

REPORT OF THE
COMMISSION ON VETERANS' AFFAIRS
TO
THE GOVERNOR,
ATTORNEY GENERAL,
AND
THE GENERAL ASSEMBLY OF VIRGINIA



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Summary

Since the Commission's submittal of its 1980 report, the question of the construction in Virginia of a state veterans' cemetery or cemeteries has dominated the work of the Commission on Veterans' Affairs. In its 1980 report (House Document No. 28, 1980), the Commission had urged (Recommendation No. 6) that Virginia become involved with state veterans' cemeteries. The 1980 General Assembly returned the question to the Commission, the Division of War Veterans' Claims, and the Governor's Office for further study (Senate Joint Resolution No. 2, 1980).

During 1980 and 1981 the Commission held a series of four public hearings at which veterans, veterans' organizations, government officials, and concerned private citizens expressed themselves both concerning veterans' cemeteries and also concerning other veteran-related issues. The Commission found broad-based support for the creation of a state veterans' cemetery or cemeteries. Additionally, the Commission was reminded time and again that, in Virginia, many veterans' needs are either going unmet, or are being but poorly met in comparison to other states.

The Commission, in its work sessions following the conclusion of its hearings, considered the many issues brought before it and, after considering both the needs of Virginia's veterans and the ability of the Commonwealth to meet these needs, urged the consideration by state legislators and other state governmental officials both of its suggested legislation (see Appendix I) and also of its nonlegislative recommendations.

Findings and Recommendations

1. Considerable diversity exists among Virginia's localities in the observance of Veterans' Day (November 11). In this matter, the Commission strongly feels that local governments should close their offices on November 11, following the example of the state and federal governments. The Commission has adopted and sent to the local governments of the Commonwealth a resolution expressing its view in this matter.
2. Certain restaurants and taverns in the city of Norfolk have been imposing selective cover charges which unfairly discriminate against veterans and service persons. The Commission deplors this practice as un-American and has sent a resolution expressing its concern to the Norfolk Restaurant Association.
3. State unemployment compensation payments to veterans continue to be reduced by the amount of their military pensions, retired pay, and Veterans' Administration disability payments. The Commission recommends to the General Assembly legislation to end this set-off procedure.
4. Many World War I veterans are in financial need; however, payment to them of state service pensions would only reduce their federal pensions, and, thus, be unavailing.
5. At least some portion of the retired pay and other benefits of retirees from the uniformed services should be exempt from the state income tax. This would not only reward retirees now living in Virginia, but would induce others to settle here. The Commission recommends legislation which would provide a tax exemption for these retirees.
6. Local jurisdictions do not uniformly or equitably exclude retirement, disability, and other similar payments to veterans when considering veterans' applications for real estate tax relief. The Commission has sent to the Virginia Municipal League and the Virginia Association of Counties a resolution urging that localities act expeditiously to bring about uniform and equitable treatment of this situation.
7. There is a need in Virginia for a state veterans' cemetery program. Authority and funding should be given to the Division of Parks to engage in such a program within the provisions of federal Public Law 95-476. Initial costs to the Commonwealth should not exceed \$1,500,000 (with one-half being reimbursed by the federal government), and operating costs should not exceed \$225,000 per year.
8. The Commission's own chairman and vice-chairman should serve two-year (instead of one-year) terms, to provide for greater internal continuity and to assure close ties to the General Assembly; at least one of these officers should be required to be a member of the General Assembly.

Committee Activities and Issues, 1980-81

In many ways the Commission is still laboring under a disadvantage in trying to gauge the needs of Virginia's veterans. Though originally created in 1945 (by House Joint Resolution No. 14), the Commission lay virtually dormant between 1975 and 1978. No report was issued between 1976 (see House Document No. 18, 1976) and 1980 (see House Document No. 28, 1980). For some five years the Commission did not even meet. This prolonged period of inactivity all but severed the vital contacts between the Commission and Virginia's veterans and veterans' organizations. Only now are these contacts being re-established and veterans beginning to bring their many needs to the Commission's attention. The long inactivity of the Veterans' Affairs Commission has become, in the minds of many veterans, but one of many indications of the Commonwealth's indifference to veterans' needs.

Though the terms of members of the 1978-79 Commission expired with the convening of the 1980 General Assembly, (see Virginia Code § 9-85), the work of the 1980-81 Commission was postponed until early fall, 1980, because of delays in the appointment of successors. Legislation passed in 1980 (see Chapter 399 of the 1980 Acts of Assembly) added three additional gubernatorial appointees to the Commission (raising its total membership from seven to ten). However, this measure did not become effective until July 1, 1980, and no appointments were forthcoming until August.

The first task before the 1980-81 Commission was the study of state veterans' cemeteries (see Senate Joint Resolution No. 2, 1980). It was the decision of the Commission to combine this study with its broader investigative mandate (see Virginia Code § 9-86) through the conduct of four public hearings across the Commonwealth. At these hearings, speakers were encouraged to address not only the cemetery question, but also other veterans' needs and problems.

At its first hearing (held in Richmond) the Commission was advised by Mr. Harry F. Carper, Jr., Director of the Division of War Veterans' Claims, that the town of Saltville was prepared to donate to the Commonwealth sufficient land to permit the construction there of a state veterans' cemetery. Accordingly, the Commission scheduled one of its public hearings for Marion, Virginia, not far from Saltville. This meeting was held in conjunction with a tour of the proposed cemetery site by Commission members. Another of the Commission's hearings was held in Leesburg. On that occasion the members combined the meeting with a tour of a Maryland state veterans' cemetery at Cheltenham. The Commission's last hearing was held in Norfolk.

All totaled, seven separate issues which could merit the attention of the Commonwealth's elected officials were presented to the Commission, either in person by witnesses or by letter, during the course of its hearings:

1. The neglect of Veterans' Day (November 11) by certain local governments;
2. The imposition of cover charges on military personnel (without similar charges being imposed on civilians) by certain restaurants and taverns;
3. The reduction of state unemployment compensation benefits payable to veterans by the amount of certain payments to them from the federal government;
4. The payment to veterans of World War I of some form of pension by the Commonwealth;
5. The exemption of all or a portion of retired pay and benefits of retirees from the uniformed services from state income taxes;
6. The inclusion of retirement, disability, and other similar payments from the federal government to Virginia veterans as "income" when local governments consider applications for real estate tax reduction or exemption; and
7. The establishment of a state veterans' cemetery or system of cemeteries.

