

GENERAL ASSEMBLY OF NORTH CAROLINA
1983 SESSION

CHAPTER 761
SENATE BILL 23

AN ACT TO MAKE APPROPRIATIONS FOR CURRENT OPERATIONS OF
STATE DEPARTMENTS, INSTITUTIONS, AND AGENCIES, AND FOR
OTHER PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. The appropriations made herein are for maximum amounts necessary to provide the services and accomplish the purposes described in the budget. Savings shall be effected where the total amounts appropriated are not required to perform these services and accomplish these purposes and, except as allowed by the Executive Budget Act, or as hereinafter provided, the savings shall revert to the appropriate fund at the end of the biennium.

An outline of the provisions of the act follows this section. The outline shows the heading "—CONTENTS/INDEX—" and it lists by general category the descriptive captions for the various sections and groups of sections that make up the act.

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(This outline is designed for reference only, and it in no way limits, defines, or prescribes the scope or application of the text of the act.)

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PART I.—CURRENT OPERATIONS/GENERAL FUND

Sec. 2. Effective July 1, 1983, appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated are made for the biennium ending June 30, 1985, according to the following schedule:

| <u>Current Operations-General Fund</u> | <u>1983-84</u> | <u>1984-85</u> |
|---|----------------|----------------|
| General Assembly | \$ 8,356,469 | \$ 11,245,627 |
| Judicial Department | 86,899,437 | 87,174,560 |
| Indigent Person's Attorney Fee | 14,106,078 | 12,931,431 |
| Department of The Governor | | |
| 01. Office of The Governor | 1,683,463 | 1,690,212 |
| 02. Office of Citizens Affairs | 658,389 | 660,884 |
| 03. Office of State Budget and Management | 3,411,136 | 3,135,647 |
| 04. Executive Residences | 292,675 | 296,928 |
| 05. Medical Student Loans | 997,704 | 997,704 |
| 06. Housing Finance Agency | 1,000,000 | 1,000,000 |
| Total Department of The Governor | 8,043,367 | 7,781,375 |
| Lieutenant Governor's Office | 319,076 | 320,142 |
| Department of Secretary of State | 1,280,261 | 1,187,659 |
| Department of State Auditor | 8,487,886 | 8,644,150 |
| Department of State Treasurer | | |
| 01. Operations | 949,940 | 942,328 |
| 02. Law Enforcement Officers' | | |
| Retirement-Local's Share | 6,933,300 | 6,933,300 |
| Total Department of State Treasurer | 7,883,240 | 7,875,628 |
| Department of Public Education | | |
| 01. Program Administration and Support | 17,608,878 | 17,340,089 |
| 02. Fiscal Administration and Support | 1,511,522,309 | 1,513,713,235 |
| Total Department of Public Education | 1,529,131,187 | 1,531,053,324 |
| Department of Justice | 27,162,930 | 27,102,751 |
| Department of Agriculture | 23,436,728 | 23,401,561 |
| Department of Labor | 4,631,278 | 4,641,794 |
| Department of Insurance | 4,404,955 | 4,423,737 |
| Department of Administration | 36,045,814 | 36,876,893 |
| Department of Transportation | | |

| | | |
|--|-------------|-------------|
| 01. Public Transportation | 1,340,000 | 1,340,000 |
| 02. Aeronautics | 3,516,571 | 3,516,571 |
| 03. Aid to Railroads | 100,000 | 100,000 |
| Total Department of Transportation | 4,956,571 | 4,956,571 |
| Department of Natural Resources and Community Development | 40,489,613 | 40,781,073 |
| Department of Human Resources | | |
| 01. Alcoholic Rehabilitation Center – Black Mountain | 2,524,748 | 2,551,215 |
| 02. Alcoholic Rehabilitation Center – Butner | 1,920,431 | 1,941,554 |
| 03. Alcoholic Rehabilitation Center – Greenville | 1,620,807 | 1,640,337 |
| 04. N.C. Special Care Center | 3,010,873 | 3,090,033 |
| 05. Black Mountain Center | 62,509 | 101,396 |
| 06. DHR - Administration and Support Program | 15,555,866 | 15,560,475 |
| 07. Schools for the Deaf | 12,107,822 | 12,030,692 |
| 08. Governor Morehead School | 3,561,629 | 3,589,865 |
| 09. Division of Health Services | 52,727,887 | 54,350,042 |
| 10. Lenox Baker Hospital | 519,014 | 534,019 |
| 11. Social Services | 63,842,160 | 63,688,235 |
| 12. Medical Assistance | 183,579,577 | 183,975,138 |
| 13. Social Services – State Aid to Non-State Agencies | 3,610,750 | 3,352,790 |
| 14. Division of Services for the Blind | 4,883,020 | 5,119,996 |
| 15. Division of Mental Health - Administration | 6,196,609 | 6,218,163 |
| 16. Division of Mental Health – Community Based Programs | 79,149,790 | 78,222,925 |
| 17. Wright School | 1,016,560 | 1,021,592 |
| 18. Dorothea Dix Hospital | 23,569,067 | 23,858,481 |
| 19. Broughton Hospital | 21,010,196 | 21,347,620 |
| 20. Cherry Hospital | 20,548,531 | 20,805,180 |
| 21. John Umstead Hospital | 19,341,860 | 19,232,417 |
| 22. Western Carolina Center | 2,891,938 | 3,111,577 |
| 23. O'Berry Center | 2,585,626 | 2,857,407 |
| 24. Murdoch Center | 17,406,015 | 15,157,326 |
| 25. Caswell Center | 11,812,532 | 12,238,360 |
| 26. Division of Facility Services | 6,140,872 | 6,139,199 |
| 27. Division of Vocational Rehabilitation Services | 16,240,114 | 17,550,601 |
| 28. Division of Youth Services | 25,209,838 | 24,142,658 |
| Total Department of Human Resources | 602,646,641 | 603,429,293 |
| Department of Correction | 177,101,440 | 180,620,865 |
| Department of Commerce | 18,448,199 | 18,524,404 |
| Reserve for Microelectronics Center of North Carolina | 7,255,000 | 10,045,000 |

| | | |
|---|-------------|-------------|
| Department of Revenue | 29,587,097 | 30,164,632 |
| Department of Cultural Resources | 24,249,997 | 24,288,050 |
| Department of Crime Control and Public Safety | 11,367,413 | 10,280,231 |
| University of North Carolina - Board of Governors | | |
| 01. General Administration | 9,209,315 | 9,266,570 |
| 02. University Operations - Lump Sum | 29,579,472 | 29,579,472 |
| 03. Related Educational Programs | 28,549,178 | 28,370,122 |
| 04. University of North Carolina at Chapel Hill | | |
| a. Academic Affairs | 76,673,329 | 77,938,238 |
| b. Division of Health Affairs | 55,257,553 | 55,950,061 |
| c. Area Health Education Centers | 20,300,195 | 20,305,128 |
| 05. North Carolina State University at Raleigh | | |
| a. Academic Affairs | 89,363,937 | 90,575,889 |
| b. Agricultural Research Service | 21,116,978 | 21,123,752 |
| c. Agricultural Extension Service | 16,355,158 | 16,365,256 |
| 06. University of North Carolina at Greensboro | 30,638,085 | 30,976,513 |
| 07. University of North Carolina at Charlotte | 25,646,010 | 25,907,291 |
| 08. University of North Carolina at Asheville | 6,093,125 | 6,156,591 |
| 09. University of North Carolina at Wilmington | 14,370,541 | 14,588,419 |
| 10. East Carolina University | 60,981,301 | 61,724,266 |
| 11. North Carolina Agricultural and Technical State University | 19,409,250 | 19,740,401 |
| 12. Western Carolina University | 19,038,492 | 19,484,767 |
| 13. Appalachian State University | 27,986,822 | 28,205,044 |
| 14. Pembroke State University | 6,984,880 | 7,022,145 |
| 15. Winston-Salem State University | 8,712,287 | 8,846,171 |
| 16. Elizabeth City State University | 6,694,069 | 6,775,401 |
| 17. Fayetteville State University | 8,288,837 | 8,340,643 |
| 18. North Carolina Central University | 16,617,942 | 16,933,753 |
| 19. North Carolina School of the Arts | 4,781,004 | 4,833,173 |
| 20. North Carolina Memorial Hospital | 21,107,045 | 21,336,236 |
| Total University of North Carolina | 623,754,805 | 630,345,302 |
| Department of Community Colleges | 220,607,992 | 226,126,908 |
| State Board of Elections | 230,365 | 231,440 |
| Contingency and Emergency | 1,125,000 | 1,125,000 |
| Reserve for Salary Adjustments | 500,000 | 500,000 |
| Reserve for Electronic Data Processing Equipment | 1,000,000 | 1,000,000 |
| Reserve for Cost-of-Living Salary Increase | 129,865,700 | 130,355,000 |
| Reserve for Cost-of-Living Increase for Retirees | 2,319,800 | 2,435,800 |
| Reserve-Hospital-Medical Benefits, Retirees | 19,528,000 | 19,528,000 |
| Reserve for the McCain Prison Medical Center | 4,400,000 | 4,400,000 |
| Debt Service - Interest | 37,825,500 | 40,209,750 |
| Debt Service - Redemption | 41,700,000 | 41,700,000 |
| GRAND TOTAL CURRENT OPERATIONS— | | |

GENERAL FUND

\$3,759,147,839 \$3,785,707,951

PART II.—CURRENT OPERATIONS/HIGHWAY FUND

Sec. 3. Effective July 1, 1983, appropriations from the Highway Fund of the State for the maintenance and operation of the Department of Transportation, and for other purposes as enumerated, are made for the biennium ending June 30, 1985, according to the following schedule:

| <u>Current Operations - Highway Fund</u> | | 1983-84 | 1984-85 |
|--|--|---------------|---------------|
| Department of Transportation | | | |
| 01. Administration | | \$ 16,579,946 | \$ 16,831,051 |
| 02. Highways | | | |
| a. Administration and Operations | | 18,418,215 | 18,460,221 |
| b. State Construction | | | |
| (01) Primary Construction | | 6,700,000 | 1,500,000 |
| (02) Secondary Construction | | 43,860,000 | 43,440,000 |
| (03) Urban Construction | | 15,500,000 | 5,700,000 |
| (04) Access and Public Service Roads | | 2,000,000 | 2,000,000 |
| c. State Funds to Match Federal Highway Aid | | | |
| (01) Construction | | 59,453,659 | 35,588,249 |
| (02) Reserve to Match | | | |
| Additional Federal Funds | | 19,800,000 | 6,800,000 |
| (03) Planning Survey and | | | |
| Highway Planning Research | | 56,069 | 734,006 |
| d. State Maintenance | | | |
| (01) Primary | | 59,234,591 | 59,264,085 |
| (02) Secondary | | 109,002,091 | 109,057,391 |
| (03) Urban | | 15,259,756 | 15,267,129 |
| (04) Contract Resurfacing | | 78,571,762 | 78,571,762 |
| e. Ferry Operations | | 10,114,459 | 10,114,459 |
| f. State Aid to Municipalities | | 43,460,000 | 43,040,000 |
| g. Employers' Contributions for | | | |
| Administration, Highway | | | |
| Operations Administration, | | | |
| Division of Motor Vehicles | | | |
| and Equipment Unit | | | |
| (01) Social Security | | 3,066,546 | 3,115,188 |
| (02) Retirement | | 4,559,360 | 4,515,650 |
| (03) Hospital/Medical Insurance | | 1,428,265 | 1,428,265 |
| 03. Division of Motor Vehicles | | 32,375,511 | 34,350,870 |
| 04. Governor's Highway Safety Program | | 247,180 | 282,871 |
| 05. Salary Adjustments for Highway Fund Employees | | 200,000 | 200,000 |
| 06. Debt Service | | 38,288,000 | 38,401,500 |
| 07. Reserve for Hospital Medical Benefits for Retirees | | 1,873,000 | 1,873,000 |
| 08. Reserve for Cost-of-Living Salary Increase | | 4,754,300 | 4,754,300 |

| | | |
|--|---------------|---------------|
| 09. Reserve to Correct Occupational Safety and Health | 350,000 | 350,000 |
| 10. Reserve for Increase in Retirement Allowances | 236,100 | 248,000 |
| Appropriations for Other State Agencies | | |
| 01. Crime Control & Public Safety | 49,250,756 | 49,750,482 |
| a. Reserve for Salary Adjustment for Certain Members of Highway Patrol | 240,000 | 240,000 |
| 02. Other Agencies | | |
| a. Department of Agriculture | 1,744,034 | 1,741,158 |
| b. Department of Commerce | 618,126 | 619,165 |
| c. Department of Revenue | 1,085,342 | 1,087,547 |
| d. Department of Human Resources | 246,291 | 246,604 |
| e. Department of Correction | 1,750,000 | 1,750,000 |
| f. Department of Public Education-Driver Training Program | 18,200,000 | 18,300,000 |
| Contingencies and Emergency Fund | 100,000 | 100,000 |
| GRAND TOTAL CURRENT OPERATIONS – HIGHWAY FUND | \$658,623,359 | \$609,722,953 |

PART III—APPROPRIATION OF FEDERAL BLOCK GRANT FUNDS

Sec. 4. Effective July 1, 1983, appropriations from federal block grant funds are made for the fiscal year ending June 30, 1984, according to the following schedule:

Department of Human Resources

| | |
|---|---------------|
| 01. Division of Mental Health, Mental Retardation, and Substance Abuse Services – Alcohol and Drug Abuse and Mental Health Services Block Grant | \$10,435,359 |
| 02. Division of Health Services | |
| a. Maternal and Child Health Services Block Grant | \$13,252,370 |
| b. Preventive Health and Health Services Block Grant | \$ 2,436,142 |
| 03. Division of Social Services | |
| a. Social Services Block Grant | \$67,790,887 |
| b. Low Income Energy Assistance Block Grant | \$35,500,000 |
| Total Department of Human Resources | \$129,414,758 |

Department of Natural Resources and Community Development

| | |
|---|--------------|
| 01. Community Services Block Grant | \$8,114,419 |
| 02. Community Development Block Grant | \$54,584,779 |
| Total Department of Natural Resources and Community Development | \$62,699,198 |

Department of Public Education

| | |
|--|---------------|
| 01. Education Consolidation and Improvement Act Chapter II | \$11,267,741 |
| Total Federal Block Grants | \$203,381,697 |

PART IV.—SPECIAL PROVISIONS/HIGHWAY FUND CURRENT OPERATIONS

—HIGHWAY FUND/ALLOCATIONS BY TRANSPORTATION CONTROLLER

Sec. 5. (a) The Controller of the Department of Transportation shall allocate at the beginning of each fiscal year, from the various appropriations made to the Department of Transportation in Section 3 of this act under Titles 02.b. - State Construction, 02.c. - State Funds to Match Federal Highway Aid, 02.d. - State Maintenance, and 02.e. - Ferry Operations, sufficient funds to eliminate all overdrafts on State maintenance and construction projects, and such allocations may not be diverted to other purposes.

(b) This section is effective July 1, 1983.

—HIGHWAY/LIMITATIONS ON TRANSFERS

Sec. 6. (a) Transfers may be made by authorization of the Governor as Director of the Budget from Section 3 of this act, Titles 02.b.(01) - State Construction/Primary Construction, 02.b.(03) - State Construction/Urban Construction, 02.b.(04) - State Construction/Access and Public Service Roads, 02.c. - State Funds to Match Federal Highway Aid, 02.d. - State Maintenance, and 02.e. - Ferry Operations, provided that the original appropriation from which the transfer is made shall not be reduced by more than ten percent (10%) without consultation with the Advisory Budget Commission and the approval of the Director of the Budget. Transfers from Section 3 of this act, Titles 02.b.(01) - State Construction/Primary Construction, 02.b.(03) - State Construction/Urban Construction, 02.b.(04) - State Construction/Access and Public Service Roads, 02.c. - State Funds to Match Federal Highway Aid, 02.d. - State Maintenance, and 02.e. - Ferry Operations, for the purpose of providing additional positions, shall be approved by the Director of the Budget.

(b) This section is effective July 1, 1983.

—HIGHWAY FUNDS/ADJUSTMENTS TO REFLECT ACTUAL REVENUE

Sec. 7. Any unreserved credit balance in the Highway Fund on June 30 of each of the fiscal years shall support appropriations in the succeeding fiscal year. If all of the balance is not needed for these appropriations, the Director of the Budget may use the remaining excess to establish a reserve for access and public service roads, a reserve for unforeseen happenings or state of affairs requiring prompt action as provided for by G.S. 136-44.2, and other required reserves. If all of the remaining excess is not used to establish these reserves, the remainder shall be allocated to the State-funded maintenance or construction appropriations in the manner that the Board of Transportation deems appropriate.

—RESERVE TO MATCH ADDITIONAL FEDERAL FUNDS

Sec. 8. (a) Of the funds appropriated to the Department of Transportation in Section 3 of this act, nineteen million eight hundred thousand dollars (\$19,800,000) for fiscal year 1983-84 shall be in a special Reserve to Match Additional Federal Funds. These funds may be allocated by the Director of the Budget, upon request from the board of transportation, if necessary to match supplemental federal funds made

available to North Carolina by an increase of obligation ceilings, reapportionment of funds unused by other states, additional appropriations, or other sources.

(b) This section is effective July 1, 1983.

—CASH FLOW/HIGHWAY FUND APPROPRIATIONS

Sec. 9. The General Assembly authorizes and certifies anticipated revenues of the Highway Fund as follows:

| | |
|-------------------------|---------------|
| For Fiscal Year 1985-86 | \$548,135,000 |
| For Fiscal Year 1986-87 | \$547,130,000 |

PART V.—GENERAL PROVISIONS

—SPECIAL FUNDS, FEDERAL FUNDS AND DEPARTMENTAL RECEIPTS/AUTHORIZATION FOR EXPENDITURES

Sec. 10. (a) There is appropriated out of the cash balances, federal receipts, and departmental receipts available to each department, sufficient amounts to carry on authorized activities included under each department's operations. All these cash balances, federal receipts and departmental receipts shall be expended and reported in accordance with provisions of the Executive Budget Act, except as otherwise provided by statute. The Director of the Budget may develop any necessary budget controls, regulations and systems to ensure that these funds and other State funds subject to the Executive Budget Act, shall not be spent in a manner which would cause a deficit in expenditures.

State departments, agencies, institutions, boards or commissions may make application for, receive or disburse any form of non-State aid. They shall deposit all non-State monies received with the State Treasurer, unless otherwise provided by State law, and shall expend these funds in accordance with the terms and conditions of the fund award which are not contrary to the laws of North Carolina.

(b) This section is effective July 1, 1983.

—INSURANCE AND FIDELITY BONDS

Sec. 11. Effective July 1, 1983, all insurance and all official fidelity and surety bonds authorized for the several departments, institutions, and agencies shall be effected and placed by the Insurance Department, and the cost of placement shall be paid by the affected department, institution, or agency with the approval of the Insurance Commissioner.

—BUDGETING OF PILOT PROGRAMS

Sec. 12. (a) Any program designated by the General Assembly as experimental, model, or pilot shall not become a part of a department's continuation budget request for the ensuing biennium but shall be shown as a separate budget item or shall be considered as an expansion item until a succeeding General Assembly reapproves it.

Any new program funded in whole or in part through a special appropriations bill shall be designated as an experimental, model, or pilot program.

(b) The Governor shall submit to the General Assembly with his proposed budget a report of which items in the proposed budget are subject to the provisions of this section.

—BUDGET FORMAT

Sec. 13. (a) Article 1 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-10.1. Budget required to include State cost of local programs. The Office of State Budget and Management and the Director, with the advice of the Commission, shall prepare the State budget in a format that adequately and fairly reflects the continuation costs for the State's share of locally operated programs established by statute or State appropriation. These continuation costs shall be computed using the same budget preparation guidelines and rules prepared by the Office of State Budget and Management for use in State agency and institution budgets. Furthermore, in the projections for expansion costs related to employee compensation, the budget shall include the expansion costs necessary to cover the State's share of salary and salary-related items for employees in locally operated State-funded programs. Local governments or organizations spending State funds to operate local programs shall provide necessary information to the Office of State Budget and Management to establish the necessary continuation and expansion costs."

(b) This section is effective beginning with the State Budget prepared for the 1985-87 biennium.

—OVERREALIZED AGENCY RECEIPTS

Sec. 14. G.S. 143-27 is amended to read:

"§ 143-27. Appropriations to educational, charitable and correctional institutions are in addition to receipts by them.— All appropriations now or hereafter made to the educational institutions, and to the charitable and correctional institutions, and to such other departments and agencies of the State as receive moneys available for expenditure by them are declared to be in addition to such receipts of said institutions, departments or agencies, and are to be available as and to the extent that such receipts are insufficient to meet the costs anticipated in the budget authorized by the General Assembly, of maintenance of such institutions, departments, and agencies; provided, however, that actual receipts, in excess of the amounts budgeted may be expended only when justified by extenuating circumstances and authorized by the Director of the Budget.

The Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations the amount of receipts actually certified in General Fund Codes compared to the amount actually collected and expended in a fiscal year. This report shall apply to the previous fiscal year and shall be submitted by February 15 of each year."

—SALARY ADJUSTMENT APPROPRIATIONS/AUTHORIZED TRANSFERS

Sec. 15. Effective July 1, 1983, the Director of the Budget may transfer to General Fund budget codes from the General Fund salary adjustment appropriation, and to Highway Fund budget codes from the Highway Fund salary adjustment appropriation, amounts required to support approved salary adjustments made necessary by difficulties in recruiting and holding qualified employees in State government. The funds shall be transferred only when the use of salary reserve funds in individual operating budgets is not feasible.

—SALARY-RELATED CONTRIBUTIONS/EMPLOYERS

Sec. 16. (a) Required employer salary-related contributions for employees whose salaries are paid from department, office, institution, or agency receipts shall be paid from the same source as the source of employee's salary. If an employee's salary is paid in part from the General Fund and in part from department, office, institution, or agency receipts, required employer salary-related contributions shall be paid from the General Fund only to the extent of the proportionate part paid from the General Fund in support of the salary of the employee, and the remainder of the employer's requirements shall be paid from the source which supplies the remainder of the employee's salary. The requirements of this section as to source of payment are also applicable to payments on behalf of the employee for hospital-medical insurance, longevity, unemployment insurance, and workers' compensation.

The State employer contribution percentage rates of covered salaries budgeted for the retirement systems for 1983-84, are (1) 10.03% - Teachers' and State Employees'; (2) 11.23% for State officers and 6.23% for Local Government officers - Law Enforcement Officers'; (3) 30.81% - Uniform Judicial; (4) 23.24% - Uniform Solicitorial; and (5) 28.25% - Uniform Clerks of Superior Court. Each of the foregoing contribution rates shall be increased by 0.85% for hospital and medical benefits, except the rate for local government law enforcement officers.

(b) This section is effective July 1, 1983.

—SHIFT PREMIUM PAY

Sec. 17. (a) Shift premium pay shall be paid to all State employees in non-medically related positions through salary grade 69 and to all State employees in medically related positions through salary grade 73, subject to the provisions of this section. Shift premium pay for employees in medically related positions shall be limited to ten percent (10%) of salary or one dollar (\$1.00) per hour, whichever is greater. The State Personnel Commission shall set the higher shift premium pay for employees in medically related positions only after finding that the higher pay is necessary to meet existing competition from private employers.

The State Personnel Commission shall not adopt a shift premium pay schedule higher than those stated in this section unless the higher schedule is first approved by the General Assembly and funds are appropriated to implement the higher pay. The Commission may, however, request authorization to pay shift premium pay to employees in grades above those stated in this section when the Commission determines that there is a critical shortage of employees in a position because of competition from

private employers who pay shift premium pay for that type work. Such a request shall be made to the General Assembly if it is in session; otherwise, the request shall be approved by the Director of the Budget with the advice of the Advisory Budget Commission.

The State Personnel Commission is directed to strictly enforce its regulation requiring that employees who receive shift premium pay be regularly assigned to night or shift work. In enforcing the regulation the Commission shall strictly construe "regularly" so that shift premium pay shall not be paid to employees temporarily placed on a shift receiving such pay.

(b) This section is effective July 1, 1983.

—DEBT SERVICE/INTEREST PAYMENT

Sec. 18. (a) Funds remaining or reverting to the General Revenue Sharing Trust Fund during each fiscal year are appropriated for general fund debt service - interest payment.

(b) This section is effective July 1, 1983.

—ITEMIZED STATEMENTS AND FORMS

Sec. 19. G.S. 143-7 is amended by adding the following new paragraph:

"The Office of the Governor, and the General Assembly, any of its committees and subcommittees, the Legislative Research Commission, the Legislative Services Commission and any other commission in the legislative branch are exempt from G.S. 147- 64.6(c)(10)."

This section is effective only if House Bill 517, 1983 Session is enacted, and if it is enacted, this section is effective on the same date that G.S. 147-64.6(c)(10) is effective.

—SPECIAL STUDY ON FIRE SERVICE TRAINING PROGRAMS

Sec. 20. There is created the Special Legislative Committee to Study Fire Service Training Programs. The Committee shall consist of four members appointed by the Speaker of the House, four members appointed by the Lieutenant Governor, and four representatives of the Emergency Services Community. The representatives of the Emergency Services Community shall be the Executive Secretary of the North Carolina Association of Rescue Squads, the Executive Secretary of the North Carolina Association of Fire Chiefs, the North Carolina Representative to the National Volunteer Fire Council, and the Executive Secretary of the North Carolina Fireman's Association. Cochairmen shall be selected by the Speaker of the House and the Lieutenant Governor.

Members of the Committee who are legislators shall be reimbursed for travel and subsistence expenses at the rates set out in G.S. 120-3.1. Members of the Committee who are not officers or employees of the State shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5. Members of the Commission who are officials or employees of the State shall receive travel reimbursement at the rate set forth in G.S. 138-6. All expenses of the

Committee shall be paid from funds appropriated to the General Assembly Reserve for Contingencies. The Legislative Services Officer shall provide staff to the Committee.

The Committee shall:

- (1) Study and review current statutory responsibilities of the State departments and agencies involved in the delivery of fire and rescue training programs;
- (2) Analyze the total costs of these State programs; and
- (3) Study and review any other pertinent data.

