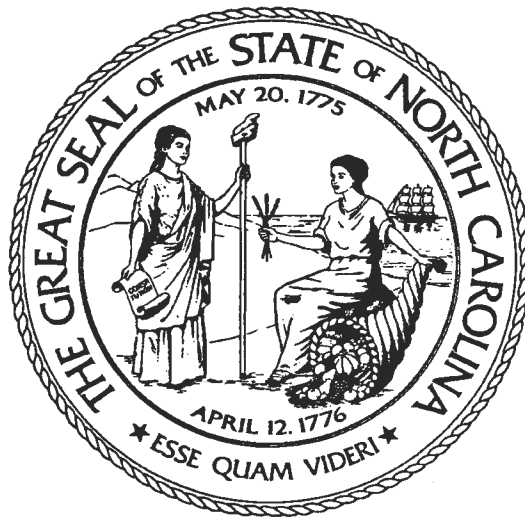


**REPORT OF THE  
STATE PERSONNEL SYSTEM  
STUDY COMMISSION**



**REPORT TO THE  
1989 GENERAL ASSEMBLY  
OF NORTH CAROLINA  
1990 SESSION**

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TABLE OF CONTENTS

Letter of Transmittal. .... 1

Preface ..... 2

Commission Proceedings ..... 3

Commission Findings and Recommendations ..... 11

Legislative Proposals,  
each followed by a section-by-section analysis:

1. AN ACT TO AMEND THE PERFORMANCE PAY SYSTEM TO ALLOW SOME FLEXIBILITY REGARDING THE NUMBER OF LEVELS IN THE RATING SCALE USED TO APPRAISE THE PERFORMANCE OF STATE EMPLOYEES, WITH THE TOP TWO LEVELS OF PERFORMANCE GENERALLY QUALIFYING FOR PERFORMANCE INCREASES.....16

2. AN ACT TO PLACE THE BURDEN ON THE STATE EMPLOYEE TO REQUEST WRITTEN JUSTIFICATION FROM THE EMPLOYEE’S SUPERVISOR WHEN THAT EMPLOYEE IS ELIGIBLE FOR A PERFORMANCE INCREASE BUT DOES NOT RECEIVE A PERFORMANCE INCREASE, OR WHEN THAT EMPLOYEE DOES NOT RECEIVE AN INCREASE OF A MIDRANGE VALUE WITHIN THE ALLOWABLE RANGE.....19

3. AN ACT TO AWARD A PERFORMANCE PAY INCREASE IN THE FORM OF A ONE-TIME, LUMP-SUM BONUS FOR THE YEAR TO ANY STATE EMPLOYEE WHO IS ELIGIBLE FOR SUCH AN INCREASE AND WHO IS AT THE TOP OF A PAY SCALE.....24

4. AN ACT TO CLARIFY THE CURRENT PROVISIO REGARDING A LIMITATION ON THE NUMBER OF STATE EMPLOYEES ELIGIBLE TO RECEIVE PERFORMANCE PAY INCREASES.....29

5. AN ACT TO ESTABLISH A PERFORMANCE MANAGEMENT AND PAY OVERSIGHT ADVISORY COMMITTEE WITHIN EACH DEPARTMENT, AGENCY, AND INSTITUTION TO ENSURE THAT PERFORMANCE PAY INCREASES ARE MADE IN A FAIR AND EQUITABLE MANNER.....35

6. AN ACT TO REPEAL THE STATE INCOME TAX EXEMPTION FOR FEDERAL, STATE, LOCAL, AND PRIVATE RETIREMENT

BENEFITS AND TO INCREASE THE RETIREMENT FORMULA FOR MEMBERS AND BENEFICIARIES OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, THE CONSOLIDATED JUDICIAL RETIREMENT SYSYTEM, THE LEGISLATIVE RETIREMENT SYSTEM, AND THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM.....	41
7. AN ACT TO APPROPRIATE FUNDS TO IMPLEMENT THE NEW PERFORMANCE PAY SYSTEM FOR STATE EMPLOYEES, ENACTED IN CHAPTER 796 OF THE 1989 SESSION LAWS.....	58
8. A SPECIAL PROVISION TO DIRECT THE STATE PERSONNEL COMMISSION TO DEVELOP AND IMPLEMENT AN ACCELERATED PAY PLAN FOR THE LOWEST PAID STATE EMPLOYEES.....	60

Appendices

A. Authorizing Legislation

Part XXI, Chapter 802, 1989 Session Laws .....	A-1
Senate Bill 59, 1989 Session.....	A-3
House Bill 140, 1989 Session.....	A-4

B. Membership and Staff of the State Personnel System Study Commission . ....B-1

C. House Bill 73, Chapter 796, 1989 Session Laws.....C-1

D. List of Persons Appearing Before the Commission .....D-1

NORTH CAROLINA GENERAL ASSEMBLY  
STATE LEGISLATIVE BUILDING  
RALEIGH 27611



May 21, 1990

TO THE MEMBERS OF THE 1990 GENERAL ASSEMBLY:

The State Personnel System Study Commission submits to you for your consideration its interim report on the State Personnel System. This report was prepared by the State Personnel System Study Commission pursuant to Part XXI of Chapter 802 of the 1989 Session Laws.

Respectfully submitted,

*Wanda H. Hunt*

Wanda H. Hunt

*Milton F. Fitch*

Representative Milton "Toby" Fitch

Cochairmen

State Personnel System Study Commission



## PREFACE

The State Personnel System Study Commission was established by Part XXI of Chapter 802 of the 1989 Session Laws. The Commission consists of fifteen voting members: five members of the Senate appointed by the President Pro Tempore of the Senate; five members of the House of Representatives appointed by the Speaker of the House of Representatives; and five public members appointed by the Governor. On March 12, 1990, the President Pro Tempore of the Senate appointed Senator Fountain Odom to serve as an "ex officio member." Wanda H. Hunt and Representative Milton "Toby" Fitch were appointed by the President Pro Tempore of the Senate and the Speaker of the House of Representatives, respectively, as cochairs of the Commission.

Chapter 802 instructed the Commission to study "all aspects of the State personnel system, including the impact of State and local governmental employees retirement benefits increases, the impact of the exemption from State taxes of State, local, federal, and private retirement benefits, and public employees' day care and medical and dental benefits." The Commission was authorized to make findings and recommendations it deemed desirable and to report on the status of its work to the 1990 Session of the 1989 General Assembly. The General Assembly allocated to the State Personnel System Study Commission to conduct its work the sum of \$25,000 for the 1989-90 fiscal year and \$20,000 for the 1990-91 fiscal year from the funds appropriated to the General Assembly. Part XXI of Chapter 802 is set out in Appendix A to this report. The full membership of the Commission and the staff assigned to the Commission are listed in Appendix B of this report.





## COMMISSION PROCEEDINGS

The State Personnel System Study Commission met four times: On January 30, 1990; February 21, 1990; March 20, 1990; and April 17, 1990. The Commission is indebted to those persons who appeared to testify before the Commission and to those who regularly attended the meetings of the Commission. Appendix D lists the persons who appeared before the Commission.

### January 30, 1990 meeting

The first meeting focused on the new performance pay system for State employees. Betsy R. Smith, Ed. D., Manager of the Performance Management System, Office of State Personnel, summarized the provisions of enacted House Bill 73, Chapter 796 of the 1989 Session Laws. (See Appendix C.) House Bill 73 completely revised the performance pay system in effect for State employees subject to Chapter 126 of the General Statutes. This new system went into effect July, 1989. House Bill 73 provides for salary increases based on individual job performance and the availability of funds as determined by the general salary increases for State employees provided by the General Assembly. The legislation directs the State Personnel Commission to adopt regulations for performance appraisal that:

- 1) Reward only performance that exceeds performance requirements;
- 2) Use a rating scale of at least five levels, with the top three levels qualifying for performance increases;
- 3) Require the State Personnel Director to provide initial and ongoing training in performance appraisal;
- 4) Prohibit the award of a performance increase to an employee who does not exceed performance requirements;
- 5) Require the State Personnel Director to set increase ranges. An employee whose performance merits an increase shall receive an increase equal to the midrange value unless the supervisor justifies in writing a different increase;

- 6) Allow disputes on the issues of fairness and sufficiency of the increase;
- 7) Require various reports; and
- 8) Direct the State Personnel Director to recommend to the General Assembly sanctions to be levied against deficient departments.

There are no sanctions in effect at present.

Dr. Smith told the Commission that there have been no merit pay awards since 1982. The 1989 General Assembly appropriated funds to grant State employees a 6% salary increase, allotting this increase as follows: 4% to be distributed as an across-the-board increase and 2% to be distributed as performance pay pursuant to enacted House Bill 73. Few agencies had time to come up with performance appraisal systems with five levels of performance, with the top three levels representing performance which exceeded expectations. Most agencies had performance appraisal systems with three levels of performance, with one level exceeding expectations; some had systems with five levels, with two levels exceeding expectations. However, for those performance appraisal systems with five levels of performance, with three levels exceeding expectations, a requirement of all agencies by 1991 under House Bill 73, the State Personnel Director set the increase ranges as follows:

- (1) The 1st level of performance above expectations: increases of 1%, 2%, 2.9%
- (2) The 2nd level of performance above expectations: increases of 3%, 4%, 4.9%
- (3) The 3rd (top) level of performance above expectations: increases of 5%, 5.5%, 6%.

