

**REPORT OF THE
JOINT SUBCOMMITTEE ON AGING
OF THE
SENATE COMMITTEE ON EDUCATION AND HEALTH
AND THE
HOUSE COMMITTEE ON HEALTH, WELFARE AND INSTITUTIONS
TO THE
THE GOVERNOR
AND
THE GENERAL ASSEMBLY OF VIRGINIA**



SENATE DOCUMENT NO. 23

**COMMONWEALTH OF VIRGINIA
Richmond, Virginia
1980**

MEMBERS OF COMMITTEE

EDWARD M. HOLLAND
MARY A. MARSHALL
DAVID G. BRICKLEY
JAMES T. EDMUNDS
J. SAMUEL GLASSCOCK
EVELYN M. HAILEY
OMER L. HIRST
WILLARD J. MOODY
WILLIAM P. ROBINSON, SR.
ROBERT C. SCOTT
W. WARD TEEL

STAFF

Division of Legislative Services

Lelia B. Hopper, Staff Attorney
Martha A. Johnson, Legislative Research Associate
Grace C. Horning, Secretary

Administrative and Clerical

Office of Clerk, Senate of Virginia

**Report of the
Joint Subcommittee on Aging
of the
Senate Committee on Education and Health
and the
House Committee on Health, Welfare and Institutions
To
The Governor and the General Assembly of Virginia**

**Richmond, Virginia
January, 1980**

To: Honorable John N. Dalton, Governor of Virginia
and
The General Assembly of Virginia

HISTORY OF THE JOINT SUBCOMMITTEE

In its report to the Governor and the 1978 Session of the General Assembly, the Commission on the Needs of Elderly Virginians recommended that a legislative subcommittee be appointed to receive and review all legislation and reports affecting the elderly. Senate Joint Resolution No. 81, agreed to by the 1978 Session of the General Assembly, established the Joint Subcommittee on Aging whose members were appointed from the Senate Committee on Education and Health and the House Committee on Health, Welfare and Institutions.

Senator Edward M. Holland of Arlington was selected as chairman of the Joint Subcommittee. Serving with Senator Holland were: Delegate Mary A. Marshall of Arlington, Vice-Chairman; Delegate David G. Brickley of Woodbridge; Senator James T. Edmunds of Kenbridge; Delegate J. Samuel Glasscock of Suffolk; Delegate Evelyn M. Hailey of Norfolk; Senator Omer L. Hirst of Annandale; Senator Willard J. Moody of Portsmouth; Delegate William P. Robinson, Sr., of Norfolk; Delegate Robert C. Scott of Newport News; and Delegate W. Ward Teel of Christiansburg.

RECOMMENDATIONS

During 1978 and 1979, the Joint Subcommittee carried out its responsibility for legislative oversight of issues concerning elderly Virginians by working with the Virginia Office on Aging and receiving testimony from public and private organizations and concerned citizens.

Specific legislative actions were recommended to the Joint Subcommittee for consideration in the 1980 Session of the General Assembly. Representatives of State agencies, citizens' organizations and the medical profession addressed the Joint Subcommittee voicing concerns about the needs of elderly persons in the Commonwealth. The individuals and representatives of organizations appearing before the Joint Subcommittee to seek endorsement of legislative proposals included representatives of: the Virginia Office on Aging; American Association of Retired Persons and National Retired Teachers Association; Virginia Coalition for the Aging; Virginia Center on Aging; Medical College of Virginia; University of Virginia; Virginia State Legal Aid Society; and Friends and Relatives of Nursing Home Residents.

The Joint Subcommittee, after careful consideration of the legislative proposals brought to its attention, recommends the following:

I. Repeal of the sales tax on food for home consumption

Representatives of the Virginia Coalition for the Aging addressed the Joint Subcommittee regarding the rationale for the repeal of the sales tax on food. The Coalition's statement on this issue offers a concise view of the burden imposed by this tax on elderly Virginians. The group's rationale for recommending the repeal of the sales tax on food is:

Sales taxes are a regressive form of taxation, meaning that the proportion of income spent on the sales tax increases as income decreases. In other words, persons who have the lowest incomes spend the highest proportion of their income on the sales tax. Since food items are

necessary purchases for everyone, a sales tax on food hits those hardest who are least able to pay.

The Virginia Coalition for the Aging supports repeal of the 4% state sales tax on food because elderly persons, many of whom live on fixed incomes, represent a large proportion of Virginia's low-income population which is unjustly affected by this form of taxation.