The Committee shall prepare a final written report to the 1984 General Assembly which shall include a detailed proposal on a more effective and coordinated delivery of State services to the fire and emergency services community throughout the State and shall include budgetary changes and statutory changes as needed to effectuate the proposal.

—LOCAL FIRE PROTECTION FOR STATE-OWNED PROPERTY

Sec. 21. Effective July 1, 1983, Article 21 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-191.05. Transfer from Fund for local fire protection.— Of the funds available in the cash balance of the State Property Fire Insurance Fund, the sum of one million four hundred fifty thousand dollars (\$1,450,000) shall be transferred annually beginning in 1983-84 to the Office of State Budget and Management for compensating political subdivisions of the State for providing local fire protection on State-owned buildings and their contents, provided, however that beginning with the 1984-85 fiscal year if the State Treasurer makes a written finding to the Director of the Budget that the transfer for the 1984-85 fiscal year (or appropriate succeeding years) would cause financial instability in the State Property Fire Insurance Fund, then with the approval of the Director of the Budget after receiving the advice of the Advisory Budget Commission, funds from the General Fund shall supplement funds from the State Property Fire Insurance Fund that the State Treasurer certifies are available without causing financial instability so that the total State aid to local subdivisions under this section will remain at one million four hundred fifty thousand dollars (\$1,450,000) for each fiscal year. The Office of State Budget and Management shall develop an equitable and uniform statewide method for distributing these funds to the State's political subdivisions.

—TRAVEL ALLOWANCES

Sec. 22. G.S. 138-6(a)(3) is amended by deleting "thirty-five dollars (\$35.00) per day" and inserting in lieu thereof "forty-two dollars (\$42.00) per day", and is further amended by deleting "forty-five dollars (\$45.00) per day" and inserting in lieu thereof "fifty-four dollars (\$54.00) per day".

Sec. 23. Whereas members of the General Assembly should be compensated with percentage salary and expense increases equal to those authorized for employees of the State; be it further resolved that members of the General Assembly should be allowed the same twenty percent (20%) increase in subsistence allowances that is authorized for employees of the State in this act.

Sec. 24. G.S. 138-5(a)(2)b. is amended by deleting "Thirty-five dollars (\$35.00) per day" and inserting in lieu thereof "Forty-two dollars (\$42.00) per day".

Sec. 25. (a) G.S. 120-3.1(a)(3) is rewritten to read:

"(3) A subsistence allowance in the amount of sixty dollars (\$60.00) per day for each day of the period during which the General Assembly remains in session."

(b) G.S. 120-3.1 (a)(4) is amended by deleting "fifty dollars (\$50.00) per day" and inserting in lieu thereof "sixty dollars (\$60.00) per day."

(c) This section shall become effective upon the convening of the 1985 Regular Session of the General Assembly.

Sec. 26. G.S. 120-3.1(a)(2) is amended by adding the following sentence:

"The Legislative Services Commission shall establish criteria under which actual expenses in excess of the travel and subsistence allowances and registration fees as prescribed for employees of the State in G.S. 138-5 and G.S. 138-6, may be authorized for extraordinary lodging, meal and registration fee charges in the conduct of the State's official business."

—DEPOSIT OF PAYROLL DEDUCTIONS

Sec. 27. Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-34.6. Deposit of payroll deductions.—Employer and employee salary-related contributions and deductions for employees whose salaries were paid from the General Fund, Highway Fund, agency receipts, or any combination thereof shall not be withdrawn or transferred except to an account whose cash balance earns interest for the General Fund or Highway Fund, as provided in G.S. 147-69.1, until payment is made directly to the ultimate agency or party to whom they are due."

PART VI.—HUMAN RESOURCES

—AREA MENTAL HEALTH FUNDS

Sec. 28. (a) The Director of the Budget shall make available six million one hundred thousand dollars (\$6,100,000) during the 1983-84 fiscal year for the continuation of mental health services in all area mental health programs, and for the continuation of the experimental deinstitutionalization project in the south central region.

Of the six million one hundred thousand dollars (\$6,100,000), the first priority shall be three million one hundred thousand dollars (\$3,100,000) to continue community mental health services that would otherwise be reduced and therefore result in increased readmissions to the State psychiatric hospitals.

The second priority shall be three million dollars (\$3,000,000) to continue the experimental deinstitutionalization project authorized by the 1982 General Assembly and begun in the south central region during the 1982-83 fiscal year.

The Director of the Budget shall make the six million one hundred thousand dollars (\$6,100,000) available through the use of carry forward federal block grant funds, overrealized receipts that might become available at each of the four psychiatric

hospitals, and reductions in the budgets of the four hospitals. If overrealized receipts are available at any psychiatric hospital, they shall be credited and utilized for that hospital's share of the six million one hundred thousand dollars (\$6,100,000). Budget reductions may include elimination of vacant positions and other reductions that might be associated with and in accordance with declining patient populations.

The Department of Human Resources shall report to the General Assembly by May 1, 1984, on the implementation of the deinstitutionalization project. The Department of Human Resources shall report periodically to the Mental Health Study Commission on the implementation of this plan.

(b) This section is effective July 1, 1983.

—DIX ADOLESCENT TREATMENT UNIT

Sec. 29. The Department of Human Resources, Division of Mental Health, Mental Retardation and Substance Abuse Services, shall continue to operate the adolescent treatment unit, now housed at Dorothea Dix Hospital, in a facility that meets all life safety code standards and is of comparable quality to the current facility. Program services provided in the adolescent unit shall continue to be of the same quality and comparable to those now provided in the unit at Dorothea Dix Hospital.

—AID TO PLANNING REGIONS

Sec. 30. (a) Of the funds appropriated in Section 2 of this act to the Division of Facility Services as Aid to Planning Regions, no more than three hundred forty-five thousand dollars (\$345,000) in fiscal year 1983-84 and three hundred forty-five thousand dollars (\$345,000) in fiscal year 1984-85 shall be used for the salaries of staff in Lead Regional Organizations. The remainder of these funds shall be used to support local emergency medical services or shall revert to the General Fund.

(b) This section is effective July 1, 1983.

—DOMICILIARY CARE FACILITIES

Sec. 31. The Department of Human Resources shall increase the maximum monthly rates for "ambulatory" residents in domiciliary care facilities from four hundred eighty-five dollars (\$485.00) to five hundred twenty-five dollars (\$525.00), effective July 1, 1983. The maximum monthly rate for "semi- ambulatory" residents shall be five percent (5%) more than the "ambulatory" rate.

Sec. 32. Of the funds appropriated to the Division of Social Services in Section 2 of this act, the sum of four hundred sixty-nine thousand one hundred forty dollars (\$469,140) in the 1983-84 fiscal year, and four hundred seventy-eight thousand seven hundred fifteen dollars (\$478,715) in the 1984-85 fiscal year shall be used to provide an increase of five dollars (\$5.00) per month in the personal needs allowance of eligible recipients of domiciliary care effective July 1, 1983.

Sec. 33. Of the funds appropriated to the Division of Blind Services, the sum of eleven thousand one hundred thirty dollars (\$11,130) in each year of the 1983-85 biennium shall be used to provide an increase of five dollars (\$5.00) per month in the

personal needs allowance of eligible blind recipients of domiciliary care, effective July 1, 1983.

Sec. 34. Effective July 1, 1983, residents of area mental health agency operated group homes shall be eligible for Special Assistance for Adults and shall receive an income supplement based on the same eligibility criteria as other recipients of Special Assistance for Adults.

Sec. 35. G.S. 131D-3 and G.S. 131D-4 are amended by deleting the phrase "Facilities licensed for five beds or less" and substituting the following: "Facilities licensed under the provisions of G.S. 131D-2(a)(5)".

Sec. 36. (a) Funds for the income supplement paid to recipients of domiciliary care in the Special Assistance for the Blind program shall be budgeted as a part of the Special Assistance for Adults program in the Division of Social Services beginning in the 1984-85 fiscal year.

(b) This section shall become effective July 1, 1984.

~~—AGED AND FAMILY CARE/COUNTY AND STATE SHARE OF COSTS~~

Sec. 37. Effective July 1, 1983, the State shall pay seventy percent (70%) and the counties shall pay thirty percent (30%) of the authorized rates for domiciliary care in homes for the aged and for family care homes, including area mental health agency operated group homes.

~~—LIMITATION/ABORTION FUNDS~~

Sec. 38. No State funds in excess of one million three hundred seventy-four thousand five hundred dollars (\$1,374,500), whether from tax revenue, gift, bequest, grant, or any other sources, shall be expended for the performance of abortions during the 1983-84 fiscal year or the 1984-85 fiscal year.

~~—MURDOCH CENTER CONSTRUCTION WORK~~

Sec. 39. Notwithstanding G.S. 143-135, the Director of the Budget is authorized during the 1983-85 biennium to use capital improvement funds of one million five hundred sixty-eight thousand dollars (\$1,568,000), appropriated by the 1981 General Assembly first for renovation of the B-4 building at Murdoch Center and then to make necessary renovations to meet ICF-MR standards on any of the remaining buildings not presently meeting those standards.

~~—DHR/RENT INCREASE~~

Sec. 40. Effective August 1, 1983, the Department of Human Resources shall require employees living in Department- owned housing to pay one dollar and sixty-two cents (\$1.62) per heated square foot rental annually except that the rental on any individual housing unit shall not increase more than ten percent (10%) during the 1983-84 fiscal year.

~~—REPORT ON COST TO ESTABLISH THRESHOLD CONCENTRATIONS~~

Sec. 41. The Department of Human Resources shall report to the General Assembly by May 15, 1984, on all departmental expenditures to implement HB 559, if ratified, "An Act to Prohibit the Use of Landfilling for Certain Classes of Hazardous Wastes and Other Solid Waste." The report shall state with specificity the expenditures to establish threshold concentrations.

—AUTISTIC CHILDREN'S FUNDS

Sec. 42. (a) Funds in the amount of thirty thousand dollars (\$30,000) appropriated in Section 2 of this act for each year of the fiscal biennium to the Autistic Children's Society shall be expended for general operating expenses and for operation of a summer camp for autistic children.

(b) This section is effective July 1, 1983.

—CUED SPEECH CENTER

Sec. 43. (a) Funds in the amount of twenty-five thousand dollars (\$25,000) appropriated in Section 2 of this act for each year of the fiscal biennium to the Department of Public Instruction, Division for Exceptional Children shall be expended for the Cued Speech Center, Inc.

(b) This section is effective July 1, 1983.

—ECKERD WILDERNESS CAMPING PROGRAM

Sec. 44. The Department of Human Resources shall sign a one-year contract with the Eckerd Wilderness Camping Program for the 1983-84 State fiscal year. The contract amount shall not exceed funds appropriated for that purpose. The Department shall include within that contract a provision which places a maximum of 12 months on the length of stay for a camper in the Eckerd Wilderness Camping Program except in the case of an emergency approved in writing by the Secretary of the Department of Human Resources.

The Department shall provide to members of the General Assembly the following information regarding the Eckerd Wilderness Camping Program: (a) an evaluation report by October 31, 1983; (b) an audit of the contract funds for 1982-83; and (c) a proposed fee schedule.

—RETROSPECTIVE ACCOUNTING ADJUSTMENT - AFDC

Sec. 45. (a) The Department of Human Resources shall use funds appropriated in Section 2 of this act to provide a State supplementary payment to Aid to Families with Dependent Children households adversely affected by the retrospective accounting procedure as allowed under §403(a) of the Social Security Act (42 U.S.C. §603(a)), as amended by §157(a) of the Tax Equity and Fiscal Responsibility Act of 1982. The amount of the State supplement shall not exceed the maximum payment standard for the Aid to Families With Dependent Children program.

(b) This section shall become effective August 1, 1983.

—DHR OFFICE SPACE

Sec. 46. The Department of Human Resources shall use vacant State-owned office space, where appropriate, instead of renegotiating leases for rental of office space. The Department of Human Resources shall report on leased office space to the General Assembly by May 1, 1984.

—MENTALLY ILL PROGRAM FUNDS

Sec. 47. Notwithstanding the limitations set out in Chapter 1007 of the 1981 Session Laws on the use of program funds appropriated to the Department of Human Resources, Division of Mental Health, Mental Retardation and Substance Abuse Services for fiscal year 1981-82, the Division of Mental Health, Mental Retardation and Substance Abuse Services, may allocate funds appropriated for programs for the chronically mentally ill at levels approved by the Division.

—LIMITATION ON AFDC AND FOOD STAMP ELIGIBILITY

Sec. 48. The Social Services Commission shall adopt rules imposing work requirements under the Community Work Experience program demonstration project, in accordance with federal laws and regulations, as a condition for eligibility for Aid to Families with Dependent Children and Food Stamps.

—NON-MEDICAID REIMBURSEMENT

Sec. 49. Providers of medical services under the various State programs other than Medicaid offering medical care to citizens of the State shall be reimbursed at rates no more than those under the North Carolina Medical Assistance Program. The Department of Human Resources may reimburse hospitals at the full prospective per diem rates without regard to the Medical Assistance Program's annual limits on hospital days. When the Medical Assistance Program's per diem rates for inpatient services and its interim rates for outpatient services are used to reimburse providers in non-Medicaid medical service programs, retroactive adjustments to claims already paid shall not be required.

Maximum net family annual income eligibility standards for services in these programs with the exception of Migrant Health, School Health, and Home Health shall be as follows:

| <u>Family</u> | <u>Medical Eye Care</u> | | | <u>All</u> |
|---------------|-------------------------|---------------|-----------------------|--------------|
| <u>Size</u> | <u>Kidney</u> | <u>Adults</u> | <u>Rehabilitation</u> | <u>Other</u> |
| 1 | 6,400 | 3,600 | 5,053 | 4,200 |
| 2 | 8,000 | 4,400 | 6,608 | 5,300 |
| 3 | 9,600 | 4,600 | 8,161 | 6,400 |
| 4 | 11,000 | 5,400 | 9,718 | 7,500 |
| 5 | 12,000 | 5,800 | 11,276 | 7,900 |
| 6 | 12,800 | 6,100 | 12,828 | 8,300 |
| 7 | 13,600 | 6,500 | 13,116 | 8,800 |
| 8 | 14,400 | 6,900 | 13,411 | 9,300 |

These standards shall be in effect until change is approved by the Director of the Budget with the advice of the Advisory Budget Commission, or by the General Assembly.

—RECEIPTS IN DIVISION OF HEALTH SERVICES

Sec. 50. Of the one million dollar (\$1,000,000) increase in anticipated receipts used to offset General Fund appropriations in the Department of Human Resources, Division of Health Services, no more than twenty percent (20%) may come from the Maternal and Child Health Care program.

—McCAIN HOSPITAL

Sec. 51. The McCain Specialty Hospital shall be closed by the Department of Human Resources on or before October 1, 1983, and after that date no funds appropriated to the department shall be used to continue operation of the hospital. As of October 1, 1983, all property comprising the former McCain Specialty Hospital is transferred to the Department of Correction, Division of Prisons, for use as a prison medical facility. The property transferred shall include land and buildings together with property installed in the buildings. The disposition of movable equipment and supplies on the site shall be determined by the Office of State Budget and Management after consultation with the departments involved.

Sec. 52. Funds appropriated in Section 2 of this act to the Office of State Budget and Management as a special reserve for McCain Specialty Hospital and prison medical facility shall be used for the following purposes:

- (1) Operation of McCain Specialty Hospital from July 1, 1983, to October 1, 1983, and the subsequent operation of a prison medical facility in the same buildings.
- (2) Operation of the McCain prison medical facility.
- (3) Renovations and fencing necessary to convert the McCain Specialty Hospital to a correctional facility.
- (4) Funds for local health departments, in counties served by McCain Hospital, for the purpose of providing treatment for tuberculosis at the community level.
- (5) Funds to the Department of Human Resources, Division of Health Services, for a physician and other support staff to provide tuberculosis consultation to health departments in the south central region of the State as designated by the department.

All receipts that are received for services rendered at the McCain Specialty Hospital shall become a part of this reserve, and may be utilized for the purposes set forth in this section.

Sec. 53. The Department of Human Resources shall operate, from funds already appropriated, a tuberculosis unit at Cherry Hospital to provide services to patients now being treated at McCain Specialty Hospital who cannot be treated in a community hospital or outpatient clinic. After the closing of McCain Specialty Hospital, the department is authorized to admit tuberculosis patients to the unit at Cherry Hospital who cannot be treated in community hospitals or outpatient clinics.

Sec. 54. Those persons employed at McCain Specialty Hospital on the date of transfer of the facility, who maintain continuous employment with the Department of

Correction or the Department of Human Resources, will not be required to meet minimum employment standards established by the Criminal Justice Education and Training Standards Commission applicable to its position certification program. Such employees not involved in custody and programs will not be subject to the Commission's training requirements.

Sec. 55. Effective October 1, 1983, the General Statutes of North Carolina are amended by deleting the phrases "McCain Hospital", "McCain Specialty Hospital" and "North Carolina Specialty Hospital - McCain" wherever they appear.

—FEDERAL BLOCK GRANTS

Sec. 56. (a) The federal block grant funds appropriated in Section 4 of this act shall be spent in accordance with the plans submitted to the 1983 General Assembly by the Governor with the following exceptions:

Department of Human Resources

- (1) Alcohol, Drug Abuse, and Mental Health Block Grant - Sixty thousand dollars (\$60,000) shall be allocated to early intervention programs for emotionally disturbed children. One hundred thirty-eight thousand dollars (\$138,000) shall be allocated to group homes for emotionally disturbed children. One hundred sixty-nine thousand eight hundred forty-seven dollars (\$169,847) shall be allocated to crisis stabilization programs. All of these funds are net increases in program funds and shall not be used to supplant other money currently being used for these purposes.
- (2) Low Income Energy Assistance Block Grant - Administrative cost shall be limited to no more than three million dollars (\$3,000,000). Any administrative savings achieved may be reallocated to increase services under other parts of this block grant.
- (3) Social Services Block Grant - State administrative cost is limited to two million five hundred thousand dollars (\$2,500,000) excluding day care. Administrative cost for day care is limited to nine hundred fifty-nine thousand eight hundred sixty-eight dollars (\$959,868).

Four hundred thousand dollars (\$400,000) is allocated to in-home screening programs for the elderly with priority to those counties who have already started programs with county or State funds. Each of these screening programs shall receive twenty-five thousand dollars (\$25,000) for start-up and operation costs.

Two hundred eighty-one thousand dollars (\$281,000) shall be transferred to the Division of Health Services for the Sickle Cell program.

Four hundred ninety-two thousand five hundred sixty-three dollars (\$492,563) shall be allocated to provide additional day-care slots for children.

- (b) This section is effective July 1, 1983.

—IMPLEMENT THE BLOCK GRANTS MANUAL

Sec. 57. G.S. 143-16.1 is amended by adding a new sentence at the end to read:

"The Director of the Budget may adopt rules and regulations establishing uniform planning, budgeting and fiscal procedures, not inconsistent with federal law, that ensure that all federal funds shall be expended in a standardized manner."

Sec. 58. G.S. 143-341 is amended by adding a new subdivision to read:

"(10) Block Grants. To establish and maintain a block grants manual that will ensure uniform administration of block grant funds. The manual shall be a comprehensive source of reference for all general and statewide administrative procedures for block grant funds. The manual shall contain the applicable procedures for: the contents of an application, which shall be as simple as possible; the awarding of or contracting with block grant funds; auditing, which shall, to the extent possible, promote the use of single audits of grantees; the ensuring of civil rights compliance by grantees; and monitoring."

—EQUALIZE FOSTER CARE PAYMENTS

Sec. 59. Effective July 1, 1983, the Department of Human Resources shall equalize payments for foster care in the State Foster Care Benefits Program and the Title IV-E Foster Care Assistance Payments Program from funds available within Section 2 of this act to the Department of Human Resources, Division of Social Services. The maximum payment for foster care including room, board and personal needs allowance shall be one hundred sixty-five dollars (\$165.00) per month.

—MEDICAID

Sec. 60. (1) Medicaid Reimbursement. Appropriations in Section 2 of this act for services provided in accordance with Title XIX of the Social Security Act (Medicaid) are for both the categorically needy and the medically needy. Funds appropriated for these services are to be expended in accordance with the following schedule of services and payment bases. All services and payments are subject to the language at the end of this subdivision.

Services and payment bases

- (a) Hospital - Inpatient - Payment for hospital inpatient services will be based on a prospective rate reimbursement plan as established by the Department of Human Resources. Administrative days for any period of hospitalization shall be limited to a maximum of three days.
- (b) Hospital - Outpatient - 80 percent (80%) of allowable costs.
- (c) Mental and Specialty Hospitals Skilled Nursing Facilities and Intermediate Care Facilities - As prescribed under the State Plan for Reimbursing Long-Term Care Facilities. Skilled nursing facility participation in the Medicare program is a condition of participation in the North Carolina Medicaid skilled nursing facility program.

- (d) Intermediate Care Facilities for the Mentally Retarded - As prescribed under the State Plan for reimbursing intermediate care facilities for the mentally retarded.
- (e) Drugs - Drug cost as allowed by federal regulations plus three dollars and twenty-two cents (\$3.22) professional services fee per month excluding refills for same drug or generic equivalent during the same month. Reimbursement shall be available for up to six prescriptions per recipient, per month, including refills. (Payments for drugs are subject to the provisions of subdivision (8) of this section and to the provisions at the end of subdivision (1) of this section.)
- (f) Physicians, Chiropractors, Podiatrists, Optometrists, Dentists - Fee schedules as developed by the Department of Human Resources. (Payments for dental services are subject to the provisions of subdivision (7) of this section.)
- (g) Community Alternative Program, EPSDT Screens - Payment to be made in accordance with a rate schedule developed by the Department of Human Resources.
- (h) Home Health, Clinic Services, Mental Health Clinics - Payment will be made according to reimbursement plans developed by the Department of Human Resources.
- (i) Medicare Buy-In - Social Security Administration premium.
- (j) Ambulance Services - 100 percent (100%) of allowable, reasonable, usual and customary charges.
- (k) Hearing Aids - Actual cost plus a dispensing fee.
- (l) Rural Health Clinic Services - Provider based - reasonable cost; nonprovider based - single cost reimbursement rate per clinic visit.
- (m) Family Planning - Negotiated rate for local health departments. For other providers - see specific services, i.e., hospitals, physicians, etc.
- (n) Independent Laboratory and X-Ray Services - 90 percent (90%) of allowable usual and customary charges.
- (o) Optical Supplies - 100 percent (100%) of reasonable wholesale cost of materials.
- (p) Ambulatory Surgical Centers - Negotiated rates, established by the Department of Human Resources.
- (q) Medicare Crossover Claims - Actual coinsurance or deductible or both.

Notwithstanding the schedule for services and payments bases in this section, increases in Medicaid rates for home health services, clinic services, ambulance services, EPSDT screens, hearing aid dispensing fees, rural health clinics, family planning, independent laboratory and x-ray services, ambulatory surgical centers, and mental health clinics shall be limited to seven percent (7%). Increases in indirect costs, as defined in the State Plan for Reimbursing Long Term Care Facilities, shall be limited to three and four tenths percent (3.4%) per year for skilled nursing and intermediate care facilities.

Physicians', Chiropractors', Podiatrists', Optometrists', and Dentists' fees shall not increase.

Reimbursement is available for up to 24 visits per recipient per year to any one or combination of the following: physicians, clinics, hospital outpatient, optometrists, chiropractors, and podiatrists. Prenatal services, EPSDT screens and emergency rooms are exempt from the visit limitations contained in this paragraph. Exceptions may be authorized by the Department of Human Resources where the life of the patient would be threatened without such additional care. Any person who is determined by the Department to be exempt from the 24-visit limitation shall also be exempt from the six-prescription limitation.

Payment basis terms of allowable, usual, reasonable, and customary are definitive terms prescribed by federal regulations governing the Medicaid program. Any changes in services or basis of payment in the Medicaid program must be approved by the Director of the Budget with the advice of the Advisory Budget Commission.

(2) Allocation of Nonfederal Cost of Medicaid. The State shall pay eighty-five percent (85%) and the counties shall pay fifteen percent (15%) of the nonfederal costs of all applicable services listed in this section, except that the State shall pay sixty-five percent (65%) and the counties shall pay thirty-five percent (35%) of the nonfederal costs of those Skilled Nursing Facilities and Intermediate Care Facilities services which are not owned by the State.

(3) Co-payment for Medicaid Services. The Department of Human Resources is authorized to establish co-payment up to the maximum permitted by federal law and regulation.

(4) Prepaid Health Care for Medicaid Recipients. The Department of Human Resources, Division of Medical Assistance, is authorized, subject to approval of a change in the State Medicaid Plan by the Director of the Budget with the advice of the Advisory Budget Commission, to purchase health care services on a prepaid basis.

(5) Medicaid and Aid to Families with Dependent Children Income Eligibility Standards. Maximum net family annual income eligibility standards for Medicaid, Aid to Families with Dependent Children and the Standard of Need for Aid to Families with Dependent Children shall be as follows:

| <u>Family Size</u> | <u>Standard of Need</u> | <u>Categorically Needy</u> | <u>AA,AB,AD*</u> | <u>Medically Needy</u> |
|------------------------|-----------------------------|--------------------------------|------------------|------------------------|
| | | <u>AFDC Payment Level*</u> | | |
| 1 | \$3,216 | \$1,608 | \$1,700 | \$2,200 |
| 2 | 4,224 | 2,112 | 2,200 | 2,900 |
| 3 | 4,848 | 2,424 | 2,500 | 3,300 |
| 4 | 5,304 | 2,652 | 2,800 | 3,600 |
| 5 | 5,808 | 2,904 | 3,000 | 3,900 |
| 6 | 6,264 | 3,132 | 3,200 | 4,200 |
| 7 | 6,720 | 3,360 | 3,400 | 4,500 |
| 8 | 6,984 | 3,492 | 3,600 | 4,700 |

*Aid to Families with Dependent Children (AFDC); Aid to the Aged (AA); Aid to the Blind (AB); and Aid to the Disabled (AD). The payment level for Aid to Families with Dependent Children shall be fifty percent (50%) of the standard of need.

These standards may be changed with the approval of the Director of the Budget with the advice of the Advisory Budget Commission.

(6) Spouse Responsibility. Notwithstanding the provisions of G.S. 108A-61, the Department of Human Resources, Division of Medical Assistance shall not deem the income or assets of the spouse of a person who is admitted as a long-term care patient in a certified public or private intermediate care or skilled nursing facility to be available to the institutionalized person.