According to the provisions of House Bill 73, an employee should receive a performance increase at the midrange value from the above ranges for his particular performance level, that is, 2%, 4%, or 5.5% respectively. If the supervisor awards other than the midrange value, the supervisor must justify in writing why he gave a different increase.

Since the General Assembly appropriated only enough funds for each State employee to receive 2% as performance pay, there were not enough funds to award many employees whose performance exceeded expectations in the top two levels of performance at their midrange value. Many supervisors had to justify in writing an award of less than the midrange value. Dr. Smith stated that Mr. Lee estimates 50,000 letters of justification will have to be written. The Office of State Personnel wants to see more money allotted for performance pay and less for across-the-board increases.

Over two hundred workshops have been conducted across the State to train supervisors to administer the performance pay system in an equitable manner. Over 2,000 members of agency dispute resolutions boards have been trained. Only thirty-five grievance appeals have been filed to date.

Dr. Smith informed the Commission that House Bill 72, an appropriations bill introduced during the 1989 Session, is eligible for consideration during the 1990 Session. The Office of State Personnel received no additional staff and no additional funds to implement the new performance pay system. A great need exists for funds to implement House Bill 73 for fiscal year 1990-91. Funds are needed to train supervisors and to monitor the performance pay system.

The Office of State Personnel expressed reservations about applying three top levels of performance above expectations to all types of job. Some jobs in State government have enough latitude to identify three levels of performance that exceeds expectations; however, some jobs operate in close tolerance of what is expected, making it difficult to identify what could be done to exceed expectations at three levels.

Although there is no data yet upon which to reach a conclusion, Dr. Robert Berlam, Executive Director of State Employees Association of North Carolina, "SEANC," reported general approval of the performance pay system. Most inquiries the Association had received so far were from managers with questions regarding how to implement the system. Overall, performance pay is accomplishing the intent of the legislation. He believed that some refinements to the system are in order.

#### February 21, 1990 meeting

At its second meeting, the Commission addressed the impact of the \$4000 tax exemption on State and local retirement benefits. The Commission also addressed recommended refinements to the performance pay system.

Mr. Stanley Moore from Fiscal Research, North Carolina General Assembly, explained to the Commission that prior to 1989, benefits from all State-administered retirement systems were exempt from any North Carolina State income tax. In March 1989, the U. S. Supreme Court ruled in *Davis v. Michigan* that all federal, State, and local retirement systems had to be taxed equally. North Carolina had previously allowed federal and military retirees a \$3000 tax exemption, which was increased to \$4000, effective for the 1989 tax year. State and local retirees previously paid no State tax on their retirement income. To comply with the *Davis v. Michigan* ruling, the

General Assembly applied the \$4000 tax exemption for federal retirees to State and local retirees, as well, and allowed private retirees a \$2000 exemption, beginning for the 1989 tax year. To offset the resulting increased tax burden for State and local retirees, the General Assembly approved an increase in the formula for retirees' benefits from 1.60% to 1.63%. Also, all retirees received a 1.9% increase in benefits. The cost to the State to increase the formula was \$213,000,000 on a one-time-basis; to increase benefits by 1.9% cost \$79,000,000. The Teachers' and State Employees' Retirement System is approximately 87% funded. At this level of funding, it is a sound system.

Mr. John C. Rice, Executive Director of the North Carolina Retired Governmental Employees Associations, favored another increase in the retirement formula as funds are available. This Association is opposed to any class-action suits against the State.

Mr. Billy Blackman, Chairman of SEANC'S Retirement Study Committee, presented some statistical information regarding the increased tax liability of State retirees. Noting that each retiree's tax situation varies, depending on such things as whether he is married, has outside income, etc., Mr. Blackman said it is difficult to come up with a standard formula to represent the increased tax liability for all State retirees. However, by increasing the retirees' benefit formula further to 1.75%, 97% of all retired State employees should be compensated enough to offset their increased State tax liability. Staff was directed to draft a bill to increase the formula to 1.75%.

The Commission turned its attention to the performance pay system. Dr. Robert L. Tomlinson, Associate Vice Chancellor of U.N.C.- Greensboro reported the university's experience implementing the new performance pay system. The University did not have a performance appraisal system, so it chose to move ahead toward the 1991 requirement and developed a five-level system, with the top three levels representing performance that exceeded performance requirements. Most other agencies were operating with appraisal systems with only one or two levels of performance that exceeded expectations.

Although the performance appraisal process was a positive experience for supervisors and employees, Dr. Tomlinson expressed some negative aspects of having three levels of performance above job expectations. This scale was difficult to administer. He recommended that only the top two levels of performance be designated as performance that exceeds performance requirements, with the top level representing performance at an exemplary level. Mr. Tomlinson also recommended:

- (1) Funding for additional training regarding skills in developing and writing job expectations and communication skills of supervisors;
- (2) Allocating more funds for performance pay and less for across-the-board increases; and
- (3) Discontinuing a fixed midrange value, which limits the flexibility of a manager to recognize performance.

Mr. G. C. Davis, Deputy Director, Office of State Personnel, presented several recommendations for refinements to the performance pay system. The Commission directed counsel to draft bills to address the following three recommendations:

- (1) Clarify the proviso contained in G. S. 126-7(e), because it conflicts with another provision in G. S. 126-7;
- (2) Rewrite G. S. 126-7(c) so that the number of levels within a performance appraisal system may be tailored to the particular job;
- (3) Rewrite G. S. 126-7(c)(5), so that an employee will receive written justification only when the employee requests the writing. Presently justification in writing is automatically forthcoming.

Mr. Davis submitted an updated request for funds to implement House Bill 73 adequately. Staff was directed to draft a bill accordingly.

Mr. Davis also addressed performance increases for employees at the top of a pay scale. Two thousand two hundred State employees fall in this category. By rule of the State Personnel Commission, they are presently ineligible for performance increases. The Office of State Personnel recommends no change to this rule. The top of a pay scale should be determined by market forces; it should not be increased to accommodate the performance pay system. Senator Johnson and Representative Nye took the position that House Bill 73 mandated a performance increase for **all** State employees whose performance was exceptional. Mr. Elmore suggested a one-time yearly bonus for these employees, in lieu of a salary increase. A bonus would not have to change the top of the pay scale. Staff was directed to draft a bill to grant a bonus for employees at the top of the pay scale.

March 20, 1990 meeting

At the direction of the President Pro Tempore of the Senate, Senator Fountain Odom began to serve as an "ex-officio member" to the Commission. Senator Howard Lee sat in on the Commission meeting.

The Commission reviewed all bills pertaining to State personnel issues that were introduced during the 1989 Session and are eligible for further consideration by the 1990 Session of the 1989 General Assembly. The Commission took no action on any of these bills.

Representative Barnes presented a proposal for an accelerated pay plan for those employees at the bottom pay grades. Representative Barnes had introduced House Bill 682 during the 1989 Session to ensure that no full-time permanent State employees receive an annual salary less than the current federally defined poverty level for a family of four. Her new proposal is one she developed with the assistance of the Office of State Personnel. This accelerated pay plan provides more frequent evaluation of those employees in those pay grades 50 through 53 that are selected by the State Personnel Commission as subject to the plan. More frequent evaluations would provide these employees with an opportunity to "earn their way up" to a \$14,000 per year pay range in two years time. At this time, the employee could move into the regular performance pay system of performance appraisal. Upward movement could occur when an employee meets or exceeds job expectations. Rep. Barnes hoped this plan would offer these employees an incentive to continue to work for the State. Based on a 4% across-the-board salary increase, a 2% performance pay increase, and 90% of the targeted employees qualifying for increases, the accelerated pay plan is estimated to cost \$800,000. Rep. Barnes thought it would be possible to pay for the plan with no additional appropriation by allotting more of the salary increases for performance pay. SEANC has reviewed the accelerated pay plan and supports this plan to the extent that performance pay funds are used only for performance that exceeds expectations. The Commission voted to include the accelerated pay plan, with no funding provision, in its report in the form of a special provision to be recommended for inclusion in the budget bill.

The Commission reviewed the six draft bills that it directed counsel to prepare at the last meeting. The Commission voted to table for later consideration the draft bill which clarified the provision contained in G.S. 126-7(e). The Commission decided to postpone consideration of the draft bill to increase the retirees' benefit formula from 1.63% to 1.75% until the next meeting when more figures could be

presented. The Commission adopted the other draft bills for its report to the 1990 Session.

#### April 17, 1990 meeting

Ms. Susan Hutchins was introduced as a new member to the Commission to serve as Ms. Wilma Sherrill's replacement. Ms. Sherrill resigned her membership.

The Commission focused its attention on resolving what legislation it wanted to propose to the 1990 Session. The Commission discussed at length whether and the extent to which the benefits formula for State and local retirees should be increased. The North Carolina League of Municipalities, represented by Ellis Hankins, favored increasing the formula, but not at the proposed level of 1.75%. The League supported an increase up to an amount that could be funded within the available unencumbered actuarial gains in the local retirement system, without any contribution rate increases. The League considered an increase in the formula from 1.63% up to 1.65% as reasonable.

The North Carolina Association of County Commissioners was represented by Mr. James Blackburn. The Association has no formal position on the draft bill, but Mr. Blackburn commended the Commission for bringing the issue back for further consideration by the General Assembly. Traditionally local benefits have paralleled State benefits. He suggested that more information was needed.

