labor.
3. Plentiful electrical power.
4. Easy access to raw materials.
5. Good local governmental services that can be extended to the proposed site, including an ample supply of water and a means for waste disposal.
6. A fair tax structure.
7. An attractive, livable city, with a high quality of civic and business leadership.

Different communities meet these objectives in different ways. Some have geographical advantages that others lack. Some may be deficient in one requirement, strong in others.

But wherever the city, there are objectives which local government can influence and where local action is of paramount importance.

Role of Local Government

The job of the local community in encouraging further development is to bring together land and services through broad-based community action so as to

1. Attract "quality" industries that will become a stable asset to the community; and

2. Attract good commercial development--retail outlets and community services; and
3. Guarantee that the whole urban area will become and remain an attractive livable city with a good supply of homes that people can afford, and furnished with the governmental services that people require.

It is when land and services are not brought together in this fashion that we find development which harms, rather than benefits, the entire urban area. For example,

1. Once land suitable for industrial and commercial development has been used, in whole or in part, for residential purposes, its value for industrial and commercial purposes is destroyed.
2. Once nuisance industries are established, the community may be blighted for years to come.
3. Once fly-by-night industries are permitted to settle, there is the ever-present danger of hardship to individuals and the community when those industries pull up stakes and travel on to other cities.
4. Once suburban slums with sanitation problems, or unsightly mixed commercial and residential development, are allowed to grow up, it is difficult and expensive to bring them up to standard. Meanwhile the community suffers a black eye and depreciated property values.
5. In growing cities, unless the city has been progressively annexing land suited for industrial development, there is generally an absence of sufficient vacant land which can be used for industrial purposes. There is also a lack of land for large scale residential development. That land is generally available in quantities just outside the city. But land outside the city is often not served by governmental services of the character desired, and probably required, by industry.

Unhealthy development is an effortless process. Even with the best of efforts, it may be impossible to undo the damage that such growth brings.

The role of the city government in the development of the entire urban community can then be stated. It has a responsibility to help guide and encourage sound development of the urban area and has the resources to help achieve that development. The city has the physical plant, the working force and the organization to insure that land and services are brought together to attract good industrial development, to provide healthy and attractive residential and commercial areas, and to forestall unsound development.

This does not mean that the city government must have jurisdiction throughout the entire urban area. It does not mean that the city should annex all developed land adjacent to the city. It does mean that the city and other governmental units in the area must have some dependable basis on which to plan for the future. There must be some good idea of where and how much new development will take place, and when, and what kind, so that adequate services can be provided at the time they are needed.

If this description of the economic function of the city is sound, then it is a good basis for considering the political policy which will further sound development in North Carolina's urban areas. As pointed out in Part IV, there is still no broad and clear-cut policy in this state.

Sound Growth Demands Coordinated and Intelligent Policy-making

Urban development in North Carolina is featured by no large central city, but rather a large number of small and medium-sized cities. All of these cities are growing, some faster than others, but no city or group of cities is dominating the state. Prospects for the future are for the distribution of new urban growth in presently rural areas as well as in and around existing cities.

With the exception of Rocky Mount, High Point and the Kannapolis area, it is perhaps notable that the major cities (because they are generally county seats) are located in or around the middle of counties, so that county boundaries do not--as yet--complicate local governmental jurisdiction.

At the same time some of the major urban areas in the state are so close to one another that continued growth and development will bring two or more cities into new urban regions. The growth of Greensboro and High Point is steadily merging with that of Winston-Salem to form a three-cities area with at least common problems if not common objectives. Similarly, Raleigh

and Durham are growing closer together, while the influence of Charlotte reaches westward to Gastonia and north to Concord and Kannapolis. Here we have, in effect, two or more economic and social communities merging into one, with inevitable conflict and controversy over which area shall dominate.

Thus, while the immediate job is to come up with a policy for urban government in and around individual cities, some thought must be given to the methods by which these merging urban areas can best be governed. This does not mean that recommendation or decision is needed or possible in 1958. But recommendations of this Commission should take the long-range picture into account.

Thus, if industrial and population growth continues as hoped and expected, and if the concentration of population continues to center in, around and between these existing urban areas, local governmental units will be faced with ever-increasing problems. If these problems are anticipated and provision to solve them is taken soon, North Carolina can avoid the expensive and harmful patterns of growth found in other, older metropolitan areas. If, on the other hand, these problems are not anticipated, and if the experience of other areas undergoing rapid urban development is not heeded, North Carolina will follow the example of other states and contain the southeastern counterparts of the "urban jungles" found in the east, the middle west and the far west.

What is needed if North Carolina is to meet the challenge?

There is no clear answer. But these things will be needed:

1. An understanding on the part of the people generally of the possible consequences of rapid urban growth.
2. A desire on the part of the people generally to retain the advantages of attractive, healthy communities as they reap the equal advantages of increased industrialization.

3. A system of local government that can meet the problems of urban development where they arise.
4. A willingness on the part of the people and of the governmental units which represent them to take leadership in preparing for increased urban development.

Emphasis is intentionally placed on the educational factors, for no action taken by the General Assembly will be effective if it does not have public support. But one of the features of urban development in North Carolina today is a failure to realize what is going on at the level of overall state policy. For example,

There is a state agency trying to find ways to enable cities and communities to tap and store new sources of water as needs for water increase.

At the same time some cities, water-poor, have been so anxious to get new industries that they have pledged far more water than they have the capacity to pledge in order to get a "wet" industry.