(7) Dental Coverage Limits. Dental services will be provided on a restricted basis in accordance with regulations developed by the Department. Funds for dental services shall be disbursed only with prior approval by the Department of Human Resources, Division of Medical Assistance, as required by this subdivision. No prior approval shall be required for emergency services or routine services. Routine services are defined as examinations, x-rays, prophylaxis, nonsurgical tooth extractions, amalgam fillings, and fluoride treatments. Prior approval shall be required for all other services and for routine services performed more than two times during a consecutive 12-month period. The Department of Human Resources shall establish rules and regulations, as provided by the Administrative Procedures Act, to implement this subdivision.

(8) Dispensing of Generic Drugs. Notwithstanding Part 1A of Article 4 of Chapter 90 of the General Statutes, under the Medical Assistance Program (Title XIX of the Social Security Act) a prescription order for a drug designated by a trade or brand name shall be considered to be an order for the drug by its established or generic name, except when the prescriber personally indicates, either orally or in his own handwriting on the prescription order, "dispense as written" or words of similar meaning.

As used in this subdivision "brand name" means the proprietary name the manufacturer places upon a drug product or on its container, label or wrapping at the time of packaging; and "established name" shall have the same meaning as assigned that term by the Federal Food, Drug and Cosmetic Act as amended, 21 U.S.C. 301 et seq.

(9) Exceptions to Service Limitations, Eligibility Requirements and Payments. Service limitations, eligibility requirements, and payments bases in this section may be waived by the Department of Human Resources, with the approval of the Director of the Budget, to allow the Department to carry out pilot programs for prepaid health plans or community based services programs in accordance with plans approved by the U. S. Department of Health and Human Services, or when the Department determines that such a waiver will result in a reduction in the total Medicaid costs for the recipient.

(10) Volume Purchase Plans and Single Source Procurement. The Department of Human Resources, Division of Medical Assistance is authorized, subject to the approval of a change in the State Medicaid Plan, to contract for services, medical equipment, supplies and appliances by implementation of volume purchase plans, single source procurement or other similar processes in order to improve cost containment.

—COUNTY MEDICAID RELIEF FUNDS

Sec. 61. (a) Of the funds appropriated to the Department of Human Resources, Division of Medical Assistance, for fiscal year 1983-84 the sum of seven million four hundred thousand dollars (\$7,400,000) shall be used to relieve those counties of the additional costs the counties incurred in fiscal year 1982-83 due to the difference between the 1977-78 and the 1982-83 State-county participation rates for domiciliary care facilities and non-State-owned skilled nursing and intermediate care facilities. These funds shall be distributed for actual cost incurred or on a pro rata basis in the proportion that an individual county's additional cost bears to the total additional cost to those counties which incurred additional costs in 1982- 83.

(b) This section is effective July 1, 1983.

—MEDICAID RESERVE

Sec. 62. (a) Using funds reverted to the General Fund at the end of the 1982-83 fiscal year by the Division of Medical Assistance, a Reserve Fund consisting of eight million dollars (\$8,000,000) is appropriated to the Department of Human Resources for the 1983-84 fiscal year. In addition, any receipts the State may recover from the federal government as a result of meeting the federal target for growth in the Medicaid program, as specified in the Omnibus Budget Reconciliation Act of 1981, shall also be deposited in this Reserve Fund.

Of the monies contained in this reserve, one million dollars (\$1,000,000) in 1983-84 only shall be allocated to the Division of Social Services to provide additional aid to county departments of social services. These funds shall be used by county departments of social services to employ additional eligibility specialists so that the average amount of time necessary to process applications will be reduced. These funds shall be matched dollar for dollar by the counties.

The remaining monies contained in this Fund may be used only by the Division of Medical Assistance. The Division may use these monies only to provide medical services upon the disbursement of all other State appropriations to the Division of Medical Assistance.

(b) This section is effective July 1, 1983.

—JUVENILE DETENTION FUNDS

Sec. 63. (a) Of the funds appropriated in Section 2 of this act to the Department of Human Resources for juvenile detention centers, the sum of fifty-seven thousand five hundred forty-two dollars (\$57,542) for fiscal year 1983-84 and the sum of thirty-six thousand six hundred forty dollars (\$36,640) for fiscal year 1984-85 shall be allocated for the purpose of creating a pilot project involving transportation to the Buncombe County Regional Detention Center.

(b) The Department of Human Resources shall establish uniform policies for all the juvenile detention center funds, except for the funds for the pilot program.

(c) This section is effective July 1, 1983.

—POISON CONTROL CENTER FUNDS

Sec. 64. Effective July 1, 1983, there is appropriated in Section 2 of this act to the Department of Human Resources the sum of one hundred eighty thousand dollars (\$180,000) for fiscal year 1983-84 and one hundred eighty thousand dollars (\$180,000) for fiscal year 1984-85 for the purpose of ensuring the development and operation of a statewide poison control center to serve the citizens, health professionals, and health facilities of North Carolina.

—CHILD ABUSE ASSESSMENTS

Sec. 65. Effective July 1, 1983, there is appropriated in Section 2 of this act to the Division of Social Services, Department of Human Resources, the sum of thirty-five thousand dollars (\$35,000) for the fiscal year 1983-84 and the sum of thirty-five thousand dollars (\$35,000) for the fiscal year 1984- 85, for the purpose of performing medical assessments of children suspected of being abused or neglected.

—FUNDS FOR AUTISTIC ADULTS

Sec. 66. (a) Effective July 1, 1983, there is appropriated in Section 2 of this act the sum of thirty-five thousand dollars (\$35,000) in fiscal year 1983-84 to the Department of Human Resources, Division of Mental Health, Mental Retardation and Substance Abuse Services for the purpose of designing and establishing a program plan for autistic persons who have aged out of the public school system.

(b) The Division is directed to work cooperatively with the Department of Public Instruction, the Division of Vocational Rehabilitation, Division TEACCH (Treatment and Education of Autistic and other Communications Handicapped Children and Adults) and the North Carolina Society for Autistic Adults and Children to formulate a specific program plan for these services.

—WESTERN N.C. GROUP HOME FUNDS

Sec. 67. Effective July 1, 1983, there is appropriated in Section 2 of this act to the Department of Human Resources, Division of Mental Health, Mental Retardation, and Substance Abuse Service, the sum of thirty-two thousand five hundred dollars (\$32,500) for fiscal year 1983-84 as predevelopment and start-up funds, and the sum of one hundred thirty-six thousand six hundred fifty dollars (\$136,650) for fiscal year 1984-85 as operational funds, for Western North Carolina Group Homes for Autistic Adults in Buncombe County.

—ALCOHOLISM FUNDS STUDY

Sec. 68. The Department of Human Resources shall study the set of reports filed at the end of the 1982-83 fiscal year pursuant to G.S. 18B-805(h).

The Department shall also study the use of funds collected under G.S. 20-179.2, especially the amount collected in excess of that needed to operate, evaluate, and administer the Alcohol and Drug Education Traffic Schools. The Department shall determine if these excess funds are being spent in alcoholism and drug abuse programs and include an enumeration of any instances in which funds earmarked for alcohol and drug abuse programs are being spent otherwise.

The Department shall report to the General Assembly not later than the first day of the Regular 1984 Session of the 1983 General Assembly.

—OLDER AMERICANS FUNDS/MATCH OTHER PROGRAMS

Sec. 69. Effective July 1, 1983, the Department of Human Resources, Division of Aging, is authorized to use funds appropriated for the 1983-85 biennium as State matching funds for Title VII of The Older Americans Act as State matching funds for other federal programs.

—COMMUNITY PROGRAMS/DEVELOPMENTALLY DISABLED

Sec. 70. (a) Funds in the amount of seven hundred seventy-seven thousand one hundred forty-four dollars (\$777,144) are appropriated in Section 2 of this act in each year of the biennium to the Department of Human Resources, Division of Mental Health, Mental Retardation and Substance Abuse for the increased costs in the following community programs for the developmentally disabled: early childhood intervention; respite; group homes for children and adults; developmental day subsidy; specialized community residential subsidy; specialized foster care subsidy; apartment living; and, mentally retarded/behaviorally disordered group homes.

(b) This section is effective July 1, 1983.

—MIXED BEVERAGE TAX FOR AREA MENTAL HEALTH PROGRAMS

Sec. 71. (a) Funds received by the Department of Human Resources from the tax levied on mixed beverages under G.S. 18A- 15(3)c.3. or G.S. 18B-804(b)(8) shall be expended by the Department of Human Resources for alcohol programs in area mental health centers. These funds shall be matched by local funds in accordance with the State/local ratio established by the current area mental health matching formula. These funds shall be allocated to the area mental health programs on a per capita basis as determined by the Office of State Budget and Management's most recent estimates of county populations.

(b) This section is effective July 1, 1983.

—LIMIT COUNTY PARTICIPATION RATE INCREASE AFTER LOSS OF FEDERAL FUNDS

Sec. 72. (a) If the federal funding of joint State/county programs is reduced or eliminated, no State agency shall, without direction from the General Assembly, (i) increase the required county financial participation rate in any State/county program to offset the reduced or eliminated federal funding to an amount which is greater than the current county proportion of the nonfederal share of those programs, or (ii) direct the use of county matching funds no longer necessary for the funding of joint State/county programs.

(b) This section is effective July 1, 1983.

Sec. 73. (a) In disbursing funds from any federal block grant during the 1983-84 and 1984-85 fiscal years, the State may require local governmental units to match the funds at the same ratio as they were required to match analogous funds during

the 1982-83 fiscal year. Affected local governmental units may expend local revenues, including ad valorem taxes, to meet this matching requirement.

(b) This section is effective July 1, 1983.

—CERTIFICATE OF NEED PROVISION FOR NURSING HOME BEDS

Sec. 74. (a) Section 31 of Chapter 1127, Session Laws of 1981, as extended by Section 3 of Chapter 655, Session Laws of 1983, is amended by adding a new subsection to read:

"(g) This section shall expire June 30, 1985."

(b) This section shall become effective June 30, 1983.

—DHR EMPLOYEES AS IN-KIND MATCH

Sec. 75. The Secretary of the Department of Human Resources may assign employees of the Department to serve as in-kind match for contracts with nonprofit corporations working to establish cost containment measures for statewide prepaid health contracts for medical services. This section expires July 1, 1985.

—DHR SEWAGE FACILITY

Sec. 76. Effective June 30, 1983, unspent 1982-83 appropriations in the Department of Human Resources, not to exceed eight hundred thousand dollars (\$800,000), may be used in 1983-84 as a reserve to match federal funds for a capital improvement project to upgrade the Butner Sewage Treatment Facility.

PART VII.—HUMAN RESOURCES/PUBLIC EDUCATION

—FUNDS FOR MEMBERS OF THE CLASS IDENTIFIED IN WILLIE M., et al. vs. HUNT, et al.

Sec. 77. (a) Legislative Findings. The General Assembly finds:

- (1) That there is a need in North Carolina to provide appropriate treatment and education programs to children under the age of 18 who suffer from emotional, mental, or neurological handicaps accompanied by violent or assaultive behavior;
- (2) That children meeting these criteria have been identified as a class in the case of Willie M., et al. vs. Hunt, et al.; and
- (3) That these children have a need for a variety of services, in addition to those normally provided, that may include but are not limited to residential treatment programs, educational programs, and independent living arrangements.

(b) Funds for Department of Human Resources. It is the intent of the General Assembly that funds appropriated in Section 2 of this act to the Department of Human Resources for programs serving members of the Willie M. Class be expended only for programs serving members of the Willie M. Class identified in Willie M., et al. vs. Hunt, et al., including evaluations of potential class members. It is recognized that therapeutic or economic reasons may, at times, require certain of these programs to

serve a mixed clientele of Willie M. class members and other clients. To the maximum extent possible, however, these funds shall be expended solely for the benefit of Willie M. class members.

(c) Funds for Department of Public Education. Funds appropriated to the Department of Public Education in Section 2 of this act for members of the Willie M. Class are to establish a supplemental reserve fund to serve only members of the class identified in Willie M., et al. vs. Hunt, et al. These funds shall be allocated by the State Board of Education to the local education agencies to serve those class members who were not included in the regular average daily membership and the census of children with special needs, and to provide the additional program costs which exceed the per pupil allocation from the State Public School Fund and other State and federal funds for children with special needs.

(d) The Department of Human Resources shall develop a prospective unit cost reimbursement system to be used to pay for services to Willie M. class members identified as a class in Willie M., et al. vs. Hunt, et al. This reimbursement system shall be submitted to the General Assembly for review by May 1, 1984, and implemented on July 1, 1984.

(e) Reporting Requirements. The Department of Human Resources and the Department of Public Education shall submit by April 1, 1984, a joint report to the Governor and the General Assembly on the progress achieved in serving members of the Willie M. Class. The report shall include the following unduplicated data for each county: (i) the number of children nominated for the Willie M. Class; (ii) the number of children actually identified as members of the class in each county; (iii) the number of children served as members of the class in each county; (iv) the number of children that remains unserved; (v) the types and locations of treatment and education services provided to class members; (vi) the cost of services, by type, to members of the class; (vii) information on the impact of treatment and education services on members of the class.

(f) The Departments of Human Resources and Public Education shall provide periodic reports of expenditures on behalf of the Willie M. Class to the Joint Legislative Commission on Governmental Operations.

(g) In fulfilling the responsibilities vested in it by the Constitution of North Carolina, the General Assembly finds:

- (1) That the responsible State agencies have made a bona fide good faith effort to comply fully with the requirements of the Court Orders in the case of Willie M., et al. vs. Hunt, et al., and that services and placements for Willie M. class members are very greatly improved.
- (2) That the General Assembly is responsible for assessing all of the vital needs of the citizens of the State of North Carolina, for evaluating the extent of its economic resources and the prevailing economic climate, and for determining how best to meet the needs of all of its citizens within the resources available to the State.
- (3) That the funds hereby appropriated will enable the development and implementation of placement and services for the class members in

Willie M., et al. vs. Hunt, et al. within a reasonable period of time considered within the context of the needs of the class members, the other needs of the State and the resources available to the State.

- (4) That additional expenditures of funds for these purposes at this time would result in an accelerated expenditure of and an unreasonable waste of State funds inasmuch as such expenditures could not reasonably be expected to actually secure a higher degree of treatment or education for the class members than can be accomplished with the funds hereby appropriated.

(h) The General Assembly supports the efforts of the responsible officials and agencies of the State of North Carolina to meet the requirements of the Court Order in Willie M., et al. vs. Hunt, et al. However, in view of the findings in subsection (g) above, the General Assembly expressly directs that no State funds shall be expended on the placement and services of class members in Willie M., et al. vs. Hunt, et al., or for any other thing or purpose arising out of this litigation, now or at any time in the biennium, except for those funds appropriated in Section 2 of this act to the Departments of Human Resources and Public Education for program serving members of the Willie M. Class identified in Willie M. et al. vs. Hunt, et al., and for such funds as may be elsewhere appropriated by the General Assembly specifically for such purposes.

- (i) This section is effective July 1, 1983.

PART VIII.—PUBLIC SCHOOLS

—TEACHER SALARIES

Sec. 78. (a) In the event that funds appropriated for teacher salaries for the 1982-83 fiscal year are inadequate to meet outstanding obligations, the Director of the Budget shall transfer excess revenues and unexpended appropriations to meet those obligations.

- (b) This section is effective July 1, 1983.

—PUPIL TRANSPORTATION

Sec. 79. (a) The General Assembly directs the State Board of Education and local boards of education to use every opportunity to be efficient and economical in the pupil transportation operations (i) through maximum implementation of the management study conducted for the Board by the Office of State Budget and Management dated January 1983; (ii) through the Board's exercise of its leadership in setting new rules and regulations for the program; and (iii) through local boards' follow-through efforts and overall good management.

(b) The State Board of Education is directed to provide a written progress report on its actions to implement the recommendation of that report to the General Assembly at least 15 days prior to the convening date of the 1984 Regular Session of the 1983 General Assembly.

(c) As a result of the new directions set out in subsection (a) above, and in Chapter 630 of the 1983 Session Laws, it is anticipated that cost containment can be achieved and new directions forged.

(d) To that end, General Fund appropriations for pupil transportation to the Department of Public Education in Section 2 of this act shall be the maximum State expenditures for the pupil transportation program. The State Board of Education may request that funds be transferred pursuant to the Executive Budget Act for the school transportation program only if the funds are required due to an increase in gasoline prices or other critical transportation costs which are not included in the approved budget.

Local school administrative units may use other federal or local revenues to supplement State funds for pupil transportation, if necessary.

(e) To provide the strongest possible incentives for improved management at State and local levels, the Director of the Budget may authorize the State Board of Education to use State funds in the pupil transportation program to expedite its implementation of specific items in the Office of State Budget and Management Study, including the development of cost accounting, inventory control, and preventive maintenance systems, development of a comprehensive management information system, and pilot testing bus routes and schedule models.

—PURCHASE OF BUSES IN LIEU OF CONTRACT TRANSPORTATION

Sec. 80. (a) Funds appropriated to the Department of Public Education for 1983-85 biennium for contract transportation to serve exceptional children may be used by local boards of education for the purchase of buses and minibuses as well as for the purposes authorized in the budget. These funds shall be expended in accordance with rules and regulations adopted by the State Board of Education.

(b) This section is effective July 1, 1983.

—EXCEPTIONAL CHILDREN/FUNDING FORMULA

Sec. 81. (a) Beginning July 1, 1983, the State Board of Education shall allot State funds for exceptional children according to the 1982-83 formula, including the applicable maximum percentages of children in each category of exceptionality which were funded under that formula except that:

- (1) the level of support provided for exceptional children for the 1979-80 fiscal year shall continue to be a minimum level of State support;
- (2) the eligible headcount shall include only those pupils identified according to criteria established by the State Board of Education and for whom an approved education plan is on file as of the reporting date;
- (3) the eligible headcount may be revised as of June 1 each year to reflect the number of children which have entered the system since the fall counts, the number of children which left the system including those projected to have left the system by the end of the school year.

(b) Beginning July 1, 1984, all of subsection (a) of this section except for subdivision (a)(1) shall continue to apply; and

- (1) a local education agency shall receive the amount it would receive under the formula set out under subsection (a) above less one-half the difference between what it would receive under that formula and what it received under the formula allocations in 1983-84; and
- (2) funds for legislative salary increases provided in Section 2 of this act are exempt from (b)(1) above and are to be allocated in accordance with the remainder of this section.

(c) Beginning July 1, 1985, all of subsection (a) of this section except for subdivision (a)(1) and all of subsection (b) except for subdivision (b)(1) continue to apply and the level of support provided for exceptional children for the 1979-80 fiscal year shall have no effect on the level of State support.

—EXCEPTIONAL CHILDREN/FEDERAL FUNDS

Sec. 82. The Controller of the State Board of Education is directed to institute procedures which will make for maximum utilization of federal funds for exceptional children by State and local educational agencies.

—EXCEPTIONAL CHILDREN/LEGISLATIVE STUDY REPORT ON SPECIAL EDUCATION FINANCE

Sec. 83. The State Board of Education shall strengthen its accountability for the Special Education program (i) by making an in-depth examination of the Board's definitions and identification procedures, by category of exceptionality, so as to satisfy itself that they are reasonable and fair and to insure that they are uniformly applied and enforced; (ii) by having the superintendent of each local education agency certify pupil headcounts to the Controller; and (iii) by the creation of an auditing section in the Controller's Office whose responsibility it shall be to audit pupil headcounts and to monitor compliance by each local education agency with Board policies and rules. Two positions shall be transferred from the Department of Public Instruction to the Controller's Office to support the auditing section outlined in this subsection. The Director of the Budget, with advice of the Advisory Budget Commission, is authorized to transfer additional personnel if necessary for this purpose. All positions transferred to this auditing section shall be supported by federal funds to the extent permitted by federal law.

Purposes (i), (ii) and (iii) set out in the paragraph above shall be accomplished within total program funds available.

—EXCEPTIONAL CHILDREN/ACCOUNTING SYSTEM

Sec. 84. The State Board of Education shall (i) develop a new, simplified accounting system to provide meaningful financial and cost data on which local and State program decisions may be made, and (ii) develop an implementation schedule for the system, identifying existing resources which may be redirected and additional resources which may be required.

—EXCEPTIONAL CHILDREN/REPORT TO GENERAL ASSEMBLY

Sec. 85. The State Board of Education shall report its progress on its actions to implement the directives in Sections 81, 82, 83 and 84, other recommendations included in the Legislative Report entitled "Financing Special Education in North Carolina", and such other prudent actions as may relate to the program and fiscal operations of the Exceptional Children's Program at the State and local levels 30 days prior to the convening of the 1984 Regular Session of the 1983 General Assembly.

—SCHOOL FINANCE

Sec. 86. (a) The State Board of Education shall develop a program for evaluating alternative means of distributing funds to local school administrative units, in accordance with the proposals of the 1979 Governor's Commission on Public School Finance and regulations and procedures to be developed by the Board with the advice of the Advisory Budget Commission, and to implement this plan in one school unit in each of the eight educational regions. To this end, the State Board shall:

- (1) Define the State's basic educational program and determine its cost and report its progress to the General Assembly by March 1984
- (2) Develop and propose to the General Assembly a system for allocating funds on a per pupil basis which is responsive to both State and locally determined needs and to local resources, and which would be a pilot program in the 1984-85 school year and if need be, would be modified for the 1985-86 school year, and
- (3) Develop an accountability system by July 1985 which would allow the Board to assess the effectiveness of the programs it funds through the allocation procedure described above.

The State Board shall submit interim reports on its progress to each session of the Legislature beginning in 1984.

In order to ensure equitable funding under the plan, the selected pilot educational agencies will be funded at the same level as current procedures would provide.

If any such program established by the State Board conflicts with any provision of the statutes, the program may be implemented only with the approval of the Director of the Budget after consultation with the Advisory Budget Commission, and in case such approval is granted, such program shall supersede the conflicting statute to the extent of the conflict.

(b) The State Board of Education shall recommend to the 1985 General Assembly a definition of State and local responsibilities for funding of the public schools which is consistent with current statutes, taking into consideration the ability of the various counties to finance their schools.

(c) In carrying out the provisions of this section, the State Board of Education shall involve wide participation on the part of groups directly affected by the outcome of the school finance proposals, including but not limited to legislators and

representatives of county commissioners, local school boards, parents and employers and interested members of the general public.

—DAILY DUTY FREE PERIOD

Sec. 87. (a) Of the funds appropriated to the Department of Public Education in Section 2 of this act, the sum of two million one hundred seventy-five thousand three hundred eighty-eight dollars (\$2,175,388) for the 1983-84 fiscal year and two million one hundred fifty-nine thousand one hundred forty dollars (\$2,159,140) for the 1984-85 fiscal year shall be allocated to the local school administrative units on the basis of two dollars (\$2.00) per average daily membership to provide all full-time assigned classroom teachers a duty free lunch or planning period during regular student contact hours. Local school administrative units may rotate professional and paraprofessional staff to provide the duty free period. If a local board of education can provide the duty free period without the expenditure of funds allocated to it pursuant to the provisions of this section, it may use the allotment for other educational goals such as in-service training.

A review of this program shall be conducted by the State Board of Education and the Board shall submit its findings to the 1985 General Assembly.

(b) This section is effective July 1, 1983.

Sec. 88. A new section is added to Chapter 115C of the General Statutes to read:

"§ 115C-301.1. Duty free period.—All full-time assigned classroom teachers shall be provided a daily duty free period during regular student contact hours. The duty free period shall be provided to the maximum extent that (1) the safety and proper supervision of children may allow during regular student contact hours and (2) insofar as funds are provided for this purpose by the General Assembly. If the safety and supervision of children does not allow a daily duty free period during regular student contact hours for a given teacher, the funds provided by the General Assembly for the duty free period for that teacher shall revert to the General Fund."

—INSTRUCTIONAL SUPPLIES ALLOWANCE

Sec. 89. (a) Of the funds appropriated to the Department of Public Education in Section 2 of this act, the sum of two dollars (\$2.00) per average daily membership in expansion funds are appropriated for instructional supplies and materials for each year of the fiscal biennium and shall be allocated to each school in each local school administrative unit. No funds appropriated for instructional supplies and materials shall be used for administrative costs.

(b) This section is effective July 1, 1983.

—VOCATIONAL EDUCATION RESOURCES

Sec. 90. (a) The State Board of Education shall develop equipment standards for each vocational program level and shall assist local school administrative units in determining the adequacy of equipment for each vocational program available in each local school administrative unit.

Further, the State Board shall develop a plan to assure that minimum equipment standards for each program shall be met within total vocational resources - State, local and federal - available at the local level no later than June 30, 1986. The State Board shall consider all reasonable and prudent means to meet these minimum equipment standards and to insure a balanced vocational program for students in the public schools including setting aside a stated amount or percentage of available resources per program and seeking surplus property, donations, grants or permanent loans of equipment.

(b) G.S. 115C-302(a)(2) is amended by adding before the first proviso:

"Provided, that local boards shall not reduce the term of employment for any vocational agriculture teacher personnel position that was 12 calendar months for the 1982-83 school year for any school year thereafter:".

(c) Local boards of education shall accomplish the purpose of subsection (b) of this section without additional appropriations.

—FUNDS TO OFFSET DECLINE IN ENROLLMENT

Sec. 91. (a) Of the funds appropriated in Section 2 of this act to the Department of Public Education seven million seven hundred thousand dollars (\$7,700,000) for fiscal years 1983-84 and 1984-85 shall be to help eliminate inequities resulting from a decline in enrollment. Notwithstanding the provisions of Section 54 of Chapter 838 of the 1979 Session Laws, the Department shall allot five million dollars (\$5,000,000) of these funds to public school administrative units for employment in the schools, one position of assistant principal for each 25 or more State-allotted teachers, two positions for each 50 or more State-allotted teachers, three positions for each 75 or more State-allotted teachers, and four positions for each 100 or more State-allotted teachers. The Department shall also allot two million one hundred thousand dollars (\$2,100,000) of these funds to provide 100 teachers for new innovative mathematics, science and computer science programs; no more than two of these teachers may be allotted for any one county. The Department shall also allot six hundred thousand dollars (\$600,000) of these funds for clerical and custodial personnel.

(b) This section is effective July 1, 1983.