The Commission discussed whether its objective was to make retirees' whole, that is, to completely compensate them for the increased tax liability resulting from the \$4000 tax exemption. Representative Barnes pointed out that an increase of the benefits formula could never hold all State retirees harmless since tax liability varies so much from one retiree to another, depending on outside income, filing status of the particular retiree, and other factors that bear on a retiree's tax position. The cost to make all retirees whole would be much greater than the cost of making the average retiree whole.

The Commission decided to support an innovative proposal presented by Mr. Edwin Barnes, Director, Retirement Systems Division, Department of State Treasurer. Mr. Barnes proposed a repeal of exemptions for all retirees, a return of the accrual rate to 1.60%, and the addition of new component, a multiplier of 1.075, which would yield an increase in the benefits formula from 1.63% to 1.72% (the product of 1.60 and 1.075). A comparable increase in benefits for those in retirement

would be granted. These increases would be 7.5% less the formula adjustment granted in July 1989, or 5.5% for the Teachers' and State Employees' Retirement System and 7.5% for the Consolidated Judicial Retirement System. Increasing benefits and increasing the retirement formula would cancel the impact of State taxation of retirement income. The one time cost would be about \$715 million. Eliminating the exemptions would generate revenue for the State.

The Commission then voted to include in its report a draft bill proposed by SEANC to establish performance pay oversight committees within each department, agency, and institution for the purpose of ensuring that performance pay is awarded in a fair manner. The Commission decided that the role of these committees should be advisory only.

The bill draft to clarify the proviso contained in G.S. 126-7(e) came up for discussion again. The Commission adopted an alternative version developed by the Office of State Personnel.

The Commission decided to have the draft report sent to the members for review, later to be approved by the Commission cochairmen. The Commission would not meet again until after the 1990 Session of the 1989 General Assembly.



## COMMISSION FINDINGS AND RECOMMENDATIONS

**RECOMMENDATION #1: THE GENERAL ASSEMBLY SHOULD AMEND THE PERFORMANCE PAY SYSTEM TO ALLOW SOME FLEXIBILITY REGARDING THE NUMBER OF LEVELS IN THE RATING SCALE USED TO APPRAISE THE PERFORMANCE OF STATE EMPLOYEES, WITH THE TOP TWO LEVELS GENERALLY QUALIFYING FOR PERFORMANCE INCREASES. (See Legislative Proposal 1.)**

**Findings:** Those departments, agencies, and institutions which have developed performance appraisal systems with five levels of performance, the top three levels qualifying for performance increases, have found this scheme to be unnecessary and unworkable for some types of job classifications. Certain jobs in State government operate in close tolerances of what is expected, making it difficult to identify what an employee can do to exceed the expectations of the job. Often, the five level rating scale of performance appraisal was not consistently applied by supervisors.

The performance pay system would be improved if a department, agency, or institution had the flexibility to use a rating scale of other than five levels of performance, with the top two (rather than top three) levels qualifying for a performance increase. To maintain a desirable level of uniformity, a performance appraisal system with five levels of performance should be presumed to be the most appropriate. The burden to overcome this presumption should be placed on the department, agency, or institution that seeks to use a different appraisal system. The department, agency, or institution should be required to show, by clear and convincing evidence at a public hearing conducted by the State Personnel Commission, that a performance appraisal system with other than five levels is more appropriate for a particular job classification within a particular employing unit.

**RECOMMENDATION #2: THE GENERAL ASSEMBLY SHOULD PLACE THE BURDEN ON THE STATE EMPLOYEE WHO IS ELIGIBLE FOR A PERFORMANCE INCREASE TO REQUEST WRITTEN JUSTIFICATION FROM THE EMPLOYEE'S SUPERVISOR WHEN THAT EMPLOYEE DOES NOT**

**RECEIVE A PERFORMANCE INCREASE OR WHEN THAT EMPLOYEE RECEIVES AN INCREASE OF OTHER THAN THE MIDRANGE VALUE WITHIN THE ALLOWABLE RANGE. (See Legislative Proposal 2.)**

**Findings:** In the first months of implementing the new performance pay system, it has become apparent that it is unduly burdensome to require a supervisor to automatically provide written justification of his decision to not award a performance increase or his decision to award other than a midrange increase, the employee's performance exceeding expectation in both instances. The latter case particularly has led to a great deal of unnecessary paperwork for supervisors. The General Assembly did not appropriate sufficient funds for all employees whose performance exceeded expectations to receive an increase at the midrange value; therefore, all these employees were entitled to receive written justification. It is expected that supervisors will have to write 50,000 letters. The employees' rights will be adequately protected if written justification is forthcoming whenever an employee requests written justification.

**RECOMMENDATION #3: THE GENERAL ASSEMBLY SHOULD AWARD A PERFORMANCE PAY INCREASE IN THE FORM OF A ONE-TIME, LUMP-SUM BONUS FOR THE YEAR TO ANY STATE EMPLOYEE WHO IS AT THE TOP OF A PAY SCALE AND WHO IS ELIGIBLE FOR A PERFORMANCE INCREASE. (See Legislative Proposal 3.)**

**Findings:** On the one hand, an employee at the top of a pay scale should not be precluded from receiving a performance increase if he otherwise qualifies for a performance increase. On the other hand, the top of a pay scale is properly determined by market forces. It is undesirable to extend the top of the pay scale to accommodate the performance pay system. The employee at the top of the pay scale should receive a performance increase that does not distort the pay scale.

Employees who are at the top of the pay scale and whose performance exceeds expectations should receive an annual, lump-sum bonus award that should be paid separately from every other payment to the employee for the year. To preserve the integrity of the pay scale, this performance bonus should not affect the value at the top of the pay scale and should not alter the employee's salary. The value of the bonus award should be determined in the same manner as any other performance increase.

**RECOMMENDATION #4: THE GENERAL ASSEMBLY SHOULD CLARIFY THE CURRENT PROVISIO REGARDING A LIMITATION ON THE NUMBER OF STATE EMPLOYEES ELIGIBLE TO RECEIVE PERFORMANCE PAY INCREASES. (See Legislative proposal 4.)**

**Findings:** A department, agency, or institution should not be allowed to set a firm limit on the number or percentage of State Employees within that department, agency, or institution who are eligible to receive performance increases. A department, agency, or institution should be allowed to establish standards for performance and standards for performance pay increases within the particular organization, so long as this standard is not used to prevent an employee whose performance exceeds performance requirements from receiving his performance increase. Such standards for performance pay increases are a way for a department, agency, or institution to manage the limited funds distributed for performance increases.

**RECOMMENDATION #5: THE GENERAL ASSEMBLY SHOULD ESTABLISH A PERFORMANCE MANAGEMENT AND PAY OVERSIGHT ADVISORY COMMITTEE WITHIN EACH DEPARTMENT, AGENCY, AND INSTITUTION TO ENSURE THAT PERFORMANCE PAY INCREASES ARE MADE IN A FAIR AND EQUITABLE MANNER. (See Legislative Proposal 5.)**

**Findings:** Some departments and agencies have voluntarily established performance pay oversight committees within their respective departments and agencies. These have proven to be highly successful. They provide an opportunity for nonsupervisory employee input to the performance pay system and thereby give credibility to the performance pay system. The role of such committees should be advisory. The performance pay system should require each department, agency, and institution to have a performance management and pay oversight advisory committee.

**RECOMMENDATION #6: THE GENERAL ASSEMBLY SHOULD REPEAL THE STATE INCOME EXEMPTIONS FOR ALL FEDERAL, STATE, LOCAL, AND**

**PRIVATE RETIREMENT BENEFITS AND INCREASE THE RETIREMENT FORMULA FOR MEMBERS AND BENEFICIARIES OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, THE CONSOLIDATED JUDICIAL RETIREMENT SYSTEM, THE LEGISLATIVE RETIREMENT SYSTEM, AND THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM. (See Legislative Proposal 6.)**

**Findings:** The General Assembly has long granted federal retirees a State income tax exemption; State and local retirees have in the past paid no State tax on their retirement income. Effective tax year 1989, the General Assembly raised the tax exemption for federal retirees to \$4000 and, for the first time, extended a \$4000 tax exemption to State and local retirees and extended a \$2000 tax exemption to private retirees. The General Assembly added the new exemptions for State and local retirees in order to satisfy the ruling of the March 1989 U. S. Supreme Court case *Davis v. Michigan*, which held, among other holdings, that federal, State, and local retirement income had to be taxed equally by the states.

In order to offset the resulting increased tax liability for State and local retirees, the General Assembly increased the retirement formula and retirement benefits for State and local retirees. The Commission found that these retirees had not been helped enough by these increases to completely make up for the added tax liability. In fact, because each retiree's tax posture varies depending on such factors as whether the retiree is married, has outside income, and whether the retiree's spouse has retirement income or outside income, it is impossible to adjust the retirement formula to a level that exactly compensates for increased State taxes. Such an approach is also extremely costly to the State. The innovative approach offered in this legislative proposal accomplishes the following goals:

- (1) Satisfies the holding of *Davis v. Michigan*, in that all retirement income is taxed equally;
- (2) Generates more State revenues; and
- (3) Uses the additional revenues to increase retirement benefits within each of the retirement systems for State employees to a degree that compensates for increased State tax liability.