Some cities are rushing to extend water and sewer services to desirable industries located outside the city, but no steps are taken at the same time to insure that the residential and commercial development which will take place around the industry will come up to the standards of the city.

In order to serve industries locating outside the city, some cities have extended their water and sewer systems in an uneconomical and wasteful fashion.

The state has put money, time and effort into programs for abating water pollution in North Carolina. Yet there is little communication between this program and the development personnel in cities so that "dry" areas that cannot handle pollution intentionally discourage "wet" industries from locating therein.

"Governmental Setting for Growth: Some Alternatives"

Economic development is necessary. Industrial development as a phase of economic development is necessary. But it is also necessary to insure that new development today does not take place under conditions that will damage the community tomorrow. This is why the state and state agencies concerned with water, highways and industrial development must work in close harness with local governments and why local governments must have the power to meet

the problems of urban development. It is also why the people must have the understanding to give support to those governments.

As pointed out at the meeting on July 16, there is no one "best" way to organize local government to meet those problems. There are many ways. There are on the one hand several different types of governmental units; there are on the other a full range of powers and functions which can be allocated to any one or all of the types of governmental units. The job of the Commission is to review the problem and determine how to divide powers and responsibilities between the types of governmental units in this state.

Criteria or Standards to Be Considered in Making Governmental Changes. In considering changes in the system of local government, any changes should be measured against standards which the system of local government attempts to meet. Such standards may include the following:

1. Local governmental units should have boundaries encompassing an area containing a genuine community of interest.
2. Local governmental units should be so organized that the governing board reflects effective and democratic representation of the electorate.
3. Local governmental units should be so organized for administration that there is maximum opportunity for effective and responsible administration of the functions allocated to that unit.
4. Powers and responsibilities should be delegated to local governmental units so that the political and property rights of individual citizens are protected.
5. Financial powers should be delegated to local governmental units so that the unit will be able to raise adequate revenues without imposing an unfair tax burden on its citizens.
6. Governmental units should be so organized that in carrying out their functions they effectively support the overall objectives of state policy.

These criteria have implicit in them questions of value, as well as conflicting objectives. There will be controversy on what constitutes adequate

protection of the political and property rights of individuals, on what constitutes adequate political representation, on what constitutes genuine community of interest, on what constitutes equitable taxation. In considering the range of governmental proposals which will be suggested, the Commission must of necessity choose between proposals that reflect different values and objectives.

The Range of Proposals. The range of proposals which must be considered have been indicated at the various meetings of the Commission.

1. Delegation of planning powers to existing units of government.
2. Extension of municipal corporate boundaries.
3. Creation of special districts, special taxing districts, and authorities.
4. Reorganization of county government.
5. City-county consolidation.
6. Federation of governmental units.

These proposals are not mutually exclusive. Each, however, will be taken up in turn and mention will be made where appropriate of the possible use of two or more methods in conjunction with one another.

VIII. Delegation of Planning Powers

As the report submitted on July 16 indicated, there is relatively limited use, at present, of planning powers outside of municipal corporate limits. As further indicated in that report, since so much urban development is taking place outside of corporate limits, it is in rural and suburban areas that increased use of these powers is important.

The existing situation with respect to such powers can be easily summarized in the following table:

Table 4.

	Planning	Zoning	Subdivision Control
City	Yes	Yes	Yes
County	Yes	6 counties by special act	1 county by special act
Joint City-County	Yes	--	2 by special act
Extra-Territorial Cities	--	19 cities by special act	1 mile general law 2 cities for greater distances by special act

As further demonstrated in the July 16 report, while planning activity is increasing year by year in North Carolina, there are many cities and counties which have taken no steps toward an effective program.

Alternatives:

A. Recommend passage of general laws to fill in the gaps in the table.

1. County zoning. Give the county commissioners authority to adopt and enforce a zoning ordinance regulating the use of property within the county or within any township thereof.

Comment. It should perhaps be stated that no regulatory authority such as zoning or subdivision control should be exercised unless the county first establishes a planning board. Any regulation dealing with the use of property must take into account a variety of complex conditions. To insure that these regulations are based upon careful study of such conditions, it is considered necessary that an official program of studies and plans be carried on by a regularly-organized agency of the government.

Because conditions may vary from one area to another within the county, and thus make it more imperative to regulate growth in the one than in the other, the commissioners can be given authority to zone only one or several townships, if they choose.

2. County subdivision control. Give the county commissioners authority to adopt and enforce a subdivision ordinance regulating the subdivision of land within the county. Such regulations should incorporate standards proposed by the State Highway Department with regard to rights-of-way, sight distances, drainage and construction of streets; and standards proposed by the County Board of Health with regard to minimum lot sizes and provision for water and sewerage systems. The administration of such regulations should be made the responsibility of the Planning Board, in cooperation with the District Engineer of the State Highway Department and the County Health Department.

Comment. Many of the problems relating to the wise use of land arise out of its improper subdivision into smaller parcels--inadequate streets, sanitary provisions, etc. The county commissioners could be empowered to regulate subdivisions but only in cooperation with the agencies most immediately concerned with the effects of improper subdivision. The authority granted could be generally similar to that provided for cities.