—EXTENDED DAY

Sec. 92. Of the reserve set up in Section 2 of this act for the extended day program in the Department of Public Education, a local school administrative unit may be selected only with the approval of that local board of education, and only upon a finding of fact by the State Board of Education after a public hearing by the State Board of Education in that local school administrative unit that there is sufficient support among the populace of that administrative unit and that the establishment of the program will result in a meaningful test of the effectiveness of this experimental program. The members of the State Board of Education shall hold the hearing themselves and shall not delegate to a hearing officer the responsibility to do so.

—MODULAR CLASSROOM TIE-DOWN REQUIREMENTS

Sec. 93. (a) The first sentence of the second paragraph of G.S. 115C-521(b) is amended by inserting after the words "relocatable or mobile home classroom units," the following: "whether built on the lot or not,".

(b) G.S. 115C-521(b) is amended by inserting after the first sentence of the second paragraph a new sentence to read:
"These units shall also be anchored in a manner required to assure their structural safety in severe weather."

(c) Subsections (a) and (b) of this section are effective upon ratification and shall apply in each local school administrative unit on the first day of the 1983-84 school year. The Superintendent of Public Instruction shall notify each local school administrative unit of this section so that all affected units may be in compliance upon the commencement of the school year.

~~—TEXTBOOK APPROPRIATIONS/NOT REVERT~~

Sec. 94. Funds appropriated to the Department of Public Education for the purchase of elementary basic textbooks shall be permanent appropriations. Unobligated portions of these appropriations may revert to the General Fund at the direction of the Director of the Budget if he considers it necessary in order to maintain a balanced budget within any one fiscal year.

~~PART IX.—COMMUNITY COLLEGES~~

~~—FULL-TIME EQUIVALENT TEACHING POSITIONS/COMMUNITY COLLEGES~~

Sec. 95. (a) For the purpose of determining the Community College system-wide number of full-time equivalent (FTE) teaching positions each year, the total curriculum and extension full-time equivalent student enrollment shall be divided by 22.

(b) This section is effective July 1, 1983.

~~—OPERATING APPROPRIATIONS/NOT USED FOR RECREATION EXTENSION~~

Sec. 96. (a) Funds appropriated in Section 2 of this act to the Department of Community Colleges as operating expenses for allocation to the institutions comprising the Community College System shall not be used to support recreation extension courses. The financing of these courses by any institution shall be on a self-supporting basis and membership hours produced from these activities shall not be counted when computing full-time equivalent students for use in budget-funding formulas at the State level.

(b) This section is effective July 1, 1983.

~~—BOARD OF COMMUNITY COLLEGES REVISE FORMULA AMOUNTS~~

Sec. 97. The State Board of Community Colleges may, with the approval of the Director of the Budget, revise the formulas for allocating operating funds to the community colleges and technical institutes. Increases in any per unit formula amounts

shall be accompanied by decreases in other per unit formula amounts to produce an equivalent reduction in expenditures.

—COMMUNITY COLLEGES TUITION INCREASE

Sec. 98. The State Board of Community Colleges shall increase tuition and fees in the Community College System. Tuition for resident and nonresident full-time curriculum students, registration fees for occupational and academic extension courses, and registration fees for avocational and practical skills extension courses shall be raised an average of twenty-five percent (25%). Registration fees shall be increased sufficiently to cover the cost to the institution of providing avocational and practical skills courses.

—TUITION INCREASE FOR ADULT BASIC EDUCATION

Sec. 99. All funds generated by the tuition increase in excess of four million dollars (\$4,000,000) for each year of the fiscal biennium shall be allotted by the State Board of Community Colleges to fund Adult Basic Education programs.

—NEW JOBS AND NEW SKILLS TRAINING

Sec. 100. (a) The funds appropriated in Section 2 of this act to the Department of Community Colleges for New and Expanding Industry funds shall be used for New Jobs and New Skills Programs.

(b) This section is effective July 1, 1983.

—HALIFAX COMMUNITY COLLEGE NEW INDUSTRY TRAINING

Sec. 101. (a) Of the expansion budget funds appropriated in Section 2 of this act to the Department of Community Colleges for New Jobs and New Skills Programs, the sum of two hundred thousand dollars (\$200,000) for the 1983-84 fiscal year and three hundred thousand dollars (\$300,000) for the 1984- 85 fiscal year shall be allocated to Halifax Community College.

(b) This section is effective July 1, 1983.

—PIEDMONT TECHNICAL COLLEGE

Sec. 102. (a) Of the equipment funds appropriated to community colleges in Section 2 of this act, fifty-six thousand dollars (\$56,000) shall be allocated to Piedmont Technical College for its new Skills Training Center in addition to all other equipment funds that they will receive through the formula funding.

(b) This section is effective July 1, 1983.

—HIGH TECHNOLOGY TRAINING

Sec. 103. (a) Of the funds appropriated in Section 2 of this act for high technology training programs, in 1983-84, one million dollars (\$1,000,000) shall be allocated to Wake Technical College; two hundred thousand dollars (\$200,000) to Durham Technical College; and fifty thousand dollars (\$50,000) to Lenoir Community

College; and in 1984-85, one million nine hundred seventy thousand dollars (\$1,970,000) to Haywood Technical College.

(b) This section is effective July 1, 1983.

—"REGIONAL INSTITUTIONS" REDEFINED

Sec. 104. Effective July 1, 1983, G.S. 115D-2(4) is rewritten to read:

"The term 'regional institution' means an institution which serves residents from three or more counties that were assigned as of July 1, 1973, to the institution by the State Board of Community Colleges for the purpose of conducting adult basic education classes."

—COMMUNITY COLLEGES/LIABILITY INSURANCE

Sec. 105. Chapter 115D of the General Statutes is amended by adding a new section to read:

"§ **115D-31.1. Liability insurance.**—Notwithstanding the provisions of G.S. 115D-32(a)(2)b.2 and any other provision of the law to the contrary, boards of trustees of all institutions in this Chapter may use State funds to pay the lawful premiums of liability insurance as provided in this section."

—ASSISTANCE TO HOSPITAL NURSING/FUND DISTRIBUTION

Sec. 106. (a) Funds appropriated in Section 2 of this act to the Department of Community Colleges to provide financial assistance to hospital programs of nursing education leading to diplomas in nursing which are fully accredited by the North Carolina Board of Nursing and operated under the authority of a public or nonprofit hospital licensed by the North Carolina Medical Care Commission shall be distributed, upon application for financial assistance, on the basis of eight hundred fifty dollars (\$850.00) for each full-time student duly enrolled in the program as of December 1 of the preceding year and on condition that accreditation is maintained. The State Board of Community Colleges shall make rules and regulations necessary to ensure that this financial assistance is used directly for faculty and instructional needs of diploma nursing programs.

(b) This section is effective July 1, 1983.

PART X.—HIGHER EDUCATION

—WAKE FOREST AND DUKE MEDICAL SCHOOL ASSISTANCE/FUNDING FORMULA

Sec. 107. Funds appropriated in Section 2 of this act to the Board of Governors of The University of North Carolina for continuation of financial assistance to the medical schools of Duke University and Wake Forest University shall be disbursed on certifications of the respective schools of medicine that show the number of North Carolina residents as first-year, second- year, third-year, and fourth-year students in the medical school as of November 1, 1983, and November 1, 1984. Disbursement to Wake Forest University shall be made in the amount of eight thousand

dollars (\$8,000) for each medical student who is a North Carolina resident, one thousand dollars (\$1,000) of which shall be placed by the school in a fund to be used to provide financial aid to needy North Carolina students who are enrolled in the medical school. The maximum aid given to any student from this fund in a given year shall not exceed the amount of the difference in tuition and academic fees charged by the school and those charged at the School of Medicine at The University of North Carolina at Chapel Hill.

Disbursement to Duke University shall be made in the amount of five thousand dollars (\$5,000) for each medical student who is a North Carolina resident, five hundred dollars (\$500.00) of which shall be placed by the school in a fund to be used to provide student financial aid to financially needy North Carolina students who are enrolled in the medical school. No individual student shall be awarded assistance from this fund in excess of two thousand dollars (\$2,000) each year. In addition to this basic disbursement for each year of the biennium, a disbursement of one thousand dollars (\$1,000) shall be made for each medical student who is a North Carolina resident in the first-year, second-year, third-year and fourth-year classes to the extent that enrollment of each of those classes exceeds 30 North Carolina students.

The Board of Governors shall establish the criteria for determining the eligibility for financial aid of needy North Carolina students who are enrolled in the medical schools and shall review the grants or awards to eligible students. The Board of Governors shall promulgate regulations for determining which students are residents of North Carolina for the purposes of these programs. The Board shall also make any regulations as necessary to ensure that these funds are used directly for instruction in the medical programs of the schools and not for religious or other nonpublic purposes. The Board shall encourage the two schools to orient students towards personal health care in North Carolina giving special emphasis to family and community medicine.

—AID TO PRIVATE COLLEGES/PROCEDURE

Sec. 108. Funds appropriated in this act to the Board of Governors of The University of North Carolina for aid to private colleges shall be disbursed in accordance with the provisions of G.S. 116-19, G.S. 116-21, and G.S. 116-22. These funds shall provide up to two hundred dollars (\$200.00) per full- time equivalent North Carolina undergraduate student enrolled at a private institution as of October 1 each year.

These funds shall be placed in a separate, identifiable account in each eligible institution's budget/chart of accounts. All funds in this account shall be provided as scholarship funds for needy North Carolina students during the fiscal year. Each student awarded a scholarship from this account shall be notified of the source of the funds and of the amount of the award. Funds not utilized under G.S. 116-19 shall be for the tuition grant program as defined in Section 109 of this act.

Sec. 109. In addition to any funds appropriated pursuant to G.S. 116-19 and in addition to all other financial assistance made available to private educational institutions located within the State, or to students attending such institutions, there is granted to each full-time North Carolina undergraduate student attending an approved

institution as defined in G.S. 116-22, the sum of seven hundred fifty dollars (\$750.00) per academic year which shall be distributed to the student as hereinafter provided.

The tuition grants provided for in this section shall be administered by the State Education Assistance Authority pursuant to rules and regulations promulgated by the State Education Assistance Authority not inconsistent with this act. The State Education Assistance Authority shall not approve any grant until it receives proper certification from an approved institution that the student applying for the grant is an eligible student. Upon receipt of the certification, the State Education Assistance Authority shall remit at such times as it shall prescribe the grant to the approved institution on behalf, and to the credit, of the student.

In the event a student on whose behalf a grant has been paid is not enrolled and carrying a minimum academic load as of the 10th classroom day following the beginning of the school term for which the grant was paid, the institution shall refund the full amount of the grant to the State Education Assistance Authority. Each approved institution shall be subject to examination by the State Auditor for the purpose of determining whether the institution has properly certified eligibility and enrollment of students and credited grants paid on the behalf of the students.

In the event there are not sufficient funds to provide each eligible student with a full grant, each eligible student shall receive a pro rata share of funds then available for the remainder of the academic year within the fiscal period covered by the current appropriation. Any remaining funds shall revert to the General Fund.

—AID TO PRIVATE COLLEGES

Sec. 110. Expenditures made pursuant to Sections 108 and 109 of this act shall be used for secular educational purposes at nonprofit institutions of higher education only. Sections 108, 109 and 110 of this act are effective July 1, 1983.

—INTEREST PROCEEDS ON SALE OF UNIVERSITY UTILITIES

Sec. 111. Section 41.2 of Chapter 859 of the 1981 Session Laws is amended by deleting subsection (c) and adding in lieu of a new subsection (c) to read:

"All investment income earned on and after July 1, 1975, on the proceeds from the sale and lease of real and personal property disposed of pursuant to this act shall be credited to the General Fund of the State."

—NONRESIDENT TUITION SET BY BOARD OF GOVERNORS

Sec. 112. G.S. 116-144 is rewritten to read:

"§ 116-144. Higher tuition to be charged nonresidents.—The Board of Governors shall fix the tuition and required fees charged nonresidents of North Carolina who attend the institutions enumerated in G.S. 116-4 at rates higher than the rates charged residents of North Carolina and comparable to the rates charged nonresident students by comparable public institutions nationwide, except that a person who serves as a graduate teaching assistant or graduate research assistant or in a similar instructional or research assignment and is at the same time enrolled as a graduate student in the same

institution may, in the discretion of the Board of Governors, be charged a lower rate fixed by the Board, provided the rate is not lower than the North Carolina resident rate."

—BOARD OF GOVERNORS/EXPENDITURES

Sec. 113. Effective July 1, 1983, G.S. 116-11(9)b. is rewritten to read:

"b. Funds for the continuing operation of each constituent institution shall be appropriated directly to the institution. Funds for salary increases for employees exempt from the State Personnel Act shall be appropriated to the board in a lump sum for allocation to the institutions. Funds for the third category in paragraph a. of this subdivision shall be appropriated to the Board in a lump sum. The Board shall allocate to the institutions any funds appropriated, said allocation to be made in accordance with the Board's schedule of priorities and in accordance with any specifications in the Budget Appropriation Act; provided, however, that when both the Board and the Director of the Budget (after the Director of the Budget consults with the Advisory Budget Commission) deem it to be in the best interest of the State, funds in the third category may be allocated, in whole or in part, for other items within the list of priorities or for items not included in the list. Provided, nothing herein shall be construed to allow the General Assembly, except as to Capital Improvements, to refer to particular constituent institutions in any specifications as to priorities in the third category."

—UNC TUITION INCREASE

Sec. 114. The appropriations in Section 2 of this act to the Board of Governors of The University of North Carolina and its constituent institutions anticipate actions by the Board of Governors to increase tuition at constituent institutions. The Board of Governors shall increase tuition so as to raise additional income of at least ten million dollars (\$10,000,000) for each year of the fiscal biennium.

The Board of Governors shall use thirteen million eight hundred twenty-one thousand six hundred forty-three dollars (\$13,821,643) of the funds appropriated to it in Section 2 of this act for items 2 through 4 of its "Schedule of Priorities- Operating."; it shall use the additional income from the tuition increase and funds appropriated to it in Section 2 for funding the remainder of the schedule of priorities in accordance with the provisions of G.S. 116-11(9)b. as amended by this act. The Board of Governors shall not use the funds appropriated to it in Section 2 of this act or the additional income from the tuition increase for item 1.

—BOARD OF GOVERNORS - AGRICULTURE PROGRAMS

Sec. 115. (a) The new funds, totalling one million two hundred thousand dollars (\$1,200,000) in each year of the biennium, appropriated in Section 2 of this act to the Board of Governors, for North Carolina State University for Agricultural Programs, shall be expended as follows: (a) two hundred forty- two thousand nine hundred dollars (\$242,900) to increase reproductive efficiency in poultry production; (b) two hundred sixty-one thousand eight hundred dollars (\$261,800) for field crops production; (c) one hundred seventy-seven thousand three hundred dollars (\$177,300) for forest resources, fisheries and wildlife; (d) one hundred thirty-nine thousand

dollars (\$139,000) for horticultural crops production; (e) sixty thousand dollars (\$60,000) to the Department of Horticultural Science for apple research; (f) fifty thousand dollars (\$50,000) to the Department of Plant Pathology for research on diseases of small fruits; (g) one hundred fifty-eight thousand seven hundred dollars (\$158,700) for the operation of expanded beef cattle research facilities; (h) thirty-five thousand five hundred dollars (\$35,500) for the operation of the bull testing facility; and (i) the balance of the funds as needed for other agricultural research programs as identified in the provisions of the Board of Governors Schedule of Priorities-Operating Expenses, except for priority item 1.

(b) This section is effective July 1, 1983.

—ECU MED SCHOOL/MEDICARE-MEDICAID REIMBURSEMENT

Sec. 116. The Medicare-Medicaid receipts being held in trust by Pitt County Memorial Hospital for the East Carolina University School of Medicine pending resolution of litigation between Pitt County Memorial Hospital and the Federal Medicare- Medicaid Program for the fiscal years October 1, 1978 - September 30, 1982, and each succeeding year thereafter, shall be distributed as follows: that portion of the Medicare-Medicaid reimbursement which can be identified as having been generated through the effort and expense of the School's Medical Faculty Practice Plan shall be transferred to the appropriate Medical Faculty Practice Plan account within the School; and the remainder shall be divided equally between the General Fund and the operating budget account of the School of Medicine. The funds deposited in the School's account shall be expended for nonrecurring items of equipment and facilities which are required to maintain the School's teaching facilities within Pitt County Memorial Hospital and the Brody Medical Sciences Building.

PART XI.—CULTURAL RESOURCES

—NORTH CAROLINA SYMPHONY/GRANT-IN-AID FUNDS

Sec. 117. As a condition of accepting State grant-in- aid funds for 1983-84 and 1984-85, the North Carolina Symphony shall operate within a balanced budget.

—SYMPHONY ENDOWMENT

Sec. 118. Of the funds appropriated in Section 2 of this act to the Department of Cultural Resources for the North Carolina Symphony Society, the sum of four hundred thousand dollars (\$400,000) shall be placed in a special reserve account with the State Treasurer for each fiscal year in the 1983-85 fiscal biennium. These funds shall be held by the State Treasurer as a challenge to the North Carolina Symphony Society to establish an Endowment Account. These funds shall be transferred to the North Carolina Symphony Society, Inc., by the State Treasurer upon proof that the Society has raised qualifying cash-match dollars on a basis of three Society cash dollars to one State dollar. The Society shall place the matching dollars in the Endowment Account and shall not expend any part of the principal in this account for any purpose.

Qualifying Society dollars are monies collected in the 1983-84 fiscal year and in the 1984-85 fiscal year and designated and retained as principal in the Endowment Account. Funds not qualifying as Symphony matching cash dollars eligible to draw State dollars are: Any funds or endowments on hand upon enactment of this legislation; funds collected on any unpaid pledges or commitments used by the Symphony to match State funds in 1982-83; earned revenue and sustaining fund contributions unless they are deposited to the Endowment Account and retained as principal therein.

These funds shall not become a part of the annual grant- in-aid to the North Carolina Symphony. Funds remaining in this special reserve account on June 30, 1985, shall revert to the General Fund.

PART XII.—NATURAL RESOURCES AND COMMUNITY DEVELOPMENT

—FOREST FIRE FIGHTERS' OVERTIME PAY

Sec. 119. A new section is added to Chapter 113 of the General Statutes to read:

"§ 113-56.1. **Overtime compensation for forest fire fighting.**— The Department of Natural Resources and Community Development shall, within funds appropriated to the Department, provide overtime compensation to the professional employees of the Forest Resources Division involved in fighting forest fires."

—FOREST DEVELOPMENT ACT REPORT

Sec. 120. G.S. 113A-193(b) is amended by adding a new subdivision to read:

(5) By January 15 of each odd-numbered year, report to the General Assembly on the number of acres reforested, type of owners assisted, geographic distribution of funds, the amount of funds encumbered and other matters. The report shall include the information by forestry district and statewide and shall be for the two fiscal years prior to the date of the report.

—FORESTRY COUNTY COOPERATIVE PROGRAM STUDY

Sec. 121. The Department of Natural Resources and Community Development shall study its policies and rules on the counties' share for funding the County Cooperative Program in the Division of Forest Resources. The study should include at a minimum the percentage of program costs to be paid by counties and the criteria on which the percentages should be based. The Department shall report its findings and recommendations to the General Assembly by May 1, 1984.

—FORESTRY RADIO COMMUNICATIONS PILOT PROJECT

Sec. 122. The Division of Forest Resources in the Department of Natural Resources and Community Development shall undertake a pilot project to determine if improved radio communications increase the effective use of field personnel. The Division shall undertake the project with funds in its 1983- 85 budget, and shall report back the results of the pilot project to the General Assembly by June 1, 1984.

—STATE PARKS AND RECREATION FIELD STAFF UTILIZATION

Sec. 123. Notwithstanding any limitations placed on funds appropriated in prior fiscal years for field staff for the Department of Natural Resources and Community Development, Division of Parks and Recreation, funds appropriated in Section 2 of this act to the Department of Natural Resources and Community Development, Division of Parks and Recreation for field staff may be used by the Division to place its field staff wherever they are most needed.

—ADMINISTRATION OF COMMUNITY SERVICES BLOCK GRANT FUNDS

Sec. 124. Of the funds appropriated to the Department of Natural Resources and Community Development in Section 2 of this act, eighty-five thousand seven hundred seventeen dollars (\$85,717) each year of the fiscal biennium shall be in a special reserve for use in administering the Community Services Block Grant funds. Unencumbered funds remaining in the reserve at the end of the fiscal biennium shall revert to the General Fund.

—COMMUNITY SERVICES BLOCK GRANT FUNDS

Sec. 125. The Department of Natural Resources and Community Development shall amend the State Plan for Administering Funds under the Community Services Block Grant for fiscal year 1984 so that:

- (a) if federal law does not restrict funding to those agencies currently receiving funds, the Board of County Commissioners in any county not served by community services programs of a community action agency receiving Community Services Block Grant funds during the 1983 federal fiscal year is designated as eligible for fiscal year 1984 funding and may apply for a grant;
- (b) if federal law does restrict funding to those agencies currently receiving funds, the Board of County Commissioners in any county not served by community services programs of a community action agency receiving Community Services Block Grant funds during the 1983 federal fiscal year may apply for membership in a Community Action Agency under the same requirements as member counties are currently meeting;
- (c) Funds allocated to Community Action Agencies or county governments shall be distributed on a formula including as one factor an estimated ratio of persons in poverty in the area served by the applying agency compared to the poverty population in the total area served by all applying agencies. If funds for federal fiscal year 1984 are more than the eight million six hundred seven thousand two hundred fifty-eight dollars (\$8,607,258) allocation for federal fiscal year 1983, special consideration for funding those counties not receiving funds during 1983 shall be included in the 1984 State Plan for allocating these funds.

—COMMUNITY DEVELOPMENT BLOCK GRANTS

Sec. 126. The Department of Natural Resources and Community Development shall study the following issues as related to the rules and regulations of the State-administered Community Development Block Grant programs:

- (1) allowing counties to be compared to municipalities in the application evaluations;
- (2) allowing the number of substandard housing units, the number of low income persons and other required measures to be presented and evaluated for the specific target area rather than for the entire area of the government submitting the application;
- (3) the geographic distribution of the funds as compared to the geographic distribution of need as defined by the poverty and other measures used in the evaluation and application process;
- (4) giving applications dealing with health and safety needs priority over applications dealing with purely recreational needs.

The results of this study shall be incorporated into the development of the State plan for making grants from the federal fiscal year 1984 funds and the results shall be distributed for public comment along with the proposed departmental rules and regulations for distributing the funds for federal fiscal year 1984.

—TRANSFER OF FUNDS TO THE WILDLIFE RESOURCES COMMISSION

Sec. 127. (a) Of the funds appropriated in Section 2 of this act to the Department of Natural Resources and Community Development in 1983-84 and 1984-85, the sum of nine hundred ninety thousand dollars (\$990,000) each year shall be transferred to the Wildlife Resources Commission on condition that:

- (1) No new positions shall be established with this appropriation or with funds freed from other uses by this appropriation.
 - (2) None of this appropriation shall be used for subsidizing the cost of the Wildlife magazine or any newsletter or publication published by the Wildlife Resources Commission.
 - (3) None of this appropriation shall be used for fox population studies including monitoring the status and trends of foxes in North Carolina.
- (b) This section is effective July 1, 1983.

PART XIII.—COMMERCE

—ACCESS GUIDE FOR DISABLED

Sec. 128. (a) Of the funds appropriated in Section 2 of this act to the Department of Commerce, the sum of twelve thousand dollars (\$12,000) for fiscal year 1983-84, and the sum of thirty-five thousand five hundred dollars (\$35,500) for fiscal year 1984-85, shall be used to develop a vacation and travel guide for disabled persons and promote travel accessibility for them; and thereafter such funds as are necessary and justified for the further development, maintenance and updating of the guide, and promotion of accessibility of vacation and travel attractions as an ongoing part of the

North Carolina Department of Commerce's travel and tourism outreach service. Those funds unexpended in fiscal year 1983-84 shall be carried forward into fiscal year 1984-85 to be used for the purposes referenced herein.

(b) This section is effective July 1, 1983.

—TOURISM GRANT LIMITATION

Sec. 129. The Department of Commerce may not grant more than five thousand dollars (\$5,000) to any one grantee during a fiscal year to promote tourism. No grantee shall receive a grant in two consecutive fiscal years. All grants by the Department of Commerce to promote tourism shall be made on condition that the grantee match the grant on a dollar-for-dollar basis. Grants to promote tourism may not be used for the following purposes:

- (1) capital construction;
- (2) routine operating expenses normally paid by the grantee; or
- (3) existing programs of the grantee.

—PETROLEUM OVERCHARGE FUNDS

Sec. 130. (a) The Department of Commerce shall distribute the four million three hundred ten thousand six hundred dollars (\$4,310,600) received as petroleum overcharge funds in the following manner:

- (1) The schools and hospital program shall receive one million five hundred sixty thousand six hundred dollars (\$1,560,600). Funds not expended for this purpose during the 1983 federal funding cycle shall be available for expenditure during the 1984 federal funding cycle.
- (2) The State energy conservation plan and energy extension service programs shall receive one million five hundred thousand dollars (\$1,500,000). To the extent the federal government permits, the first priority for the use of these funds shall be on activities that encourage the use of the schools and hospitals programs and that benefit local school units such as school bus routing assistance, energy load management, outreach for and assistance with schools and hospitals program applications, and workshops for teachers on energy conservation and on the teaching of energy conservation.
- (3) The weatherization program shall receive one million two hundred fifty thousand dollars (\$1,250,000).

(b) Future allocations of petroleum overcharge funds that North Carolina receives shall be distributed first to the schools and hospitals program and then to the State energy conservation plan and energy extension service programs for the activities enumerated in subdivision (a)(2) of this section. Remaining funds shall be used for purposes permitted by the federal government.

—NORTH CAROLINA TOMORROW PROGRAMS

Sec. 131. (a) Of the funds appropriated in Section 2 of this act to the Department of Commerce for Grants for Area Development, the sum of two hundred

fifty thousand dollars (\$250,000) for the 1983-84 fiscal year and two hundred fifty thousand dollars (\$250,000) for the 1984-85 fiscal year shall be transferred to the chief fiscal officer of Western Carolina University for disbursement in accordance with the plans developed by the Western North Carolina Tomorrow Program. The sum of one hundred thousand dollars (\$100,000) for the 1983-84 fiscal year and one hundred fifty thousand dollars (\$150,000) for the 1984-85 fiscal year shall be transferred to the chief fiscal officer of Elizabeth City State University for disbursement in accordance with plans developed for the Northeastern North Carolina Tomorrow Program.

