

NORTH CAROLINA GENERAL ASSEMBLY
1981 SESSION

CHAPTER 1191
HOUSE BILL 1486

AN ACT TO MAKE OMNIBUS AMENDMENTS TO THE GENERAL STATUTES TO
CARRY OUT THE RECOMMENDATIONS OF THE LEGISLATIVE RESEARCH
COMMISSION'S COMMITTEE ON SEPARATION OF POWERS.

The General Assembly of North Carolina enacts:

Section 1. This act may be cited as the Separation of Powers Act of 1982.

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 this act.)

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PART 1. — GENERAL PROVISIONS ON APPOINTMENTS

Sec. 2. Chapter 120 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 16.

"Legislative Appointments to Boards and Commissions.

"§ 120-121. **Legislative appointments.** — (a) In any case where the General Assembly is called upon by law to appoint a member to any board or commission, that appointment shall be made by enactment of a bill.

(b) A bill may make more than one appointment.

(c) The bill shall state the name of the person being appointed, the board or commission to which the appointment is being made, the effective date of the appointment, the date of expiration of the term, the county of residence of the appointee, and whether the appointment is made upon the recommendation of the Speaker of the House of Representatives or the President of the Senate.

"§ 120-122. **Vacancies in legislative appointments.** — When a vacancy occurs, other than by expiration of term, in any office subject to appointment by the General Assembly upon the recommendation of the Speaker of the House of Representatives or upon the recommendation of the President of the Senate, and the vacancy occurs either: (i) after election of the General Assembly but before convening of the regular session; (ii) when the General Assembly has adjourned to a date certain, which date is more than 10 days after the date of adjournment; or (iii) after sine die adjournment of the regular session, then the Governor may appoint a person to serve until the expiration of the term or until the General Assembly fills the vacancy, whichever occurs first. The General Assembly may fill the vacancy in accordance with G.S. 120-121 during a regular or extra session. Before making an appointment, the Governor shall consult the officer who recommended the original appointment to the General Assembly (the Speaker of the House of Representatives or the President of the Senate), and ask for a written recommendation. The Governor may not appoint a person other than the person so recommended. Any positions subject to appointment by the 1981 General Assembly but not filled prior to sine die adjournment of the 1981 Session may be filled by the Governor under this section as if it were a vacancy occurring after the General Assembly had made an appointment.

"§ 120-123. **Service by members of the General Assembly on certain boards and commissions.** — No member of the General Assembly may serve on any of the following boards or commissions:

- (1) The Board of Agriculture, as established by G.S. 106-2.
- (2) The Art Museum Building Commission, as established by G.S. 143B-59.
- (3) The Governor's Advocacy Council for Persons with Disabilities, as established by G.S. 143B-403.2.
- (4) The Board of Public Telecommunications Commissioners, as established by G.S. 143B-426.9.
- (5) The Board of Transportation, as established by G.S. 143B-350.
- (6) The Board of Trustees Teachers' and State Employees' Retirement System, as established by G.S. 135-6.
- (7) The Coastal Resources Commission, as established by G.S. 113A-104.
- (8) The Environmental Management Commission, as established by G.S. 143B-283.
- (9) The State Fire Commission, as established by G.S. 143B-481.
- (10) The Public Officers and Employees Liability Insurance Commission, as established by G.S. 143B-422.
- (11) The North Carolina Land Conservancy Corporation, as established by G.S. 113A-137.

- (12) The North Carolina Capital Building Authority, as established by G.S. 129-40.
- (13) The North Carolina Criminal Justice Education and Training Standards Commission, as established by G.S. 17C-3.
- (14) The North Carolina Housing Finance Agency Board of Directors, as established by G.S. 122A-4.
- (15) The North Carolina Seafood Industrial Park Authority, as established by G.S. 113-315.25.
- (16) The Committee for Review of Applications for Incentive Pay for State Employees, as established by G.S. 126-64.
- (17) The Board of Trustees of the North Carolina School of Science and Mathematics, as established by G.S. 115C-223.
- (18) The North Carolina Board of Science and Technology, as established by G.S. 143B-441.
- (19) The State Farm Operations Commission, as established by G.S. 106-26.13.
- (20) The Board of Commissioners of the Law Enforcement Officers' Benefit and Retirement Fund, as established by G.S. 143-166.
- (21) The Board of Trustees of The University of North Carolina Center for Public Television, as established by G.S. 116-37.
- (22) The Commission for Mental Health, Mental Retardation and Substance Abuse Services, as established by G.S. 143B-148.
- (23) The Governor's Waste Management Board, as established by G.S. 143B-216.12.
- (24) The North Carolina Alcoholism Research Authority, as established by G.S. 122-120.
- (25) The North Carolina Ports Railway Commission, as established by G.S. 143B-469.
- (26) The North Carolina State Ports authority, as established by G.S. 143B-452.
- (27) The Property Tax Commission, as established by G.S. 143B-223.
- (28) The Social Services Commission, as established by G.S. 143B-154.
- (29) The North Carolina State Commission of Indian Affairs, as established by G.S. 143B-407.
- (30) The Wildlife Resources Commission, as established by G.S. 143-240.
- (31) The Council on the Status of Women, as established by G.S. 143B-294.
- (32) The Board of Trustees of North Carolina Museum of Art, established by G.S. 140-5.13."