Some veterans complained that local governments were either not observing Veterans' Day (November 11) at all, or were observing some other holiday (sometimes the day after Thanksgiving) in lieu of November 11. It was requested that the Commission support legislation which would mandate the closure of local governmental offices on November 11. The Commission observed that there is considerable lack of uniformity of observance of the November 11 holiday by local governments. This divergence is particularly evident in the treatment of the day by local school divisions. The Commission concluded that local governments should follow the example of the state and federal governments in this matter and close their offices on November 11. A resolution expressing the Commission's unanimous view in the matter was sent to local governments throughout the Commonwealth.

It was brought to the Commission's attention that the operators of certain restaurants and taverns in the city of Norfolk have been imposing on their military patrons cover charges which were not being imposed on their civilian clientele. The Commission considered such discrimination against individuals engaged in service to their country to be deplorable. Delegate Claude V. Swanson and Senator Charles L. Waddell, both members of the Commission, requested the Attorney General to render an opinion on the legality of this practice. Assistant Attorney General J. Steven Sheppard, III, responded on January 12, 1981, that such cover charges violated neither Virginia law, regulations of the Alcoholic Beverage Control Commission, nor the Virginia or federal constitutions. Even though this practice may thus be legal, the Commission feels it is nonetheless odious, and wishes local and state officials to take prompt action to end this practice. The Commission has unanimously adopted and sent to the Norfolk Restaurant Association a resolution deploring this practice.

Numerous witnesses reminded the Commission that certain veterans in Virginia have been having their unemployment compensation payments from the Commonwealth reduced by the amount of payments to them by the federal government. This situation is not new. During the 1981 General Assembly, Senator William E. Fears, a member of the Commission, co-sponsored legislation (Senate Bill No. 669, 1981) with Senator Adelard L. Brault to eliminate this set-off. On behalf of the Commission, chairman Robert Laurents wrote a letter to Secretary of Human Resources Dr. Jean L. Harris endorsing the measure. Though the measure passed the Senate and was approved in committee in the House of Delegates, it was defeated on the House floor. The Commission recommends to the General Assembly legislation on this matter to discontinue reduction of unemployment compensation payments by reason of pensions, retired pay, or Veterans Administration disability compensation paid to veterans.

Several persons advocated the payment by Virginia of some form of service pension or "bonus" to veterans of World War I. Many of these veterans are now quite advanced in age, and more than a few are living on meager fixed incomes. Although the Commission was moved by the situation of these individuals, it was reminded by the Division of War Veterans' Claims that, because of the provisions of federal law, the amount of any pension a needy World War I veteran presently received from the federal government would be reduced by the amount of any pension he might be given by the Commonwealth. Thus, the granting of some pension by the Commonwealth would leave the individual veteran no better off, and would succeed only in transferring at least a portion of the cost from the federal government to Virginia. For this reason the Commission does not support a state pension for World War I veterans.

Several requests were made to the Commission that all or a portion of retired pay of former members of the uniformed services be exempted from the state income tax. In its report to the 1980 General Assembly (House Document No. 28, 1980) the Commission recommended that the General Assembly study the question of state income tax exemptions or credits for military retirees. The measure, however, was not adopted by the General Assembly. Also in 1980, Senator William Fears, a member of the Commission, introduced legislation to exempt the first \$5,000 of military retirement benefits from state income taxes (Senate Bill No. 8). Similar bills were also introduced in 1980 by Delegates Theodore Morrison and Robert Scott (House Bill No. 1). The latter bill would have provided for a \$6,000 exemption. Neither of these bills was approved.

Estimates of the amount of revenue which would be lost by the Commonwealth through any retirees' tax exemption approaches are hard to make, owing at least partly to: (i) the confidentiality of state income tax records, (ii) the variation of the level of taxation of the potentially affected individuals (owing to the progressive tax structure) ; and (iii) the nonuniformity of the age (assuming some form of age cut-off for eligibility) at which persons would qualify under certain proposals. However, if one assumes a proposal with no age threshold and no exemption "cap," and further includes surviving spouses under similar conditions, the Department of Taxation has estimated a yearly tax reduction of \$286.13 per retiree and \$60.38 per surviving spouse. The estimated revenue loss to the Commonwealth would be 19.1 million dollars annually.

Various proposals for retired pay tax exemptions were considered by the Senate Committee on Finance in the course of 1981.

The Commission recommends to the General Assembly legislation which would exempt the first \$5,000 dollars of retirement benefits of former members of the uniformed services from the state income tax.

Another proposal suggested that state law be amended to provide that those localities granting real estate tax relief to the elderly and handicapped should consider as "income" of persons seeking such relief only such payments as are considered "income" for state income tax purposes. This recommendation was made to the Governor, Attorney General, and General Assembly by the Commission in 1980. A measure (House Bill No. 775, 1980) embodying the Commission's proposal was sponsored by Delegates Howard Copeland and Wallace Stieffen. The bill was defeated in the House of Delegates. The bill's main impact would have been to exclude from "income" disability payments, social security, and similar nontaxable benefits. The Commission strongly feels that this issue can most appropriately be addressed at the local level, and has sent to the Virginia Municipal League and the Virginia Association of Counties a resolution calling their attention to the need for more uniform and equitable treatment of this situation.

The proposal that the Commonwealth construct and operate a state veterans' cemetery or cemeteries met with nearly unanimous approval at the Commission's hearings. It was the aim of the Commission, in conformity with Senate Joint Resolution No. 2 of 1981, to provide for such a system within the guidelines adopted by the U.S. Veterans Administration under the provisions of federal Public Law 95-476. Accordingly, the Commission rejected suggestions that, in lieu of creating a state veterans' cemetery, the Commonwealth make death benefit payments to the estates of deceased veterans to cover the cost of burial in private cemeteries. Such a procedure would not meet federal guidelines and would not permit reimbursement of state costs by the federal government. The Commission was also forced to decline the town of Saltville's offer of land for a veterans' cemetery when geological, environmental, and engineering studies found the tract to be unsuitable for cemetery purposes. Even if the land had proved otherwise suitable, it is doubtful that Saltville's geographic remoteness from major population centers would have permitted the construction of a veterans' cemetery there under P.L. 95-476.