(b) This section is effective July 1, 1983.

—UTILITIES COMMISSION OUTSIDE COUNSEL

Sec. 132. Compensation for outside legal fees in excess of twenty-five thousand dollars (\$25,000) per year incurred by the North Carolina Utilities Commission on behalf of the using and consuming public in conjunction with natural gas litigation brought before federal courts and agencies shall be paid from refunds received from the Transcontinental Gas Pipeline Company rather than from the Contingency and Emergency Fund, provided that the agreement must be approved by the State Budget Office.

—ALE FUNDING FROM BAILMENT SURCHARGE

Sec. 133. (a) The second sentence of G.S. 18B-208(b) is amended by deleting the phrase "use of the Commission" and substituting the phrase "purpose of carrying out the provisions of this Chapter".

(b) The fourth sentence of G.S. 18B-208(b) is amended by inserting between the words "Commission" and "and" the phrase "and the ALE Division".

(c) The second paragraph of G.S. 18B-208(b) is amended by adding after the phrase "North Carolina ABC Commission" the phrase "and the Director of the Budget".

Sec. 134. The increase in the bailment surcharge needed to comply with G.S. 18B-208(b), as amended by this act, to include the operating expenses of the ALE Division shall be limited to an amount that covers only current operating expenses of the Division.

PART XIV.—TRANSPORTATION

—HIGHWAY REPAIR, MAINTENANCE AND CONSTRUCTION CONTRACT PILOT PROGRAM

Sec. 135. Notwithstanding the provisions of G.S. 136- 28.1, the Department of Transportation may use on an experimental pilot program basis any method of contracting for highway construction, maintenance or repair work until June 30, 1985, provided: (1) the method to be used has been reviewed and approved by the Board of Transportation; (2) no bids or unacceptable bids for the work to be accomplished were received pursuant to G.S. 136-28.1(a); and (3) the total amount of all contracts entered into pursuant to this section shall not exceed ten million dollars (\$10,000,000) during

any fiscal year. The Department of Transportation shall submit quarterly reports to the Joint Legislative Commission on Governmental Operations summarizing the justification, the methods, and the results obtained from contracting pursuant to this section. A preliminary report shall be submitted by the Department no later than May 20, 1984, and a final report no later than March 1, 1985, to the General Assembly.

—DOT CULVERT INSTALLATION POLICY

Sec. 136. The Board of Transportation shall accomplish savings in the maintenance budgets by altering its policies on installation of driveway pipes. The Board shall establish a schedule for reimbursement of costs for commercial driveway pipe installation performed by State forces.

—TRANSFER OF MOTOR CARRIER SAFETY REGULATION

Sec. 137. The safety regulation of all motor carrier transportation services is transferred from the Utilities Commission, Department of Commerce, to the Division of Motor Vehicles, Department of Transportation. This transfer shall be a "type I transfer" as defined in G.S. 143A-6. The regulation of rates and market entry for motor carrier transportation services shall remain vested in the Utilities Commission. The agencies of State government affected by this transfer shall report to the 1984 Session of the General Assembly about any changes in the General Statutes required by this transfer.

Sec. 138. G.S. 62-281 is rewritten to read:

"§ 62-281. Safety regulations applicable to motor carrier and private carrier vehicles.—The Commissioner of Motor Vehicles may promulgate highway safety rules and regulations for all for-hire motor carrier vehicles and all private carrier vehicles engaged in interstate commerce and intrastate commerce over the highways of North Carolina whether common carriers, contract carriers, exempt carriers, or private carriers."

—RESURFACED ROADS MAY BE WIDENED

Sec. 139. Of the contract maintenance resurfacing program funds appropriated in Section 3 of this act to the Department of Transportation, an amount not to exceed ten percent (10%) of the Board of Transportation's allocation of these funds may be used for widening existing narrow pavements that are scheduled for resurfacing.

—USE OF SALES TAX COLLECTED BY DIVISION OF MOTOR VEHICLES

Sec. 140. (a) Notwithstanding G.S. 105-164.4(1), the Department of Transportation may deduct and retain from the sales tax on motor vehicles pursuant to the subdivision an amount equal to the cost to the Division of collecting this tax, not to exceed four hundred seventy-five thousand dollars (\$475,000) per year. The cost of collecting this tax shall be determined by the Secretary of Transportation, subject to the approval of the State Budget Officer. Notwithstanding G.S. 20-63(h), the cost of collection shall include an increase in the commission paid to branch agents of the Division to sixty-four cents (64c) per transaction.

(b) This section shall become effective August 1, 1984.

—DRIVER TRAINING AND SAFETY EDUCATION

Sec. 141. G.S. 20-88.1 is rewritten to read:

"§ 20-88.1. Driver training and safety education.—(a) In accordance with criteria and standards approved by the State Board of Education, the State Superintendent of Public Instruction shall organize and administer a program of driver education to be offered at the public high schools of this State for all persons of provisional license age. This program shall be made available to all physically and mentally qualified persons of provisional license age, including public school students, nonpublic school students and out-of-school youths under 18 years of age. The State Board of Education shall use for such purpose all funds appropriated to it for said purpose, and may use all other funds that become available for its use for said purpose. The drivers' education program established pursuant to this section shall include instructions on the rights and privileges of the handicapped and the signs and symbols used to assist the handicapped relative to motor vehicles, including the 'international symbol of accessibility' and other symbols and devices as provided in Article 2A of this Chapter. In addition, this program shall include at least six hours of instruction on the offense of driving while impaired and related subjects.

(b) The State Board of Education shall adopt a salary schedule for Driver's Education Training Instructors. No educational degree requirement may be a criterion used in setting salaries. The State Board of Education shall report the salary schedule and criteria developed for a drivers' education program to the 1983 General Assembly, Second Session 1984." Any cash balance remaining in the special fund code 23520 at June 30, 1983, shall be liquidated to satisfy the requirements of G.S. 20-88.1 and then special fund code 23520 shall be abolished.

Sec. 142. Effective September 1, 1983, G.S. 20-87(5), as amended by Chapter 713 of the 1983 Session Laws, is further amended by deleting the figure "\$17.00" and inserting in lieu thereof the figure "\$20.00", and by deleting the figure "\$20.00" and inserting in lieu thereof the figure "23.00".

Sec. 143. G.S. 20-87 is amended as follows:

(a) By substituting "seventy-eight dollars (\$78.00)" for "seventy-five dollars (\$75.00)" in subsection (1);

(b) In subsection (2) by substituting "\$18.00", "22.00, and "26.00" for "\$15.00, "19.00", and "23.00" in the column, and by substituting "Forty-one dollars (\$41.00)" for "Thirty-eight dollars (\$38.00)";

(c) In subsection (6) by substituting "nine dollars (\$9.00)" and "sixteen dollars (\$16.00)" respectively for "six dollars (\$6.00)" and "thirteen dollars (\$13.00)";

(d) In subsection (7) by substituting "thirty-eight dollars (\$38.00)" for "thirty-five dollars (\$35.00)";

(e) In subsection (8) by substituting "one hundred twenty-eight dollars (\$128.00)" for "one hundred twenty-five dollars (\$125.00)";

(f) In subsections (9) and (10) by substituting "seven dollars (\$7.00)" for "four dollars (\$4.00)";

(g) In subsection (10) by substituting "thirty-three dollars (\$33.00)" for "thirty dollars (\$30.00)"; and

(h) By adding a new subsection (11) to read: "(11) Any vehicle fee determined under this section according to the weight of the vehicle shall be increased by the sum of three dollars (\$3.00) to arrive at the total fee."

Sec. 144. G.S. 20-88 is amended as follows:

(a) In subdivision (b)(1) by substituting "seventeen dollars and fifty cents (\$17.50)" and "twenty-one dollars and fifty cents (\$21.50)" respectively for "fourteen dollars and fifty cents (\$14.50)" and "eighteen dollars and fifty cents (\$18.50)";

(b) In subdivision (b)(6) by substituting "seventy-five dollars (\$75.00)" and "one hundred forty-eight dollars (\$148.00)" respectively for "seventy-two dollars (\$72.00)" and "one hundred forty-five dollars (\$145.00)";

(c) In subsection (c) by substituting "ten dollars (\$10.00)" for "seven dollars (\$7.00)"; and

(d) By adding a new subsection (i) to read: "(i) Any vehicle fee determined under this section according to the weight of the vehicle shall be increased by the sum of three dollars (\$3.00) to arrive at the total fee."

Sec. 145. (a) G.S. 20-87(5) is amended by substituting "\$16.00" and "19.00" respectively for "\$13.00" and "16.00" in the column.

(b) This section is effective upon ratification, but shall expire on September 1, 1983.

—MOTOR VEHICLE FINANCIAL RESPONSIBILITY

Sec. 146. Effective August 1, 1984, G.S. 20-309(e) is amended to read:

"(e) Upon termination by cancellation or otherwise of an insurance policy provided in subsection (b) of this section, the insurer shall notify the Division of such termination. The Division, upon receiving notice of cancellation or termination of an owner's financial responsibility as required by this Article, shall notify such owner of such cancellation or termination, and such owner shall within 15 days from date of the notice given by the Division, in order to retain the registration plate for the vehicle registered or required to be registered, certify to the Division that he has financial responsibility effective on or prior to the date of such termination.

Failure of the owner to certify that he has financial responsibility as herein required shall be prima facie evidence that no financial responsibility exists with regard to the vehicle concerned and unless the owner's registration plate has on or prior to the date of termination of insurance been surrendered to the Division by surrender to an agent or representative of the Division designated by the Commissioner, or depositing the same in the United States mail, addressed to the Division of Motor Vehicles, Raleigh, North Carolina, the Division shall revoke the vehicle's registration for 30 days.

In no case shall any vehicle, the registration of which has been revoked for failure to have financial responsibility, be re-registered within less than 30 days after the date of receipt of the registration plate by the Division. Additionally, as a condition precedent to the registration of the vehicle, the payment of a restoration fee of fifty dollars (\$50.00) and the appropriate fee for a new registration plate is required. Any person,

firm or corporation failing to give notice of termination shall be subject to a civil penalty of two hundred dollars (\$200.00) to be assessed by the Commissioner of Insurance upon a finding by the Commissioner of Insurance that good cause is not shown for such failure to give notice of termination to the Division."

Sec. 147. Effective August 1, 1984, G.S. 20-311 is amended to read:

"§ 20-311. Revocation of registration when financial responsibility not in effect.— Upon receipt of evidence that financial responsibility for the operation of any motor vehicle registered or required to be registered in this State is not or was not in effect at the time of operation or certification that insurance was in effect, the Division shall revoke the owner's registration plate issued for the vehicle at the time of operation or certification that insurance was in effect or the current registration plate for the vehicle in the year registration has changed for 30 days.

The vehicle for which registration has been revoked pursuant to this section may be registered at the end of the 30-day revocation period upon certification of financial responsibility and payment by the vehicle owner of a fifty-dollar (\$50.00) administrative fee in addition to appropriate license fees. In no event may such vehicle be registered prior to payment of the fifty dollar (\$50.00) administrative fee."

Sec. 148. Effective September 1, 1983, G.S. 20-48 is amended by adding the following subsection thereto:

"(c) The Commissioner shall appoint such agents of the Division as may be needed to serve revocation notices required by this Chapter. The fee for service of a notice shall be fifty dollars (\$50.00). Agents employed under this section to serve revocation notices full time, and any Law Enforcement Officer I whose duties include serving such notices on a regular basis, and the five law enforcement officers who supervise them, shall be exempt from the commuting fees provided in G.S. 143-341(8)(i)7a."

Sec. 149. Effective September 1, 1983, G.S. 20-26(c)(1) and (2) are amended to change the charge for license record copies from "3.00" to "4.00" and G.S. 20-26(c)(3) is amended to change the term "6.00" to "7.00".

Sec. 150. Of the funds appropriated to the Division of Motor Vehicles in Section 3 of this act, one million seventy-one thousand four hundred dollars (\$1,071,400) in fiscal year 1983-84 and one million sixty-one thousand dollars (\$1,061,000) in fiscal year 1984-85 shall be in a reserve for implementation of G.S. 20-48(c). An additional one million five hundred seventy-seven thousand dollars (\$1,577,000) for fiscal year 1984-85 shall be in a reserve to supplement the vehicle registration functions in implementing the changes in G.S. 20-309(e) and G.S. 20-311 in Sections 146 and 147 of this act. Use of the funds in these reserves shall be subject to the approval of the Director of the Budget.

—DOT EXCEPTION TO VEHICLE POLICY INCREASED

Sec. 151. (a) The sixth sentence of the third paragraph of G.S. 143-341(8)(i)7a. is amended by deleting "350 employees" and "400 employees" and substituting "450 employees" and "500 employees" respectively.

(b) Prior to assigning any additional personnel, pursuant to the increased exception provided in G.S. 143- 341(8)(i)7a. as amended by subsection (a) of this section, the Secretary of Transportation shall report to the Joint Legislative Commission on Governmental Operations about the nature and number of the assignments. The Secretary of Transportation shall report to the 1984 Regular Session of the General Assembly concerning the use of the increased exception and any necessity for extending the increase beyond June 30, 1984.

(c) The provisions of subsection (a) of this section shall be effective until June 30, 1984.

PART XV.—JUDICIAL

—DISTRICT ATTORNEYS' CONFERENCE CREATED

Sec. 152. (a) Subchapter VII of Chapter 7A of the General Statutes is amended by reserving G.S. 7A-409 and G.S. 7A- 410 for future codification purposes at the end of Article 31 and by adding a new Article to read:

"ARTICLE 32.

"Conference of District Attorneys.

"§ 7A-411. Establishment and purpose.—There is created the Conference of District Attorneys of North Carolina, of which every district attorney in North Carolina is a member. The purpose of the Conference is to assist in improving the administration of justice in North Carolina by coordinating the prosecution efforts of the various district attorneys, by assisting them in the administration of their offices, and by exercising the powers and performing the duties provided for in this Article.

"§ 7A-412. Annual meetings; organization; election of officers.—(a) Annual Meetings. The Conference shall meet annually at a time and place selected by the President of the Conference.

(b) Election of Officers. Officers of the Conference are a President, a President-elect, a Vice-president, and other officers from among its membership that the Conference may designate in its bylaws. Officers are elected for one-year terms at the annual Conference, and take office on July 1 immediately following their election.

(c) Executive Committee. The Executive Committee of the Conference consists of the President, the President-elect, the Vice-president, and four other members of the Conference. One of these four members shall be the immediate past president if there is one and if he continues to be a member.

(d) Organization and Functioning; Bylaws. The bylaws may provide for the organization and functioning of the Conference, including the powers and duties of its officers and committees. The bylaws shall state the number of members required to constitute a quorum at any meeting of the Conference or the Executive Committee. The bylaws shall set out the procedure for amending the bylaws.

(e) Calling Meetings; Duty to Attend. The President or the Executive Committee may call a meeting of the Conference upon 10 days' notice to the members, except upon written waiver of notice signed by at least three-fourths of the members. A member should attend each meeting of the Conference and the Executive Committee of which he

is given notice. Members are entitled to reimbursement for travel and subsistence expenses at the rate applicable to State employees.

"§ 7A-413. Powers of Conference.—(a) The Conference may:

- (1) Cooperate with citizens and other public and private agencies to promote the effective administration of criminal justice.
- (2) Assist prosecutors in the effective prosecution and trial of criminal offenses, and develop an advisory trial manual.
- (3) Develop advisory manuals to assist prosecutors in the organization and administration of their offices, case management, calendaring, case tracking, filing, and office procedures.
- (4) Cooperate with the Administrative Office of the Courts and the Institute of Government concerning education and training programs for prosecutors and staff.

(b) The Conference may not adopt rules pursuant to Chapter 150A of the General Statutes.

"§ 7A-414. Executive Secretary; clerical support.—The Conference may employ an executive secretary and any necessary supporting staff to assist it in carrying out its duties."

(b) The organizational meeting of the Conference shall be convened by the Director of the Administrative Office of the Courts as soon as feasible. Officers elected at that organizational meeting shall serve until their successors take office on July 1, 1984.

—UNIFORM CRIMINAL CALENDARING

Sec. 153. Effective October 1, 1983, G.S. 7A-49.3 is amended by adding a new subsection to read:

"(a1) If he has not done so before the beginning of each session of superior court at which criminal cases are to be heard, the District Attorney, after calling the calendar and disposing of nonjury matters, including guilty pleas, if any such nonjury matters are to be disposed of prior to the calling of cases for trial, shall announce to the court the order in which he intends to call for trial the cases remaining on the calendar. Deviations from the announced order require approval by the presiding judge, if the defendant whose case is called for trial objects; but the defendant may not object if all the cases scheduled to be heard before his case have been disposed of or delayed with the approval of the presiding judge or by consent."

—COMMUNITY SERVICE FOR PERSONS GUILTY OF DWI

Sec. 154. Effective October 1, 1983, Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-179.4. Community service alternative punishment; responsibilities of the Department of Crime Control and Public Safety.—(a) The Department of Crime Control and Public Safety must conduct a community service alternative punishment program for persons sentenced under G.S. 20-179(i), (j) or (k).

(b) The Secretary of Crime Control and Public Safety must assign at least one coordinator to each judicial district to assure and report to the court the person's compliance with the community service sentence. The appointment of each coordinator is subject to the approval of the chief district court judge. Each county must provide office space in the courthouse or other convenient place, necessary equipment, and secretarial service for the use of each coordinator assigned to that county.

(c) A fee of one hundred dollars (\$100.00) must be paid by all persons serving a community service sentence. That fee must be paid to an official designated for that purpose and at the time and place specified by the Secretary of Crime Control and Public Safety, except that if the clerk of court in which the person is convicted agrees to collect the fees, the clerk must collect all fees for persons convicted in that county. The fee must be paid in full within two weeks of the date the person is convicted and before he begins the community service unless the court, upon a showing of hardship by the person, allows the person additional time to pay the fee. If the person is also ordered to attend an Alcohol and Drug Education Traffic School established pursuant to G.S. 20-179.2, the fee for supervision of community service punishment is fifty dollars (\$50.00).

(d) Fees collected under this section must be deposited in the General Fund.

(e) The coordinator must report to the court in which the community service sentence was ordered any failure by a person to comply with the terms of the sentence, and such a failure to comply constitutes a violation of a condition of probation."

Sec. 155. Effective October 1, 1983, G.S. 20-179.2 is amended by adding a new sentence to subdivision (a)(1) (redesignated subsection (c) by Section 30, Chapter 435, Session Laws of 1983) to read:

"If, however, the person is also ordered to serve a community service punishment under G.S. 20-179 and G.S. 20-179.4, the fee for enrollment in an Alcohol and Drug Education Traffic School program established pursuant to this section is fifty dollars (\$50.00)."

Sec. 156. The Secretary of Crime Control and Public Safety may establish in his Department a Division of Victim and Justice Services, as permitted by the Executive Organization Act of 1973, and may employ, assign or reassign personnel and other resources of the Department to that Division to carry out effectively the alternative punishment and victim compensation programs vested in the Department.

—PAROLE CONSIDERATION HEARINGS IN ONSLOW COUNTY

Sec. 157. (a) From August 1, 1983, through July 31, 1985, G.S. 15A-1371(b)(2) is amended by inserting between the third and fourth sentences the following new sentence:

"If the prisoner was convicted of a crime that is the same or substantially similar to a crime classified under the Fair Sentencing Act as a Class A, B, C, or D felony, and if the senior resident regular superior court judge makes a written request therefor, the Parole Commission must conduct its consideration for parole in the county in which the prisoner was convicted."

(b) This section applies to Onslow County only.

—INDIGENT COUNSEL FEE FUND

Sec. 158. The funds appropriated to the Judicial Department in Section 2 of this act for payment of attorney fees and related expenses for indigent persons are in an entry entitled "The Indigent Persons Attorney Fee Fund." This shall be a nonreverting special fund. Except as explicitly provided in Sections 159, 160 and 161 of this act, or by any other act of the General Assembly this fund shall be used solely for the payment of attorneys' fees and related expenses for representation of indigent persons as specified in Subchapter IX of General Statutes Chapter 7A. The repayment of any attorney fees to the State by or on behalf of an indigent person as ordered by the Court or in satisfaction of a judgment rendered against the indigent person shall be paid into this fund.

—STATEWIDE GUARDIAN AD LITEM PROGRAM

Sec. 159. G.S. 7A-586 is amended by adding the following two sentences after the first sentence: "The appointment shall be made pursuant to the program established by Article 39 of this Chapter unless representation is otherwise provided pursuant to G.S. 7A-486 or G.S. 7A-487. In every case where a nonattorney is appointed as a guardian ad litem, an attorney shall be appointed in the case in order to assure protection of the child's legal rights within the proceeding."

Sec. 160. The following new Article is added to Chapter 7A of the General Statutes:

"Article 39.

"Guardian Ad Litem Program.

"§ 7A-484. Office of Guardian Ad Litem Services established.— There is established within the Administrative Office of the Courts an Office of Guardian Ad Litem Services to provide services in accordance with G.S. 7A-586 to abused and neglected juveniles involved in judicial proceedings, and to assure that all participants in these proceedings are adequately trained to carry out their responsibilities. Beginning on the effective date of this Article, and ending July 1, 1987, the Administrative Office of the Courts shall establish in phases a statewide guardian ad litem program comprised of local district programs to be established in all judicial districts of the State. Each local district program shall consist of volunteer guardians ad litem, at least one program attorney, a program coordinator who is a paid State employee, and such clerical staff as the Administrative Office of the Courts in consultation with the local district program deems necessary. The Administrative Office of the Courts shall promulgate rules and regulations necessary and appropriate for the administration of the program.

"§ 7A-485. Implementation and administration.—(a) Local District Programs. The Administrative Office of the Courts shall, in cooperation with each Chief District Court Judge and other district personnel, implement and administer the program mandated by this act. Local district programs shall be established in eight judicial districts in fiscal year 1983-84. Where a local district program has not yet been established in accordance with this Article, the district shall operate a guardian ad litem program approved by the Administrative Office of the Courts.

(b) **Advisory Committee Established.** The Director of the Administrative Office of the Courts shall appoint a Guardian Ad Litem Advisory Committee consisting of at least five members to advise the Office of Guardian Ad Litem Services in matters related to this program. The members of the Advisory Committee shall receive the same per diem and reimbursement for travel expenses as members of State boards and commissions generally.

"§ 7A-486. Conflict of interest or impracticality of implementation.—If a conflict of interest prohibits a local district program from providing representation to an abused or neglected juvenile, the court may appoint any member of the district bar to represent said juvenile. If the Administrative Office of the Courts determines that within a particular judicial district the implementation of a local district program is impractical, or that an alternative plan meets the conditions of G.S. 7A-487, the Administrative Office of the Courts shall waive the establishment of the program within the district.

"§ 7A-487. Alternative plans.—A district shall be granted a waiver from the implementation of a local district program if the Administrative Office of the Courts determines that the following conditions are met:

1. An alternative plan has been developed to provide adequate guardian ad litem services for every child consistent with the duties stated in G.S. 7A-586; and
2. The proposed alternative plan will require no greater proportion of State funds than the district's abuse and neglect caseload represents to the State's abuse and neglect caseload. Computation of abuse and neglect caseloads shall include such factors as child population, number of substantiated child abuse and neglect reports, number of child abuse and neglect petitions, number of abused and neglected children in care to be reviewed pursuant to G.S. 7A-657, nature of the district's caseload, and number of petitions to terminate parental rights.

When an alternative plan is approved pursuant to this section, the Administrative Office of the Courts shall retain authority to monitor implementation of the said plan in order to assure compliance with the requirements of this Article and G.S. 7A-586. In any district where the Administrative Office of the Courts determines that implementation of an alternative plan is not in compliance with the requirements of this section, the Administrative Office of the Courts may implement and administer a program authorized by this Article.

"§ 7A-488. Civil liability of volunteers.—Any volunteer participating in a judicial proceeding pursuant to the program authorized by this Article shall not be civilly liable for acts or omissions committed in connection with the proceeding if he acted in good faith and was not guilty of gross negligence."

Sec. 161. From funds appropriated by Section 2 of the 1983 Budget Appropriation Act to the Administrative Office of the Courts for its Legal Counsel Program are allocated funds not to exceed the sum of eight hundred three thousand nine hundred sixteen dollars (\$803,916) for fiscal year 1983-84, and the sum of eight hundred forty-seven thousand nine hundred sixty dollars (\$847,960) for fiscal year 1984-85 to implement these sections.

—MECKLENBURG PILOT PROGRAM FOR CUSTODY AND VISITATION
DISPUTE MEDIATION

Sec. 162. (a) From January 1, 1984, through June 30, 1985, G.S. 50-13.1 is amended by designating the present language as subsection (a) and adding the following new subsections:

"(b) Whenever a petition for an order or modification of an order for custody or visitation of a child is contested, the matter shall be set for mediation of the contested issues before or concurrent with the setting of the matter for hearing. The purpose of the mediation is to reduce any acrimony that exists between the parties and to develop an agreement that is in the child's best interests. The mediator shall use his best efforts to effect a settlement of the custody or visitation dispute. Alimony, child support, and other economic issues may not be mediated.

(c) Each district court shall make available a mediator. The court may contract with practicing mediators. A mediator should be assigned to a particular court or judge.

(d) For a person to qualify to provide mediation services under this section, that person shall show that he:

- (1) has a law degree, or at least a master's degree in psychology, social work, family counseling, or a comparable human relations discipline; and
- (2) has at least 40 hours of training in mediation techniques by a qualified instructor of mediation. A qualified instructor of mediation is a professional who has provided mediation services for at least 30 cases, has publicly and explicitly identified his services to include mediation, and has the educational background stated in subsection (1). A counseling service is not a mediation service unless the derivation of a written settlement between disputants is the explicit objective of the service. Marital counseling, psychotherapy, and family therapy are not mediation services.

(e) Either party may move to have the mediation action dismissed and the action heard in district court, due to the mediator's bias, undue familiarity with a party, or other prejudicial ground.