Of the 45 states which impose a general sales tax, 24 states now exempt food items. On a national average, general and selective sales taxes generate about 55% of a state's tax revenue, but food taxes only represent about 7% of that total. That 7% loss of revenue can be offset by a variety of other tax mechanisms. Most states have actually increased their tax revenues by eliminating food and taxing certain services (credit rating, detective services, etc.) or items such as stocks, bonds and franchises. Other states have simply strengthened their enforcement of existing tax laws to ensure collection of taxes.

A few states have opted to provide an income tax credit to relieve lower income persons of the burden imposed by the sales tax on food. This system, however, is cumbersome and does not really help many poor persons because they have such low incomes that they do not file income tax returns. Several states which started with a tax credit have now repealed the food tax altogether.

During its deliberations, the Joint Subcommittee on Aging was briefed by the staff of the Joint Subcommittee Studying the Sales Tax on Food of the House and Senate Finance Committees. The rationale and procedures by which the study group developed its proposals for repeal of the sales tax on food were outlined for the Joint Subcommittee on Aging. This proposal is:

Virginia should utilize the anticipated significant growth of other general fund revenues and gradually eliminate the State sales tax on food over a six-year period. Specifically, it is recommended that the State sales tax on food be reduced 1% on the first day of the next three bienniums beginning on July 1, 1980.

The gradual elimination of the sales tax on food is recommended only if the funds are available from general fund increases after fixed and necessary expenditures from the obligations of the general fund are funded.

One percent of the State's 3% sales tax is distributed back to the localities on the basis of school age population. It is recommended that the State continue to distribute the revenue back to the localities as if it were collected. With regard to the 1% sales tax which all localities have adopted, it is recommended that in 1986 at the end of the six-year phase out period for the State tax, the localities be given the option of exempting food products from the local sales tax.

For a comprehensive explanation of this proposal and its impact on the economy of the State and its political subdivisions, see 1980 House Document No. 11.

The Joint Subcommittee on Aging endorses the approach and timetable proposed by the Joint Subcommittee Studying the Sales Tax on Food as a reasonable solution to a complex problem. The Joint Subcommittee on Aging, however, urges the repeal of the State sales tax on food at the earliest date possible.

The Joint Subcommittee feels that the State tax should be removed by 1984, or earlier, within appropriate budgetary constraints. Allowing the localities the option of removing the local one percent sales tax on food is a sound recommendation and is endorsed by the Joint Subcommittee on Aging.

Supporters of the proposal to repeal the sales tax on food include: participants of the Governor's Conference on Aging; American Association of Retired Persons and National Retired Teachers Association; Virginia Coalition for the Aging; and the Virginia State Legal Aid Society.

The Joint Subcommittee on Aging heard testimony and considered proposals to remove the sales tax on prescription drugs and on utilities, both for home owners and renters, as well as on food. The Joint Subcommittee believes that these additional proposals are worthy of consideration, but that the number one priority of the Commonwealth in this regard should be the removal of the sales tax

on food.

II. Hospice Care

In 1979, the Report of the Joint Subcommittee to Study Hospice of the House Committees on Health, Welfare and Institutions and Corporations, Insurance and Banking (1979 House Document No. 36) defined hospice as:

... a coordinated program of home and in-patient care which treats the terminally ill patient and family as a unit, employing an interdisciplinary team acting under the direction of an autonomous hospice administration. The program provides palliative and supportive care to meet the physical, psychological, social, economic and other special needs which are experienced during the final stages of illness, and during dying and bereavement.

The Joint Subcommittee to Study Hospice recommended that the Department of Health conduct a two-year evaluative study of hospice programs throughout the State to provide data and to make recommendations regarding hospice. House Joint Resolution No. 252, requesting the study, was agreed to in the 1979 Session of the General Assembly. Pursuant to the resolution, the Commissioner of the Department of Health appointed the Hospice Advisory Committee. The Committee will issue an interim report to the Governor and the 1980 Session of the General Assembly and a final report in 1981.

The participants of the Governor's Conference on Aging recommended that the legislature continue to study hospice programs and their role in the care of elderly Virginians. The Joint Subcommittee on Aging supports the hospice concept and its members look forward to the final recommendations of the Hospice Advisory Committee in 1981. The Joint Subcommittee encourages the work of the Hospice Advisory Committee as well as the implementation of hospice programs throughout the Commonwealth.

III. Financial support for transportation services

Access to the special programs and services provided for elderly and disabled persons as well as to the daily services needed by all citizens, such as the grocery store and bank, is essential. Addressing the transportation problems associated with essential services has been identified by advocates for the aging as being of the highest priority. The rural and urban elderly alike have noted the absence or inadequacy of public mass transit, the need for coordination of transportation programs, rising fuel prices, problems of the older driver, problems with volunteer driver insurance, special problems of the handicapped older person and problems with obtaining vehicles appropriate for transportation services.