Sec. 3. G.S. 147-12 is amended by adding a new subdivision to read:

"(3a) The Governor may make appointments to fill vacancies in offices subject to appointment by the General Assembly as provided in G.S. 120-122."

Sec. 4. G.S. 147-12 is amended by adding a new subdivision to read:

"(3b) Whenever a statute calls for the Governor to appoint one person from each congressional district to a board or commission, and at the time of enactment of that statute, the gubernatorial appointments do not cover all of the congressional districts, then the Governor, in filling vacancies on that board or commission as they occur, shall make appointments to satisfy that requirement, but shall not be required to remove any person from office to satisfy the requirement."

Sec. 5. G.S. 143B-13 is amended by adding a new subsection to read:

"(f) Whenever a statute requires that the Governor appoint at least one person from each congressional district to a board or commission, and due to congressional redistricting, two or more members of the board or commission shall reside in the same congressional district, then

such members shall continue to serve as members of the board or commission for a period equal to the remainder of their unexpired terms, provided that upon the expiration of said term or terms the Governor shall fill such vacancy or vacancies in such a manner as to insure that as expeditiously as possible there is one member of the board or commission who is a resident of each congressional district in the State."

PART 2. — BOARD OF PUBLIC TELECOMMUNICATIONS COMMISSIONERS

Sec. 6. G.S. 143B-426.9(3) and (4) are rewritten to read:

- "(3) Two members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121;
- (4) Two members appointed by the General Assembly upon the recommendation of the President of the Senate in accordance with G.S. 120-121;".

Sec. 7. The fourth paragraph of G.S. 143B-426.9 beginning with the words "The terms of the members of the North Carolina" is rewritten to read:

"The initial members appointed to the Board by the General Assembly shall serve for terms expiring June 30, 1983. Thereafter, their successors shall serve for two-year terms beginning July 1 of odd-numbered years."

Sec. 8. The eighth paragraph of G.S. 143B-426.9 is rewritten to read:

"Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122. Other vacancies shall be filled in the same manner as the original appointment."

PART 3. — BOARD OF TRANSPORTATION

Sec. 9. G.S. 143B-350(d) is rewritten to read:

"(d) The Board of Transportation shall have two members appointed by the General Assembly. One of these members shall be appointed upon the recommendation of the Speaker of the House of Representatives, and one shall be appointed upon the recommendation of the President of the Senate in accordance with G.S. 120-121. The initial members appointed by the General Assembly shall serve for terms expiring June 30, 1983. Thereafter, their successors shall serve for two-year terms beginning July 1 of odd-numbered years. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122."

Sec. 10. The last two sentences in G.S. 143B-350(e) are rewritten to read:

"Board members shall receive per diem and necessary travel and subsistence expenses in accordance with G.S. 138-5 and G.S. 138-6, as appropriate."

PART 4. — BOARD OF TRUSTEES TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM

Sec. 11. G.S. 135-6(b)(4) is rewritten to read:

- "(4) Two members appointed by the General Assembly, one appointed upon the recommendation of the Speaker of the House of Representatives, and one appointed upon the recommendation of the President of the Senate in accordance with G.S. 120-121. Neither of these members may be an active or retired teacher or State employee or an employee of a unit of local government. The initial members appointed by the General Assembly shall serve for terms expiring June 30, 1983. Thereafter, their successors shall serve for two-year terms beginning July 1 of odd-numbered years. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122."

PART 5. — CHILD AND FAMILY SERVICES INTERAGENCY COMMITTEE

Sec. 12. G.S. 143B-426.4(7) is amended by inserting the word "advisory" between the words "other" and "duties".

PART 6. — GOVERNOR'S ADVOCACY COUNCIL ON CHILDREN AND YOUTH

Sec. 13. G.S. 143B-414(8) is rewritten to read:

"(8) To perform other advisory functions assigned by the Secretary of Administration or a legislative committee."

Sec. 14. G.S. 143B-415 is amended by adding immediately after the first paragraph the following new language:

"Of the members appointed by the Governor, at least one shall come from each congressional district in accordance with G.S. 147-12(3b)."

PART 7. — GOVERNOR'S CRIME COMMISSION

Sec. 15. G.S. 143B-479 is amended by:

- (1) Deleting the word "develop" in (a)(2) and inserting the word "recommend" in lieu thereof;
- (2) Deleting the words "To assist and participate with the" in (a)(3) and inserting the words "To advise" in lieu thereof;
- (3) Deleting (a)(7) and (a)(9a) and renumbering the succeeding subdivisions accordingly;
- (4) Deleting the word "set" in (a)(8) and inserting the word "recommend" in lieu thereof;
- (5) Deleting the word "make" in (a)(9) and inserting the words "recommend recipients of" in lieu thereof; and
- (6) Deleting all of subsection (b) except the last sentence of the second paragraph.