(f) Mediation proceedings shall be held in private and shall be confidential. All verbal or written communications from either or both parties to the mediator or between the parties in the presence of the mediator made in a proceeding pursuant to this section are absolutely privileged and inadmissible in court.

(g) The mediator may exclude counsel from participation in the proceedings if the court finds that exclusion is appropriate. The mediator may assess the needs and interests of the child and may interview the child when he thinks appropriate.

(h) Any agreement reached by the parties as a result of the mediation shall be reported to the court and to counsel for the parties as soon as practicable. Unless the court finds good reason not to, it shall incorporate the agreement in a court order.

(i) The parties shall pay for these mediation services on an ability-to-pay basis. The Administrative Office of the Courts shall adopt rules establishing a schedule of fees

for parties that shall encompass income, amount of alimony or child support paid, and other relevant economic variables."

(b) This section applies to Mecklenburg County only, which may establish a pilot program.

(c) Funds in the amount of fifty thousand dollars (\$50,000) for the 1983-84 fiscal year are appropriated to the Judicial Department in Section 2 of this act to achieve the purposes of this section.

(d) This section shall be effective only when both parents are residents of Mecklenburg County.

—APPELLATE DEFENDER CASELOAD

Sec. 163. The second sentence of G.S. 7A-478(1) is revised to read:

"The Chief Justice may, following consultation with the appellate defender and consistent with the resources available to the appellate defender to insure quality criminal defense services by the appellate defender's office, authorize the appellate defender not to accept assignments of certain appeals but instead to cause those appeals to be assigned either to a local public defender's office or to private assigned counsel."

PART XVI—CRIME CONTROL AND PUBLIC SAFETY

—LICENSE PLATE STUDY

Sec. 164. The Department of Crime Control & Public Safety shall study the impact on highway safety of the use of non-reflectORIZED license plates and the requirement that each vehicle have two plates. The Department of Transportation shall provide all data necessary for the study to be conducted. The Department of Crime Control and Public Safety may submit a final report to the General Assembly by June 1, 1984, or it may submit an interim report to the General Assembly by June 1, 1984, and a final report by March 15, 1985, on its findings.

—BUTNER

Sec. 165. G.S. 122-98 is rewritten to read:

"§ 122-98. Butner Public Safety Division of the Department of Crime Control and Public Safety; jurisdiction; fire and police district.—(a) The Secretary of Crime Control and Public Safety is authorized to employ special police officers for the territory embraced by the John Umstead Hospital site and any property adjacent to that site which is owned or leased by the Department of Human Resources or any other agency of the State. The territorial jurisdiction of these special police officers shall include; (i) any property formerly a part of the original Camp Butner reservation, including both those areas currently owned and occupied by the State and its agencies and those which may have been leased or otherwise disposed of by the State; (ii) the Lyons Station Sanitary District; and (iii) that part of Granville County adjoining the Butner reservation and the Lyons Station Sanitary District situated north and west of the intersection of Rural Paved Roads 1103 and 1106 and bounded by those roads and the boundaries of said reservation and said sanitary district. The Secretary of Crime Control

and Public Safety may organize these special police officers into a public safety department for that territory and may establish it as a division within the principal department as permitted by the Executive Organization Act of 1973.

(b) After taking the oath of office required for law enforcement officers, the special police officers authorized by this section shall have the authority of deputy sheriffs of Durham and Granville Counties in those counties respectively. Within the territorial jurisdiction stated in subsection (a) of this section, the special police officers shall have the primary responsibility to enforce the laws of North Carolina and any ordinance or regulation applicable to that territory adopted under authority of this Article or under G.S. 143-116.6 or G.S. 143-116.7 or under the authority granted any other agency of the State and shall also have the powers set forth for firemen in Articles 3, 5 and 6 of Chapter 69 of the General Statutes. Any civil or criminal process to be served on any person confined at any State facility within the territorial jurisdiction described in subsection (a) of this section shall be forwarded by the sheriff of the county in which the process originated to the Director of the Butner Public Safety Division. Special police officers authorized by this section shall be assigned to transport any patient transferred to or from any State facility within the territorial jurisdiction described in subdivision (a) of this section under the provisions of G.S. 122-13.1."

Sec. 166. The last sentence of G.S. 146-30 is amended by inserting between the words "provide" and "sewers" the words "water and".

—HIGHWAY PATROL GRADE CHANGE

Sec. 167. Effective July 1, 1983, the pay schedule established by the Office of State Personnel of the Department of Administration for sergeant, first sergeant and lieutenant of the State Highway Patrol is changed by increasing the salary grade at each level by one grade. The Director of the Budget may transfer from appropriations for this purpose in Section 3 of this act funds necessary to implement this section.

PART XVII—CORRECTION

—DEPARTMENT OF CORRECTION/LAUNDRY SERVICES

Sec. 168. G.S. 66-58(b)(16) is amended by adding the following sentence at the end of the first paragraph: "In addition to the prior sentence, laundry services performed by the Department of Correction may be provided for the Governor Morehead School and the North Carolina School for the Deaf."

PART XVIII—ATTORNEY GENERAL

—SUBMERGED LAND ATTORNEYS

Sec. 168.1. In Section 2 of this act there is appropriated to the Department of Justice for fiscal year 1983-84 the sum of ninety-nine thousand five hundred fifty-seven dollars (\$99,557) to establish two attorney positions in the Department of Justice for the Environmental Protection Section which attorneys will be employed exclusively in the

resolution of claims filed pursuant to G.S. 113-205 and to pay for support personnel, equipment, and related costs.

PART XIX—ADMINISTRATION

—COORDINATION OF MAPPING AND AERIAL PHOTOGRAPHY

Sec. 169. The Department of Administration and the Department of Natural Resources and Community Development shall actively seek full coordination of federal, State, and local mapping and aerial photography in an effort to reduce the total costs of mapping. Coordination shall include county and municipal governments, the United States Geological Survey, the United States Agricultural Stabilization and Conservation Services, the United States Soil Conservation Service, the State's Land Records Management Grants, the State's Soil Survey mapping, and other State-funded mapping efforts.

—PERSONNEL FOR SALE OF SWAMP LAND

Sec. 170. The salaries and employee benefits of the two employees of the Department of Administration, Real Property Office who administer and assist in the sale of swamp lands belonging to the State are costs of selling the swamp lands; therefore, these costs shall be funded from the receipts of the sale of the swamp lands. The net proceeds of the sale of the swamp lands shall be deposited in the State Literary Fund.

Notwithstanding the provisions of Article 32 of Chapter 115C of the General Statutes, in the event and to the extent that receipts from the sale of swamp lands are insufficient to cover the costs of selling the swamp lands belonging to the State, interest on funds in the State Literary Fund and interest on loans from the State Literary Fund shall not be deposited in the State Literary Fund but shall be used to fund said costs.

—TRANSFER FOR SURPLUS PROPERTY WAREHOUSE

Sec. 171. The Director of the Budget shall transfer from the Equipment Reserve Fund to the Department of Administration the sum of one hundred thousand dollars (\$100,000) for the operation of the State Surplus Property Warehouse for fiscal year 1983-84.

—OIL RE-REFINING FACILITY

Sec. 172. The General Assembly urges the Department of Administration to sell the oil re-refining facility. The General Assembly finds that the State has initiated this innovative technology and should now turn it over to private enterprise.

—COMMUTING POLICY

Sec. 173. G.S. 143-348(8)i.7a. is amended by rewriting the first sentence of the third paragraph to read:

"Every individual who uses a State-owned passenger motor vehicle, pick-up truck, or van to drive between his official work station and his home, shall reimburse the State

for these trips at the current motor pool rate established by the Department of Administration."

Sec. 174. The last sentence of the third paragraph of G.S. 143-348(8)i.7a. is amended by deleting "every 60 days" and inserting in lieu thereof "every 90 days".

Sec. 174.1. (a) Section 61, Chapter 1282, Session Laws of 1981 (Regular Session, 1982) is amended by deleting "1982-83 fiscal year", and inserting in lieu thereof "1983-85 biennium".

(b) This section is effective July 1, 1983.

—STATE-OWNED RENTAL HOUSING

Sec. 175. (a) The Department of Administration shall recommend a method for establishing statewide rental rates on the essential State-owned rental property that takes into consideration the age, construction, and condition of the housing unit; the fair market value of comparable privately owned housing units in the same locations as State-owned housing; and the benefit to the State, other than rental income, of renting to a State employee.

The Department shall submit its report to the Speaker of the House and the Lieutenant Governor no later than April 1, 1984.

(b) It is the policy of the State of North Carolina that the State provide rental housing only in cases in which an essential State purpose is served. State departments may continue to divest themselves of nonessential rental housing prior to the Department of Administration's recommendation or during any other authorized study.

PART XX—OFFICE OF THE GOVERNOR

—NEED BASED STUDENT LOANS

Sec. 176. G.S. 143-47.21 is amended by deleting "Medical Student Loans" and inserting in lieu thereof "Student Loans".

Sec. 177. G.S. 143-47.21 is further amended by adding immediately after the word "professionals" the words ", or leading to graduation as mathematicians or scientists".

Sec. 178. The catch line to Article 2D of Chapter 143 of the General Statutes is amended by deleting the word "Medical".

Sec. 179. G.S. 120-123(33a) is amended by deleting the word "Medical".

Sec. 180. G.S. 143-47.24 is amended in the first paragraph by adding new sentences to read: "The loans administered pursuant to this Article shall be repaid in a manner to be determined by the Board. There shall be no forgiveness of any portion of the loans."

Sec. 181. G.S. 143-47.24 is amended by adding the following sentences to the fourth paragraph: "The position of Executive Secretary to the Board shall be appointed by the State Budget Officer and is exempt from G.S. 126-5(a). The compensation of the Secretary shall be fixed by the State Budget Officer after consultation with the Office of State Personnel."

Sec. 182. The Board for Need-Based Student Loans is directed to study the growth of eligible fields of study, make quarterly reports to the Joint Legislative Commission on Governmental Operations, and report its findings to the 1984 Session of the General Assembly. Such reports shall include, but not be limited to:

- (1) A comparison of the public demand for fields of study deemed eligible by an Act of the General Assembly and those fields deemed eligible by the predecessor to the Board for Need-Based Student Loans;
- (2) A complete justification of the need for continued funding of all eligible fields of study;
- (3) The anticipated impact of eliminating the 11 fields of study made eligible for student loans by acts of the Medical Care Commission in administering the medical school student incentive loan program as it existed prior to July 1, 1982, pursuant to former G.S. 131-121 et seq.;
- (4) The impact of the loan program on low income and minority students enrolled in eligible fields of study; and
- (5) The impact of the loan program on securing health care professionals in medically underserved areas and on securing needed mathematicians and scientists. (Medically underserved should not be defined using current program regulations).

—STATE VEHICLE MAINTENANCE SYSTEM STUDY

Sec. 183. (a) The Office of State Budget and Management and the Division of Motor Fleet Management of the Department of Administration shall coordinate the work of a new Preventive Maintenance and Inventory Task Force. The Task Force shall consist of a representative from each of the following agencies to be appointed by that agency: Department of Transportation; Division of Highway Patrol, Department of Crime Control and Public Safety; Division of School Transportation, State Board of Education Controller's Office; Division of Motor Fleet Management, Department of Administration; and the Office of State Budget and Management. Appointments shall be made as soon as feasible and no later than August 1, 1983. The representative of the Office of State Budget and Management shall chair the Task Force.

The Task Force shall develop and install a common motor vehicle parts inventory and preventive maintenance system which shall at a minimum include:

- (1) a common inventory catalogue and a core group of common data elements relating to vehicle maintenance and history;
- (2) information at the individual garage level concerning inventory held elsewhere in the system;
- (3) necessary management reports, including individual vehicle repair history;
- (4) preventive maintenance scheduling based on standard work times derived from historical information or by other means;
- (5) more accurate cost accounting within the agency motor vehicle and garage operations, including information that would ultimately allow a

uniform charge system and permit cost-benefit analysis of using commercial facilities.

The Task Force shall make reports to the Joint Legislative Commission on Governmental Operations every 90 days and shall send copies of these reports to members of the Base Budget Subcommittee on State-Owned Garages. The Task Force shall make a final report to the 1983 General Assembly by submitting copies to the Base Budget chairmen and the members of the Subcommittee no later than June 1, 1984.

(b) The Office of Administrative Analysis, Department of Administration, shall develop data on the garages in the Departments of Agriculture, Natural Resources, Human Resources, Correction, Cultural Resources, and Justice and in The University of North Carolina System. This data shall at a minimum include number of personnel, cost of operation, inventory, purchasing procedures, number and type of vehicles and equipment owned and serviced, repair and maintenance policies, and garage size.

The Office of Administrative Analysis shall work with the Task Force to develop a comparable system of inventory control and preventive maintenance with the departments named in this subsection. That Office shall also develop, in coordination with the Task Force, a plan for consolidating garages or garage operations when it can document that consolidation would save money and make operations more efficient.

The Office of Administrative Analysis shall make reports to the Joint Legislative Commission on Governmental Operations every 90 days and shall send copies of these reports to members of the Base Budget Subcommittee on State-Owned Garages. The Office shall make a final report to the 1983 General Assembly by submitting copies to the Base Budget chairmen and the members of the Subcommittee no later than June 1, 1984.

(c) No new garages may be created and no existing garages may be consolidated before the final reports required by this section are filed.

(d) The Division of Purchase and Contract, Department of Administration, shall require that training for an appropriate number of mechanics be included as an item in all future requests for bids on motor vehicle contracts.

—NC SCHOOL OF SCIENCE AND MATHEMATICS

Sec. 184. G.S. 115C-223(a)(5) is amended by rewriting the second sentence as follows:

"One of these members shall be designated by the Governor as Chairman of the Board of Trustees."

—AGENCY RULES SUBMITTED TO THE DIRECTOR OF THE BUDGET

Sec. 185. G.S. 150A-11(4) is rewritten to read as follows:

"(4) With respect to all proposed rules requiring the expenditure or distribution of State funds, submit to the Director of the Budget a summary of the proposed rule or rules and obtain approval of such expenditure or distribution of State funds prior to publishing the notice of public hearing required by G.S. 150A-12(a). For purposes of this subdivision, 'State funds' shall have the same meaning as defined in G.S. 143-1 and shall also apply to the funding of all occupational licensing boards included under G.S.

150A-1. Any occupational licensing board that has proposed rules but has not filed the rules prior to the effective date of this section shall submit the rules to the Director of the Budget for approval."

—JAIL FACILITY GRANT-IN-AID

Sec. 186. (a) Funds are appropriated in Section 2 of this act in the amount of two hundred fifty thousand dollars (\$250,000) for the 1983-84 fiscal year as a grant-in-aid for jail facilities at Ocracoke in Hyde County. These funds shall be allocated only upon the approval of the Director of the Budget and shall only be used for this purpose.

(b) This section is effective July 1, 1983.

PART XXI.—BOARD OF STATE CONTRACT APPEALS

Sec. 187. Chapter 143 of the General Statutes is amended by adding a new Article to read:

"Article 8A.

"Board of State Contract Appeals.

"§ 143-135.5. Board of State Contract Appeals - creation; powers and duties.—There is created the Board of State Contract Appeals with the authority to hear and decide appeals from the decisions of the Secretary of Administration made pursuant to G.S. 143-135.3, and the State Highway Administrator, made pursuant to G.S. 136-29, concerning claims raised under State construction contracts. Notice of the appeal shall be filed with the Board within 30 days after notice of a final decision by the agency head. Except as expressly provided otherwise in this Article, appeals to the Board shall be subject to Article 3 of Chapter 150A of the General Statutes.

"§ 143-135.6. Board of State Contract Appeals - members; selection; quorum; compensation.—(a) The Board of State Contract Appeals shall consist of five members with three appointed by the Governor and two appointed by the General Assembly.

(b) The Governor shall appoint three members not later than July 1, 1983. One of the three members appointed by the Governor shall be either experienced in building or highway construction or engaged in the business of general contracting. The first member shall serve until June 30, 1984, the second member shall serve until June 30, 1985, and the third member shall serve until June 30, 1986. Thereafter, the members of the Board appointed by the Governor shall serve four-year terms. The General Assembly shall appoint one member upon the recommendation of the President of the Senate and the General Assembly shall appoint one member upon the recommendation of the Speaker of the House of Representatives; these appointments shall be made in accordance with G.S. 120-121. The members appointed by the General Assembly shall serve until June 30, 1984. Thereafter, the appointment of their successors shall be for terms of two years.

(c) Any appointment to fill a vacancy on the Board created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term. Members appointed by the General Assembly to fill vacancies shall be appointed in accordance with G.S. 120-122.

(d) The Governor shall have the right to remove any member for misfeasance, malfeasance, or nonfeasance in accordance with the provisions of G.S. 143B-13.

(e) The members of the Board shall receive necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5 and a salary of two hundred dollars (\$200.00) per day when hearing appeals.

(f) The majority of the Board shall constitute a quorum for the transaction of business.

(g) All clerical and other services required by the Board shall be supplied by the Secretary of Administration.

(h) The Board shall promulgate rules and regulations governing the conduct of hearings which shall include the requirements that rules of evidence shall apply and that sworn testimony shall be received and recorded in a verbatim transcript prepared by a court reporter.

"§ 143-135.7. Board of State Contract Appeals - officers.—The Board of State Contract Appeals shall have a chairman and a vice- chairman. The chairman shall be appointed by the Governor from among the members of the Board and shall serve at his pleasure.

"§ 143-135.8. Board of State Contract Appeals - meetings.—The Board shall meet on the call of the chairman. The first meeting shall be held on or before January 1, 1984, and shall be for the purpose of promulgating rules and regulations consistent with this act.

"§ 143-135.9. Appeals from the Board of State Contract Appeals.—(a) No party to a proceeding before the Board may appeal from any final order or decision of the Board unless within 30 days after the entry of such final order or decision, the party aggrieved by such decision or order shall file with the Board notice of appeal and exceptions which shall set forth specifically the ground or grounds on which the aggrieved party considers said decision or order to be unlawful, unjust, unreasonable or unwarranted, and including errors alleged to have been committed by the Board.

(b) Any party may appeal from all or any portion of any final order or decision of the Board in the manner herein provided. Copy of the notice of appeal shall be mailed by the appealing party at the time of filing with the Board, to each party to the proceeding to the addresses as they appear in the files of the Board in the proceeding. The failure of any party, other than the Board, to be served with or to receive a copy of the notice of appeal shall not affect the validity or regularity of the appeal.

(c) The Board may on motion of any party to the proceeding or on its own motion set the exceptions to the final order upon which such appeal is based for further hearing before the Board.

(d) The appeal shall lie to the Court of Appeals as provided in G.S. 7A-29. The procedure for the appeal shall be as provided by the rules of appellate procedure.

(e) The Court of Appeals shall hear and determine all matters arising on such appeal, as in this Article provided, and may in the exercise of its discretion assign the hearing of said appeal to any panel of the Court of Appeals.

"§ 143-135.10. No evidence admitted on appeal; remission for further evidence.—No evidence shall be received at the hearing on appeal to the Court of Appeals but if any

party shall satisfy the court that evidence has been discovered since the hearing before the Board of State Contract Appeals that could not have been obtained for use at that hearing by the exercise of reasonable diligence, and will materially affect the merits of the case, the court may, in its discretion, remand the record and proceedings to the Board with directions to take such subsequently discovered evidence, and after consideration thereof, to make such order as the Board may deem proper, from which order an appeal shall lie as in the case of any other final order from which an appeal may be taken as provided in G.S. 143- 135.9.

"§ 143-135.11. Record on appeal; extent of review.—(a) On appeal the court shall review the record and the exceptions and assignments of error in accordance with the rules of appellate procedure, and any alleged irregularities in procedures before the Board of State Contract Appeals, not shown in the record, shall be considered under the rules of appellate procedure.

(b) So far as necessary to the decision and where presented, the court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning and applicability of the terms of any Board action. The court may affirm or reverse the decision of the Board, declare the same null and void, or remand the case for further proceedings; or it may reverse or modify the decision if the substantial rights of the appellants have been prejudiced because the Board's findings, inferences, conclusions or decisions are:

- (1) In violation of constitutional provisions; or
- (2) In excess of statutory authority or jurisdiction of the Board; or
- (3) Made upon unlawful proceedings; or
- (4) Affected by other errors of law; or
- (5) Unsupported by competent, material and substantial evidence in view of the entire record as submitted; or
- (6) Arbitrary or capricious.

(c) In making the foregoing determinations, the court shall review the whole record or such portions thereof as may be cited by any party and due account shall be taken of the rule of prejudicial error. The appellant shall not be permitted to rely upon any grounds for relief on appeal which were not set forth specifically in his notice of appeal filed with the Board.

"§ 143-135.12. Relief pending review on appeal.—Pending judicial review, the Board of State Contract Appeals is authorized, where it finds that justice so requires, to postpone the effective date of any action taken by it. Upon such conditions as may be required and to the extent necessary to prevent irreparable injury, a judge of the Court of Appeals is authorized to issue all necessary and appropriate process to postpone the effective date of any action by the Board or take such action as may be necessary to preserve status or rights of any of the parties pending conclusion of the proceedings on appeal. The court may require the applicant for such stay to post adequate bond as required by the court.

"§ 143-135.13. Appeal to Supreme Court.—In all appeals heard in the Court of Appeals, any party may file a motion for review in the Supreme Court of the decision of the Court of Appeals under G.S. 7A-31, and in cases entitled to be appealed as a matter

of right under G.S. 7A-30 any party may appeal to the Supreme Court from the decision of the Court of Appeals under the same rules and regulations as are prescribed by law for appeals, and such court may advance the cause on its docket.

"§ 143-135.14. Judgment on appeal enforced by mandamus.—In all cases in which, upon appeal, an order or decision of the Board of State Contract Appeals is affirmed, in whole or in part, the appellate court may include in its decree a mandamus to the appropriate party to put said order in force, or so much thereof as shall be affirmed or the appellate court may make such other order as it deems appropriate.

"§ 143-135.15. Peremptory mandamus to enforce order when no appeal.—(a) If no appeal is taken from an order or decision of the State Board of Contract Appeals within the time prescribed by law and the person to which the order or decision is directed fails to put the same in operation, as therein required, the Board may apply to the judge regularly assigned to the superior court district which includes Wake County, or to the resident judge of said district at chambers upon 10 days' notice, for a peremptory mandamus upon said person for the putting in force of said order or decision; and if said judge shall find that the order of said Commission was valid and within the scope of its powers, he shall issue such peremptory mandamus.

(b) An appeal shall lie to the Court of Appeals in behalf of the Board or the defendant, from the refusal or the granting of such peremptory mandamus. The remedy prescribed in this section for enforcement of orders of the Board is in addition to other remedies prescribed by law."

Sec. 188. G.S. 7A-29 is amended by adding immediately after the words "the Property Tax Commission pursuant to G.S. 105-290 and 105-342," the words "the Board of State Contract Appeals pursuant to G.S. 143-135.9,".

Sec. 189. G.S. 7A-31(a) is amended by adding immediately after the words "the Property Tax Commission pursuant to G.S. 105-345," the words and punctuation "the Board of State Contract Appeals pursuant to G.S. 143-135.9,".

Sec. 190. G.S. 143-135.3 is amended by adding a new paragraph between the third and fourth paragraphs thereof to read as follows:

"Alternatively, in lieu of instituting a civil action in a superior court, the contractor may, as to the portion of the claim which may be denied by the Secretary of Administration, within 30 days from receipt of the decision, appeal the decision to the Board of State Contract Appeals as provided in G.S. 143- 135.5."

G.S. 143-135.3 is further amended by adding the words "or the filing of a notice of appeal to the Board of State Contract Appeals" following the word "court" at the end of the second line of the fourth paragraph thereof.

Sec. 191. G.S. 136-29 is amended by renumbering subsections (d) and (e) as subsections (e) and (f) respectively, and by adding a new subsection (d) to read:

"(d) Alternatively, in lieu of instituting a civil action in superior court pursuant to subsection (b) above, the contractor may, as to the portion of the claim as is denied by the State Highway Administrator, within 30 days from receipt of the decision, appeal the decision to the Board of State Contract Appeals as provided in G.S. 143-135.5."

G.S. 136-29 is further amended in subsection (e) as renumbered above on line 4 by adding the following between the words "section" and "shall": "or the filing of a notice of appeal to the Board of State Contract Appeals as set out in subsection (d)".

Sec. 192. Sections 187, 188, 189, 190, 191, and 192 are effective upon ratification and shall apply to decisions made by the Secretary of Administration and the State Highway Administrator on or after January 1, 1984.

PART XXII.—SALARY, RETIREMENT, AND EMPLOYEE BENEFITS

—MOST STATE EMPLOYEES/FIVE PERCENT SALARY INCREASE

Sec. 193. (a) The salaries in effect on June 30, 1983, for all permanent State employees paid from the General Fund or the Highway Fund shall be increased on July 1, 1983, by an average of five percent (5%) rounded to conform to the steps in the salary ranges which the State Personnel Commission adopts. If the salary in effect on June 30, 1983, for an employee is not equal to a specific pay rate in the salary schedule effective on that date, his annual increase shall be five percent (5%) with the annual salary adjusted so as to be divisible by twelve. The Director of the Budget is authorized to transfer from the salary reserve fund created in Sections 2 and 3 of this act for this purpose all funds necessary for the five percent (5%) average increase, including funds for the employer's retirement and Social Security contributions.

Except as otherwise provided in this act, the salaries of State officials, department secretaries, and persons in exempt positions which are recommended by the Governor or the Governor and the Advisory Budget Commission and set by the General Assembly shall be increased an average of five percent (5%) commencing July 1, 1983. The Director of the Budget is authorized to transfer from the salary reserve fund created in Sections 2 and 3 of this act for this purpose all funds necessary for the five percent (5%) average increase, including funds for the employer's retirement and Social Security contributions.

The Director of the Budget is authorized to allocate out of special operating funds or from other sources of the employing agency, except tax revenues, sufficient funds to allow a salary increase averaging five percent (5%), including funds for the employer's retirement and Social Security contributions, for the employees of the agency, provided that the employing agency elects to make available the necessary funds.

The Director of the Budget is authorized to promulgate special rules and regulations to apply to salary increases for employees whose salaries are paid from interagency receipts where payments for the services of those employees originate from State appropriations to the end that the effective purchasing power of the appropriations is not materially reduced as a result of these salary increases. The salary increase may average up to five percent (5%), and funds made available for it shall include amounts necessary for the increase and the employer's retirement and Social Security contributions. Any questions as to the applicability of the provisions of this paragraph shall be resolved by the Director of the Budget.