**RECOMMENDATION #7: THE GENERAL ASSEMBLY SHOULD APPROPRIATE FUNDS FOR THE 1990-91 FISCAL YEAR TO IMPLEMENT THE NEW PERFORMANCE PAY SYSTEM FOR STATE EMPLOYEES, AS IT WAS ENACTED IN CHAPTER 796 OF THE 1989 SESSION LAWS. (See Legislative Proposal 7.)**

**Findings:** The Office of State Personnel received no funds in the 1989-90 fiscal year to implement the new performance pay system enacted by the 1989 General Assembly. The successful implementation of the new performance pay system requires additional funding, sixty percent of which represents one-time spending. The major funding need is to provide initial and ongoing training for managers and supervisors to build skills in performance appraisal and performance system administration. Funds are also needed to provide resources to monitor administration of the performance pay system within the State departments, agencies, and institutions. Monitoring is essential to obtain accurate reports for the General Assembly and the State Personnel Commission and to determine whether the performance pay system is being implemented in a fair and uniform manner.

**RECOMMENDATION #8: THE GENERAL ASSEMBLY SHOULD INCLUDE IN THE BUDGET BILL FOR THE 1990-91 FISCAL YEAR A SPECIAL PROVISION THAT DIRECTS THE STATE PERSONNEL COMMISSION TO DEVELOP AND IMPLEMENT AN ACCELERATED PAY PLAN FOR THE LOWEST PAID STATE EMPLOYEES. (See Legislative Proposal 8.)**

**Findings:** Full-time State employees in the lowest pay grades, pay grades 50-53, may well be earning an annual salary that is less than the current federally defined poverty level for a family of four. The State Personnel Commission should develop a pay plan for these employees which provides an opportunity for these employees to work their way up at an accelerated pace and which provides an incentive for them to continue to work for the State. Advancement in the accelerated pay plan for the lowest paid State employees should depend upon the employee's performance meeting or exceeding the performance requirements of his particular job.



LEGISLATIVE PROPOSAL 1

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

H

D

89-LDY-234

(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)

Short Title: Flexibility in Job Appraisal.

(Public)

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Sponsors: Rep. .

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Referred to:

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1                                   A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE PERFORMANCE PAY SYSTEM TO ALLOW SOME  
3 FLEXIBILITY REGARDING THE NUMBER OF LEVELS IN THE RATING SCALE  
4 USED TO APPRAISE THE PERFORMANCE OF STATE EMPLOYEES, WITH THE  
5 TOP TWO LEVELS OF PERFORMANCE GENERALLY QUALIFYING FOR  
6 PERFORMANCE INCREASES.  
7 The General Assembly of North Carolina enacts:  
8       Section 1. G.S. 126-7(c)(2) reads as rewritten:  
9       "(2) To be eligible to distribute its share of the  
10       performance increase allocation, a department,  
11       agency, or institution shall have an operative  
12       performance appraisal system which has been  
13       approved by the State Personnel Director. The  
14       performance appraisal system adopted shall use a  
15       rating scale ~~of at least five levels, with the top~~  
16       ~~three levels qualifying for performance increases,~~  
17       and of:  
18       a. Five levels, with the top two levels  
19       qualifying for performance increases; or  
20       b. Other than five levels, with the levels  
21       qualifying for performance increases to  
22       be designated by the State Personnel  
23       Commission, for those job classifications  
24       in those employing units where a

1                    department, agency, or institution  
2                    demonstrates to the State Personnel  
3                    Commission that some number of levels  
4                    other than five would be appropriate, and  
5                    the State Personnel Commission, after  
6                    conducting a public hearing, determines  
7                    that a rating scale of other than five  
8                    levels is more appropriate than five  
9                    levels for a particular job  
10                   classification within a particular  
11                   employing unit.

12                   There shall be a presumption that a five-level  
13                   system is the most appropriate system, and the  
14                   department, agency, or institution must demonstrate  
15                   with clear and convincing evidence that a different  
16                   system is more appropriate. The performance  
17                   appraisal system adopted shall adhere to modern  
18                   personnel management techniques and practices in  
19                   common use in the public and private sectors.  
20                   Departments, agencies, and institutions with  
21                   existing performance appraisal systems which use a  
22                   rating scale which is not consistent with the ~~five-~~  
23                   ~~level~~ system described above shall have until July  
24                   1, 1991, to bring their systems into compliance  
25                   with this subsection."

26                   Sec. 2. This act shall become effective July 1, 1990.



## LEGISLATIVE PROPOSAL 1

### SECTION-BY-SECTION ANALYSIS

Section 1 of the bill amends G.S. 126-7(c)(2). Under current law, a performance appraisal system has to have a rating scale of at least five levels, with the top three levels qualifying for performance increases, to meet the approval of the State Personnel Director. This bill makes the structure of a rating scale more flexible. A rating scale of five levels of performance with the top two levels qualifying for performance increases is presumed to be the most appropriate appraisal system. However, a department, agency, or institution can use a different system if it is able to show the State Personnel Commission, by clear and convincing evidence at a public hearing, that a rating scale of other than five levels is more appropriate for a particular job classification within a particular employing unit.

Section 2 makes the act effective July 1, 1990, to allow a short lead-in-time for this change.





- 1 performance appraisal system which has been  
2 approved by the State Personnel Director. The  
3 performance appraisal system adopted shall use a  
4 rating scale of at least five levels, with the top  
5 three levels qualifying for performance increases,  
6 and shall adhere to modern personnel management  
7 techniques and practices in common use in the  
8 public and private sectors. Departments, agencies,  
9 and institutions with existing performance  
10 appraisal systems which use a rating scale which is  
11 not consistent with the five-level system described  
12 above shall have until July 1, 1991, to bring their  
13 systems into compliance with this subsection.
- 14 (3) The State Personnel Director shall help  
15 departments, agencies, and institutions to  
16 establish and administer their performance  
17 appraisal systems and shall provide initial and  
18 ongoing training in performance appraisal and  
19 performance system administration.
- 20 (4) An employee whose performance exceeds performance  
21 requirements shall receive a performance increase  
22 unless the employee's supervisor ~~justifies in~~  
23 ~~writing~~ can justify the decision not to award the  
24 performance increase. The supervisor shall give an  
25 employee written justification of his decision not  
26 to award the performance increase when the employee  
27 requests written justification. An employee whose  
28 performance does not exceed performance  
29 requirements shall not receive a performance  
30 increase.
- 31 (5) The State Personnel Director shall set the  
32 performance increase ranges allowable for levels of  
33 performance that exceed performance requirements.  
34 ~~Absent the supervisor's written justification, an~~  
35 ~~employee whose performance exceeds expectations~~  
36 ~~shall receive a percentage increase equal to the~~  
37 ~~midrange value for his rating level. With the~~  
38 ~~supervisor's written justification, an individual~~  
39 ~~employee's increase may vary above or below the~~  
40 ~~midrange value within the allowable range. An~~  
41 employee whose performance exceeds expectations  
42 shall receive a percentage increase equal to the  
43 midrange value for his rating, unless the  
44 supervisor can justify an increase above or below

- 1                   the midrange value within the allowable range. The  
2                   supervisor shall give an employee written  
3                   justification of his decision to award an increase  
4                   above or below the midrange value when the employee  
5                   requests written justification. A supervisor's  
6                   performance appraisal plan, evaluation standards  
7                   for each employee, and individual employee ratings  
8                   and recommended performance increase amounts, with  
9                   justification, shall be reviewed and approved by  
10                  that supervisor's next higher level supervisor.
- 11                  (6) The State Personnel Director may suspend any  
12                  performance increase that does not appear to meet  
13                  the intent of the provisions of the performance pay  
14                  system and require the originating department,  
15                  agency, or institution to reconsider or justify the  
16                  increase.
- 17                  (7) An employee who disputes the fairness of his  
18                  performance evaluation or the sufficiency of the  
19                  increase awarded or who believes that he was  
20                  unfairly denied a performance increase shall first  
21                  discuss the problem with his supervisor. Appeals  
22                  of the supervisor's decision shall be made only to  
23                  the grievance committee or internal performance  
24                  review board of the department, agency, or  
25                  institution which shall make a recommendation to  
26                  the head of the department, agency, or institution  
27                  for final decision. The State Personnel Director  
28                  shall help a department, agency, or institution  
29                  establish an internal performance review board or,  
30                  if it includes employee members, to use its  
31                  existing grievance committee to hear performance  
32                  pay disputes. Notwithstanding G.S. 150B-2(2) and  
33                  G.S. 126-22, 126-25, and 126-34, performance pay  
34                  disputes, including disputes about individual  
35                  performance appraisals, shall not be considered  
36                  contested case issues.
- 37                  (8) The State Personnel Director shall monitor the  
38                  performance appraisal system and performance  
39                  increase distribution of each employing unit within  
40                  each department, agency, and institution. Each  
41                  department, agency, and institution shall submit to  
42                  the Director annual reports which shall include  
43                  data on the demographics of performance ratings,  
44                  the frequency of evaluations, the performance pay

- 1 increases awarded, and the implementation schedule  
2 for performance pay increases. The Director shall  
3 analyze the data to ensure that performance  
4 increases are distributed fairly within each  
5 department, agency, and institution and across all  
6 departments, agencies, and institutions of State  
7 government and shall report back to each  
8 department, agency, and institution on its  
9 appraisal and distribution performance.
- 10 (9) The State Personnel Director shall report annually  
11 on the performance pay program to the Commission.  
12 The report shall evaluate the performance of each  
13 department, agency, and institution in the  
14 administration of its appraisal system and the  
15 distribution of performance increases within each  
16 department, agency, and institution and across  
17 State government. The report shall include  
18 recommendations for improving the performance  
19 appraisal system and alleviating inequities.  
20 Copies of the report shall be sent to the State  
21 Auditor.
- 22 (10) The Commission shall report annually to the  
23 Governor, the Lieutenant Governor, the President  
24 Pro Tempore of the Senate, the Speaker of the House  
25 of Representatives, and the Standing Personnel  
26 Committees of the House and the Senate. The  
27 Commission report shall include an evaluation of  
28 the administration of the appraisal system and  
29 distribution of performance increases by each  
30 department, agency, and institution. The State  
31 Personnel Director shall recommend to the General  
32 Assembly for its approval sanctions to be levied  
33 against departments, agencies, and institutions  
34 that have deficient appraisal systems or that do  
35 not link performance increases to performance.  
36 These sanctions may include withholding performance  
37 increases from the managers and supervisors of  
38 individual employing units of departments,  
39 agencies, and institutions in which discrepancies  
40 exist."
- 41 Sec. 2. This act shall become effective July 1, 1990.