Sec. 16. G.S. 143B-480.1 and G.S. 143B-480.2 are amended by deleting the words "Governor's Crime Commission" each time they appear in these statutes and inserting the word "Secretary" in lieu thereof.

Sec. 17. G.S. 143B-476(a) is amended by adding the following sentence to read:

"These powers and duties include:

- (1) accepting gifts, bequests, devises, grants, matching funds and other considerations from private or governmental sources for use in promoting the work of the Governor's Crime Commission;
- (2) making grants for use in pursuing the objectives of the Governor's Crime Commission;
- (3) adopting rules as may be required by the federal government for federal grants-in-aid for criminal justice purposes;
- (4) ascertaining the State's duties concerning grants to the State by the Law Enforcement Assistance Administration of the United States Department of Justice, and developing and administering a plan to ensure that the State fulfills its duties; and
- (5) administering the Assistance Program for Victims of Rape and Sex Offenses."

PART 8. — ECONOMIC DEVELOPMENT BOARD

Sec. 18. The first two paragraphs of G.S. 143B-434(a) are rewritten to read:

"There is created within the Department of Commerce an Economic Development Board. The Board shall advise the Secretary of Commerce on:

- (1) the formulation of a program for the economic development of the State of North Carolina; and
- (2) the formulation of a budget and the hiring of the head of each division of the Department of Commerce concerned with the expansion of the travel and tourism industry.

The Secretary shall prepare the budget of the Department and shall hire the heads of the above-mentioned divisions who shall serve at his pleasure. The Board shall meet at least

quarterly at the call of its chairman or the Secretary. Each quarter the Secretary shall report to the Board on the program and progress of this State's economic development.

The Economic Development Board shall consist of 25 members. The Secretary of Commerce, the President of the Senate or his appointee, and the Speaker of the House of Representatives or his appointee, shall be members of the Board. The Governor shall appoint 22 members of the Board. Of his appointees, the Governor shall appoint at least one member residing in each congressional district of the State."

PART 9. — ENVIRONMENTAL MANAGEMENT COMMISSION

Sec. 19. G.S. 143B-283(d) is rewritten to read as follows:

"(d) In addition to the members designated by subsection (a), the General Assembly shall appoint four members, two upon the recommendation of the Speaker of the House of Representatives, and two upon the recommendation of the President of the Senate. Appointments by the General Assembly shall be made in accordance with G.S. 120-121, and vacancies in those appointments shall be filled in accordance with G.S. 120-122. The terms of initial appointees by the General Assembly shall expire on June 30, 1983. Thereafter, these members shall serve two-year terms."

Sec. 20. The Legislative Research Commission is authorized to study fully the membership, powers and duties of the Environmental Management Commission and to make recommendations, which will better protect, preserve and enhance the water and air resources of the State, to the 1983 Session of the General Assembly.

PART 10. — STATE FIRE COMMISSION

Sec. 21. G.S. 143B-481 is amended in the first sentence by deleting the words: "one member of the House of Representatives appointed by the Speaker of the House, one member of the Senate appointed by the President of the Senate" and inserting at the end of the first sentence the following:

"The General Assembly shall appoint two members, one upon the recommendation of the Speaker of the House of Representatives, and one upon the recommendation of the President of the Senate. Appointments by the General Assembly shall be made in accordance with G.S. 120-121, and vacancies in those appointments shall be filled in accordance with G.S. 120-122."

Sec. 22. G.S. 143B-481 is further amended by rewriting the fourth paragraph as it appears in the 1981 Cumulative Supplement to Volume 3C of the General Statutes to read:

"The terms of the initial appointees by the General Assembly shall expire on June 30, 1983. Thereafter, these appointees shall serve two-year terms."

PART 11. — GOVERNOR'S ADVOCACY COUNCIL FOR PERSONS WITH DISABILITIES

Sec. 23. G.S. 143B-403.2 is amended as follows:

- (1) The third sentence of G.S. 143B-403.2 is deleted and the following inserted in lieu thereof:

"The Governor shall appoint 16 members, at least eight shall be disabled persons or parents of disabled persons. The General Assembly shall appoint two members in accordance with G.S. 120-121, one upon the recommendation of the Speaker of the House of Representatives, and one upon the recommendation of the President of the Senate. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122."

- (2) The second paragraph of G.S. 143B-403.2 is amended by adding a new sentence at the end to read:

"The initial members appointed by the General Assembly shall serve for terms to expire June 30, 1983. Subsequently, members appointed by the General Assembly shall serve two-year terms beginning July 1, 1983, and biennially thereafter."

Sec. 23.1. G.S. 143B-403.2 is amended by adding the following new language at the end of the first paragraph:

"The Governor shall appoint at least one person from each congressional district in accordance with G.S. 147-12(3b)."