Nevertheless, the Commission does feel that the Commonwealth should establish a state veterans' cemetery system. After having considered several state agencies as possible managers of the program, the Commission feels the best choice for the task would be the Division of State Parks of the Department of Conservation and Economic Development. This agency should be authorized to acquire unused state-owned land, or other land available through donation or at a reasonable price, for the construction and operation of a state veterans' cemetery or system of cemeteries. It should also be authorized to promulgate rules and regulations governing burials (and the fees charged therefor). The agency should be given an initial appropriation, based on the experience of the Maryland state veterans' cemetery system and the recommendation of the Department of Planning and Budget, of \$1,500,000 for site acquisition, planning and site preparation costs. The cost to the Commonwealth of operating the system (once start-up costs are paid) should not exceed \$225,000 per year. As initial cemetery sites the Commission recommends, in accord with the recommendation of the Secretary of Administration and Finance, state-owned properties in Roanoke and Augusta Counties, located, respectively, near Catawba Hospital and Western State Hospital.

At the recommendation of its staff, the Commission considered and recommends to the General Assembly two relatively minor changes in the laws governing its own operation. These changes would provide for two-year terms for the Commission's chairman and vice-chairman, and would require that at least one of these two officers be a sitting member of the General Assembly. These changes would provide for continuity during the Commission's two-year term of office, and would assure the close ties with the legislature appropriate to a legislative study group.

Draft legislation to implement these recommendations are incorporated as appendices to this report.

Respectfully submitted,
Robert B. Laurents, Chairman
Claude V. Swanson, Vice-Chairman
Warren E. Barry
Joseph W. Crawford, Jr.
William E. Fears
Lewis P. Jordan
C. Edward Knight, III
Donald A. McGlothlin, Sr.
Charles L. Waddell

Appendix I

Recommended Legislation

A BILL to amend and reenact § 60.1-52 of the Code of Virginia and to repeal § 60.1-48.1 of the Code of Virginia, establishing conditions for unemployment compensation benefit eligibility.

Be it enacted by the General Assembly of Virginia:

1. That § 60.1-52 of the Code of Virginia is amended and reenacted as follows:

§ 60.1-52. Benefit eligibility conditions.—An unemployed individual shall be eligible to receive benefits with respect to any week only if the Commission finds that:

(a) He has in the highest two quarters of earnings within his base period earned wages in employment for employers equal to not less than the lowest amount appearing in Column A of the "Benefit Table" appearing in § 60.1-47 on the line which extends through Division C on which in Column B of the "Benefit Table" appears his weekly benefit amount, such wages to be earned in not less than two quarters.

(b) His total or partial unemployment is not due to a labor dispute in active progress or to shutdown or start-up operations caused by such dispute which exists (1) at the factory, establishment, or other premises (including a vessel) at which he is or was last employed, or (2) at a factory, establishment or other premises (including a vessel) either within or without this *State Commonwealth*, which (a) is owned or operated by the same employing unit which owns or operates the premises at which he is or was last employed and (b) supplies materials or services necessary to the continued and usual operation of the premises at which he is or was last employed, provided that this subsection shall not apply if it is shown to the satisfaction of the Commission that:

(1) He is not participating in or financing or directly interested in the labor dispute; and

(2) He does not belong to a grade or class of workers of which, immediately before the commencement of the labor dispute, there were members employed at the premises (including a vessel) at which the labor dispute occurs, any of whom are participating in or financing or directly interested in the dispute.

~~Provided, that if~~ *If* in any case separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each such department shall, for the purposes of this subsection, be deemed to be a separate factory, establishment or other premises. ~~Provided further, that mere~~ *Mere* membership in a union, or the payment of regular dues to a bona fide labor organization, shall not alone constitute financing a labor dispute.

(c) He is not receiving, has not received or is not seeking unemployment benefits under an unemployment compensation law of any other state or of the United States ; ; ~~provided; however, that~~ if the appropriate agency of such other state or of the United States finally determines that he is not entitled to such unemployment benefits, this subsection shall not apply.

(d) He is not on a bona fide paid vacation ; ~~provided, that if~~ . *If* an individual is paid vacation pay for any week in an amount less than the individual's weekly benefit amount his eligibility for benefits shall be computed under the provisions of § 60.1-48.

(e) He has registered for work and thereafter has continued to report at an employment office in accordance with such regulations as the Commission may prescribe, except that the Commission may, by regulation, waive or alter either or both of the requirements of this subsection as to such types of cases or situations with respect to which it finds that compliance with such requirements would be oppressive, or would be inconsistent with the purposes of this title.

(f) He has made a claim for benefits in accordance with such regulations as the Commission may prescribe.

(g) He is able to work, and is available for work.

(h) He does not have payable to him remuneration equal to or in excess of his weekly benefit amount in the form of a retirement pension, annuity, or other ~~retirement~~ *similar periodic* payment

~~under any plan contributed to by the most recent employer for whom he , including any payment made under the Social Security Act or the Railroad Act of 1974, under a plan maintained or contributed to by a base period or chargeable employer for whom such individual has performed services during thirty days, whether or not such days are consecutive ; provided, . If such remuneration is less than his weekly benefit amount, such remuneration shall be treated as if it were wages in accordance with § 60.1-48 ; provided further, that this section shall not apply to the receipt of any amount under Title II of the Social Security Act .~~

(i) [Repealed.]

2. That § 60.1-48.1 of the Code of Virginia is repealed.

A BILL to amend and reenact §§ 58-151.013 and 58-151.014:1 of the Code of Virginia, relating to Virginia taxable income and the retirement income tax credit.

Be it enacted by the General Assembly of Virginia:

1. That §§ 58-151.013 and 58-151.014:1 of the Code of Virginia are amended and reenacted as follows:

§ 58-151.013. Virginia taxable income.—(a) General. - The Virginia taxable income of a resident individual means his federal adjusted gross income for the taxable year, with the modifications specified in this section.

(b) Additions. - To the extent excluded from federal adjusted gross income, there shall be added:

(1) Interest, less related expenses to the extent not deducted in determining federal taxable income, on obligations of any state other than this State, or of a political subdivision of any such other state unless created by compact or agreement to which this State is a party; and

(2) Interest or dividends, less related expenses to the extent not deducted in determining federal taxable income, on obligations or securities of any authority, commission or instrumentality of the United States, which the laws of the United States exempt from federal income tax but not from state income taxes;

(3) Unrelated business taxable income as defined by § 512 of the Internal Revenue Code;

(4) Forty percent of the capital gain part and all of the ordinary income part of a lump sum distribution from a qualified retirement plan, less the minimum distribution allowance and any amount excludable for federal income tax purposes.