3. Extra-territorial zoning by municipalities. Authorize the cities to zone all land for one mile from the limits of the city. In granting this authority, provision should be made for representation on the planning board and board of adjustment of residents of the area to be zoned when matters concerning the zoning of the unincorporated area arise. In the case of a county which had adopted zoning and subdivision ordinances, these would apply only to the areas outside the jurisdiction of the city, except that the governing body of any city would be given the power by resolution to make the county ordinances applicable within the city.

Comment. Because cities are already empowered to zone within their limits and to regulate subdivisions within their limits and for one mile beyond, and

because this suggested legislation would extend the city's zoning authority for one mile beyond the limits, ordinarily it would not be necessary that the county ordinances apply within the city's jurisdiction. However, there may be instances in which a small town would prefer to bring itself under the general county ordinance, provided there were also provision for withdrawal in case the town became dissatisfied.

B. Recommend passage of general laws authorizing major cities (cities of more than 25,000 population--or a lower figure if desired) to exercise extraterritorial control (both zoning and subdivision control) up to three or five miles outside the corporate limits.

At the present time development activity outside of municipalities is concentrated outside of the larger cities, and it is these cities which have the greatest interest in seeing that adequate controls are exercised. These are also the cities that as a rule have the technical planning personnel available to make the necessary basic studies. Provision would have to be made for substantial representation of persons in the unincorporated area on the municipal planning board when extraterritorial controls were under consideration. Even this degree of representation frequently does not make outside residents feel that their representation is adequate.

C. Recommend passage of a general law empowering boards of county commissioners to enter into agreements with any municipality in the county defining the extent of the municipality's extraterritorial zoning and subdivision-regulation authority. Such agreements may include provision for joint representation on any zoning commission, planning board, or board of adjustment dealing with the area outside the municipality, procedures for joint action in adopting or amending any ordinance applying to the area, and procedures for administration of such ordinance.

Comment: In some instances a county will not wish to undertake a planning program itself, but will see the necessity for some controls over development of the fringe area around a municipality. In this case the county commissioners could agree to the exercise of municipal authority for a reasonable distance, making suitable provisions for the protection of property owners in the area involved. Such a law would not prevent passage of the one-mile extra-territorial control suggested in A(1) above.

D. Alternatives A through C could be amended with respect to extra-territorial controls in either one of the two following ways:

1. Provide that the county board of commissioners must give its approval prior to the city's exercising extra-territorial controls. This would apply particularly to the suggestions that cities be given control over an area more than one mile from the city limits.
2. Provide that a city may exercise extra-territorial controls until the county decides to exercise its own powers, assuming that the county is given the necessary powers.

Comment: One of the most serious problems in providing for effective land use controls is that of political control and responsibility. No one can blame a city for wanting to exercise extra-territorial controls as a means of assuring sound urban growth and development. But neither can one blame the resident of the unincorporated area who objects to having a governing board on which he is not represented pass ordinances regulating the use of his property. Furthermore, counties have been most reluctant to exercise zoning and subdivision powers, and in some cases, even if counties had the powers, there is doubt that they would exercise those powers according to the standards followed for similar development inside the city. A poor zoning ordinance may well be worse than none at all.

IX. Annexation

Annexation is probably the oldest method of adjusting governmental jurisdiction to handle the problems of urban development. Extension of corporate boundaries was first handled exclusively by the state legislatures through the medium of special legislative acts. Later, when many states prohibited special acts dealing with local government, general laws were passed providing procedures for annexation. Today 38 of the 48 states have statutory general law procedures governing annexation. Some of these statutes grant relatively broad powers to the cities for extending corporate boundaries. A majority of them circumscribe the cities' powers to the extent that annexation can take place only if and when a majority of the property owners or qualified owners in the area to be annexed petition for annexation.

Because of the restrictions placed on annexation in many states, and because many of the nation's largest cities were long ago circumscribed by suburban incorporated municipalities, many authorities in urban government have pronounced the death sentence on annexation as an effective method of dealing with urban growth. More recently it has been realized that while annexation may not be practical for New York, Los Angeles, Chicago, Detroit, St. Louis, San Francisco, Philadelphia and other large metropolitan centers, it is still a very practical device for keeping pace with urban development in small and medium-sized American cities, as well as large cities in a number of states such as Texas.

The principal question concerning annexation is the procedure to be used in extending the limits of municipalities. Should it be easy for cities to extend their boundaries? Or should the residents of the area to be annexed have the right to decide whether they are to be brought in to the city? Who should decide whether annexation should be undertaken--the city, the voters,

a local or state administrative agency, or a court? Coupled with this problem is the fact that there is today no satisfactory method of distinguishing in the extension of corporate limits between areas which need the major services provided through the city's community facilities, and areas where these services are not yet required but where planning measures should be carried out to coordinate new suburban development with that already inside the city.

Furthermore, it should be understood that annexation does not stand alone as a complete solution to the problems of urban development. In fact annexation must be considered with the proposals set forth in Part VII, and one approach to the problem of sound urban growth is a combination of annexation proposals tied in with planning proposals.

In this section the factors important in considering annexation procedures are first discussed, followed by a description of the major alternatives open to the Commission.

Annexation in North Carolina to 1958

Prior to 1947 no city extended its corporate limits except through passage of special legislative acts. From 1917 to 1947 there were 369 acts of the General Assembly concerned with corporate limits, and 225 of these provided directly for extending corporate limits. Most of the remainder consisted of a redefinition of the limits of particular cities.