PART 12. — PUBLIC OFFICERS AND EMPLOYEES LIABILITY INSURANCE COMMISSION

Sec. 24. G.S. 143B-422 is amended in the first paragraph by deleting the following words from the second sentence: "the Lieutenant Governor shall appoint one member who shall be a member of the North Carolina Senate; the Speaker of the House of Representatives shall appoint one member who shall be a member of the North Carolina House of Representatives" and inserting in its place: "and the General Assembly shall appoint two persons, one upon the recommendation of the Speaker of the House of Representatives, and one upon the recommendation of the President of the Senate. Appointments by the General Assembly shall be made in accordance with G.S. 120-121, and vacancies in those appointments shall be filled in accordance with G.S. 120-122. The terms of the initial appointees by the General Assembly shall expire on June 30, 1983."

Sec. 25. G.S. 143B-422 is further amended in the first paragraph by deleting the two sentences reading: "The member appointed by the Lieutenant Governor shall be appointed to a term of four years. The member appointed by the Speaker of the House shall be appointed to a term of two years.", and inserting in lieu thereof "Beginning July 1, 1983, the appointment made by the General Assembly upon the recommendation of the Speaker shall be for two years, and the appointment made by the General Assembly upon the recommendation of the President of the Senate shall be for four years."

Sec. 26. The next to the last sentence of the first paragraph of G.S. 143B-422 is amended by deleting "If", and inserting in lieu thereof "Except as provided in this section, if".

Sec. 27. G.S. 143B-423 is amended by deleting the third sentence.

PART 13. — NORTH CAROLINA LAND CONSERVANCY CORPORATION

Sec. 28. G.S. 113A-137 is amended by deleting the third sentence of the first paragraph and inserting the following:

"The General Assembly shall appoint four trustees of the Corporation, two upon the recommendation of the Speaker of the House of Representatives, and two upon the recommendation of the President of the Senate. Appointments by the General Assembly shall be made in accordance with G.S. 120-121, and vacancies in those appointments shall be filled in accordance with G.S. 120-122. The terms of the initial appointees of the General Assembly shall expire on June 30, 1983. The terms of subsequent appointees of the General Assembly shall be two years."

PART 14. — CAPITAL BUILDING AUTHORITY

Sec. 29. G.S. 129-40 is amended:

- (1) in the first sentence by deleting "a member of the Senate to be appointed by the Lieutenant Governor; a member of the House of Representatives to be appointed by the Speaker of the House" and inserting in its place "the General Assembly shall appoint two persons, one upon the recommendation of the Speaker of the House of Representatives, and one upon the recommendation of the President of the Senate"; and
- (2) by adding at the end of the section:

"Appointments by the General Assembly shall be made in accordance with G. S. 120-121, and vacancies in those appointments shall be filled in accordance with G.S. 120-122. The terms of the initial appointees by the General Assembly shall expire on June 30, 1983. Subsequent appointees by the General Assembly shall serve two-year terms."

Sec. 30. The Legislative Research Commission is authorized to study fully the membership and powers of the Capital Building Authority and to make recommendations it deems advisable to the 1983 Session of the General Assembly."

PART 15. — NORTH CAROLINA CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION

Sec. 31. G.S. 17C-3(a) is amended:

- (1) in the second sentence by deleting "26 members" and inserting in lieu thereof "25 members"; and
- (2) by deleting from subdivision (5) the language: "One trial court judge selected by the Chief Justice of the North Carolina Supreme Court, one Senator selected by the Lieutenant Governor, one member of the House of Representatives selected by the Speaker of the House; the" and inserting in its place "The"; and
- (3) by adding at the end of subdivision (5):

"The General Assembly shall appoint two persons, one upon the recommendation of the Speaker of the House of Representatives and one upon the recommendation of the President of the Senate. Appointments by the General Assembly shall be made in accordance with G.S. 120-122. The terms of the initial appointees by the General Assembly shall expire on June 30, 1983. Subsequent appointees by the General Assembly shall serve two-year terms."

PART 16. — NORTH CAROLINA HOUSING FINANCE AGENCY

Sec. 32. The first thirteen sentences of G.S. 122A-4 are deleted and the following inserted in lieu thereof:

"(a) There is hereby created a body politic and corporate to be known as 'North Carolina Housing Finance Agency' which shall be constituted a public agency and an instrumentality of the State for the performance of essential public functions.

(b) The agency shall be governed by a board of directors composed of 13 members. The directors of the agency shall be residents of the State and shall not hold other public office.

(c) The General Assembly shall appoint eight directors, four upon the recommendation of the Speaker of the House of Representatives (at least one of whom shall have had experience with a mortgage-servicing institution and one of whom shall be experienced as a licensed real estate broker), and four upon the recommendation of the President of the Senate (at least one of whom shall be experienced with a savings and loan institution and one of whom shall be experienced in home building). Appointments by the General Assembly shall be made in accordance with G.S. 120-121, and vacancies in those appointments shall be filled in accordance with G.S. 120-122. Notwithstanding any other provision of law, the terms of the four noncategorical appointments by the General Assembly shall expire on June 30, 1983. Subsequent noncategorical appointments shall be for terms of two years each. The terms of the initial categorical appointees by the General Assembly upon the recommendation of the Speaker shall expire on June 30, 1983; the terms of subsequent appointees shall be two years. The term of one of the initial categorical appointees by the General Assembly upon the recommendation of the President of the Senate shall expire on June 30, 1983, and the other on June 30, 1985; the terms of subsequent appointees shall be four years.