(c) Subtractions. - To the extent included in federal adjusted gross income, there shall be subtracted:

(1) Interest or dividends on obligations of the United States and on obligations or securities of any authority, commission or instrumentality of the United States to the extent exempt from state income taxes under the laws of the United States including, but not limited to, stocks, bonds, treasury bills, and treasury notes; but not including interest on refunds of federal taxes, interest on equipment purchase contracts, or interest on other normal business transactions.

(2) Interest on obligations of this State or of any political subdivision or instrumentality of this State.

(3) The following items of pension or retirement income and benefits:

(A) Pensions or retirement income to officers and employees of this State, its subdivisions and agencies, or surviving spouses of such officers or employees exempt from State income taxation under the laws of this State, and pensions or retirement income to officers and employees who are retired under the provisions of chapter 2 (§ 51-3 et seq.) of Title 51, or to spouses of such officers and employees;

(B) to (F) [Repealed.]

(G) *The first \$5,000 of retirement benefits derived in each taxable year from service as a member of the United States Army, Navy, Air Force, Marine Corps, Coast Guard, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration.*

(4) Dividends to the extent includable in gross income for federal income tax purposes and in excess of any dividend exclusion provided in the laws of the United States relating to federal income taxes, upon stock in:

(A) [Repealed.]

(B) Any domestic international sales corporation (as defined by § 992 of the Internal Revenue Code of 1954, as amended), fifty percent or more of the income of which was assessable for the preceding year, or the last year in which such corporation has income, under the provisions of the income tax laws of this State.

(5) The amount of any refund or credit for overpayment of income taxes imposed by this State or any other taxing jurisdiction.

(6) Any amount included therein by the operation of the provisions of § 78 of the Internal Revenue Code of 1954 (foreign dividend gross-up).

(7) The amount of wages or salaries eligible for the federal Targeted Jobs Credit or the amount of expenses eligible for the federal work incentive program which was not deducted for federal purposes on account of the provisions of § 280C (a) or § 280C (b) of the Internal Revenue Code of 1954, as amended.

(8) Any amount included therein by the operation of § 951 of the Internal Revenue Code (subpart F income).

(9) Any amount included therein which is foreign source income.

(A) The term "foreign source income" means:

(i) Interest other than interest derived from sources within the United States;

(ii) Dividends other than dividends derived from sources within the United States;

(iii) Rents, royalties, license, and technical fees from property located or services performed without the United States or from any interest in such property, including rents, royalties, or fees for the use of or the privilege of using without the United States any patents, copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, and other like properties; and

(iv) Gains, profits, or other income from the sale of intangible or real property located without the United States.

(B) In determining the source of income for purposes of paragraph (A) above, the provisions of §§ 861, 862, and 863 of the Internal Revenue Code, shall be applied.

(d) Deductions. - There shall be deducted:

(1) The amount allowable for itemized deductions for federal income tax purposes where the taxpayer has elected for the taxable year to itemize deductions on his federal return, but reduced by the amount of income taxes imposed by this State or any other taxing jurisdiction and deducted on such federal return; or

(2) Fifteen percent of federal adjusted gross income not to exceed a maximum amount of ~~two thousand dollars~~ \$2,000 (or one half of such maximum amount in the case of a married individual filing a separate return), or ~~one thousand three hundred dollars~~ \$1,300 (~~six hundred fifty dollars~~ \$650 in the case of a married individual filing a separate return), whichever is greater, provided that the taxpayer has not itemized deductions for the taxable year on his federal income tax return. For purposes of the calculation of this subsection, the federal adjusted gross income of a taxpayer who has elected under § 402 of the Internal Revenue Code to use the special ten-year averaging method of taxing a lump-sum distribution from a qualified retirement plan shall be increased by the amount added to adjusted gross income under subsection (b) (3) of this section;

(3) A deduction in the amount of ~~six hundred dollars~~ \$600 for each personal exemption allowable to the taxpayer for federal income tax purposes, and an additional deduction of ~~four hundred dollars~~ \$400 for each exemption allowable to the taxpayer under paragraph (c) of § 151 of the Internal Revenue Code; and

(4) A deduction equal to five times the amount allowable as a credit for federal income tax

purposes under § 44A of the Internal Revenue Code for expenses for household and dependent care services necessary for gainful employment.

(e) Other modifications and adjustments. - (1) There shall be added to or subtracted from federal adjusted gross income (as the case may be) the individual's share, as beneficiary of an estate or trust, of the Virginia fiduciary adjustment determined under § 58-151.023.

(2) Where husband and wife have not separately reported and claimed items of income, exemptions and deductions for federal income tax purposes, and have not elected to file a joint Virginia income tax return, such items allowable for Virginia income tax purposes shall be allocated and adjusted as follows:

(A) Income shall be allocated to the spouse who earned the income or with respect to whose property the income is attributable.

(B) Allowable deductions with respect to trade, business, production of income, or employment shall be allocated to the spouse to whom attributable.

(C) Nonbusiness deductions, where properly taken for federal income tax purposes, shall be allowable for Virginia income tax purposes, but shall be allocable between husband and wife as they may mutually agree. For this purpose, "nonbusiness deductions" consist of allowable deductions not described in subparagraph (B) above.

(D) Where the standard deduction or low income allowance is properly taken pursuant to subsection (d) (2) of this section such deduction or allowance shall be allocable between husband and wife as they may mutually agree.

(E) Personal exemptions properly allowable for federal income tax purposes shall be allocated for Virginia income tax purposes as husband and wife may mutually agree; provided, however, that exemptions for taxpayer and spouse together with exemptions for old age and blindness must be allocated respectively to the spouse to which they relate.

(3) Where allocations are permitted to be made under subparagraph (2) above pursuant to agreement between husband and wife, and husband and wife have failed to agree as to such allocations, such allocations shall be made between husband and wife in a manner corresponding to the treatment for federal income tax purposes of the items involved, under regulations prescribed by the Department of Taxation.

(f) Nonresidents. - (1) Nonresident individuals, partners and beneficiaries. - The Virginia taxable income of a nonresident individual, partner or beneficiary shall be an amount bearing the same proportion to his Virginia taxable income, computed as though he were a resident, as the net amount of his income, gain, loss and deductions from Virginia sources bears to the net amount of his income, gain, loss and deductions from all sources.