The present general law procedure for annexation was enacted in 1947. Under this law (G.S. 160-445 to 453) there are two methods for annexation:

1. The first authorizes municipal governing boards to annex land by passage of an ordinance. Notice of a public hearing on the ordinance must be given four weeks in advance, and if at the public hearing a petition signed by 15% of the qualified voters in the area to be annexed is presented, the

city governing board must submit the question of annexation to a referendum in the area to be annexed or it may do so on its own motion. At the same time it may on its own motion submit the question to the qualified voters of the city, voting separately, and it must do so if a petition signed by 15% of the qualified voters of the city who voted in the last gubernatorial election is presented.

The annexation will not be effective if either the residents in the area to be annexed or the residents of the city disapprove.

2. In areas having less than 25 eligible voter-residents, a city can annex such areas only if the owners of all the property proposed to be annexed sign a petition approving annexation.

Experience under this law, based on replies to the Institute of Government questionnaire, is shown by the tables following this page. Most of the cities which have undertaken significant annexations in the last eight years responded.

These facts bear noting:

1. The general law procedures have not eliminated annexation by special act. In the period 1950-58 a total of 38 special acts related to these 128 cities. In the period between 1947 and the end of the 1957 General Assembly, a total of 77 special acts dealing with annexation were passed--28 of these in 1957.
2. By far the greatest number of annexations have been accomplished under G. S. 160-452, providing for annexation of areas having less than 25 voter-residents. The reason for this is that in most cities, large scale developers petition for annexation prior to the development of land in order to be assured of water and/or sewer services.
3. By far the largest numbers of annexations have taken place in cities with a population of more than 5,000. This should be considered in relation to the table prepared by Mr. Green for the July 16 meeting where it was shown that in cities above 5,000, more new development was reported outside corporate limits, while in cities and towns of less than 5,000 more new development was reported inside corporate limits. This may reflect the fact that there is relatively more undeveloped land for development in the smaller towns.
4. It is interesting to note that where elections are necessary, annexation is defeated in 4 out of every 10 cases. Only about one third of the areas in which annexation was first defeated were later reported to have been annexed.

SUMMARY ANALYSIS: ANNEXATION QUESTIONNAIRE

(1-3,5,6)

	Population Class								Totals
	100,000 - 150,000	150,000 - 250,000	250,000 - 500,000	500,000 - 1,000,000	1,000,000 - 2,500,000	2,500,000 - 5,000,000	5,000,000 - 10,000,000	10,000,000 - Under 1,000,000	
Cities in Class	1	5	4	20	24	35	109	211	409
Cities Replying	1	5	2	11	12	17	32	48	128
Annexations, 1/50-6/58	35	110	57	133	58	43	44	9	489
PROCEDURE:									
Special Act									
Vote									
No Vote	1	1	--	1	1	3	1	1	9
City Ordinance, G.S. 160-445-451	--	7	--	6	3	5	6	2	29
452	--	16	8	53	21	15	4	--	117
	34	87	49	73	33	20	32	6	334
ELECTIONS:									
Special Act									
Total Held	1	1	--	5	--	1	2	--	10
Successful	1	1	--	3	--	0	1	--	6
G.S. 160-446									
Total Held	1	3	7	17	10	6	7	--	51
Successful	0	2	3	11	5	3	5	--	29
All Elections									
Total Held	2	4	7	22	10	7	9	--	61
Successful	1	3	3	14	5	3	6	--	35
Annexation after Unsuccessful Election									
Later Vote Ordinance	1	--	--	4	1	4	--	--	10
	--	--	--	2	--	--	--	--	2
Proposed Annexations Dropped on Opposition									
	--	1	--	3	2	3	--	--	9
Desirable Annexation Stymied because of Procedure									
	--	2	1	5	3	2	1	2	18

Source: Survey Conducted by Institute of Government for the Municipal Government Study Commission.

(7/15/58)

Institute of Government Annexation
 Questionnaire Conducted for Municipal
 Government Study Commission (Responses
 to Question 7, received as of July 15,
 1958)

Summary Analysis of Proposed Changes
 ANNEXATION PROCEDURES

Total response to this question:

<u>Population Class</u>	<u>No. of Cities in Class</u>	<u>No. of Cities Replying to This Question</u>	<u>Percent Response</u>
100,000 /	1	1	100%
50,000-100,000	5	5	100
25,000-50,000	4	1	25
10,000-25,000	20	9	45
5,000-10,000	24	4	17
2,500-5,000	35	4	11
1,000-2,500	109	2	2
Under 1,000	211	4	2
All Cities	409	30	7

Individual Responses

Satisfied with existing procedures: 2

Want general law providing for city and suburban residents to "vote together": 10

Want special legislation applicable to own city in next General Assembly: 2

Want procedural simplification and cut-back in time involved: 2

Suggest general law clarification of procedures where towns are close together and annexation conflicts may arise: 2

Want majority to be sufficient in sparsely settled areas (rather than unanimity now required under G.S. 160-452): 5

Suggest increasing upward from 15% number of signatures required on petitions demanding election: 2

Suggest automatic annexation under set standards: 4

Recommend Virginia annexation procedure: 4

Allow (within set limits) roadways to be considered as contiguous territory for annexation purposes: 1

Why Should Cities Consider Annexation?