The Virginia Office on Aging, through its area agencies on aging, is the only mechanism for providing transportation for the elderly on a statewide basis. Where mass transit systems operate, area agencies cooperate with transit companies to provide specialized services to the elderly handicapped.

During the 1978-80 biennium, \$160,000 in State general funds was appropriated to match federal funds for services provided by localities for elderly persons. Localities could choose to use these funds for transportation programs. For the last year of the biennium, 1979-80, \$175,000 was appropriated from State general funds for use by localities solely to pay the costs of transportation services for the elderly.

In the upcoming biennium, 1980-82, the Commonwealth has new responsibilities for funding transportation and other supportive services for older citizens. Amendments by Congress in 1978 to Title III of the Older Americans Act require that a ratio of 85% federal funds, 5% state funds and 10% local funds be established effective October 1, 1980 for the distribution of these monies. The five percent state share of these monies is a new requirement. The Office on Aging projects that Virginia will receive the following federal funds in State fiscal years 1980-82 from the Older Americans Act:

1980-81	\$14,221,200
1981-82	<u>16,636,700</u>

\$30,857,900 Total federal funds

The approximate five percent share due from the Commonwealth to draw down the Older Americans Act monies is:

1980-81 \$ 704,800

1981-82 1,132,300

\$ 1,837,100 Total State funds

The Joint Subcommittee on Aging endorses the 1980-82 budget request of the Office on Aging for these funds to maintain existing transportation and other supportive services for the elderly in the Commonwealth. The Joint Subcommittee urges favorable consideration of this request by the 1980 Session of the General Assembly.

Organizations advocating support for transportation services for the elderly who appeared before the Joint Subcommittee are: the American Association of Retired Persons and National Retired Teachers Association; Virginia Coalition for the Aging; and the Virginia State Legal Aid Society.

IV. Property tax relief for persons sixty-five years of age and older and for permanently and totally disabled persons

The Joint Subcommittee on Aging endorses the concept of adding to the alternatives set out in § 58-760.1 of the Code of Virginia for property tax relief by localities the concept of a freeze on property taxes for elderly and disabled persons. Such a freeze could be provided at the January 1, 1980 level or at the level of the year in which the property owner becomes sixty-five or disabled. Any such tax relief should remain optional with the localities and should include eligibility requirements of not more than \$15,000 in total combined income and \$50,000 in net combined financial worth for the recipients of the tax relief.

It is acknowledged that property values have increased so rapidly during the past few years, with real estate taxes rising proportionately, that many elderly persons who are reasonably affluent can no longer afford to remain in their own homes. Many elderly persons live in homes which are now assessed many times their original assessment, while their incomes have remained more or less fixed. The Joint Subcommittee notes that these groups support providing additional property tax relief for elderly and disabled persons: the American Association of Retired Persons and National Retired Teachers Association and the Virginia Coalition for the Aging.

V. Lifeline Utility Rates

The Joint Subcommittee on Aging supports the concept of lifeline utility rates. Such rates would provide for the designation of a minimum quantity of electricity and gas to meet the survival needs of the average Virginia customer to be sold to all residential customers at the lowest effective rate given any class of customers.

It is recognized that existing rate structures, with their declining block costs, penalize conservation on the part of residential users. As they cut back, the per unit cost of their energy consumption increases. Lifeline utility rates represent a first step toward making conservation profitable by offering economic incentives to residential users to cut energy waste and establishing effective sanctions against industrial waste. Recent inflation and the spiraling cost of utilities have had a crippling effect on the poor, the elderly and others living on a fixed income. The Joint Subcommittee believes lifeline utility rates would help equalize the burden of the cost of utility expansion and inflated fuel costs.

Supporters of the implementation of lifeline utility rates include: the American Association of Retired Persons and National Retired Teachers Association; Virginia Coalition for the Aging; and the Virginia State Legal Aid Society.

A Joint Subcommittee to Study Lifeline Utility Rates was appointed in 1979 from the membership of the House Committees on Corporations, Insurance and Banking and Health, Welfare and Institutions and from the Senate Committees on Commerce and Labor and Rehabilitation and

Social Services. The Joint Subcommittee is considering a recommendation to the 1980 Session of the General Assembly requesting that the State Corporation Commission develop a lifeline utility rate schedule. The Joint Subcommittee on Aging endorses the concept of lifeline utility rates and looks forward to recommendations for the implementation of the concept in the 1980 Session of the General Assembly.