(2) Certain nonresident shareholders. - For a nonresident individual who is a shareholder in an electing small business corporation, there shall be included in his Virginia taxable income his share of the taxable income of such corporation, and his share of any net operating loss of such corporation shall be deductible from his Virginia taxable income.

(g) Transitional modifications. - There shall be added or subtracted, as the case may be, the amounts provided in § 58-151.0111 as transitional modifications.

(h) Partner's modifications. - Virginia taxable income shall, as to partners, be adjusted to reflect the modifications provided in § 58-151.014.

§ 58-151.014:1. Retirement income tax credit.—Any individual taxpayer age sixty-two or over shall be allowed a credit against the tax imposed by § 58-151.03 of an amount equal to five ~~per centum~~ *percent* of the maximum amount allowable as a benefit under Title II of the Social Security Act to a single beneficiary of his age (as determined by the Commissioner) such maximum amount reduced by: (i) the total amount of benefits actually received under the Social Security Act or the Railroad Retirement Act; and (ii) twice the amount by which such taxpayer's federal adjusted gross income exceeds ~~twelve thousand dollars~~ *\$12,000*. In no event shall the credit allowed hereunder

exceed the total amount of tax liability of such taxpayer. No taxpayer who claims the credit under this section shall be permitted to subtract any amount under the provisions of subsection (c) (3) (A) or (G) of § 58-151.013.

2. That the provisions of this act shall be effective for taxable years beginning on and after January 1, 1982.

A BILL to amend the Code of Virginia by adding in Chapter 2 of Title 10 a section numbered 10-21.3:2, to authorize the establishment of state veterans' cemeteries and to appropriate funds therefor.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 2 of Title 10 a section numbered 10-21.3:2 as follows:

§ 10-21.3:2. State veterans' cemeteries.--A. Acquisition of sites. - The State Park Commissioner may acquire by gift or purchase sites in this Commonwealth to be used to establish cemeteries for the interment of Virginia veterans of the armed forces of the United States of America and next of kin of eligible veterans.

B. Supervision and maintenance; employees. - The State Park Commissioner shall supervise, maintain, and control state veterans' cemeteries established under this section, and may employ personnel for this purpose.

C. Eligibility of veteran for burial. - Any veteran who received an honorable discharge from the armed forces of the United States of America and was a legal resident of the Commonwealth at the time of his death shall be eligible for burial in a state veterans' cemetery.

D. Application for burial plot; no charge for veterans. - Any eligible veteran or his next of kin may apply for a burial plot in a state veterans' cemetery by submitting a request to the State Park Commissioner on forms supplied by the Division of State Parks. The State Park Commissioner shall allot available burial plots, at the state veterans' cemetery closest to the veteran's home, in the order of receipt of application therefor. No charge shall be made for any burial plot for, or interment of, any eligible veteran.

E. Burial of a family member. - Any member of the immediate family of a veteran who qualifies for burial in a state veterans' cemetery as provided for in paragraph C of this section may also qualify for burial in a state veterans' cemetery if the interment of such family member is in the same burial plot as that provided for the veteran and interment is either above or below the veteran. For interment of such family member the State Park Commissioner may accept the social security burial allowance of such family member in an amount not to exceed the actual cost of the interment.

2. That the State Park Commissioner, in selecting a site or sites for a state veterans' cemetery or cemeteries as provided for in this act, shall give first consideration to state-owned property in western Roanoke County near Catawba Hospital, approximately seven miles west of the City of Roanoke, and state-owned property near Western State Hospital in Augusta County, adjacent to the intersection of Interstate Routes 64 and 81, approximately two miles east of the City of Staunton.

3. That there is hereby appropriated to the Division of State Parks from the General Fund of the state treasury the sum of \$1,500,000 for the first year of the 1982-84 biennium for the acquisition, preparation, and development of a site or sites for a state veterans' cemetery or cemeteries as provided for in this act.

A BILL to amend and reenact § 9-85 of the Code of Virginia, relating to officers of the Commission on Veterans' Affairs.

Be it enacted by the General Assembly of Virginia:

1. That § 9-85 of the Code of Virginia is amended and reenacted as follows:

§ 9-85. Establishment and continuance; membership; officers.—The Commission on Veterans' Affairs created by House Joint Resolution 14, 1945, and continued by House Joint Resolution 46, 1946, and Senate Joint Resolution 41, 1948, and referred to in this chapter as "the Commission," is hereby established and continued. The Commission shall be composed of two persons appointed by the Committee on Privileges and Elections of the Senate from the membership of the Senate, three persons appointed by the Speaker of the House from the membership of the House, and five persons appointed by the Governor from the State at large. The members of the Commission shall hold office for terms of two years expiring on the date of the convening of each even-numbered year session of the General Assembly, and thereafter until their successors are appointed. The Commission shall ~~annually~~ *biennially* elect from its membership a chairman and vice-chairman, *at least one of whom shall be a sitting member of the General Assembly*.

Appendix II

Resolutions of the Commission

RESOLUTION

expressing the sense of the Commission on Veterans' Affairs concerning the observance of November 11 as Veterans Day by local governments in the Commonwealth of Virginia.

WHEREAS, § 2.1-21 of the Code of Virginia provides that the eleventh day of November (Veterans Day) shall be a legal holiday as to the transaction of all business in the Commonwealth; and

WHEREAS, it is the manifest intent of the General Assembly, as the representatives of all the people of Virginia, that this day, November 11, should be set aside as an occasion for remembering in gratitude the many sacrifices made and burdens borne by Virginians and other Americans in the defense of our Commonwealth, nation, and way of life; and

WHEREAS, it has been brought to the attention of the Virginia Commission on Veterans' Affairs that several local governments, contrary to the desire of the people of Virginia as expressed in law, and contrary to the example of our state and federal governments, are maintaining business as usual on November 11, Veterans Day; and

WHEREAS, the failure of local governments to observe November 11 as a holiday in honor of our veterans not only insults our veterans and demeans their many sacrifices and contributions, but also denies employees of those local governments the opportunity to engage in their own observances of Veterans' Day; now, therefore, be it

RESOLVED by the Virginia Commission on Veterans' Affairs, That the governing bodies and chief administrative officers of the counties, cities, and towns of the Commonwealth are hereby urged, in conformity with the spirit of the law and in honor of the veterans of the Commonwealth and nation, to close their nonessential offices on the eleventh day of November of each year.