The salaries of all permanent public school employees paid from allocations to local school units for State Aid- Exceptional Children ADM appropriation, Health Education Coordinator grants, Community Schools Coordinator grants, Vocational Education State Aid Non-Matching Expansion ADM allocation, Vocational Education State Aid Extended Day ADM allocations and State-matching funds for School Food Service Supervisors shall be increased by an average of five percent (5%) commencing July 1, 1983. The Director of the Budget is authorized to transfer from the salary reserve fund created in Section 2 of this act for legislative salary increases for public school employees all funds necessary for the five percent (5%) salary increase including funds for the employer's retirement and Social Security contributions.

Salaries for positions which are funded partially from the General Fund and partially from sources other than the General Fund shall be increased from the General Fund appropriation only to the extent of the proportionate part of the salaries paid from the General Fund.

The granting of the legislative salary increases under this section does not affect the status of eligibility for salary increments for which employees may be eligible.

The salary range maximums for all employees under the State Personnel Act shall be increased to accommodate the legislative salary increase so that every employee will continue to have the same relative position with respect to salary increases and future increments as he would have had if the legislative salary increases had not been made.

The salary increases provided in this act to be effective July 1, 1983, do not apply to persons separated from State service due to resignation, dismissal, reduction in force, death, or retirement whose last workday is prior to July 1, 1983.

Any remaining appropriations for legislative salary increases not required for that purpose may be used to supplement the Salary Adjustment Fund.

Within regular Executive Budget Act procedures as limited by this act, all State agencies and departments are authorized to increase on an equitable basis the rate of pay of temporary State employees, subject to availability of funds in the particular agency or department by pro rata amounts approximately equal to five percent (5%) commencing July 1, 1983.

(b) This section is effective July 1, 1983.

—GOVERNOR/SALARY

Sec. 194. Effective July 1, 1983, the first sentence of G.S. 147-11 is rewritten to read:

"The salary of the Governor shall be sixty thousand seven hundred sixty-eight dollars (\$60,768) per annum, payable monthly."

Sec. 195. Effective January 1, 1985, the first sentence of G.S. 147-11 is rewritten to read:

"The salary of the Governor shall be eighty-five thousand dollars (\$85,000) per annum, payable monthly."

—LEGISLATIVE EMPLOYEES/FIVE PERCENT SALARY INCREASE

Sec. 196. (a) The Legislative Services Officer may increase the salaries of nonelected employees of the General Assembly in effect on June 30, 1983, by five percent (5%) commencing July 1, 1983, rounded to the nearest whole dollar figure divisible by 12 and otherwise adjusted to conform with the relative levels of the Legislative Services Commission salary schedule. The granting of this legislative percentage salary increase does not affect the status of employees' eligibility for other salary increments. Funds in the salary reserve fund created in Section 2 of this act shall provide the salary increase authorized by this section, including the employer's retirement and Social Security contributions.

(b) This section is effective July 1, 1983.

—GENERAL ASSEMBLY PRINCIPAL CLERKS/SALARY INCREASES

Sec. 197. Effective July 1, 1983, G.S. 120-37(c) is amended by deleting the phrase "twenty-five thousand seven hundred sixteen dollars (\$25,716)" and substituting the phrase "twenty-seven thousand twelve dollars (\$27,012)" in lieu thereof.

—JUDICIAL BRANCH OFFICIALS/SALARIES

Sec. 198. (a) The annual salary, in fiscal years 1983- 85, of the specified judicial branch officials is as follows:

| <u>Judicial Branch Officials</u> | <u>1983-85</u> |
|--|----------------|
| Chief Justice, Supreme Court | \$61,128 |
| Associate Justice, Supreme Court | 59,868 |
| Chief Judge, Court of Appeals | 57,948 |
| Judge, Court of Appeals | 56,676 |
| Judge, Senior Regular Resident Superior Court | 51,984 |
| Judge, Superior Court | 50,328 |
| Chief Judge, District Court | 42,372 |
| Judge, District Court | 40,752 |
| District Attorney | 46,812 |
| Assistant District Attorney - an average of | 30,276 |
| Administrative Officer of the Courts | 53,496 |
| Assistant Administrative Officer of the Courts | 38,208 |
| Public Defender | 46,812 |
| Assistant Public Defender - an average of | 30,276 |

If an acting senior regular resident superior court judge is appointed under the provisions of G.S. 7A-41, he shall receive the salary for Judge, Senior Regular Resident, Superior Court, and the judge he replaces shall receive the salary indicated for Judge, Superior Court.

The district attorney or public defender of a judicial district with the approval of the Administrative Officer of the Courts, shall set the salaries of assistant district attorneys or assistant public defenders, respectively, in that district such that the average salaries of assistant district attorneys or assistant public defenders in that district do not exceed thirty thousand two hundred seventy-six dollars (\$30,276) and the minimum

salary of any assistant district attorney or assistant public defender is at least fifteen thousand two hundred eighty- eight dollars (\$15,288) per annum.

Funds in the salary reserve fund created in Section 2 of this act for salary increases and related employer's retirement and Social Security contributions for permanent employees of the Judicial Department, except for those itemized in this act, shall provide salary increases commencing July 1, 1983, of the same percentage as that authorized in Section 2 of this act for State employees subject to the Personnel Act, rounded to conform to the steps in the salary ranges adopted by the Judicial Department.

(b) This section is effective July 1, 1983.

—MAGISTRATES/SALARIES

Sec. 199. Effective July 1, 1983, the schedule of salaries of full-time magistrates shown in the table in subdivision (1) of G.S. 7A-171.1 is deleted and the following schedule is substituted:

| <u>Number of prior years of service</u> | <u>Annual salary</u> |
|---|----------------------|
| Less than 1 | \$ 10,440 |
| 1 or more but less than 3 | 11,340 |
| 3 or more but less than 5 | 12,396 |
| 5 or more but less than 7 | 13,572 |
| 7 or more but less than 9 | 14,760 |
| 9 or more | 16,152 |

—CLERKS OF COURT/SALARIES

Sec. 200. Effective July 1, 1983, the schedule of salaries of clerks of superior courts beginning on line 5 of G.S. 7A-101 is deleted and the following schedule is substituted:

| <u>Population</u> | <u>Salary</u> |
|--------------------|---------------|
| Less than 19,999 | \$ 21,024 |
| 20,000 to 49,999 | 24,852 |
| 50,000 to 99,999 | 28,668 |
| 100,000 to 199,999 | 32,484 |
| 200,000 and above | 39,492 |

—COMMUNITY COLLEGES PERSONNEL/SALARY INCREASES

Sec. 201. (a) The Director of the Budget may transfer from the salary reserve fund created in Section 2 of this act funds necessary to provide an annual average salary increase of five percent (5%), and the employer's retirement and Social Security contributions, commencing July 1, 1983, for all community college institutional personnel. These funds shall be allocated to individuals according to rules and regulations established by the State Board of Community Colleges and may not be used for any purpose other than for the salary increases and necessary employer's contributions.

(b) This section is effective July 1, 1983.

—HIGHER EDUCATION ACADEMIC PERSONNEL/SALARY INCREASES

Sec. 202. (a) Funds are provided in Section 2 of this act for fiscal year 1983-84 (to be continued for fiscal year 1984-85) in an amount in the equivalent of a five percent (5%) across-the-board salary increase to be used in lieu of automatic and merit salary increases and longevity pay for employees of The University of North Carolina who are exempt from the State Personnel Act. Funds appropriated for this purpose are to be allocated to individuals in accordance with rules and regulations established by the Board of Governors and may not be used to establish any new positions.

(b) This section is effective July 1, 1983.

—LEGISLATORS SALARIES INCREASED NO MORE THAN STATE EMPLOYEES

Sec. 203. G.S. 120-3 is rewritten effective upon convening of the 1985 Regular Session of the General Assembly to read:

"(a) The Speaker of the House shall be paid an annual salary of twenty thousand dollars (\$20,000) payable monthly and an expense allowance of seven hundred dollars (\$700.00) per month. The President Pro Tempore of the Senate, the Speaker Pro Tempore of the House, the minority leader in the House, and the majority and minority leader in the Senate shall each be paid an annual salary of nine thousand five hundred forty dollars (\$9,540), payable monthly, and an expense allowance of two hundred fifty-three dollars (\$253.00) per month.

(b) Every other member of the General Assembly shall receive increases in annual salary and expense allowances only to the extent of and in the percentage equal to those received by employees of the State as general across-the-board pay increases, effective upon convening of the next regular session of the General Assembly after enactment of such percentage increase. Accordingly, upon convening of the 1985 Regular Session of the General Assembly, every other member of the General Assembly shall be paid an annual salary of seven thousand six hundred thirty-two dollars (\$7,632), payable monthly, and an expense allowance of one hundred ninety dollars (\$190.00) per month.

(c) The salary and expense allowances provided in this section are in addition to any per diem compensation and any subsistence and travel allowance authorized by any other law with respect to any regular or extra session of the General Assembly, and service on any State board, agency, commission, standing committee and study commission."

—COUNCIL OF STATE/SALARIES

Sec. 204. (a) The annual salaries of the Council of State, payable monthly, for fiscal years 1983-85, shall be as follows:

| | 1983-85 |
|---------------------|----------|
| Lieutenant Governor | \$50,328 |
| Attorney General | 53,976 |
| Secretary of State | 50,328 |
| State Treasurer | 50,328 |

| | |
|--------------------------------------|--------|
| State Auditor | 50,328 |
| Superintendent of Public Instruction | 53,976 |
| Agriculture Commissioner | 50,328 |
| Insurance Commissioner | 50,328 |
| Labor Commissioner | 50,328 |

(b) This section is effective July 1, 1983.

Sec. 205. Whereas it is the opinion of the General Assembly that all salaries of Council of State members other than the Governor should be equal, or that criteria for the setting of salary for each officer shall be established based on the responsibilities of each office or other factors deemed appropriate, to that end, the salaries of the Attorney General and the Superintendent of Public Instruction shall remain at fifty-three thousand nine hundred seventy-six dollars (\$53,976), and the others set at fifty thousand three hundred twenty-eight dollars (\$50,328), as provided in the previous section in an effort to equalize these salaries until criteria is set to justify differences. This section is effective July 1, 1983.

Sec. 206. Effective July 1, 1983, G.S. 58-6 is amended to read as follows:

"§ 58-6. **Salary of Commissioner of Insurance.**—The salary of the Commissioner of Insurance shall be set by the General Assembly in the Budget Appropriation Act."

Sec. 207. Effective July 1, 1983, the second sentence of G.S. 95-2 is amended to read as follows:

"The term of office of the Commissioner of Labor shall be four years, and the salary of the Commissioner of Labor shall be set by the General Assembly in the Budget Appropriation Act."

Sec. 208. Effective July 1, 1983, G.S. 106-11 is amended to read as follows:

"§ 106-11. **Salary of Commissioner of Agriculture.**—The salary of the Commissioner of Agriculture shall be set by the General Assembly in the Budget Appropriation Act."

Sec. 209. Effective July 1, 1983, G.S. 114-7 is amended to read as follows:

"§ 114-7. **Salary of the Attorney General.**—The salary of the Attorney General shall be set by the General Assembly in the Budget Appropriation Act."

Sec. 210. Effective July 1, 1983, G.S. 115C-20 is amended to read as follows:

"§ 115C-20. **Office and salary.**—The Superintendent of Public Instruction shall keep his office in the Education Building in Raleigh, and his salary shall be set by the General Assembly in the Budget Appropriation Act."

Sec. 211. Effective July 1, 1983, the first sentence of G.S. 147-33 is amended to read as follows:

"The salary of the Lieutenant Governor shall be set by the General Assembly in the Budget Appropriation Act."

Sec. 212. Effective July 1, 1983, G.S. 147-35 is amended to read as follows:

"§ 147-35. **Salary of Secretary of State.**—The salary of the Secretary of State shall be set by the General Assembly in the Budget Appropriation Act."

Sec. 213. Effective July 1, 1983, G.S. 147-55 is amended by deleting the words: "the same as for superior court judges as".

Sec. 214. Effective on the effective date of that section G.S. 147-64.1 is amended to read as follows:

"§ 147-64.1. Salary of State Auditor.—(a)The salary of the State Auditor shall be set by the General Assembly in the Budget Appropriation Act.

(b) This section is effective only if G.S. 147-64.1 is enacted by the General Assembly in House Bill 517, 1983 Session."

Sec. 215. Effective July 1, 1983, G.S. 147-65 is amended to read as follows:

"§ 147-65. Salary of State Treasurer.—The salary of the State Treasurer shall be as established in the Budget Appropriation Act."

—MISCELLANEOUS SALARIES

Sec. 216. (a) Pursuant to the Separation of Powers Act of 1983, the annual salaries, payable monthly, for fiscal years 1983-85 for the following State officials are:

| | <u>1983-85</u> |
|--|----------------|
| Chairman, Alcoholic Beverage Control Commission | \$ 48,408 |
| Commissioner of Motor Vehicles | 47,712 |
| Commissioner of Banks | 48,408 |
| Deputy Banking Commissioner | 37,008 |
| Chairman, Employment Security Commission | 48,408 |
| President, Department of Community Colleges | 63,684 |
| State Personnel Director | 51,636 |
| State Highway Administrator | 50,556 |
| Chairman, Parole Commission | 44,172 |
| Members of the Parole Commission | 40,752 |
| Chairman, Industrial Commission | 43,452 |
| Members of the Industrial Commission | 42,396 |
| Executive Director, Agency for Public Telecommunications | 40,750 |
| Director, Seafood Industrial Park Authority | 29,784 |
| General Manager, Ports Railway Commission | 36,750 |

(b) This section is effective July 1, 1983.

—FREEZE CONTINUED

Sec. 217. Notwithstanding the provisions of Section 19.1 of Chapter 1137 of the 1979 Session Laws as amended by Chapter 1053 of the 1981 Session Laws, G.S. 115C-12(9)a., G.S. 126-7, or any other provision of law, no employee or officer of the public school system shall receive an automatic increment, and no State employee or officer shall receive a merit increment during the 1983-84 fiscal year, except as otherwise permitted by this act. This section is effective July 1, 1983, and expires June 30, 1984.

—COST-OF-LIVING ADJUSTMENTS FOR RETIREES/TEACHERS, STATE EMPLOYEES, LAW OFFICERS, JUDGES, SOLICITORS, SUPERIOR COURT CLERKS

Sec. 218. G.S. 135-5(o) is amended by adding a new paragraph to read:

"Notwithstanding the above paragraphs, retired members and beneficiaries may receive cost-of-living increases in retirement allowances if active members of the system receive across-the-board cost-of-living salary increases. Such increases in post-retirement allowances shall be comparable to cost-of-living salary increases for active members in light of the differences between the statutory payroll deductions for State retirement contributions, Social Security taxes, State income withholding taxes, and federal income withholding taxes required of each group. The increases for retired members shall include the cost-of-living increases provided in this section. The cost-of-living increases allowed retired and active members of the system shall be comparable when each group receives an increase that has the same relative impact upon the net disposable income of each group.

—COST-OF-LIVING ADJUSTMENTS FOR RETIREES/TEACHERS, STATE EMPLOYEES, LAW OFFICERS, JUDGES, SOLICITORS AND SUPERIOR COURT CLERKS.

Sec. 219. Effective July 1, 1983, G.S. 135-5 is amended by the addition of a new subsection designated as "(gg)" to read:

"(gg) From and after July 1, 1983, the retirement allowance to or on account of beneficiaries on the retirement rolls as of July 1, 1982, shall be increased by two and one-half percent (2.5%) of the allowance payable on July 1, 1982, provided the increase in retirement allowances shall be payable in accordance with all requirements, stipulations and conditions set forth in subsection (o) of this section, plus an additional one and one-half percent (1.5%) of the allowance payable on July 1, 1982, in order to supplement the increase payable in accordance with subsection (o) of this section."

Sec. 220. Effective July 1, 1983, G.S. 143-166 is amended by adding a new subsection (x7) to read:

"(x7) From and after July 1, 1983, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1982, shall be adjusted by an increase of four percent (4%)."

Sec. 221. Effective July 1, 1983, G.S. 135-65 is amended by the addition of a new subsection designated as "(d)" to read:

"(d) Increases in Benefits Paid to Members Retired Prior to July 1, 1982. From and after July 1, 1983, the retirement allowance to or on account of beneficiaries on the retirement rolls as of July 1, 1982, shall be increased by four percent (4%) of the allowance payable on July 1, 1982, provided the increase in retirement allowances shall be payable in accordance with all requirements, stipulations and conditions set forth in subsection (a) of this section."

—UNREDUCED RETIREMENT ALLOWANCE/TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM

Sec. 222. Notwithstanding the provisions of Chapter 135 of the General Statutes, any member of the Teachers' and State Employees' Retirement System who is at least 60 years of age with 25 or more years of creditable service at retirement shall be entitled to an unreduced service retirement allowance based upon the number of years

of creditable service at the time of retirement. For each month that this unreduced service retirement precedes a member's 65th birthday, or the completion of 30 years of creditable service, whichever is smaller, a member's employer shall pay to the Board of Trustees of the Teachers' and State Employees' Retirement System, on a one-time basis, an amount equal to one-half of one percent (1/2 of 1%) multiplied by the highest annual salary paid to the member during the last consecutive four years of service. The additional one-time employer cost shall be provided by available salary reserves resulting from employee turnover. This section is effective July 1, 1983, shall be effective only through June 30, 1985, and shall be applicable to those members whose retirement becomes effective before July 1, 1985.

—CODIFICATION OF AND AUTHORITY TO PAY SPECIAL PENSIONS FROM THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM

Sec. 223. Effective July 1, 1983 G.S. 135-14 is rewritten to read:

"§ 135-14. Pensions of certain former teachers and State employees.—On and after July 1, 1983, special pensions and allowances of certain former teachers and State employees shall be paid out of the Pension Accumulation Fund of the Retirement System, as follows:

(a) Any person who was a teacher or employee, as defined in G.S. 135-1(10) and (25), for 20 or more years, whose separation from service was prior to April 1, 1956, was not due to any dishonorable cause, and who had attained age 65 prior to July 1, 1960, shall upon application be paid an allowance of one hundred seventy-three dollars and twenty-five cents (\$173.25) per month.

(b) Any beneficiary who did not qualify for Social Security benefits and had 20 or more years of creditable service and qualified for a minimum eighty-five dollars (\$85.00) per month under the provisions of Chapter 1140 of the 1965 Session Laws, shall be paid the allowance in effect on June 30, 1983.

(c) Any beneficiary who did not qualify for Social Security benefits and who had 15 years but less than 20 years of creditable service and qualified for a benefit of four dollars (\$4.00) per month for each year of creditable service under the provisions of Chapter 1199 of the 1965 Session Laws shall be paid the allowance in effect on June 30, 1983.

(d) All the allowances in subsections (a) through (c) of this section may be adjusted by any cost-of-living increases in retirement allowances provided by the General Assembly or by the Board of Trustees."

—CONSIDER TENTH STEP/RETIREMENT FORMULA INCREASE

Sec. 224. It is the intent of the First Session of the 1983 General Assembly to give consideration during the 1984 Second Session for providing a tenth salary step for all State employees and educational personnel and for increasing the retirement formulas for educators, State employees and law enforcement officers to one and sixty hundredths percent (1.60%) of average final compensation per year of creditable service with comparable increases for retired personnel.

—DISCONTINUED SERVICE RETIREMENT ALLOWANCE AND SEVERANCE WAGES FOR MEMBERS/TEACHERS, STATE EMPLOYEES, LAW OFFICERS

Sec. 225. Effective July 1, 1983, G.S. 143-27.2 is rewritten to read as follows:

"§ 143-27.2. Discontinued service retirement allowance and severance wages for certain State employees.—The Director of the Budget, upon written request of a State department and with the recommendation of the State Personnel Officer, is authorized to pay either a discontinued service allowance or severance wages to a State employee when the Director determines that the closing of a State institution or a reduction in force will accomplish economies in the State Budget. Severance wages shall not be paid to an employee who chooses a discontinued service retirement. Severance wages shall not be subject to employer or employee retirement contributions.

Notwithstanding any other provisions of the State's retirement laws, any employee of the State who is a member of the Teachers' and State Employees' Retirement System or the Law Enforcement Officers' Retirement System and who has his job involuntarily terminated as a result of economies in the State Budget may be entitled to a discontinued service retirement allowance, subject to the approval of the employing agency and the availability of agency funds. An unreduced discontinued service retirement allowance, not otherwise allowed, may be approved for employees with 25 or more years of creditable retirement service who are at least 55 years of age; or a discontinued service retirement allowance, not otherwise allowed, may be approved for employees with 20 or more years of creditable retirement service who are at least 50 years of age, reduced by one-fourth of one percent (1/4 of 1%) for each month that retirement precedes his fifty-fifth birthday. In cases where a discontinued service retirement allowance is approved, the employing agency shall make a lump sum payment to the Administrator of the State Retirement Systems equal to the actuarial present value of the additional liabilities imposed upon the System, to be determined by the System's consulting actuary, as a result of the discontinued service retirement, plus an administrative fee to be determined by the Administrator."

—GRANDFATHER FIVE-YEAR SERVICE REQUIREMENT/ALL RETIREMENT SYSTEMS

Sec. 226. Effective July 1, 1983, G.S. 128-27(a) is amended by the addition of a new subdivision to the end to read:

"(4) Any member who was in service October 8, 1981, who had attained 60 years of age, may retire upon written application to the board of trustees setting forth at what time, as of the first day of a calendar month, not less than 30 days nor more than 90 days subsequent to the execution and filing thereof, he desires to be retired."

Sec. 227. Effective July 1, 1983, G.S. 128-27(m)(1) is amended by deleting the phrase "had attained age 55 regardless of length of service" and substituting in lieu thereof the phrase "had attained the age of 60 years with at least five years of creditable service".

Sec. 228. Effective July 1, 1983, G.S. 135-5(a) is amended by the addition of a new subdivision (3) to read:

"(3) Any member who was in service October 8, 1981, who had attained 60 years of age, may retire upon written application to the board of trustees setting forth at what time, as of the first day of a calendar month, not less than 30 days nor more than 90 days subsequent to the execution and filing thereof, he desires to be retired."

Sec. 229. Effective July 1, 1983, G.S. 135-5(m)(1) is amended by deleting the phrase "had attained age 55 regardless of length of service" and substituting the phrase "had attained the age of 60 years with at least five years of creditable service".

Sec. 230. Effective July 1, 1983, G.S. 135-57 is amended by the addition of a new subsection (d) to read:

"(d) Any member who was in service October 8, 1981, who had attained 50 years of age, may retire upon written application to the board of trustees setting forth at what time, as of the first day of a calendar month, not less than 30 days nor more than 90 days subsequent to the execution and filing thereof, he desires to be retired."

Sec. 231. Effective July 1, 1983, G.S. 135-63(a) is amended in the first sentence after the "(ii)" and after the words "his fiftieth birthday" and before the words "at his date of death" by inserting the words "with at least five years of membership service".

Sec. 232. Effective July 1, 1983, G.S. 143-166(y) is amended at the end of the first paragraph after the word "service" and before the period by adding the following phrase:

"; Provided however, any member who was in service October 8, 1981, who had attained 55 years of age, may retire".

Sec. 233. Sections 227, 229 and 231 shall not diminish any inchoate or accrued rights of any member in service on the date of ratification of this act.

—SURVIVORS' BENEFITS/JUDICIAL RETIREMENT SYSTEM

Sec. 234. Effective July 1, 1983, G.S. 135-63 is amended by adding a new subsection to the end to read:

"(d) Notwithstanding the provisions of G.S. 7A-376, there shall be paid to the surviving spouse of any former judge whose death occurred prior to July 1, 1983, who had not withdrawn his contributions pursuant to G.S. 135-62, an annual retirement allowance which shall commence on July 1, 1983, and shall be continued on the first day of each month thereafter until the death or remarriage of the spouse. If the spouse dies or remarries before the total of the retirement allowance paid equals the amount of the former judge's accumulated contributions, the excess of the accumulated contributions over the total of the retirement allowance paid to the spouse shall be paid in a lump sum to the person the spouse has nominated by written designation duly acknowledged and filed with the Board of Trustees, if the person is living at the time the payment falls due, otherwise to the spouse's legal representative. The amount of any such retirement allowance shall be computed in accordance with the provisions of subsection (a) above. This subsection does not authorize allowances to surviving

spouses of former judges convicted of crimes related to the performance of their judicial duties."

Sec. 235. The Board of Trustees of the Teachers' and State Employees' Retirement System, with the advice of the Administrative Office of the Courts, shall perform an analysis of the effects of Chapter 7A of the North Carolina General Statutes upon the Uniform Judicial Retirement System, particularly as the Chapter relates to survivor benefits, and report any recommended changes to the Second Session of the 1983 General Assembly.

—DEATH BENEFITS FOR LAW OFFICERS, FIREMEN, ETC.

Sec. 236. Effective July 1, 1983, G.S. 143-166.1 is amended by repealing the second sentence.

Sec. 237. Effective July 1, 1983, G.S. 143-166.2 is amended by adding a new subsection to the end to read:

"(f) The term 'official duties' means those duties performed while en route to, engaged in, or returning from training, or in the course of responding to, engaged in or returning from a call by the department of which he is a member, or from a call for assistance from any department or such organization within the State of North Carolina or within a service area contiguous to the borders of the State of North Carolina, when served or aided by a department from within the State of North Carolina. While within the State of North Carolina, any eligible person, as defined in this section or in G.S. 118-38, who renders service or assistance, of his own volition, at the scene of an emergency, is performing his official duties when:

- (1) reasonably apparent circumstances require prompt decisions and actions to protect persons and property; and
- (2) the necessity of immediate action is so reasonably apparent that any delay in acting would seriously worsen the property damage or endanger any person's life."

—LEGISLATIVE RETIREMENT SYSTEM

Sec. 238. Chapter 120 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 1A.

"Legislative Retirement System.

"§ 120-4.3. **Definitions.**—The following words and phrases as used in this Article, unless the context clearly requires otherwise, have the following meanings:

(1) 'Accumulated contributions' means the sum of all the amounts deducted from the compensation of a member and credited to his individual account in the annuity savings fund, together with regular interest as provided in G.S. 135-7(b).