## LEGISLATIVE PROPOSAL 2

### SECTION-BY-SECTION ANALYSIS

Section 1 amends G.S.126-7(c)(4) and G.S.126-7(c)(5). Under current law, a supervisor is required to automatically give written justification for his action regarding performance pay increases in two instances. If an employee's performance exceeds performance requirements but the supervisor decides not to award a performance increase, the supervisor must put the reason for his decision in writing (G.S. 126-7(c)(4).) If an employee's performance exceeds performance requirement and the supervisor does grant a performance increase for an amount other than the midrange value for the employee's rating level, the supervisor again must put the reason for his decision in writing. (G.S. 126-7(c)(7).) Section 1 changes the current law so that the supervisor need not put his reason in writing in either of these instances unless the employee requests written justification for the supervisor's decision.

Section 2 makes the act effective July 1, 1990 to provide a short lead in time.





LEGISLATIVE PROPOSAL 3

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

H

D

89-LDY-227

(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)

Short Title: Bonus Award/State Career Employees. (Public)

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Sponsors: Rep..

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Referred to:

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1                                   A BILL TO BE ENTITLED  
2 AN ACT TO AWARD A PERFORMANCE PAY INCREASE IN THE FORM OF A ONE-  
3 TIME, LUMP-SUM BONUS FOR THE YEAR TO ANY STATE EMPLOYEE WHO IS  
4 ELIGIBLE FOR SUCH AN INCREASE AND WHO IS AT THE TOP OF A PAY  
5 SCALE.  
6 The General Assembly of North Carolina enacts:  
7                   Section 1. G.S. 126-7(c) reads as rewritten:  
8    "(c) Performance increases shall be based on performance  
9 appraisals of all employees conducted by each department, agency,  
10 and institution. The State Personnel Commission, under the  
11 authority of G.S.126-4(8), shall adopt policy and regulations for  
12 performance appraisal. The policy and regulations shall include  
13 the following:  
14           (1) The performance appraisal system of each  
15 department, agency, or institution shall be  
16 designed and administered to ensure that  
17 performance increases are distributed fairly and  
18 reward only performance that exceeds performance  
19 requirements.  
20           (2) To be eligible to distribute its share of the  
21 performance increase allocation, a department,  
22 agency, or institution shall have an operative  
23 performance appraisal system which has been  
24 approved by the State Personnel Director. The

- 1 performance appraisal system adopted shall use a  
2 rating scale of at least five levels, with the top  
3 three levels qualifying for performance increases,  
4 and shall adhere to modern personnel management  
5 techniques and practices in common use in the  
6 public and private sectors. Departments, agencies,  
7 and institutions with existing performance  
8 appraisal systems which use a rating scale which is  
9 not consistent with the five-level system described  
10 above shall have until July 1, 1991, to bring their  
11 systems into compliance with this subsection.
- 12 (3) The State Personnel Director shall help  
13 departments, agencies, and institutions to  
14 establish and administer their performance  
15 appraisal systems and shall provide initial and  
16 ongoing training in performance appraisal and  
17 performance system administration.
- 18 (4) An employee whose performance exceeds performance  
19 requirements shall receive a performance increase  
20 unless the employee's supervisor justifies in  
21 writing the decision not to award the performance  
22 increase. An employee whose performance does not  
23 exceed performance requirements shall not receive a  
24 performance increase.
- 25 (5) The State Personnel Director shall set the  
26 performance increase ranges allowable for levels of  
27 performance that exceed performance requirements.  
28 Absent the supervisor's written justification, an  
29 employee whose performance exceeds expectations  
30 shall receive a percentage increase equal to the  
31 midrange value for his rating level. With the  
32 supervisor's written justification, an individual  
33 employee's increase may vary above or below the  
34 midrange value within the allowable range. A  
35 supervisor's performance appraisal plan, evaluation  
36 standards for each employee, and individual  
37 employee ratings and recommended performance  
38 increase amounts, with justification, shall be  
39 reviewed and approved by that supervisor's next  
40 higher level supervisor.
- 41 (5a) If an employee is otherwise eligible for a  
42 performance increase and is at the top of a pay  
43 scale, the employee shall receive a performance  
44 increase in the form of a performance bonus. This

1 performance bonus shall be a one-time, lump-sum  
2 award paid separately from any other payment to the  
3 employee for the year. Such award shall not serve  
4 to increase the base pay of such employee. An  
5 award of this bonus pursuant to this subdivision  
6 does not affect:

7 a. The value of the top of any pay scale;  
8 and

9 b. The employee's current salary, which will  
10 remain at the top of the pay scale.

11 Except as provided in this subdivision, all other  
12 provisions of this subsection shall apply to an  
13 employee at the top of a pay scale.

14 (6) The State Personnel Director may suspend any  
15 performance increase that does not appear to meet  
16 the intent of the provisions of the performance pay  
17 system and require the originating department,  
18 agency, or institution to reconsider or justify the  
19 increase.

20 (7) An employee who disputes the fairness of his  
21 performance evaluation or the sufficiency of the  
22 increase awarded or who believes that he was  
23 unfairly denied a performance increase shall first  
24 discuss the problem with his supervisor. Appeals  
25 of the supervisor's decision shall be made only to  
26 the grievance committee or internal performance  
27 review board of the department, agency, or  
28 institution which shall make a recommendation to  
29 the head of the department, agency, or institution  
30 for final decision. The State Personnel Director  
31 shall help a department, agency, or institution  
32 establish an internal performance review board or,  
33 if it includes employee members, to use its  
34 existing grievance committee to hear performance  
35 pay disputes. Notwithstanding G.S. 150B-2(2) and  
36 G.S. 126-22, 126-25, and 126-34, performance pay  
37 disputes, including disputes about individual  
38 performance appraisals, shall not be considered  
39 contested case issues.

40 (8) The State Personnel Director shall monitor the  
41 performance appraisal system and performance  
42 increase distribution of each employing unit within  
43 each department, agency, and institution. Each  
44 department, agency, and institution shall submit to

- 1 the Director annual reports which shall include  
2 data on the demographics of performance ratings,  
3 the frequency of evaluations, the performance pay  
4 increases awarded, and the implementation schedule  
5 for performance pay increases. The Director shall  
6 analyze the data to ensure that performance  
7 increases are distributed fairly within each  
8 department, agency, and institution and across all  
9 departments, agencies, and institutions of State  
10 government and shall report back to each  
11 department, agency, and institution on its  
12 appraisal and distribution performance.
- 13 (9) The State Personnel Director shall report annually  
14 on the performance pay program to the Commission.  
15 The report shall evaluate the performance of each  
16 department, agency, and institution in the  
17 administration of its appraisal system and the  
18 distribution of performance increases within each  
19 department, agency, and institution and across  
20 State government. The report shall include  
21 recommendations for improving the performance  
22 appraisal system and alleviating inequities.  
23 Copies of the report shall be sent to the State  
24 Auditor.
- 25 (10) The Commission shall report annually to the  
26 Governor, the Lieutenant Governor, the President  
27 Pro Tempore of the Senate, the Speaker of the House  
28 of Representatives, and the Standing Personnel  
29 Committees of the House and the Senate. The  
30 Commission report shall include an evaluation of  
31 the administration of the appraisal system and  
32 distribution of performance increases by each  
33 department, agency, and institution. The State  
34 Personnel Director shall recommend to the General  
35 Assembly for its approval sanctions to be levied  
36 against departments, agencies, and institutions  
37 that have deficient appraisal systems or that do  
38 not link performance increases to performance.  
39 These sanctions may include withholding performance  
40 increases from the managers and supervisors of  
41 individual employing units of departments,  
42 agencies, and institutions in which discrepancies  
43 exist."
- 44 Sec. 2. This act shall become effective July 1, 1990.