(d) The Governor shall appoint four of the directors of the agency; one of such appointees shall be experienced in community planning, one shall be experienced in subsidized housing management, one shall be experienced as a specialist in public housing policy, and one shall be experienced in the manufactured housing industry. The four appointees of the Governor shall be appointed for staggered four-year terms, two being appointed initially for three years and two for four years, and shall continue in office until their successors are duly appointed and qualified. Any person appointed to fill a vacancy shall serve only for the unexpired term.

(e) Any member of the board of directors shall be eligible for reappointment. The 12 members of the board shall then elect a thirteenth member to the board by simple majority vote. Each member of the board of directors may be removed by the Governor for misfeasance, malfeasance or neglect of duty after reasonable notice and a public hearing, unless the same are

in writing expressly waived. Each member of the board of directors before entering upon his duties shall take an oath of office to administer the duties of his office faithfully and impartially, and a record of such oath shall be filed in the office of the Secretary of State."

Sec. 33. Nothing in Section 32 of this act shall be construed as affecting the terms of office or requiring reappointment of the four directors of the Housing Finance Agency appointed by the Governor and serving on the effective date of this act.

Sec. 34. G.S. 122A-16 is amended by adding a new sentence at the end to read:

"The Agency shall on January 1 and July 1 of each year submit a written report of its activities to the Joint Legislative Commission on Governmental Operations."

Sec. 35. The Joint Legislative Commission on Governmental Operations is authorized to study the membership, powers and duties of the North Carolina Housing Finance Agency and to make recommendations it deems advisable to the 1983 Session of the General Assembly.

PART 17. — NORTH CAROLINA SEAFOOD INDUSTRIAL PARK AUTHORITY

Sec. 36. G.S. 113-315.25 is amended by deleting subsection (c) and by rewriting subsection (d) to read:

"(d) The General Assembly shall appoint two persons, one upon the recommendation of the Speaker of the House of Representatives, and one upon the recommendation of the President of the Senate. Appointments by the General Assembly shall be made in accordance with G.S. 120-121, and vacancies in those appointments shall be filled in accordance with G.S. 120-122. The terms of the initial appointees by the General assembly shall expire on June 30, 1983. The terms of subsequent appointees by the General Assembly shall be two years."

Sec. 37. G.S. 113-315.25(g) is amended by deleting the last two sentences and inserting the following in lieu thereof:

"The members of the Authority shall not be entitled to compensation for their services, but shall receive per diem and necessary travel and subsistence expense in accordance with G.S. 138-5 and G.S. 138-6."

Sec. 38. The Legislative Research Commission is authorized to study the powers and duties of the North Carolina Seafood Industrial Park Authority and to make recommendations to the 1983 Session of the General Assembly to assist the Authority in the task of promoting, developing, constructing, equipping, maintaining, and operating the seafood industrial parks within the State.

PART 18. — COMMITTEE FOR REVIEW OF APPLICATIONS FOR INCENTIVE PAY FOR STATE EMPLOYEES

Sec. 39. The last sentence of G.S. 126-64 is rewritten to read:

"In addition, the Governor shall appoint one person who has experience in administering incentive pay as used in industry, and the General Assembly shall appoint two persons who have experience in administering incentive pay as used in industry. Of the two members appointed by the General Assembly, one shall be appointed upon the recommendation of the Speaker of the House of Representatives, and one shall be appointed upon the recommendation of the President of the Senate in accordance with G.S. 120-121. Members appointed by the General Assembly shall serve until the Committee expires on July 1, 1984. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122."

PART 19. — NORTH CAROLINA SCHOOL OF SCIENCE AND MATHEMATICS

Sec. 40. G.S. 115C-223(a)(3) and (4) are rewritten to read:

"(3) Two members, one of whom shall be a superintendent of a local school administrative unit, appointed by the General Assembly upon the recommendation of the President of the Senate in accordance with G.S. 120-121.

(4) Two members, one of whom shall be a principal of a local school administrative unit, appointed by the General Assembly upon the

recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121."

Sec. 41. The first sentence of G.S. 115C-223(b) is rewritten to read:

"The initial members appointed by the General Assembly upon the recommendation of the President of the Senate shall serve for terms expiring June 30, 1983; their successors shall serve for four-year terms beginning July 1 of 1983 and each fourth year thereafter. The initial members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives shall serve for terms expiring June 30, 1983; thereafter, their successors shall serve for two-year terms beginning July 1 of odd-numbered years."

Sec. 42. The last sentence of G.S. 115C-223(b) is amended by deleting the words "Lieutenant Governor and Speaker of the House" and inserting in lieu thereof the words "General Assembly".

Sec. 43. G.S. 115C-223(c) is amended by inserting between the words "in" and "appointive" the phrase "appointments made by the General Assembly shall be filled in accordance with G.S. 120-122. Other vacancies in".