The reasons can be simply stated. First, and perhaps most important, is to continually revise the corporate boundaries of the city so that the governmental boundaries in the community include, insofar as possible, the boundaries of the economic and social community. A second major reason is that the city, the principal unit of government equipped to provide municipal services, is best equipped to extend quality services to newly-developed areas as they need them and at a lower cost than several smaller units could provide the same services. At the same time, with municipal tax structures similar to those in North Carolina, extension of limits permits the city to expand its tax base and to secure payment from services from those who receive the services. As pointed out in the meeting on July 23, many of the inequities now posed by non-residents working in the city and living outside the city could be eliminated through annexation. Finally, consistent extension of corporate limits permits the city to maintain control over urban development in the larger urban community. Bringing newly-developed land into the city has advantages over extra-territorial exercise of powers by the city in that annexation makes the outside residents citizens in full standing in the city for election of governing board members. Furthermore, extension of municipal controls over new development has advantages over county controls of new development in that the city can better coordinate new development with existing development in the city.

Basic Considerations in Establishing an Annexation Policy

No political system is perfect, primarily because people are not perfect. Similarly, no system for governing urban development can be perfect. There are many areas of local government which bring out the imperfections in people--the property tax and zoning ordinances among them--but none of them arouse any more controversy, or any more heat, or any less light, than an annexation fight.

To Annex or Not to Annex

It is often difficult for those involved in an annexation proceeding to look into the future. It is somewhat easier for a disinterested observer to review the experience of cities with annexation and to determine the long-term results of a successful and an unsuccessful annexation policy.

Where cities with reasonably effective governments have been successful in periodic extension of their boundaries, the results have been uniformly good. The city has been able to extend zoning and subdivision control before improper development could take place. The results can be seen in better street systems, better residential subdivisions, fewer suburban "slums," and a generally more attractive appearance. Similarly, the effect can be noted in examination of the city's revenue structure. There is generally a more stable and equitable property tax base. Where there are no extenuating circumstances, the city generally has a more stable income and has been able to meet its capital needs more successfully. It has had more money to undertake those functions which affect economic development, such as providing an effective internal transportation system, an adequate water supply, and effective sewage treatment. Despite municipal taxes, cities which follow a progressive annexation policy seem to be attracting new industry, new commercial development, and a sufficiency of new housing. These results may be a reflection of the progressive nature of the city's government, but they could not all take place unless the city had been able to keep its corporate boundary roughly in step with the growth of the entire community.

By contrast, a complete failure to annex may mean the bankruptcy of effective government in the area. A good example is Baton Rouge, Louisiana, before the community staged what amounted to a revolution. For decades, while the city grew as a result of heavy industrial development, the boundaries

of the city were not extended. By 1946, the incorporated city contained 35,000 people, while the unincorporated area outside the city contained 85,000 people. Basic services were adequate in the incorporated city, but the tax base was most inadequate. Furthermore, the street transportation system throughout the city had completely broken down because the parish (or county) highway department had simply been unable to maintain traffic arteries. There had been no control of subdivision practices with the result that the traffic pattern was hopelessly entangled. In a community of 85,000 people outside the city, considerably less than half had public sewer services from special districts with inadequate tax revenues to provide effective service. The remainder of the area constituted a sanitary nuisance.

In short, living conditions throughout the community were so bad that the major industries concentrated in an industrial district several miles north of the city joined with the chamber of commerce in spearheading a complete overhaul of local government in the county. The result was a consolidated city-parish government with the city boundary line extended to include all industrial development. To be sure, extraordinary measures had to be entered into to finance the backlog of service deficiencies. To be sure, it took many years to overcome the inactivity prior to 1946. But the result today is a strong and progressive local government that has re-established effective services and the confidence of the people in local government. With this renewed confidence has come expanded economic development.

These word pictures show the best and the worst. Many cities and urban areas fall in between. There are too many factors affecting living qualities and economic growth in any community to say that annexation is an economic and governmental cure-all. But it is generally true that an aggressive annexation policy reflects enlightened civic leadership on all fronts. This

does not always happen, but it happens more often than not.

Who Should Determine When an Area Should be Annexed?

The American people, by and large, have a deep-seated philosophy of "home rule," to be distinguished from the constitutional concept of "home rule." In short, the American people believe that a property owner should have something to say about how his property is governed. No single question brings the conflicting interest of an individual property owner into conflict with the community interest of all property owners in an area than annexation.

This is the basic reason why about one-half of the states still have no procedures whereby a city can annex land unless a significant number of property owners in the area to be annexed express their assent through a petition or through an election. But is annexation a question where elections best express democratic objectives? Is it fair to people throughout an urban community for a few property owners in a relatively limited area to refuse to cooperate either in providing services or in helping promote sound development? Is the broad interest of the state in sound urban development satisfied if numbers of individual communities can block desirable community-wide or state-wide policies? These questions are being asked throughout the United States today as urban development intensifies and multiplies. Some states, following the lead of the State of Virginia, have decided that the interests of state policy are best served when a city is able to extend its boundaries in an equitable manner to bring in the major part of the urban community. Other states, and curiously enough the most urban states, have not faced up to the question. In some states constitutional limitations have held back annexation. In other states preponderantly rural legislatures have held back annexation. In still other states the fears and prejudices of small towns and unincorporated communities have made themselves felt at the legislative level.

This question still remains. Is the extension of municipal corporate boundaries a matter that should be determined by the voters of the city itself, or by the voters in the area where annexation is proposed, or by the voters throughout the county, or by the legislative branch of the state government? And this question has no simple answer.

What Standards Should Determine When an Area Should Be Annexed?