RESOLUTION

expressing the sense of the Virginia Commission on Veterans' Affairs concerning the imposition of selective cover charges on military personnel by restaurants and taverns in the city of Norfolk.

WHEREAS, it has been brought to the attention of the Virginia Commission on Veterans' Affairs, both through the press and through testimony at its public hearings that certain restaurants and taverns in the city of Norfolk have been imposing on their military patrons, both in and out of uniform, cover charges which they are not imposing on their civilian clientele; and

WHEREAS, such practice not only unfairly discriminates against one segment of the population and in favor of another, but constitutes a crude insult to those who have dedicated themselves to the defense of their country and their fellow citizens; now, therefore, be it

RESOLVED by the Virginia Commission on Veterans' Affairs, That the Commission deploras as un-American the imposition by certain restaurants and taverns in the city of Norfolk of selective cover charges which unfairly discriminate against persons serving in the armed forces of the United States of America and calls upon the members of the Norfolk Restaurant Association, both through their organization and through the government of the City of Norfolk, to take immediate steps to hault this odious practice.

RESOLUTION

expressing the sense of the Virginia Commission on Veterans' Affairs concerning the treatment by local governments in the Commonwealth of certain payments made by the federal government to persons otherwise qualified for real estate tax relief.

WHEREAS, the Constitution and laws of the Commonwealth allow local governments to provide real estate tax relief to certain handicapped and elderly persons; and

WHEREAS, to qualify for such tax relief, elderly and handicapped persons must meet certain criteria as to their income and financial worth; and

WHEREAS, neither the Constitution nor state law stipulates, in these instances, what local jurisdictions are to consider "income" of the affected individuals; and

WHEREAS, there is neither uniformity nor consistency in the treatment by local governments in the Commonwealth of retirement, disability, and other similar payments to veterans from the federal government when these veterans seek to obtain real estate tax relief; and

WHEREAS, in several instances, veterans in some localities who were otherwise qualified for real estate tax relief have been denied such relief solely because the locality in which they lived considered retirement, disability, and other similar federal payments to these veterans to be "income" even when not so considered for income tax purposes; now, therefore, be it

RESOLVED by the Virginia Commission on Veterans' Affairs, That the Virginia Municipal League and the Virginia Association of Counties are called upon to take note of this situation and take steps, through their members, to bring about the exclusion from the "income" of veterans otherwise qualified for real estate tax relief any retirement disability or other similar payments which these veterans may receive from the federal government. It is the sense of this Commission that fair treatment of Virginia's veterans demands that all localities consider as "income" of veterans applying for real estate tax relief only those payments which are considered "income" for state income tax purposes.

Appendix III
A Virginia Veterans' Cemetery:
Cost and Site Analysis

A VIRGINIA VETERANS' CEMETERY:

COST AND SITE ANALYSIS

Prepared by:

THE SECRETARY OF ADMINISTRATION AND FINANCE

Presented to:

THE VIRGINIA COMMISSION ON VETERANS' AFFAIRS

November 23, 1981

INTRODUCTION

As directed by Senate Joint Resolution Number 2 of 1980, the Virginia Commission on Veterans' Affairs has been investigating creation of a Virginia Veterans' Cemetery. A copy of the Resolution is attached in Appendix A. The Commission requested the assistance of the staff of the Secretary of Administration and Finance in the location of potential site(s) for a Virginia veterans' cemetery and in the preparation of cost estimates for the development of a veterans' cemetery.

In attempting to locate potential sites for a veterans' cemetery, the staff worked closely with the Division of Engineering and Buildings in reviewing surplus properties owned by the State.

The cost estimates that were developed were based upon the recent experience in Maryland in developing veterans' cemeteries, with adjustments where appropriate to account for inflation and concerns unique to Virginia.

The report is generally divided into four sections:

1. A brief summary of the U. S. Veterans' Administration cemetery site selection criteria;
2. A brief site analysis of two representative and potential cemetery sites in Virginia;
3. A cost analysis section which provides rough estimates of site development and operating costs for a typical 100-acre cemetery; and
4. A summary and recommendations section which suggests a possible course of action for consideration by the Commission on Veterans' Affairs.

SECTION I

VETERANS' ADMINISTRATION SITE SELECTION CRITERIA

The United States Veterans' Administration has developed a set of site selection criteria which a potential veterans' cemetery would be required to meet. A general summary of the Veterans' Administration site selection standards is presented below.

Major provisions of the site selection criteria are: (1) that the site should be located as close as possible to the densest veterans population in the area under consideration; (2) that the site be accessible by highway, bus, rail or other public transportation; (3) that the site be of a size to provide grave sites for at least twenty years; (4) that the site topography range from comparatively level to rolling and moderately hilly terrain; (5) that the site not be subject to flooding and the water table be lower than the maximum proposed burial depth; (6) that the site's soil be free of materials that would hamper economic excavation of graves, in general, and the soil is expected to meet the standards of good agricultural land capable of supporting lawns, shrubs, and trees; and, (7) that the site be served by adequate public utilities.

SECTION II

SITE ANALYSIS

Two representative and potential cemetery sites were selected from the surplus properties held by the State, for preliminary analysis. Both sites are adjacent to State-owned institutions; one is located near Catawba Hospital in Roanoke County and the other near Western State Hospital in Augusta County.

Both of the sites are located in the western part of the state. A major reason is that the Veterans' Administration has a requirement that a veterans' cemetery must be located at least one hundred miles from another operating veterans' cemetery. Since a veterans' cemetery is soon to be in operation near Quantico, Virginia, many potential sites in northern, eastern, and east central Virginia were precluded by this requirement.

A preliminary analysis of the two sites is presented below. Maps showing the location of each site are attached.

The Catawba site contains approximately 100 acres and is located in western Roanoke County near the Catawba Hospital, approximately seven miles west of the City of Roanoke.

The developmental characteristics of the site would generally meet the site selection standards of the Veterans' Administration. The soils are free of any materials that would hamper excavation of graves and are generally suited to cemetery use. The site is served by State Route 311, which provides direct vehicular access to Roanoke where bus, rail, and air transportation facilities are available. The topography of the site ranges from level to moderately hilly and would meet the slope requirements of the Veterans' Administration criteria. The site is generally not subject to flooding, and the water table is lower than the maximum proposed burial depth. Public water and sewer service is not presently available, but arrangements can be made with Catawba Hospital for such services.