PART 20. — NORTH CAROLINA BOARD OF SCIENCE AND TECHNOLOGY

Sec. 44. The first paragraph of G.S. 143B-441 is amended by rewriting the second sentence to read:

"Two members shall be appointed by the General Assembly, one shall be appointed upon the recommendation of the President of the Senate, and one shall be appointed upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121."

Sec. 45. The first two sentences of the second paragraph of G.S. 143B-441 are rewritten to read:

"The initial members appointed to the Board by the General Assembly shall serve for terms expiring June 30, 1983; thereafter, their successors shall serve for two-year terms beginning July 1 of odd-numbered years. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122."

Sec. 46. The fifth paragraph of G.S. 143B-441 is amended by deleting the second sentence.

PART 21. — STATE FARM OPERATIONS COMMISSION

Sec. 47. G.S. 106-26.13 is rewritten to read:

"§ 106-26.13. Recreation of State Farm Operations Commission. — There is hereby recreated a State Farm Operations Commission within the Department of Agriculture. The Commission shall consist of two members appointed by the General Assembly, one upon the recommendation of the Speaker of the House of Representatives, and one upon the recommendation of the President of the Senate in accordance with G.S. 120-121, and the following ex officio members or their designees: a member of the Board of Agriculture appointed by the Commissioner of Agriculture; the Dean of the School of Agriculture and Life Sciences of North Carolina State University; the Dean of the School of Forest Resources of North Carolina State University; the Secretary of Human Resources; and the Secretary of Correction. The two members appointed by the General Assembly shall be farmers whose principal residence is on a farm, whose principal occupation is farming or farm operations, and whose principal source of income is from farming or farm operations. The initial members appointed to the Commission by the General Assembly shall serve for terms expiring June 30, 1983; thereafter, their successors shall serve for two-year terms beginning July 1 of odd-numbered years. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122."

PART 22. — BOARD OF COMMISSIONERS OF THE LAW ENFORCEMENT OFFICERS' BENEFIT AND RETIREMENT FUND

Sec. 48. G.S. 143-166(b)(5) is rewritten to read:

- "(5) Two members to be appointed by the General Assembly, one upon the recommendation of the Speaker of the House of Representatives, and one upon the recommendation of the President of the Senate in accordance with G.S. 120-121. Neither member appointed by the General Assembly may be an active or retired law enforcement officer. The initial members appointed by the General Assembly shall serve for terms expiring June 30, 1983. Thereafter, their successors shall serve for two-year terms beginning July 1 of odd-numbered years. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122."

PART 23. — BOARD OF TRUSTEES OF THE NORTH CAROLINA MUSEUM OF ART

Sec. 49. G.S. 140-5.13(b) is amended by:

- (1) Rewriting subdivision (1) to read:

"(1) The Governor shall appoint eleven members, one from each congressional district in the State in accordance with G.S. 147-12(3b);";

- (2) Deleting the word "four" in subdivisions (2), (3) and (4) and inserting the word "three" in lieu thereof;

- (3) Rewriting subdivision (5) to read:

"(5) The General Assembly shall appoint two members, one upon the recommendation of the Speaker of the House of Representatives, and one upon the recommendation of the President of the Senate in accordance with G.S. 120-121.";

- (4) Deleting subdivision (6); and

- (5) Deleting the words "President of the Senate or the Speaker of the House", "President of the Senate and the Speaker of the House of Representatives", and "President of the Senate or of the Speaker of the House" from the last three sentences of the subsection and inserting the words "General Assembly" in each place in lieu thereof.

Sec. 50. G.S. 140-5.13(c) is amended by deleting the words "Every vacancy" and inserting in lieu thereof the phrase "Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122. All other vacancies".

Sec. 51. G.S. 140-5.13(d) is amended by:

- (1) Deleting the words "legislative members" and inserting in lieu thereof the words "legislative appointees";

- (2) Rewriting subdivision (6) to read: "(6) The initial appointments by the General Assembly shall serve until June 30, 1983. Subsequent appointments shall be for two-year terms commencing July 1, 1983, and biennially thereafter";

- (3) Deleting subdivision (7).

Sec. 52. The second sentence of G.S. 140-5.13(j) is deleted.

Sec. 53. The reduction of one each in appointees by the North Carolina Art Society, Incorporated, the North Carolina Museum of Art Foundation, Incorporated, and the Board of Trustees of the North Carolina Museum of Art shall be accomplished at the expiration of the terms of members expiring June 30, 1983. The Governor shall make three additional appointments effective that date to serve six-year terms.

PART 24. — UNIVERSITY OF NORTH CAROLINA CENTER FOR PUBLIC TELEVISION

Sec. 54. G.S. 116-37.1(b)(1) is amended by:

- (1) deleting the phrase "one Senator appointed by the President of the Senate; one member of the House of Representatives appointed by the Speaker of the House" and inserting in lieu thereof the phrase "two members appointed by the General Assembly, one upon the recommendation of the Speaker of

the House of Representatives, and one upon the recommendation of the President of the Senate in accordance with G.S. 120-121"; and

- (2) Inserting a new sentence between the second and third sentences of the subdivision to read:

"The initial members appointed to the Board of Trustees by the General Assembly shall serve for terms expiring June 30, 1983, and notwithstanding anything else in this section, their successors shall be appointed in 1983 and biennially thereafter for two-year terms."