Many persons have believed that the state could remove the question of annexation from the political sphere by a precise definition of urban land which by agreement should be included within city limits. Some states have come forward with standards to govern annexation, but most of these standards are general standards to guide the discretion of local governing boards, subject to the review of a court to determine whether this exercise of discretion has been "reasonable" and in the spirit of the legislative standards. Perhaps the reason that more specific standards have been developed is that there is some doubt as to whether "urban land" can satisfactorily be defined. That is, many times the land which the city most wants to annex and which, perhaps, should best be annexed, is undeveloped land which is just ready for development. That is, it is easy to determine when land has been subdivided for sale as residential lots, or when it has been built upon and contains residences needing municipal services. But how can legislative standards adequately distinguish between those tracts of land which will be developed in the near future and those which will not. Is propensity for development determined by distance from the city, or relationship to the transportation system, or relationship to municipal utilities, or by the raw price of the land.

Similarly, it is very difficult to define the entire urban community so as to keep the boundary of the incorporated city roughly coterminous with

the boundary of the entire urban community. Furthermore, the urban community may extend so far, that the incorporated community could not under any circumstances support full municipal services. As pointed out in Parts III and IV, the area needing full-scale municipal services is much smaller than the entire urban area.

Annexation as a Case Study in Public Relations

One final word. Many American cities have been criminally negligent in their failure to either make proper studies of the urban community as a preliminary to annexation, or to make any attempt to explain to the people in the unincorporated area the program of annexation, why it is being undertaken, what effect it will have on the area to be annexed and on the community as a whole, and what the effect on individuals will be. In short, it has been proven time and again that the city with a good public relations program will be more successful in annexation than the city which attempts to push annexation through raw power. Some of the success of annexation in selected North Carolina cities can be attributed more to good public relations than to the ease with which the statutory procedure makes legal annexation possible.

General Approaches to Annexation

The Commission has several choices in determining what powers and procedures cities and other governmental units should have in annexation. What, in the Commission's opinion, are the basic objectives? Should the interest of the city be superior to the individual interests of property owners in an unincorporated area adjacent to the city? If so, should the state permit the city to do what it wants to do without regard to statutory standards or limitations of any sort?

It is certainly not practical to say that the Commission must choose any particular approach. While on the one hand the interest of state policy would probably not be answered by giving the voters in the areas outside of the city a complete control over whether or not those areas should be annexed to the city. At the same time neither would complete municipal control over the extent to which municipal boundaries can be extended provide adequate protection to residents of unincorporated areas outside of the city. A good annexation policy, then, really involves finding a procedure which recognizes the legitimate interest of the area outside the city, the city, and the state.

Review of Procedures for Annexation Found Among the Several States

[These procedures will be reviewed by Mr. Esser but written statements will not be available at this meeting.]

Proposals

A. Amendments to present procedures.

1. G. S. 160-452 should be amended to permit cities to annex land containing fewer than 25 voter-residents upon presentation of a petition signed by the owners of 51% of the property in the area, instead of 100% as is now required.

Comment: This has been suggested by several municipal officials. It would bring the percentage in line with the requirements for special assessment, would conform to the percentage of signatures most frequently required in other states, and would eliminate the possibility of a small number of property owners from blocking a move favored by the majority. A decision must be made as to whether the signatures should represent 51% of acreage or assessed value.

2. The annexation article should be amended to add an additional procedure for annexing land platted into lots of not more than a specific size. For example, many states permit annexation of contiguous land platted into lots of not more than 5 acres in size.

Comment: This would permit cities to annex adjacent subdivisions which are being developed as urban property and which now, or in the future, will require municipal services.

3. The annexation article should be amended to provide that the location of a railroad right-of-way or public highway or stream between the corporate boundary and land desired for annexation shall not mean that such land is not contiguous to the corporate boundary.

Comment: There is no definition of contiguity in the annexation law, and this situation has arisen a number of times. Such a clarification would be desirable.

4. The number of signatures required on a petition to force the city council to call an election should be increased from 15% to 25% or 40% or some other higher figure.

Comment: The opinion of many city officials is that it is too easy to call an annexation election. If the calling of such election were made more difficult, there would be fewer elections where it is clear that a majority favor annexation. But if the number of signatures is increased too high, the petition process may for practical purposes be substituted for the election process. If it is desired to retain the election process and at the same time make sure that a substantial number of persons want an election, a combination of increasing the petition signatures required to 25% and proposal (5) below would be practical.

5. The annexation article should be amended to add an additional procedure supplementing G. S. 160-452 to permit the council to annex any

adjacent area without an election when a petition is presented signed by 51% of the resident qualified voters in the area and the owners of 51% of the property in the area.

Comment: If the petition is signed by more than 51% of the voters and owners of 51% of the property, the forecast for the election is strongly in favor of approval. Thus, where 51% of the voters and the owners of 51% of the property approve, the election may be an unnecessary expense. There should, however, continue to be provision for notice and hearing, and the need for protecting purely agricultural land may argue for specific provision prohibiting annexation of such land.

6. The election provisions of G. S. 160-446 should be amended to provide that in any annexation election, the residents of the city and of the area to be annexed shall vote together and that the annexation shall be determined on the basis of a majority of all votes, tallied together.