VI. Administration of services for the elderly

The Joint Subcommittee on Aging commends the following legislative measures to the 1980 Session of the General Assembly and urges their favorable consideration:

A. A bill to amend the code of Virginia by adding a section to the enabling legislation of the Office on Aging to authorize the personnel who operate the long-term care ombudsman program to have access to:

1. the residents, facilities and records of licensed homes for adults.
2. the patients, facilities and records of nursing homes.
3. the patients, residents and records of State hospitals operated by the Department of Mental Health and Mental Retardation.

The bill further provides that notwithstanding the provisions of § 32.1-125.1, which requires a State agency to accept equivalent inspections of facilities conducted by another State agency, the personnel of the ombudsman program shall have access to nursing homes and State hospitals. See Exhibit A in the Appendix.

B. A bill to amend § 15.1-50 of the Code of Virginia to permit a member of a local governing body to serve as a member of a board of directors, governing board or advisory council of an area agency on aging. See Exhibit B in the Appendix.

C. A bill to amend the Code of Virginia by adding a section to the enabling legislation of the Office on Aging to provide for the confidentiality of records compiled by the long-term care ombudsman program and to exempt such records from the Freedom of Information Act. The Director of the Office on Aging is authorized to disclose information concerning the ombudsman program; provided, that identifying information concerning a patient or resident may be disclosed only with the written consent of the patient, resident or their legal representative or pursuant to a court order. See Exhibit C in the Appendix.

The Joint Subcommittee offers this report to the Governor, General Assembly and the citizens of the Commonwealth with the hope that these recommendations will be helpful to elderly citizens throughout Virginia.

Respectfully submitted,

EDWARD M. HOLLAND
MARY A. MARSHALL
DAVID G. BRICKLEY
JAMES T. EDMUNDS
* J. SAMUEL GLASSCOCK
EVELYN M. HAILEY
OMER L. HIRST
WILLARD J. MOODY
WILLIAM P. ROBINSON, SR.
ROBERT C. SCOTT
W. WARD TEEL

* See Dissent of J. Samuel Glasscock to the Report of the Joint Subcommittee on Aging in the Appendix (Exhibit D)

APPENDIX

EXHIBIT A

A BILL to amend the Code of Virginia by adding in Chapter 24 of Title 2.1 a section numbered 2.1-373.1, providing for access to certain residents, facilities and records by personnel of the long-term care ombudsman program.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 24 of Title 2.1 a section numbered 2.1-373.1 as follows:

§ 2.1-373.1. Access to residents, facilities and records for ombudsman program.—The personnel designated by the Office on Aging to operate the long-term care ombudsman program pursuant to the Older Americans Act, Public Law 95-478, shall, in the investigation of complaints referred to the program, have the same access (i) to residents, facilities and records of licensed homes for adults as is provided for in § 63.1-177 and (ii) to patients, facilities and records of nursing homes as is provided for in § 32.1-25, and shall have access to the patients, residents and records of State hospitals operated by the Department of Mental Health and Mental Retardation. Notwithstanding the provisions of § 32.1-125.1, the personnel designated by the Office on Aging to operate the ombudsman program shall have access to nursing homes and State hospitals as herein provided.

EXHIBIT B

A BILL to amend and reenact § 15.1-50 of the Code of Virginia, which prohibits certain officers from holding more than one office; exceptions.

Be it enacted by the General Assembly of Virginia:

1. That § 15.1-50 of the Code of Virginia is amended and reenacted as follows:

§ 15.1-50. Certain officers not to hold more than one office.—No person holding the office of county treasurer, sheriff, attorney for the Commonwealth, county clerk, commissioner of the revenue, or supervisor shall hold any other office, elective or appointive, at the same time, except:

(1) That of a county, city or town attorney, notary public, commissioner in chancery, commissioner of accounts, local registrars of deaths and births, or member of any commission or board appointive by the Governor,

(2) That a commissioner of the revenue of a county may also be commissioner of the revenue of a town located in the county, and a treasurer of a county may also be treasurer of a town located in the county,

(3) That game wardens may be employees of the federal forest reserve,

(4) [Repealed.]