## LEGISLATIVE PROPOSAL 3

### SECTION-BY-SECTION ANALYSIS

Section 1 amends G.S. 126-7(c) by adding a new subdivision (5a) to provide that an employee who is at the top of a pay scale and who otherwise is eligible for a performance increase will receive, in lieu of a performance increase that increases his salary, a one-time bonus for that year. This bonus is a one-time, lump-sum payment, written as a separate check. This bonus does not change the employee's current salary; it does not change the top value of the pay scale. Except for these differences, all other provisions of the performance pay system apply equally to employees at the top of the pay scale.

Section 2 makes the act effective July 1, 1990 to give supervisors a short period of notice of this change.



LEGISLATIVE PROPOSAL 4

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

S

D

89-LDY-228

(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)

Short Title: Clarify Merit Pay Proviso.

(Public)

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Sponsors: S .

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Referred to:

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1                                   A BILL TO BE ENTITLED  
2 AN ACT TO CLARIFY THE CURRENT PROVISIO REGARDING A LIMITATION ON  
3 THE NUMBER OF STATE EMPLOYEES ELIGIBLE TO RECEIVE PERFORMANCE  
4 PAY INCREASES.  
5 The General Assembly of North Carolina enacts:  
6                   Section 1. G.S. 126-7 reads as rewritten:  
7 "§ 126-7. Compensation of State employees. (a) It is the policy  
8 of the State to compensate its employees at a level sufficient to  
9 encourage excellence of performance and to maintain the labor  
10 market competitiveness necessary to recruit and retain a  
11 competent work force. To this end, salary increases to State  
12 employees shall be based, in part, on each individual employee's  
13 job performance and, in part, on general increases given to all  
14 State employees.  
15 (b) To guide the Governor and the General Assembly in making  
16 appropriations to further the compensation policy of the State,  
17 the State Personnel Commission shall conduct annual compensation  
18 surveys. The Commission shall determine the percent of funds  
19 appropriated for salary increases to be reserved for a general  
20 increase for all State employees and the percent to be reserved  
21 for performance-based increases for eligible employees. The  
22 Commission shall present its recommendation on the percentages  
23 and the results of the compensation survey to the Appropriations  
24 Committees of the House and Senate no later than two weeks after

1 the convening of the legislature in odd years and May 1st, of  
2 even years. The amount reserved for performance increases shall  
3 not be less than twenty-five percent (25%) nor more than seventy-  
4 five percent (75%) of the total allocation.

5 (c) Performance increases shall be based on performance  
6 appraisals of all employees conducted by each department, agency,  
7 and institution. The State Personnel Commission, under the  
8 authority of G.S.126-4(8), shall adopt policy and regulations for  
9 performance appraisal. The policy and regulations shall include  
10 the following:

- 11 (1) The performance appraisal system of each  
12 department, agency, or institution shall be  
13 designed and administered to ensure that  
14 performance increases are distributed fairly and  
15 reward only performance that exceeds performance  
16 requirements.
- 17 (2) To be eligible to distribute its share of the  
18 performance increase allocation, a department,  
19 agency, or institution shall have an operative  
20 performance appraisal system which has been  
21 approved by the State Personnel Director. The  
22 performance appraisal system adopted shall use a  
23 rating scale of at least five levels, with the top  
24 three levels qualifying for performance increases,  
25 and shall adhere to modern personnel management  
26 techniques and practices in common use in the  
27 public and private sectors. Departments, agencies,  
28 and institutions with existing performance  
29 appraisal systems which use a rating scale which is  
30 not consistent with the five-level system described  
31 above shall have until July 1, 1991, to bring their  
32 systems into compliance with this subsection.
- 33 (3) The State Personnel Director shall help  
34 departments, agencies, and institutions to  
35 establish and administer their performance  
36 appraisal systems and shall provide initial and  
37 ongoing training in performance appraisal and  
38 performance system administration.
- 39 (4) An employee whose performance exceeds performance  
40 requirements shall receive a performance increase  
41 unless the employee's supervisor justifies in  
42 writing the decision not to award the performance  
43 increase. An employee whose performance does not  
44 exceed performance requirements shall not receive a



1 performance increase. Standards for performance  
2 and standards for performance pay increases may be  
3 established for each department, agency, or  
4 institution. These standards may not set limits so  
5 as to preclude an employee whose performance  
6 exceeds performance requirements from consideration  
7 for an increase.

8 (5) The State Personnel Director shall set the  
9 performance increase ranges allowable for levels of  
10 performance that exceed performance requirements.  
11 Absent the supervisor's written justification, an  
12 employee whose performance exceeds expectations  
13 shall receive a percentage increase equal to the  
14 midrange value for his rating level. With the  
15 supervisor's written justification, an individual  
16 employee's increase may vary above or below the  
17 midrange value within the allowable range. A  
18 supervisor's performance appraisal plan, evaluation  
19 standards for each employee, and individual  
20 employee ratings and recommended performance  
21 increase amounts, with justification, shall be  
22 reviewed and approved by that supervisor's next  
23 higher level supervisor.

24 (6) The State Personnel Director may suspend any  
25 performance increase that does not appear to meet  
26 the intent of the provisions of the performance pay  
27 system and require the originating department,  
28 agency, or institution to reconsider or justify the  
29 increase.

30 (7) An employee who disputes the fairness of his  
31 performance evaluation or the sufficiency of the  
32 increase awarded or who believes that he was  
33 unfairly denied a performance increase shall first  
34 discuss the problem with his supervisor. Appeals  
35 of the supervisor's decision shall be made only to  
36 the grievance committee or internal performance  
37 review board of the department, agency, or  
38 institution which shall make a recommendation to  
39 the head of the department, agency, or institution  
40 for final decision. The State Personnel Director  
41 shall help a department, agency, or institution  
42 establish an internal performance review board or,  
43 if it includes employee members, to use its  
44 existing grievance committee to hear performance

- 1 pay disputes. Notwithstanding G.S. 150B-2(2) and  
2 G.S. 126-22, 126-25, and 126-34, performance pay  
3 disputes, including disputes about individual  
4 performance appraisals, shall not be considered  
5 contested case issues.
- 6 (8) The State Personnel Director shall monitor the  
7 performance appraisal system and performance  
8 increase distribution of each employing unit within  
9 each department, agency, and institution. Each  
10 department, agency, and institution shall submit to  
11 the Director annual reports which shall include  
12 data on the demographics of performance ratings,  
13 the frequency of evaluations, the performance pay  
14 increases awarded, and the implementation schedule  
15 for performance pay increases. The Director shall  
16 analyze the data to ensure that performance  
17 increases are distributed fairly within each  
18 department, agency, and institution and across all  
19 departments, agencies, and institutions of State  
20 government and shall report back to each  
21 department, agency, and institution on its  
22 appraisal and distribution performance.
- 23 (9) The State Personnel Director shall report annually  
24 on the performance pay program to the Commission.  
25 The report shall evaluate the performance of each  
26 department, agency, and institution in the  
27 administration of its appraisal system and the  
28 distribution of performance increases within each  
29 department, agency, and institution and across  
30 State government. The report shall include  
31 recommendations for improving the performance  
32 appraisal system and alleviating inequities.  
33 Copies of the report shall be sent to the State  
34 Auditor.
- 35 (10) The Commission shall report annually to the  
36 Governor, the Lieutenant Governor, the President  
37 Pro Tempore of the Senate, the Speaker of the House  
38 of Representatives, and the Standing Personnel  
39 Committees of the House and the Senate. The  
40 Commission report shall include an evaluation of  
41 the administration of the appraisal system and  
42 distribution of performance increases by each  
43 department, agency, and institution. The State  
44 Personnel Director shall recommend to the General

1 Assembly for its approval sanctions to be levied  
2 against departments, agencies, and institutions  
3 that have deficient appraisal systems or that do  
4 not link performance increases to performance.  
5 These sanctions may include withholding performance  
6 increases from the managers and supervisors of  
7 individual employing units of departments,  
8 agencies, and institutions in which discrepancies  
9 exist.

10 (d) The provisions of subsections (a), (b), and (c) shall not  
11 affect the system of longevity payments established by the State  
12 Personnel Commission.

13 ~~(e) Nothing in this section shall require or authorize any~~  
14 ~~department, agency, or institution to establish a limitation on~~  
15 ~~the number or percentage of employees who are eligible under this~~  
16 ~~section to receive performance increases."~~

17 Sec. 2. This act is effective upon ratification.



## LEGISLATIVE PROPOSAL 4

### SECTION-BY-SECTION ANALYSIS

Section 1 of this bill amends G.S. 126-7(c)(4) and repeals G.S. 126-7(e). Presently, G.S. 126-7(c)(4) provides that all employees whose performance exceeds performance requirements must receive a performance increase, unless the supervisor is able to justify a decision to deny an increase. G.S. 126-7(e) was intended to prohibit a department, agency, or institution from establishing a firm limit on the number of employees who are eligible for a performance increase for that department, agency, or institution. Section 1 of this bill eliminates G.S. 126-7(e). Language is added to G.S. 126-7(c)(4) to allow a department, agency, or institution to set standards for performance pay increases, so long as these standards are flexible and are not applied in a way that would preclude an employee who deserves a performance increase from receiving that increase.

Section 2 makes this act effective as soon as it is ratified. Since the act clarifies current law, no notice of the amendment is needed.



LEGISLATIVE PROPOSAL 5

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

H

D

89-LDY-244

(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)

Short Title: Performance Pay Oversight.