Comment: This is the procedure most frequently suggested in recent special acts and in comments by city officials, on the ground that the voters of an outside area can and often do block an annexation that is vital for the continued health and welfare of the entire urban area. On the other hand, the implication of a combined vote to the outside resident is that the city resident can, and will, outvote him. There is no satisfactory answer to this dilemma if the election process is to be retained. If this proposal is approved, its effect can be softened in a very constructive way by specifying in the annexation law the study procedures that the city must go through before the proposal is submitted to a vote. Such procedures would not constitute standards for judicial review, but would be prerequisites to be met before an official election could be called. They could include:

1. Presentation of a detailed map of the area to be annexed, showing all streets, boundaries, utility lines, zoning districts, and buildings.

2. Presentation of a report showing the probable cost of extending services into the area to be annexed, the revenues to be derived from the area to be annexed, and a proposed schedule for extending general municipal services into the area within one year following annexation.

3. A statement setting forth the reasons why the area is to be annexed, the benefits that will accrue to the area to be annexed, and the benefits which will accrue to the entire urban area.

7. The annexation article should be amended to prohibit any city from annexing single parcels of land exceeding ____ acres in size and used primarily for agricultural purposes except upon the approval of the property owner.

Comment: It is rather clearly unfair to levy municipal taxes on a farmer for services he cannot use. If the land is adjacent to urban development, it is clear that eventually it will go into urban development, but until that time it is probably best to exclude such areas from annexation. But the statute should not be written to prevent the city from annexing land on any side of such parcels when such other land is being used for urban purposes.

8. The annexation article should be amended to provide an alternative annexation procedure based upon specific statutory standards. Under such a procedure any city could annex land that met any one or a combination of standards set forth in the statute, subject to judicial review as to whether the standards had in fact been met.

Specific standards defining urban land are much more difficult to express than general standards, but if they can be satisfactorily drafted, they will be much more likely to receive general acceptance by the people

than general standards. General standards, on the other hand, are simpler to use if the reviewing court gives them sympathetic interpretation.

The alternative procedure, for example, might provide that any city could annex land without an election if the land

1. Is contiguous to the city
 2. Is subdivided for any purposes into lots of 10 acres or less, or
 3. Is being used for, or is zoned for, or is being held vacant for commercial and industrial development anywhere within one mile of the existing city limits, or
 4. Which is used for, zoned for, or is being held for residential purposes has an average population density of 400 persons per square mile.
 5. Parcels of not more than ____ acres which are included within or are surrounded by land meeting the definitions in (2), (3), and (4) may be included within the annexation; Provided that parcels of more than ____ acres and used primarily for agricultural purposes shall not be annexed.
 6. Land which is publicly-owned may be annexed.
 7. When a parcel of agricultural land under the proviso in (5) is surrounded by the city, the city will have the power to annex such land without the consent of the property owners either from and after ten years from the date that such land is surrounded, or at any time that the land is removed from agricultural use.
- B. As an alternative or in substitution for the present procedure, one of the following procedures might be adopted.

1. A procedure permitting cities to annex land when general findings and determinations have been made by the city council. The following suggestions, based on a suggested Alabama law and the present Tennessee procedure, are offered as bases for discussion.

- a. Permit the city to annex land after making a determination that annexation "is necessary and expedient to the best interest of the entire area affected," provided that such determination is based on the following findings:
 - (1) That the cost of municipal services will be more equitably distributed among those receiving them.
 - (2) That past growth trends of the municipality indicate probable continued growth in the direction of the area annexed.
 - (3) That municipal-type services can be practicably provided by the municipality to the annexed territory.
 - (4) That the municipal boundary resulting from annexation will more closely correspond to the present and prospective physical, economic and social community.

- b. Permit the city to annex land after making a determination that
 - (1) The prosperity of the municipality and the territory to be annexed will be materially retarded and the safety and welfare of the inhabitants and property thereof will be endangered unless annexation takes place.
 - (2) The land annexed is contiguous to the city and is deemed necessary for the welfare of the residents and property owners of the affected territory as well as the municipality as a whole.

In either case there would of course be judicial review to determine if the action of the governing board was a reasonable exercise of the statutory authority.

2. A procedure, basically following that found in Indiana, permitting cities to annex land the boundaries of which will be determined by the city council, upon a statement of the terms and conditions which are to apply to such annexation. Such annexation would be subject to review in the superior court by filing of a petition in writing (signed by a majority of the land owners or the owners of more than 75% of the assessed valuation of real estate in the area) and asserting that they were aggrieved or injuriously affected. The judge in chambers would first determine if the remonstrance were sufficient, and if so, he would call a hearing and proceed to hear and determine the appeal without a jury. To uphold the annexation, the judge would have to find on the basis of evidence that:

- (1) The annexation is in the best interests of the municipality and the territory to be annexed.
- (2) The area is urban in character, being an economic and social part of the annexing municipality.
- (3) The terms and conditions set forth in the ordinance are fair and just.
- (4) The municipality is financially able to provide municipal services to the annexed area within the reasonably near future.
- (5) The area sought to be annexed, if undeveloped, is needed for development of the municipality in the reasonably near future.
- (6) The lines of annexation are so drawn as to form a compact area abutting the municipality.

2a. A procedure by which the city would be requested to annex an area on petition of property owners in an unincorporated area. If the city refused, the property owners could appeal to the superior court and the judge would follow the same procedure outlined in (2). If all the determining factors were found to be present, the judge could order the area annexed to the city without the consent of the city.