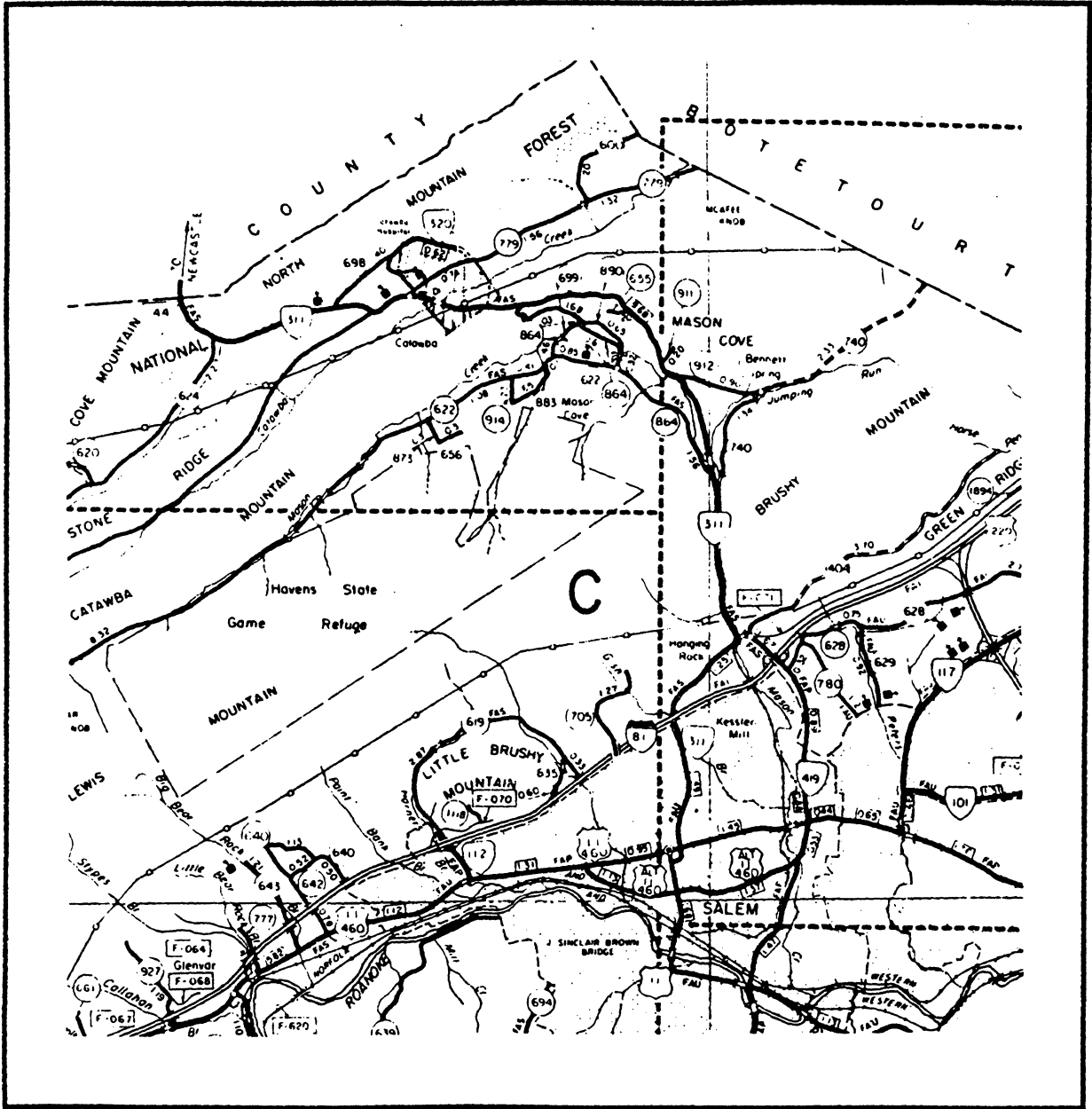
The Augusta County site contains approximately 108 acres and is located adjacent to the intersection of Interstates 64 and 81, about two miles east of the City of Staunton.

The developmental characteristics of the site would generally meet the site selection standards of the Veterans' Administration. The soil is generally suitable for cemetery use, and no known geological hazards exist; adjacent land is currently in agricultural use. Access to the site is good, with two interstates close by and other public transportation available in Staunton. The topography ranges from level to steep in certain places, but with