(Public)

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Sponsors:

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Referred to:

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1                                   A BILL TO BE ENTITLED  
2 AN ACT TO ESTABLISH A PERFORMANCE MANAGEMENT AND PAY OVERSIGHT  
3    ADVISORY COMMITTEE WITHIN EACH DEPARTMENT, AGENCY, AND  
4    INSTITUTION TO ENSURE THAT PERFORMANCE PAY INCREASES ARE MADE  
5    IN A FAIR AND EQUITABLE MANNER.  
6 The General Assembly of North Carolina enacts:  
7        Section 1. G.E. 126-7(c) reads as rewritten:  
8        "(c) Performance increases shall be based on performance  
9 appraisals of all employees conducted by each department, agency,  
10 and institution. The State Personnel Commission, under the  
11 authority of G.S.126-4(8), shall adopt policy and regulations for  
12 performance appraisal. The policy and regulations shall include  
13 the following:  
14           (1) The performance appraisal system of each  
15           department, agency, or institution shall be  
16           designed and administered to ensure that  
17           performance increases are distributed fairly and  
18           reward only performance that exceeds performance  
19           requirements.  
20           (2) To be eligible to distribute its share of the  
21           performance increase allocation, a department,  
22           agency, or institution shall have an operative  
23           performance appraisal system which has been  
24           approved by the State Personnel Director. The

- 1 performance appraisal system adopted shall use a  
2 rating scale of at least five levels, with the top  
3 three levels qualifying for performance increases,  
4 and shall adhere to modern personnel management  
5 techniques and practices in common use in the  
6 public and private sectors. Departments, agencies,  
7 and institutions with existing performance  
8 appraisal systems which use a rating scale which is  
9 not consistent with the five-level system described  
10 above shall have until July 1, 1991, to bring their  
11 systems into compliance with this subsection.
- 12 (3) The State Personnel Director shall help  
13 departments, agencies, and institutions to  
14 establish and administer their performance  
15 appraisal systems and shall provide initial and  
16 ongoing training in performance appraisal and  
17 performance system administration.
- 18 (4) An employee whose performance exceeds performance  
19 requirements shall receive a performance increase  
20 unless the employee's supervisor justifies in  
21 writing the decision not to award the performance  
22 increase. An employee whose performance does not  
23 exceed performance requirements shall not receive a  
24 performance increase.
- 25 (5) The State Personnel Director shall set the  
26 performance increase ranges allowable for levels of  
27 performance that exceed performance requirements.  
28 Absent the supervisor's written justification, an  
29 employee whose performance exceeds expectations  
30 shall receive a percentage increase equal to the  
31 midrange value for his rating level. With the  
32 supervisor's written justification, an individual  
33 employee's increase may vary above or below the  
34 midrange value within the allowable range. A  
35 supervisor's performance appraisal plan, evaluation  
36 standards for each employee, and individual  
37 employee ratings and recommended performance  
38 increase amounts, with justification, shall be  
39 reviewed and approved by that supervisor's next  
40 higher level supervisor.
- 41 (6) The State Personnel Director may suspend any  
42 performance increase that does not appear to meet  
43 the intent of the provisions of the performance pay  
44 system and require the originating department,



- 1 agency, or institution to reconsider or justify the  
2 increase.
- 3 (7) An employee who disputes the fairness of his  
4 performance evaluation or the sufficiency of the  
5 increase awarded or who believes that he was  
6 unfairly denied a performance increase shall first  
7 discuss the problem with his supervisor. Appeals  
8 of the supervisor's decision shall be made only to  
9 the grievance committee or internal performance  
10 review board of the department, agency, or  
11 institution which shall make a recommendation to  
12 the head of the department, agency, or institution  
13 for final decision. The State Personnel Director  
14 shall help a department, agency, or institution  
15 establish an internal performance review board or,  
16 if it includes employee members, to use its  
17 existing grievance committee to hear performance  
18 pay disputes. Notwithstanding G.S. 150B-2(2) and  
19 G.S. 126-22, 126-25, and 126-34, performance pay  
20 disputes, including disputes about individual  
21 performance appraisals, shall not be considered  
22 contested case issues.
- 23 (7a) Each department, agency, and institution shall  
24 establish a performance management and pay  
25 oversight committee as part of the performance  
26 appraisal system. The purpose of the committee is  
27 to ensure that performance pay increases are made  
28 in an equitable manner. The committee shall be  
29 responsible for reviewing:
- 30 a. Agency performance pay policies and  
31 performance pay plan to determine whether this  
32 section and any guidelines promulgated by the  
33 Office of State Personnel have been adhered  
34 to;
- 35 b. Agency training and education programs to  
36 determine whether all employees receive  
37 appropriate information; and
- 38 c. Performance ratings within the department,  
39 agency, or institution to determine whether an  
40 equitable distribution has been made.
- 41 The committee must have a minimum of five  
42 members, with representation from each division of  
43 the department, agency, or institution. Members  
44 shall rotate on an annual basis. The head of each

1 department, agency, and institution shall appoint  
2 the members of the committee. A simple majority of  
3 the members is to be comprised of nonsupervisory  
4 employees; the remaining members are to include  
5 supervisory employees. The committee shall elect  
6 its own chair.

7 The performance management and pay oversight  
8 committee shall meet at least two times each year.  
9 The committee shall submit a written report  
10 following each meeting to the head of the  
11 department, agency, or institution. The report  
12 shall include recommendations for changes and  
13 corrections in the administration of the  
14 performance management system. The recommendations  
15 of the committee shall be advisory only. The head  
16 of the department, agency, or institution shall  
17 respond to the committee within three months.  
18 Copies of the report shall be included in the  
19 report to the Office of State Personnel that is  
20 required of that agency, department, or  
21 institution. Summaries of the report shall be  
22 included in the annual reports that are mandated by  
23 this subsection.

24 (8) The State Personnel Director shall monitor the  
25 performance appraisal system and performance  
26 increase distribution of each employing unit within  
27 each department, agency, and institution. Each  
28 department, agency, and institution shall submit to  
29 the Director annual reports which shall include  
30 data on the demographics of performance ratings,  
31 the frequency of evaluations, the performance pay  
32 increases awarded, and the implementation schedule  
33 for performance pay increases. The Director shall  
34 analyze the data to ensure that performance  
35 increases are distributed fairly within each  
36 department, agency, and institution and across all  
37 departments, agencies, and institutions of State  
38 government and shall report back to each  
39 department, agency, and institution on its  
40 appraisal and distribution performance.

41 (9) The State Personnel Director shall report annually  
42 on the performance pay program to the Commission.  
43 The report shall evaluate the performance of each  
44 department, agency, and institution in the

1 administration of its appraisal system and the  
2 distribution of performance increases within each  
3 department, agency, and institution and across  
4 State government. The report shall include  
5 recommendations for improving the performance  
6 appraisal system and alleviating inequities.  
7 Copies of the report shall be sent to the State  
8 Auditor.

9 (10) The Commission shall report annually to the  
10 Governor, the Lieutenant Governor, the President  
11 Pro Tempore of the Senate, the Speaker of the House  
12 of Representatives, and the Standing Personnel  
13 Committees of the House and the Senate. The  
14 Commission report shall include an evaluation of  
15 the administration of the appraisal system and  
16 distribution of performance increases by each  
17 department, agency, and institution. The State  
18 Personnel Director shall recommend to the General  
19 Assembly for its approval sanctions to be levied  
20 against departments, agencies, and institutions  
21 that have deficient appraisal systems or that do  
22 not link performance increases to performance.  
23 These sanctions may include withholding performance  
24 increases from the managers and supervisors of  
25 individual employing units of departments,  
26 agencies, and institutions in which discrepancies  
27 exist."

28 Sec. 2. This act shall become effective July 1, 1990.



## LEGISLATIVE PROPOSAL 5

### SECTION-BY-SECTION ANALYSIS

Section 1 of this bill adds a new subdivision (7a) to G.S. 126-7(c) to require that each department, agency, and institution establish a performance management and pay oversight committee to ensure that performance pay increases are made fairly and equitably. The new subdivision specifies the composition, duties, and role of this advisory committee. The new subdivision also sets forth a minimum meeting schedule and report requirements.

Section 2 makes the act effective July 1, 1990.



LEGISLATIVE PROPOSAL 6

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

S

D

89-LDXY-229

(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)

Short Title: No Exemptions/Adjust Retiree Formula. (Public)

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Sponsors: Senator .

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Referred to:

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1                                   A BILL TO BE ENTITLED  
2 AN ACT TO REPEAL THE STATE INCOME TAX EXEMPTIONS FOR FEDERAL,  
3 STATE, LOCAL, AND PRIVATE RETIREMENT BENEFITS AND TO INCREASE  
4 THE RETIREMENT FORMULA FOR MEMBERS AND BENEFICIARIES OF THE  
5 TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, THE  
6 CONSOLIDATED JUDICIAL RETIREMENT SYSTEM, THE LEGISLATIVE  
7 RETIREMENT SYSTEM, AND THE LOCAL GOVERNMENTAL EMPLOYEES'  
8 RETIREMENT SYSTEM.  
9 The General Assembly of North Carolina enacts:  
10           Section 1. G.S. 105-134.6(b) reads as rewritten:  
11   "(b) Deductions. The following deductions from taxable income  
12 shall be made in calculating North Carolina taxable income, to  
13 the extent each item is included in gross income:  
14           (1) Interest upon the obligations of (i) the United  
15 States or its possessions, (ii) this State or a  
16 political subdivision of this State, or (iii) a  
17 nonprofit educational institution organized or  
18 chartered under the laws of this State.