Sec. 55. G.S. 116-37.1(b)(5) is amended by deleting the words "Any vacancy which occurs" and inserting in lieu thereof the following: "Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122. Other vacancies occurring".

PART 25. — COMMISSION FOR MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

Sec. 55.1. G.S. 143B-148(a) is amended by:

- (1) Rewriting subdivision (1) to read:

"(1) Four of whom shall be appointed by the General Assembly, two upon the recommendation of the Speaker of the House of Representatives, and two upon the recommendation of the President of the Senate in accordance with G.S. 120-121. These members shall have concern for the problems of mental illness, mental retardation, alcohol and drug abuse. The initial members appointed to the Commission by the General Assembly shall serve for terms expiring June 30, 1983. Thereafter, their successors shall serve for two-year terms beginning July 1 of odd-numbered years. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122."

- (2) Rewriting the first sentence of subdivision (2) to read:

"Twenty-one of whom shall be appointed by the Governor, one from each congressional district in the State in accordance with G.S. 147-12(3b), and 10 at-large members."

Sec. 56. G.S. 143B-148(b) is amended by deleting the last sentence of the subsection.

Sec. 57. G.S. 143B-148(c) is rewritten to read:

"(c) Commission members shall receive per diem, travel and subsistence allowances in accordance with G.S. 138-5 and G.S. 138-6, as appropriate."

PART 26. — GOVERNOR'S WASTE MANAGEMENT BOARD

Sec. 58. G.S. 143B-216.12(a)(3) is rewritten to read:

- "(3) Two members appointed by the General Assembly, one upon the recommendation of the Speaker of the House of Representatives, and one upon the recommendation of the President of the Senate in accordance with G.S. 120-121."

Sec. 59. G.S. 143B-216.12(b) is amended by rewriting the last sentence to read:

"The initial members appointed by the General Assembly shall serve for terms expiring June 30, 1983; thereafter, their successors shall serve for two-year terms beginning July 1 of odd-numbered years."

Sec. 60. G.S. 143B-216.12(e) is amended by adding a new sentence at the end to read:

"Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122."

Sec. 61. G.S. 143B-216.12(f) is rewritten to read:

"Any member of the Board, except legislative appointees, may be removed by the Governor for misfeasance, malfeasance, or nonfeasance. Members appointed by the General Assembly may be removed for these reasons only by the General Assembly."

Sec. 62. G.S. 143B-216.12(g) is amended by deleting the second sentence.

PART 27. — MUNICIPAL BOARD OF CONTROL

Sec. 63. Article 1A of Chapter 160A of the General Statutes is repealed.

Sec. 64. This Part does not affect the validity of any corporate charter issued by the Municipal Board of Control prior to the effective date of this Part.

Sec. 65. This Part shall become effective October 1, 1982, except that an order incorporating a city which is entered prior to October 1, 1982, but subject to a referendum to be held under G.S. 160A-9.3 between October 1, 1982, and January 1, 1983, shall be valid notwithstanding the abolition of the Municipal Board of Control.

PART 28. — NORTH CAROLINA CAPITAL PLANNING COMMISSION

Sec. 66. G.S. 143B-373 is amended as follows:

- (1) Subsection (1)d. is amended by deleting the word "select", and inserting in lieu thereof "recommend to the Governor".
- (2) Subsection (1)e. is amended by deleting "name", and inserting in lieu thereof "recommend to the Governor the name for".
- (3) Subsection (1) is amended by deleting "the City of Raleigh and its environs" in each of the four places it appears and inserting in lieu thereof "Wake County".
- (4) Subsection (1)d. is amended by adding immediately before the semicolon ", except for buildings occupied by the General Assembly".
- (5) Subsection (1)e. is amended by inserting immediately after the word "Hospital", the words ", the General Assembly".

Sec. 67. G.S. 120-32 is amended by adding a new subsection to read:

"(10) To select the locations for buildings occupied by the General Assembly, and to name any building occupied by the General Assembly."

Sec. 68. G.S. 147-12 is amended by adding a new subsection to read:

"(12) To name and locate State government buildings, monuments, memorials, and improvements, as provided by G.S. 143B-373(1)."

PART 29. — NORTH CAROLINA PORTS AUTHORITY

Sec. 69. G.S. 143B-452 is amended by rewriting the last sentence of the first paragraph to read:

"The Governor shall appoint seven members to the Authority, and the General Assembly shall appoint two members of the Authority. Effective July 1, 1983, the Authority shall consist of seven persons appointed by the Governor, and four persons appointed by the General Assembly."

Sec. 70. The first paragraph of G.S. 143B-452 is amended by adding the following new language immediately after the second sentence:

"Effective July 1, 1983, it shall be governed by a board composed of 11 members and hereby designated as the authority."