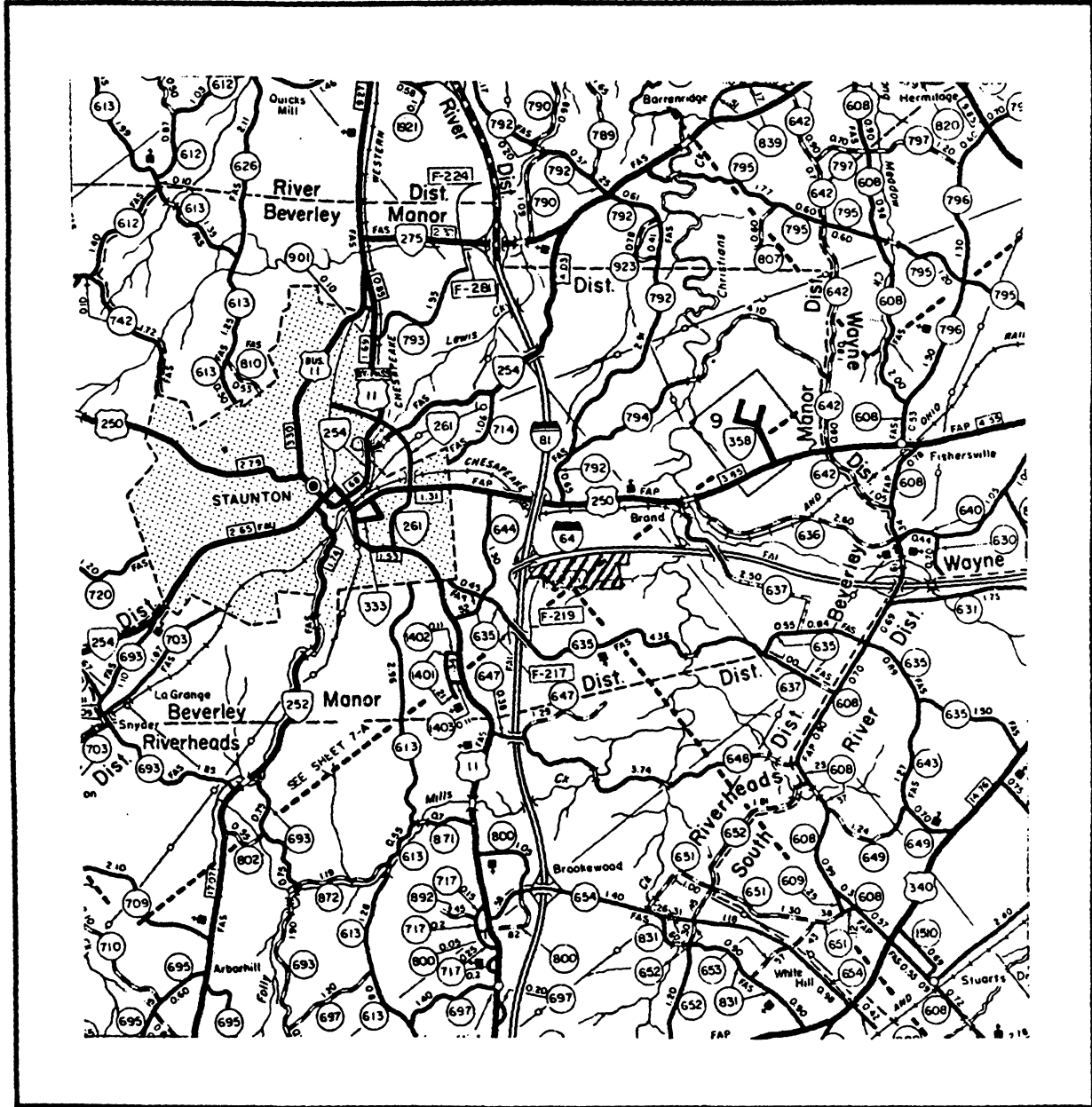
Appropriate grading and site design, the slope and grade requirements can be met. The site is free from flood hazards, and the water table is generally lower than proposed burial depths. Public utilities are not currently available to the site but can be made available due to the proximity to Staunton.

Although the preliminary site analysis indicates that both sites would generally meet the Veterans' Administration site selection standards. More detailed analyses, especially soils and geological studies, should be conducted prior to the selection of either site for cemetery development.

CATAWBA SITE



AUGUSTA COUNTY SITE



SECTION III

COST ANALYSIS

In order to make an estimate of the costs of developing and operating a veterans' cemetery in Virginia, certain assumptions had to be made. These assumptions were:

- The cemetery would be approximately 100 acres
- The cemetery would be located in gentle to rolling terrain with access to transportation, electric utilities, and water and sewer services
- The cemetery site(s) would meet all of the basic Veterans' Administration site selection standards with only minor modifications
- The cemetery facilities would approximate those at recently developed veterans' cemeteries in Maryland
- The cost estimates would approximate the cost experience in developing and operating the Maryland veterans' cemeteries

A rough estimate of the costs of developing and operating a veterans' cemetery are listed below on an item-by-item basis.

B. COST ESTIMATES

<u>Item</u>	<u>Estimated Cost*</u>
Site Survey	\$ 5,000
Development of Cemetery Master Plan	20,000
Development of Cemetery Model (Optional) ¹	(15,000)
Site Development	600,000
Architectural Design Cost for Buildings	75,000
Administration Building	150,000
Maintenance Building	250,000
Chapel (Optional) ²	(200,000)
Operating Equipment	<u>150,000</u>
Total Estimated Development, Construction, and Equipment Costs	\$1,250,000 - 1,465,000
Estimated Annual Operating Costs - Nine Staff Members	\$ 210,000 - 225,000

* Cost estimates do not include site acquisition.

1. Maryland had models built, but they are not necessary.

2. Each of the five Maryland veterans' cemeteries has a chapel, but they are not required.

SECTION IV

SUMMARY AND RECOMMENDATIONS

A summary of the findings of this report are listed below.

- Potential cemetery sites exist within Virginia's surplus property holdings. However, additional site analysis would be required before a site could be selected.
- The rough cost estimate for developing a veterans' cemetery in Virginia would be between \$1.25 million and \$1.5 million, assuming no site acquisition costs, which could add between \$.5 and \$1 million, depending on location.
- The annual cost of operating a veterans' cemetery in Virginia would be between \$200,000 and \$250,000, with yearly increases at approximately the annual rate of inflation.

In order to carry forward the development of a veterans' cemetery program in Virginia, a State agency would have to be designated to make application to the Veterans' Administration for a matching grant, since the Commission on Veterans' Affairs does not have the authority to do so. This agency would also develop, manage, and operate the proposed cemetery.

Among the several State agencies, there are only two that would appear to have the potential for developing, managing, and operating a veterans' cemetery. These would be: (1) the Division of War Veterans' Claims; and (2) the Division of Parks.

The Division of War Veterans' Claims, which has responsibility for virtually all veteran related activities in Virginia, is primarily a provider of financial and informational services to veterans through a series of branch offices scattered across the state. The Division has no management or operating experience or expertise with regard to a natural resource type facility such as a cemetery.

The Division of Parks is responsible for developing, managing, and operating Virginia's extensive park system. While the Parks Division has no direct experience with cemeteries, there are many similarities between state parks and cemeteries, although it is recognized that a cemetery would require much more intensive management and operating responsibilities. While the Division of Parks has no direct experience with managing and operating a cemetery, it is virtually the only State agency with experience in managing and operating large scale natural resource type facilities.

Thus, the Division of Parks would be the most logical choice to be designated as the agency to develop, manage, and operate a veterans' cemetery in Virginia.

The specific recommendations of this report would be:

1. That the Division of Parks, which has experience in developing, managing, and operating natural resource type facilities, be designated as responsible for pursuing the development of a veterans' cemetery, with the advice and assistance of the Commission on Veterans' Affairs.
2. That the designated agency (Division of Parks) be given authority for selecting an appropriate site and preparing the necessary information and applications for a grant from the United States Veterans' Administration.

Appendix IV

Commission Members, 1980-81

Robert B. Laurents, Chairman

Claude V. Swanson, Vice-Chairman

Warren E. Barry

Joseph W. Crawford, Jr.

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