(5) That any deputy sheriff of a county may hold the office of town sergeant of any town within such county,

(6) That a member of a local governing body may serve as director of emergency services pursuant to provisions of § 44-146.19, or as a member of a planning district commission pursuant to provisions of § 15.1-1403, or as a member of a transportation district commission pursuant to provisions of § 15.1-1348,

(7) That a member of a local governing body may serve as a member of a district home board provided for by § 63.1-183 et seq., or as a member of a hospital or health center commission provided for by § ~~32-276~~ 15.1-1514 et seq.,

(8) That a member of a local governing body may serve as a member of a community mental health and mental retardation services board provided for by § 37.1-194, et seq.,

(9) That a member of a local governing body may serve as a director of a soil and water conservation district provided for by § 21-1 et seq.,

(10) That a member of a local governing body may serve as a member of a park authority provided for by § 15.1-1228 et seq., ~~and~~

(11) That a member of a local governing body may serve as a member of detention and other residential care facilities commissions provided for by § 16.1-310 et seq. , *and*

(12) That a member of a local governing body may serve as a member of a board of directors, governing board or advisory council of an area agency on aging provided for by § 2.1-373.

No such board shall be comprised of a majority of elected officials as members, nor shall any county or city be represented on such board by more than one elected official.

If any person shall be elected or appointed to two or more offices except as herein provided, his qualification in one of them shall be a bar to his right to qualify in any of the offices enumerated, and if any person while holding any of such offices shall be appointed or elected to any other office, his qualification in such other office shall be null and void, except as provided above.

Notwithstanding the preceding provisions of this section no person shall be prohibited from serving simultaneously as an assistant attorney for the Commonwealth in the city of Winchester and the county of Frederick.

EXHIBIT C

A BILL to amend the Code of Virginia by adding in Chapter 24 of Title 2.1 a section numbered 2.1-373.1, providing for the confidentiality of records compiled by the long-term care ombudsman program in the Office on Aging.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 24 of Title 2.1 a section numbered 2.1-373.1 as follows:

§ 2.1-373.1. Confidentiality of records of ombudsman program.—Memoranda, correspondence, evidence and records compiled by the long-term care ombudsman program conducted pursuant to the Older Americans Act, Public Law 95-478, shall be confidential and shall not be subject to Chapter 21 of Title 2.1 of the Code (§ 2.1-340 et seq.). Information concerning the ombudsman program shall be disclosed only with the consent of the Director of the Office on Aging; provided, however, that the identity of any complainant or resident of a home for adults, nursing home or State institution shall not be disclosed by the Director, unless (i) such complainant or resident or his legal representative consents in writing to such disclosure or (ii) such disclosure is required by court order.

EXHIBIT D

DISSENT OF J. SAMUEL GLASSCOCK TO

THE REPORT OF THE JOINT SUBCOMMITTEE ON AGING

The study conducted by the Joint Subcommittee on Aging focused on a number of problems encountered by some of our senior citizens. It seems to me that there are some disadvantages to several of the recommendations made by the Joint Subcommittee.

The elimination of the sales tax on food would certainly benefit the elderly, but it would also eliminate substantial tax revenues which are used to help pay for governmental services. The approach recommended by the Joint Subcommittee calls for the repeal of the sales tax on food over a six-year period. It was felt that the approximately \$325 million annual anticipated growth of other general fund revenues being lost at that time could be offset by anticipated growth of other general fund revenues. This proposal overlooks the fact that continued inflation and continued population increase will require this growth in revenues just to provide the same level of services. The net result of repeal of the sales tax on food would be a reduction in needed services or the necessity to increase other taxes. If there is a problem with the sales tax, it is not so much that it applies to food, it is that the tax applies to those people who have very little income, regardless of age. Fortunately, this group represents a relatively small portion of our population. Rather than eliminate the sales tax on food for everyone, it would be wiser to use these revenues to help insure that our less fortunate citizens have access to housing, medical care and other necessities.

I have reservations about the proposal of the Joint Subcommittee regarding a freeze on property taxes for elderly and disabled persons. The proposal is that the real property tax would be frozen at the January 1, 1980, level or at the level of the year in which the property owner becomes 65 or disabled. Assuming that a particular taxpayer reaches the age of 65 ten years after his neighbor who owns comparable property, there is the likelihood that there would be different tax rates paid on comparable properties by individuals who are comparably situated. This would certainly be an unfair result. We need to recognize that the property tax is an unfair tax not related to one's ability to pay and we should seek to raise a greater portion of our tax revenue by means of the income tax. The proposal of the Joint Subcommittee is only a partial effort to address the problem and could be unfair in its application.

I also have some reservations about the concept of lifeline utility rates. It seems desirable to try to institute a utility rate structure which encourages the conservation of energy. It also appears that generally the various classes of utility users should pay for the services which they receive. Otherwise, we are in the position of complaining about high utility rates and then forcing the rates for some to go even higher by requiring the utility to provide service to others at less than cost. If we are going to utilize utility rates as a form of social service, we should finance this service out of tax revenues and not out of the utility rate structure.