Sec. 71. The third and fourth paragraphs of G.S. 143B-452 are repealed, and the following substituted in lieu thereof:

"The General Assembly shall appoint two persons to serve terms expiring June 30, 1983. The General Assembly shall appoint four persons to serve terms beginning July 1, 1983, to serve until June 30, 1985, and successors shall serve for two-year terms. Of the two appointments to be made in 1982, one shall be made upon the recommendation of the Speaker, and one shall be made upon the recommendation of the President of the Senate. Of the four appointments made in 1983 and biennially thereafter, two shall be made upon the recommendation of the President of the Senate, and two shall be made upon the recommendation of the Speaker. Appointments by the General Assembly shall be made in accordance with G.S. 120-121, and vacancies in those appointments shall be filled in accordance with G.S. 120-122."

PART 30. — PROPERTY TAX COMMISSION

Sec. 72. The first paragraph of G.S. 143B-223 is amended by deleting "one each appointed by the Lieutenant Governor and the Speaker of the House", and inserting in lieu thereof "two appointed by the General Assembly".

Sec. 73. G.S. 143B-223 is amended by deleting the last two sentences of the first paragraph and inserting the following in lieu thereof:

"Of the two appointments made by the General Assembly, one shall be made upon the recommendation of the Speaker, and one shall be upon recommendation of the President of the Senate. The initial appointments of the General Assembly shall be for terms to expire on June 30, 1983, and the appointment of their successors shall be for terms of two years for the person appointed by the General Assembly upon the recommendation of the Speaker and four years for the person appointed by the General Assembly upon the recommendation of the President of the Senate. Appointments by the General Assembly shall be in accordance with G.S. 120-121 and vacancies shall be filled in accordance with G.S. 120-122."

PART 31. — COMMISSION OF INDIAN AFFAIRS

Sec. 74. G.S. 143B-407(a) is amended by deleting "the Speaker of the House of Representatives (or a person designated by the Speaker), the Lieutenant Governor (or a person designated by the Lieutenant Governor)", and inserting in lieu thereof "two persons appointed by the General Assembly".

Sec. 75. G.S. 143B-407(a) is further amended by adding the following new language at the end:

"Of the two appointments made by the General Assembly, one shall be made upon the recommendation of the Speaker, and one shall be made upon recommendation of the President of the Senate. Appointments by the General Assembly shall be made in accordance with G.S. 120-121 and vacancies shall be filled in accordance with G.S. 120-122."

Sec. 76. G.S. 143B-407(b) is further amended by adding the following new language at the end:

"The initial appointments by the General Assembly shall expire on June 30, 1983. Thereafter, successors shall serve for terms of two years."

PART 32. — SOCIAL SERVICES COMMISSION

Sec. 77. The fourth paragraph of G.S. 143B-154 is repealed.

Sec. 78. Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-153. Legislative enactment required. — Notwithstanding any provision of this Part or of Chapter 108A of the General Statutes, the setting of rates or fees for social services for services provided under this Part or that Chapter, or the setting of eligibility standards or the designation of services to be provided, if granted by this Part or that Chapter to the Social Services Commission, instead shall be done only by enactment of laws enacted by the General Assembly. This section applies only to the exercise of powers by the Social Services Commission. The Social Services Commission may adopt interim rules or regulations in those areas during any time the General Assembly is not in session or has recessed for more than 10 days, such rules or regulations to expire on the first day of July of the odd-numbered year following their effective date, unless earlier modified, amended, enacted, or repealed by the General Assembly. The Social Services Commission shall report by May 1 of each year on any rules or regulations adopted under this section. This section is effective July 1, 1983."

PART 33. — WILDLIFE RESOURCES COMMISSION

Sec. 79. G.S. 143-240 is amended by deleting the second and third sentences of the eleventh paragraph and inserting the following in lieu thereof:

"The General Assembly shall appoint two members of the Commission, one upon the recommendation of the Speaker of the House and one upon the recommendation of the President of the Senate, in accordance with G.S. 120-121."

Sec. 80. G.S. 143-241 is amended in the last paragraph by deleting the last sentence and inserting the following in lieu thereof:

"Initial members of the Commission appointed by the General Assembly shall serve until June 30, 1983, and subsequent appointees shall serve for a two-year term beginning July 1, 1983, and biennially thereafter."

Sec. 81. G.S. 143-242 is amended by rewriting the second sentence to read:

"Appointments to fill vacancies of those members of the Commission appointed by the General Assembly shall be made under G.S. 120-122."

PART 34. — NORTH CAROLINA BOARD OF PHYSICAL THERAPY EXAMINERS

Sec. 82. G.S. 90-270.25 is amended by deleting the fifth and sixth sentences from its text.

Sec. 83. Appointments made under the previous G.S. 90-270.25 are valid until the expiration of the term, or death, resignation or removal of the appointee, but no new appointment may be made which would increase the membership of the Board to more than eight.

PART 35. — FURTHER STUDY AUTHORIZED

Sec. 84. The Legislative Research Commission is authorized to continue its study of the separation of powers between the three branches of State government and to report its findings and recommendations to the 1983 Session of the General Assembly.

PART 36. — EFFECTIVE DATE

Sec. 85. Except as provided elsewhere in this act, this act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of June, 1982.