(2) 'Actuarial equivalent' means a benefit of equal value when computed upon the basis of the mortality tables as adopted by the Board of Trustees, and regular interest.

(3) 'Annuity' means payment for life derived from the 'Accumulated contribution' of a member. All 'annuities' are payable in equal monthly installments.

(4) 'Annuity reserve' means the present value of all payments to be made on account of any annuity or benefit in lieu of any annuity, computed upon the basis of the mortality tables as adopted by the Board of Trustees, and regular interest.

(5) 'Compensation' means salary paid as a legislator for service in the North Carolina General Assembly, exclusive of travel, per diem and expense allowances.

(6) 'Filing', when used in reference to an application for retirement, means the receipt of an acceptable application on a form provided by the Retirement System.

(7) 'Highest annual salary' means the twelve consecutive months of compensation paid to a legislator which yields the highest total amount.

(8) 'Medical Board' means the board of physicians provided for in G.S. 135-6, which shall determine disability as provided in this Article.

(9) 'Member in service' means a member in service on or after the effective date of this section.

(10) 'Pension reserve' means the present value of all payments to be made on account of any pension or benefit in lieu of any pension computed upon the basis of the mortality tables adopted by the Board of Trustees, and regular interest.

(11) 'Pensions' means payments for life derived from money provided by the State of North Carolina. All pensions are payable in equal monthly installments.

(12) 'Present member of the General Assembly' means a person who is a member of the General Assembly on or after the effective date of this section.

(13) 'Regular interest' means interest compounded annually at the rate determined by the Board of Trustees in accordance with G.S. 135-7(b) and G.S. 120-4.5.

(14) 'Retirement' means the withdrawal from active service with a retirement allowance granted under the provisions of this Article. In order for a member's retirement to become effective in any month, the member must render no service at any time during that month.

(15) 'Year' as used in this Article shall mean the regular fiscal year beginning July 1, and ending June 30 in the following calendar year unless otherwise defined by rule of the Board of Trustees.

"§ 120-4.4. Name and date of establishment.—A Retirement System is established and placed under the Board of Trustees of the Teachers' and State Employees' Retirement System for administrative purposes.

The Retirement System shall have all the power and privileges of a corporation and shall be known as the 'Legislative Retirement System of North Carolina'. By this name all of its business shall be transacted, all of its funds invested and all of its cash and securities and other property held. All direction and policies concerning the Legislative Retirement System shall be vested in the Legislative Services Commission.

"§ 120-4.5. Administration of retirement system.—The Board of Trustees of the Teachers' and State Employees' Retirement System shall be the trustee of the Retirement System, under the direction of the Legislative Services Commission. The provisions of this Article shall be administered by the Board of Trustees, under the direction of the Legislative Services Commission.

"§ 120-4.6. Membership.—The membership of this Retirement System is as follows:

(1) All present members of the General Assembly who are not active members of any of the following retirement systems: The Teachers' and State Employees' Retirement System, the North Carolina Local Governmental Employees' Retirement System, the Law Enforcement Officers' Benefit and Retirement Fund, the Uniform Judicial Retirement System of North Carolina, the Uniform Solicitorial Retirement System of North Carolina or the Uniform Clerks of Superior Court Retirement System of North Carolina. Membership shall also include members vested in or maintaining member contributions in the Legislative Retirement Fund established by Chapter 1269, 1969 Session Laws, who elect to transfer to the Retirement System.

(2) All former members of the General Assembly who are retirees of the Legislative Retirement Fund established by Chapter 1269, 1969 Session Laws, who are not active members of any of the following retirement systems: The Teachers' and State Employees' Retirement System, the North Carolina Local Governmental Employees' Retirement System, the Law Enforcement Officers' Benefit and Retirement Fund, the Uniform Judicial Retirement System of North Carolina, the Uniform Solicitorial Retirement System of North Carolina or the Uniform Clerks of Court Retirement System of North Carolina and who elect to transfer to the Retirement System.

"§ 120-4.7. Creditable service.—(a) Creditable service at retirement consists of the membership service rendered by the member of the Retirement System and any prior service purchased or granted by this Article.

(b) Membership Service means the number of years served as a member of the General Assembly as of the establishment of the Retirement System and thereafter. One year of membership service is equal to 12 months for which a legislator received compensation.

(c) Prior service means:

- (1) the number of years a present member of the General Assembly served in the General Assembly prior to the establishment of the Retirement System;
- (2) the number of years served by former members of the General Assembly who were vested in the Legislative Retirement Fund. One year of prior service is equal to 12 months for which a legislator received compensation.

"§ 120-4.8. Transfer of membership and benefits.—The Board of Trustees shall set up procedures to transfer membership from the Legislative Retirement Fund to the Retirement System and to recompute benefits paid to retirees of the Legislative Retirement Fund who elect to transfer to the Retirement System.

"§ 120-4.9. Purchase of prior service.—Purchase of prior service rendered by a member of the General Assembly before the convening of the 1985 regular session of the General Assembly that is not service that may be transferred pursuant to G.S. 120- 4.7 shall be at the rate of one month of service for each month for which a legislator received compensation, computed as follows:

(1) For terms beginning with the 1975 General Assembly, seven percent (7%) of the highest legislative compensation, plus regular interest and an administrative fee, to be paid in lump sum.

(2) For terms beginning prior to the 1975 General Assembly, five percent (5%) of the highest legislative compensation, plus regular interest and an administrative fee, to be paid in lump sum.

"§ 120-4.10. Repayment of contributions.—Repayment of contributions withdrawn from the Legislative Retirement Fund shall be at the rate of seven percent (7%) of the highest monthly compensation received as a legislator, plus regular interest and an administrative fee, to be paid in lump sum.

"§ 120-4.10A. Repayments and purchases.—All repayments and purchases of service credit, allowed under this Article, shall be made within two years after the member first becomes eligible for membership in the System. All such repayments and purchases not made within two years after the member becomes eligible for membership in the System shall equal the full actuarial cost of the additional service credit as defined in G.S. 135-4(m).

"§ 120-4.11. Assets of retirement system.—(a) All of the assets of the Retirement System shall be credited according to the purpose for which they are held to one of two funds, either the annuity savings fund or the pension accumulation fund.

(b) The annuity savings fund is the fund to which all members' contributions, and regular interest allowances provided for as in G.S. 135-7(b), shall be credited. From this fund shall be paid the accumulated contributions of a member.

(c) Upon the retirement of a member, his accumulated contributions shall be transferred from the annuity savings fund to the pension accumulation fund. In the event that a retired former member should subsequently again become a member of the Retirement System as provided for in G.S. 120-4.6, any excess of his accumulated contributions at his date of retirement over the sum of the retirement allowance payments received by him since his date of retirement shall be transferred from the pension accumulation fund to the annuity savings fund and shall be credited to his individual account in the annuity savings fund.

(d) The pension accumulation fund is the fund in which accumulated contributions by the State and amounts transferred from the annuity savings fund in accordance with subsection (c) of this section and to which all income from the invested assets of the Retirement System are credited. From this fund is paid retirement allowances and any other benefits provided for under this Article except payments of accumulated contributions as provided in G.S. 120-4.9.

(e) The regular interest allowance on the members' accumulated contributions provided for as in G.S. 135-7(b) shall be transferred each year from the pension accumulation fund to the annuity savings fund.

"§ 120-4.12. Management of funds.—The Board of Trustees shall manage the fund established by G.S. 120-4.11 pursuant to G.S. 135-7.

"§ 120-4.13. Contributions by the members.—Effective upon convening of the 1985 regular session of the General Assembly, each member shall contribute by payroll deduction for each pay period for which he receives compensation seven percent (7%) of his compensation for the period.

"§ 120-4.14. Contributions by the State.—(a) Effective upon convening of the 1985 regular session of the General Assembly, the State shall contribute annually an amount equal to the sum of the 'normal contribution' and the 'accrued liability contribution'.

(b) The normal contribution for any period shall be determined as a percentage, equal to the normal contribution rate, of the total compensation of the members for the period. The normal contribution rate shall be determined as the percentage represented by the ratio of (i) the annual normal cost to provide the benefits of the Retirement System, computed in accordance with recognized actuarial principles on the basis of methods and assumptions approved by the Board of Trustees, in excess of the part thereof provided by the members' contributions, to (ii) the total annual compensation of the members of the Retirement System.

(c) The accrued liability contribution for any period shall be determined as a percentage, equal to the accrued liability contribution rate, of the total compensation of the members for the period. The accrued liability contribution rate shall be determined as the percentage represented by the ratio of (i) the level annual contribution necessary to amortize the unfunded accrued liability over a period of 15 years, computed in accordance with recognized actuarial principles on the basis of methods and assumptions approved by the Board of Trustees, to (ii) the total annual compensation of the members of the Retirement System.

(d) The unfunded accrued liability as of any date shall be determined, in accordance with recognized actuarial principles on the basis of methods and assumptions approved by the Board of Trustees, as the excess of (i) the then present value of the benefits to be provided under the Retirement System in the future over (ii) the sum of the assets of the Retirement System then currently on hand in the annuity savings fund and the pension accumulation fund, plus the then present value of the stipulated contributions to be made in the future by the members, plus the then present value of the normal contributions expected to be made in the future by the State.

(e) The normal contribution rate and the accrued liability contribution rate shall be determined after each annual valuation of the Retirement System and shall remain in effect until a new valuation is made.

(f) The annual contributions by the State for any year shall be at least sufficient, when combined with the amount held in the pension accumulation fund at the start of the year, to provide the retirement allowances and other benefits payable out of the fund during the current year.

"§ 120-4.15. Service retirement benefits.—(a) Eligibility; application. Any member in service may retire with full benefits who has reached 65 years of age with eight years of creditable service or who has completed 25 years of creditable service regardless of age. Any member in service may retire with reduced benefits who has reached the age of 60 years with 8 years of creditable service. The member shall make written application to the Board of Trustees to retire on a service retirement allowance on the first day of the particular calendar month he designates. The designated date shall be no less than 30 nor more than 90 days from the filing of the application. During this period of notification, a member may separate from service without forfeiting his retirement benefits.

(b) Computation. Upon retirement from service in accordance with subsection (a) of this section, a member shall receive a service retirement allowance computed as follows:

- (1) For a member whose retirement date occurs on or after his 65th birthday and upon completion of eight years of creditable service or upon 25 years of creditable service regardless of age, four percent (4%) of his 'highest annual salary', multiplied by the number of years of creditable service.
- (2) For a member whose retirement date occurs on or after his 60th and before his 65th birthday and upon completion of eight years of creditable service, computation as in subdivision (1) of this subsection, reduced by one-fourth of one percent ($\frac{1}{4}$ of 1%) for each month his retirement date precedes his 65th birthday.

(c) Limitations. In no event shall any member receive a service retirement allowance greater than seventy-five percent (75%) of his 'highest annual salary' nor shall he receive any service retirement allowance whatever while employed in a position that makes him a member of any of the following retirement systems: The Teachers' and State Employees' Retirement System, the North Carolina Local Governmental Employees' Retirement System, the Law Enforcement Officers' Benefit and Retirement Fund, the Uniform Judicial Retirement System of North Carolina, the Uniform Solicitorial Retirement System of North Carolina or the Uniform Clerks of Court Retirement System of North Carolina. If he should become a member of any of these systems, payment of his service retirement allowance shall be suspended until he withdraws from membership in that system.

"§ 120-4.16. Disability retirement benefits.—(a) Eligibility; application. Upon application by or on behalf of the member, any member in service who has completed at least eight years of creditable service but less than 25 years and who has not reached his 60th birthday may, after medical certification, be retired on a disability retirement allowance by the Board of Trustees on the first day of the particular calendar month designated by the applicant. The designated date shall be no less than 30 nor more than 90 days from the filing of the application.

(b) Medical certification. After a medical examination of the member, the medical board shall certify to the Board of Trustees that the member is mentally or physically incapacitated for further performance of duty as a member of the General Assembly, that the incapacity was incurred at the time of active employment and has been continuous thereafter, that the incapacity is likely to be permanent and whether the member should be retired.

(c) Computation. Upon retirement for disability pursuant to subsection (a) of this section, a member shall receive a disability retirement allowance equal to a service retirement allowance calculated on the basis of the member's 'highest annual salary' and the creditable service he would have had by the age of 60 had he continued in service.

(d) Limitations. In no event shall any member receive a disability retirement allowance greater than seventy-five percent (75%) of his 'highest annual salary' nor shall he receive any disability retirement allowance whatever while employed in a

position that makes him a member of any of the following retirement systems: The Teachers' and State Employees' Retirement System, the North Carolina Local Governmental Employees' Retirement System, the Law Enforcement Officers' Benefit and Retirement Fund, the Uniform Judicial Retirement System of North Carolina, the Uniform Solicitorial Retirement System of North Carolina or the Uniform Clerks of Court Retirement System of North Carolina. If he should become a member of any of these systems payment of his disability retirement allowance shall be suspended until he withdraws from membership in that system.

"§ 120-4.17. Reexamination for disability retirement allowance.—Any disability retiree who has not reached age 65 shall be reexamined pursuant to G.S. 135-5(e). After he reaches age 65, no further examinations are required.

"§ 120-4.18. Return to membership of former member.—If a retired former member of the Retirement System or of the Legislative Retirement Fund returns to service as a member of the General Assembly, his retirement allowance shall cease and he shall be restored as a member of the Retirement System. The computation of the amount of benefits to which he may subsequently become entitled under this Article shall be computed as follows:

The allowance to which he would have been entitled if he were retiring for the first time, calculated on the basis of his total creditable service, reduced by the actuarial equivalent of the retirement benefits he previously received.

"§ 120-4.19. Return of accumulated contributions.—If a member ceases to be a member of the General Assembly except by death or retirement he shall, upon submission of an application, be paid, not earlier than 60 days from receipt in the Raleigh offices of the Board of Trustees of an acceptable application on a form provided by the Retirement System, the sum of his contributions, if he has not in the meantime returned to service. Upon payment of this sum his membership in the System ceases. If he becomes a member afterwards, no credit shall be allowed for any service previously rendered except as provided in G.S. 120-4.9 and the payment shall be in full and complete discharge of any rights in or to any benefits otherwise payable under this Article. Upon receipt of proof satisfactory to the Board of Trustees of the death, prior to retirement, of a member or former member, there shall be paid to the person or persons he nominated by written designation duly acknowledged and filed with the Board of Trustees, if the person or persons are living at the time of the member's death, otherwise to the member's legal representatives, the amount of his accumulated contributions at the time of his death, unless the beneficiary elects to receive the alternate benefit under the provisions of G.S. 120-4.22. There shall be deducted from any amount otherwise payable any amount due any agency or subdivision of the State by the member by reason of any outstanding overpayment of salary or by any other reason. Even if the member fails to demand the return of his accumulated contributions within 90 days from the day he ceases to be a member of the General Assembly, any amount due the agency or subdivision by reason of any outstanding overpayment of salary or any other reason shall be paid to the agency or subdivision by the Retirement System upon demand. After the agency or subdivision has notified the executive director of any amount due. The Retirement System has no liability for amounts deducted and

transmitted to the agency or subdivision nor for any failure by the Retirement System for any reason to make the deductions.

"§ 120-4.20. Benefit payment options.—Any member may elect to receive his benefits in a retirement allowance payable throughout life, or he may elect to receive the actuarial equivalent of the retirement allowance in a reduced allowance payable throughout life under the provisions of one of the options set forth below. No election may be made after the first payment becomes due, or the first retirement check cashed, nor may an election be revoked or a nomination changed. The election of option 2 or option 3 or the nomination of the person thereunder shall be revoked if the person nominated dies prior to the date the first payment becomes normally due or until the first retirement check has been cashed. The election may be revoked by the member prior to the date the first payment becomes normally due or until his first retirement check has been cashed.

Option 1. If a member dies within 10 years from his retirement date, an amount equal to his accumulated contributions at retirement, less 1/120th for each month for which he has received a retirement allowance payment, shall be paid to his legal representative or to the person he nominates by written designation acknowledged and filed with the Board of Trustees;

Option 2. Upon his death, his reduced retirement allowance shall be continued throughout the life of and paid to the person he nominates by written designation duly acknowledged and filed with the Board of Trustees at the time of his retirement. If the person selected is other than his spouse, the reduced retirement allowance payable to the member shall not be less than one half of the retirement allowance without optional modification which would otherwise be payable to him; or Option 3. Upon his death, one half of his reduced retirement allowance shall be continued throughout the life of and paid to the person he nominates by written designation duly acknowledged and filed with the Board of Trustees at the time of his retirement.

"§ 120-4.21. Death benefit.—The designated beneficiary of a member who dies while in service after completing one year of creditable service shall receive a lump-sum payment of an amount equal to the deceased member's highest annual salary, to a maximum of fifteen thousand dollars (\$15,000). For purposes of this death benefit 'in service' means currently serving as a member of the North Carolina General Assembly.

"§ 120-4.22. Survivor's alternate benefit.—The designated beneficiary of a member who dies before retirement but after age 60 and after completing eight years of creditable service is entitled to option 2 prescribed by G.S. 120-4.19.

"§ 120-4.23. Exemption from taxes, garnishment, attachment.— The right of a person to a pension, annuity, or retirement allowance, to the return of contributions, or to the receipt of the pension, annuity or retirement allowance itself, any optional benefit or any other right accrued or accruing to any person under the provisions of this Article, and the moneys in the various funds created by this Article, are exempt from any State or municipal tax, and exempt from levy and sale, garnishment, attachment, or any other process whatsoever, shall be unassignable except as this Article specifically provides."

Sec. 239. Notwithstanding the provisions of Section 238 of this act, to the effect that all members of the 1983 General Assembly shall be members of the

Legislative Retirement System, members of the 1983 General Assembly must make an affirmative election in writing, within 60 days after the ratification date of this act to become a member of the system.

Sec. 240. Section 238 of this act shall become effective upon convening of the 1985 Regular Session of the General Assembly, except that G.S. 120-4.3 through G.S. 120-4.12 are effective upon ratification.

—LOCAL LAW OFFICERS RETIREMENT FUNDING

Sec. 241. Effective July 1, 1983, G.S. 143-166 is amended by adding a new subsection after subsection "(a)" designated as "(a1)" to read:

"(a1) The board of trustees shall set a uniform annual percentage rate of contribution payable by the State and each county, city, town or political subdivision thereof (hereinafter referred to as an employer) necessary to fund the benefits and allowances provided under this section for law enforcement officers employed by each employer who are members of this Retirement System. The employer shall pay monthly into the Retirement System an amount equal to the annual percentage rate of contribution multiplied by the total monthly compensation of members employed by the employer; provided, the employer rate of contribution required of an employer other than the State shall be reduced in an amount equivalent to any appropriations for such purpose as are made from time to time by the North Carolina General Assembly. The Board of Trustees shall adopt such rules and regulations as are necessary and reasonable for the collection of employer contributions."

—JUDICIAL PERSONNEL/LONGEVITY PAY

Sec. 242. Effective July 1, 1983, G.S. 7A-10 is amended by adding a new subsection to read:

"(c) In lieu of merit and other increment raises paid to regular State employees, the Chief Justice and each of the Associate Justices shall receive as longevity pay an annual amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Budget Appropriation Act payable monthly after five years of service, and nine and six-tenths percent (9.6%) after 10 years of service. Service shall mean service as justice or judge of the General Court of Justice."

Sec. 243. Effective July 1, 1983, G.S. 7A-18 is amended by designating the existing paragraph as subsection (a) and by adding a new subsection to read:

"(b) In lieu of merit and other increment raises paid to regular State employees, a judge of the Court of Appeals shall receive as longevity pay an annual amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Budget Appropriation Act payable monthly after five years of service, and nine and six-tenths percent (9.6%) after 10 years of service. Service shall mean service as a justice or judge of the General Court of Justice."

Sec. 244. Effective July 1, 1983, G.S. 7A-44 is amended by designating the existing paragraph as subsection (a) and by adding a new subsection to read:

"(b) In lieu of merit and other increment raises paid to regular State employees, a judge of the superior court, regular or special, shall receive as longevity pay an annual

amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Budget Appropriation Act payable monthly after five years of service, and nine and six-tenths percent (9.6%) after 10 years of service. Service shall mean service as a justice or judge of the General Court of Justice."

Sec. 245. Effective July 1, 1983, G.S. 7A-144 is amended by designating the existing paragraph as subsection (a) and by adding a new subsection to read:

"(b) Notwithstanding merit, longevity and other increment raises paid to regular State employees, a judge of the district court shall receive as longevity pay an annual amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Budget Appropriation Act payable monthly after five years of service, and nine and six-tenths percent (9.6%) after 10 years of service. Service shall mean service as a justice or judge of the General Court of Justice."

Sec. 246. Effective July 1, 1983, G.S. 7A-65 is amended by designating the existing paragraph as subsection (a) and by adding a new subsection to read:

"(b) In lieu of merit and other increment raises paid to regular State employees, a district attorney shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Budget Appropriation Act payable monthly after five years of service. Service shall mean service in the elective position of a district attorney and shall not include service as an assistant deputy or acting district attorney."

Sec. 247. Effective July 1, 1983, G.S. 7A-101 is amended by adding a new paragraph to read:

"In lieu of merit and other increment raises paid to regular State employees, a clerk of superior court shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Budget Appropriation Act payable monthly after five years of service. Service shall mean service in the elective position of clerk of superior court and shall not include service as an assistant, deputy, or acting clerk."

Sec. 248. Effective July 1, 1984, G.S. 7A-65 is amended by adding a new subsection to read:

"(c) In lieu of merit and other increment raises paid to regular State employees, a district attorney shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Budget Appropriation Act payable monthly after five years of service, and nine and six-tenths percent (9.6%) after 10 years of service. Service shall mean service in the elective position of a district attorney and shall not include service as an assistant, deputy, or acting district attorney."

Sec. 249. Effective July 1, 1984, G.S. 7A-101 is amended by adding a new paragraph to read:

"In lieu of merit and other increment raises paid to regular State employees, a clerk of superior court shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Budget Appropriation Act payable monthly after five years of service, and nine and six-tenths percent (9.6%) after 10 years of service. Service shall mean service in the elective position of clerk of superior court and shall not include service as an assistant, deputy, or acting clerk."

—NATIONAL GUARD PENSIONS

Sec. 250. G.S. 127A-40(f) is amended by rewriting the section to read:

"(f) The Secretary of Crime Control and Public Safety shall determine the eligibility of guard members for the benefits herein provided and shall certify those eligible to the State Treasurer. In addition, the Department of Crime Control and Public Safety shall, on and after July 1, 1983, provide the Department of State Treasurer with an annual census population, by age and the number of years of creditable service, for all former members of the National Guard in receipt of a pension as well as for all active members of the National Guard who are not in receipt of a pension and who have seven and more years of creditable service. The Department of Crime Control and Public Safety shall also provide the State Treasurer a census population of all former members of the National Guard who are not in receipt of a pension and who have 15 and more years of creditable service. The Department of State Treasurer shall make pension payments to those persons certified from the North Carolina National Guard Pension Fund, which shall include General Fund appropriations made to and transferred from the Department of Crime Control and Public Safety. The Department of State Treasurer shall have performed an annual actuarial valuation of the Fund and shall have the financial responsibility for maintaining the Fund on a generally accepted actuarial basis. The Department of Crime Control and Public Safety shall provide the Department of State Treasurer with whatever assistance is required by the State Treasurer in carrying out his financial responsibilities."

Sec. 251. G.S. 127A-40 is amended by adding the following subsections:

"(h) If, for any reason, the North Carolina National Guard Pension Fund shall be insufficient to pay in full any pension benefits, or other charges, then all benefits or payments shall be reduced pro rata, for as long as the deficiency in amount exists. No claim shall accrue with respect to any amount by which a pension or benefit payment shall have been reduced.

(i) Pensions for members of the North Carolina National Guard shall be subject to future legislative change or revision."

—NONCONTRIBUTORY HEALTH BENEFIT PREMIUMS/LEGISLATORS

Sec. 252. Upon convening of the 1985 Regular Session of the General Assembly G.S. 135-40.2(a)(2) is amended to read:

"(2) Retired teachers, State employees, and members of the General Assembly."

Sec. 253. Upon convening of the 1985 Regular Session of the General Assembly G.S. 135-40.2(a)(3) is amended to read:

"(3) Surviving spouses of deceased retirees and surviving spouses of deceased teachers, State employees, and members of the General Assembly who are receiving a survivor's alternate benefit under any of the State-supported retirement programs."

Sec. 254. Upon convening of the 1985 Regular Session of the General Assembly G.S. 135-40.2(a) is amended by adding subsection "(4)" to read:

"(4) Members of the General Assembly."

Sec. 255. Upon convening of the 1985 Regular Session of the General Assembly G.S. 135-40.2(b) is amended by deleting subsection "(1)".

Sec. 256. G.S. 135-40.3(a) is amended by adding subsection "(4)" to read:

"(4) Members of the General Assembly, beginning with the 1985 Session, shall become first eligible with the convening of each Session of the General Assembly, regardless of a Member's service during previous Sessions. Members and their dependents enrolled when first eligible after the convening of each Session of the General Assembly will not be subject to any waiting periods for preexisting health conditions. Members of the 1983 Session of the General Assembly, not already enrolled, shall be eligible to enroll themselves and their dependents on or before October 1, 1983, without being subject to any waiting periods for preexisting health conditions."

PART XXIII.—SPECIAL PROVISIONS/APPROPRIATIONS ACT

—EXECUTIVE BUDGET ACT REFERENCE

Sec. 257. The provisions of the Executive Budget Act, Chapter 143, Article 1, of the General Statutes, are reenacted and shall remain in full force and effect and are incorporated in this act by reference.

—EFFECT OF MOST LIMITATIONS AND DIRECTIONS IN TEXT/ ONLY - 1983-85

Sec. 258. Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 1983-85 biennium, the textual provisions of this act shall apply only to funds appropriated for, and activities occurring during, the 1983-85 biennium.

—SEVERABILITY CLAUSE

Sec. 259. If any section or provision of this act is declared unconstitutional or invalid by the courts, it shall not affect the validity of the act as a whole or any part other than the part so declared to be unconstitutional or invalid.

—EFFECTIVE DATE

Sec. 260. Except as otherwise provided herein, all sections of this act are effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of July, 1983.