3. A procedure similar to the Virginia system but employing an administrative agency instead of a court to avoid the probability of an unconstitutional delegation of powers. Briefly, upon motion of the city, the county or of an area adjacent to the city, the administrative agency would review a proposed annexation in a hearing and have the power to approve the annexation, in whole or in part. If the Virginia language were followed the agency would have responsibility for deciding:

- a. The necessity for and expediency of such annexation, considering the best interests of the county, the city, and the best interests, services to be rendered and the needs of the area proposed to be annexed and the best interests of the remaining portion of the county, and that such conditions (of annexation) shall be reasonable and fair.

Virginia courts, in applying this standard, may approve the annexation altogether, disapprove it altogether, remove area from the proposal submitted

to the court, add additional area to be annexed, or change the terms and conditions of annexation. The court "shall so draw the lines of annexation as to have a reasonably compact body of land, and shall also see that no land shall be taken into the city which is not adapted to city improvements, unless necessarily embraced in such compact body of land, or which the city shall not need in the reasonably near future for development."

Courts in Virginia have considered (1) the municipality's need for additional territory in order to grow and develop; (2) the need for governmental services in the area to be annexed; (3) the existence of a community of interests between the municipality and the area to be annexed, and (4) the municipality's financial ability to undertake the annexation. These could be considered more logically by an administrative agency, particularly if the agency is to have responsibility for modifying in any way the proposal for annexation.

An administrative agency could also be given power to review a procedure using specific statutory standards such as those set forth under A(8), in which case it could also be given the power to modify the proposed annexation.

If an administrative agency is to be used, what should be its composition?

1. A state agency could be either (a) a fulltime commission such as the Industrial Commission with research and educational functions in the area of urban development as well as responsibility for hearing annexation actions (proposed in a study sponsored by the Council of State Governments) or (b) an ex officio board of state department heads such as the present State Board of Assessment and Tax Review Board.
2. A local agency either (a) created for the occasion or (b) drawn from existing governmental officials. One state, New Mexico, has an arbitration procedure for annexation where the reviewing agency is composed of citizens appointed by the city and by the county to insure representation from both the city and the area to be annexed. Other states, such as Ohio, require all annexations to be heard and determined by the board of county commissioners.

- C. As an alternative procedure enact general legislation whereby:
1. A city could extend its limits to include all the area where controls of urban development were desirable.
 2. That part of the city receiving full municipal services would remain a separate governmental unit.
 3. The city council would be composed of members from inside the area receiving full services and of members from the area not receiving full services. Those members from the area receiving full services would be the governing board in dealing with matters pertaining to services provided only to that area. All members would vote on matters affecting the whole area.
 4. The city (enlarged) would have all corporate powers including planning, zoning, subdivision control, building and traffic regulations. It would also be empowered to provide some minimum services and to levy a small property tax as well as fees and charges.
 5. The city (enlarged) would have authority to extend its boundaries according to general standards such as those set forth in B(1).
 6. The inner city would have authority to extend its boundaries according to specific standards such as those in A(8).

This suggestion is an adaptation of the city-county consolidation system now in effect in Baton Rouge, Louisiana; suggested for Durham and New Hanover Counties in 1933; and more recently suggested in Nashville, Tennessee, and Sacramento, California. It would be an effective basis for city-county consolidation in North Carolina. If it were used for consolidation, provision (5) above would, of course, not be necessary.

The suggestion may be too cumbersome for the area immediately surrounding a city, but it has the advantage of giving the residents in the area not

needing full services a voice in the government of the area. Politically this would be sound. It would permit extension of the boundaries of the inner city completely on the basis of services rendered--most practically when water services were made available. It would permit the use of general standards in the expansion of the boundaries of the city (enlarged) under the most practical conditions--that is, it is easier to meet general standards when extending the area in which the exercise of general powers will be permitted.

If it is too cumbersome for the area in and around a city, it should not be too cumbersome in a city-county consolidation proposal. While it is doubtful that any city and county is yet ready for consolidation, consolidated government makes a great deal of sense for the larger, urbanized counties.

D. Miscellaneous Proposals Concerning Urban Development

Time is too short to go into great detail on the other proposals which could be considered to help deal with the problems of urban development. Some of the proposals are frankly designed for larger metropolitan areas--such as federation or multi-purpose metropolitan districts. They are proposals which must be kept in mind as counties in this state become more urbanized, and as the urban regions mentioned above develop. As of today, however, there is little need or demand for such structural changes.

A number of miscellaneous proposals should be brought out and considered.

1. One of the most difficult problems in many urban states is frequent incorporation of small towns in the suburban areas adjacent to municipalities. Very frequently these towns are incorporated to evade annexation, and soon the periphery is dotted with small towns. This has been the result in most of the larger metropolitan centers and is going on in Dallas and Houston

today. Granting the fact that cities in these states have encouraged these incorporations through poor public relations, it is still undesirable to penalize the entire urban area on account of one controversy.

Some states have met this problem by (a) prohibiting the incorporation of cities and towns except under general law procedures, and (b) amending the general law to forbid incorporation of new towns within three miles of the boundary of other municipalities. To accomplish this result in North Carolina, it would be necessary to take the following steps:

1. Recommend to the Constitutional Study Commission that Article II, Section 29, of the Constitution be amended to prohibit incorporation of municipalities and other governmental units by way of special acts.
2. Amend the statutes establishing the Municipal Board of Control to prohibit incorporation of new towns within three miles (or some other distance) of existing municipal boundaries.