- 1           (2) Interest upon obligations and gain from the  
2           disposition of obligations to the extent the  
3           interest or gain is exempt from tax under the laws  
4           of this State.
- 5           (3) Benefits received under Title II of the Social  
6           Security Act and amounts received from retirement  
7           annuities or pensions paid under the provisions of  
8           the Railroad Retirement Act of 1937.
- 9           (4) Any amount not to exceed one thousand five hundred  
10          dollars (\$1,500) received by the taxpayer during  
11          the taxable year as compensation for the  
12          performance of duties as a member of the North  
13          Carolina organized militia, the national guard as  
14          defined in G.S. 127A-3.
- 15          (5) Refunds of State, local, and foreign income taxes  
16          included in the taxpayer's gross income.
- 17          ~~(6) a. An amount, not to exceed four thousand dollars~~  
18                 ~~(\$4,000), equal to the sum of the amount~~  
19                 ~~calculated in subparagraph b. plus the amount~~  
20                 ~~calculated in subparagraph c.~~
- 21                 ~~b. The amount calculated in this subparagraph is~~  
22                 ~~the amount received during the taxable year~~  
23                 ~~from one or more state, local, or federal~~  
24                 ~~government retirement plans.~~
- 25                 ~~c. The amount calculated in this subparagraph is~~  
26                 ~~the amount received during the taxable year~~  
27                 ~~from one or more retirement plans other than~~  
28                 ~~state, local, or federal government retirement~~  
29                 ~~plans, not to exceed a total of two thousand~~  
30                 ~~dollars (\$2,000) in any taxable year.~~
- 31                 ~~d. In the case of a married couple filing a joint~~  
32                 ~~return where both spouses received retirement~~  
33                 ~~benefits during the taxable year, the maximum~~  
34                 ~~dollar amounts provided in this subdivision~~



~~1 for various types of retirement benefits apply~~  
~~2 separately to each spouse's benefits.~~

3 (7) The amount of inheritance tax attributable to an  
4 item of income in respect of a decedent required to  
5 be included in gross income under the Code,  
6 adjusted as provided in G.S. 105-134.5, 105-134.6,  
7 and 105-134.7. The amount of inheritance tax  
8 attributable to an item of income in respect of a  
9 decedent is (i) the amount by which the inheritance  
10 tax paid under Article 1 of this Chapter on  
11 property transferred to a beneficiary by a decedent  
12 exceeds the amount of inheritance tax that would  
13 have been payable by the beneficiary if the item of  
14 income in respect of a decedent had not been  
15 included in the property transferred to the  
16 beneficiary by the decedent, (ii) multiplied by a  
17 fraction, the numerator of which is the amount  
18 required to be included in gross income for the  
19 taxable year under the Code, adjusted as provided  
20 in G.S. 105-134.5, 105-134.6, and 105-134.7, and  
21 the denominator of which is the total amount of  
22 income in respect of a decedent transferred to the  
23 beneficiary by the decedent. For an estate or  
24 trust, the deduction allowed by this subdivision  
25 shall be computed by excluding from the gross  
26 income of the estate or trust the portion, if any,  
27 of the items of income in respect of a decedent  
28 that are properly paid, credited, or to be  
29 distributed to the beneficiaries during the taxable  
30 year.

31 The Secretary of Revenue may provide to a  
32 beneficiary of an item of income in respect of  
33 a decedent any information contained on an  
34 inheritance tax return that the beneficiary

1 needs to compute the deduction allowed by this  
2 subdivision."

3 Sec. 2. G.S. 105-134.1 reads as rewritten:

4 "§ 105-134.1. Definitions. The following definitions apply in  
5 this Division:

- 6 (1) Code. The Internal Revenue Code as enacted as of  
7 January 1, 1989, including any provisions enacted  
8 as of that date which become effective either  
9 before or after that date, but not including  
10 sections 63(c)(4) and 151(d)(3).
- 11 (2) Department. The Department of Revenue.
- 12 (3) Educational institution. An educational  
13 institution that normally maintains a regular  
14 faculty and curriculum and normally has a regularly  
15 organized body of students in attendance at the  
16 place where its educational activities are carried  
17 on.
- 18 (4) Fiscal year. Defined in section 441(e) of the  
19 Code.
- 20 (5) Gross income. Defined in section 61 of the Code.
- 21 (6) Head of household. Defined in section 2(b) of the  
22 Code.
- 23 (7) Individual. A natural person.
- 24 (8) Married individual. An individual who is married  
25 and is considered married as provided in section  
26 7703 of the Code.
- 27 (9) Nonresident individual. An individual who is not a  
28 resident of this State.
- 29 (10) North Carolina taxable income. Defined in G.S.  
30 105-134.5.
- 31 (11) Person. An individual, a fiduciary, a partnership,  
32 or a corporation. The term includes an officer or  
33 employee of a corporation or a member or employee  
34 of a partnership who, as officer, employee, or

1 member, is under a duty to perform an act in  
2 meeting the requirements of this Division.

3 (12) Resident. An individual who is domiciled in this  
4 State at any time during the taxable year or who  
5 resides in this State during the taxable year for  
6 other than a temporary or transitory purpose. In  
7 the absence of convincing proof to the contrary, an  
8 individual who is present within the State for more  
9 than 183 days during the taxable year is presumed  
10 to be a resident, but the absence of an individual  
11 from the State for more than 183 days raises no  
12 presumption that the individual is not a resident.  
13 A resident who removes from the State during a  
14 taxable year is considered a resident until he has  
15 both established a definite domicile elsewhere and  
16 abandoned any domicile in this State. The fact of  
17 marriage does not raise any presumption as to  
18 domicile or residence.

19 ~~(13) Retirement benefits. Amounts paid to a former~~  
20 ~~employee or the beneficiary of a former employee~~  
21 ~~under a written retirement plan established by the~~  
22 ~~employer to provide payments to an employee or the~~  
23 ~~beneficiary of an employee after the end of the~~  
24 ~~employee's employment with the employer where the~~  
25 ~~right to receive the payments is based upon the~~  
26 ~~employment relationship. With respect to a self-~~  
27 ~~employed individual or the beneficiary of a self-~~  
28 ~~employed individual, the term means amounts paid to~~  
29 ~~the individual or beneficiary of the individual~~  
30 ~~under a written retirement plan established by the~~  
31 ~~individual to provide payments to the individual or~~  
32 ~~the beneficiary of the individual after the end of~~  
33 ~~the self-employment. In addition, the term~~  
34 ~~includes amounts received from an individual~~  
35 ~~retirement account described in section 408 of the~~

1           ~~Code or from an individual retirement annuity~~  
2           ~~described in section 408 of the Code. For the~~  
3           ~~purpose of this subdivision, the term 'employee'~~  
4           ~~includes a volunteer worker.~~

5           (14) S Corporation. Defined in G.S. 105-131(b).

6           (15) Secretary. The Secretary of Revenue.

7           (16) Taxable income. Defined in section 63 of the Code.

8           (17) Taxable year. Defined in section 441(b) of the  
9           Code.

10          (18) Taxpayer. An individual subject to the tax imposed  
11          by this Division.

12          (19) This State. The State of North Carolina."

13          Sec. 3. G.S. 135-5(b11) reads as rewritten:

14          "(b11) Service Retirement Allowance of Members Retiring on or  
15          after July 1, ~~1989~~, 1989, but before July 1, 1990. -- Upon  
16          retirement from service in accordance with subsection (a) above,  
17          on or after July 1, 1989, but before July 1, 1990, a member shall  
18          receive the following service retirement allowance:

19               (1) A member who is a law enforcement officer or an  
20               eligible former law enforcement officer shall  
21               receive a service retirement allowance computed as  
22               follows:

23                   a. If the member's service retirement date occurs  
24                   on or after his 55th birthday, and completion  
25                   of five years of creditable service as a law  
26                   enforcement officer, or after the completion  
27                   of 30 years of creditable service, the  
28                   allowance shall be equal to one and sixty-  
29                   three hundredths percent (1.63%) of his  
30                   average final compensation, multiplied by the  
31                   number of years of his creditable service.

32                   b. This allowance shall also be governed by the  
33                   provisions of G.S. 135-5(b9)(1)b.

34               (2) A member who is not a law enforcement officer or an  
35               eligible former law enforcement officer shall

1 receive a service retirement allowance computed as  
2 follows:

3 a. If the member's service retirement date occurs  
4 on or after his 65th birthday upon the  
5 completion of five years of creditable service  
6 or after the completion of 30 years of  
7 creditable service or on or after his 60th  
8 birthday upon the completion of 25 years of  
9 creditable service, the allowance shall be  
10 equal to one and sixty-three hundredths  
11 percent (1.63%) of his average final  
12 compensation, multiplied by the number of  
13 years of creditable service.

14 b. This allowance shall also be governed by the  
15 provisions of G.S. 135-5(b9)(2)b. c. and d."

16 Sec. 4. G.S. 135-5 is amended by adding a new  
17 subsection to read:

18 "(b12) Service Retirement Allowance of Members Retiring on or  
19 after July 1, 1990. -- Upon retirement from service in accordance  
20 with subsection (a) above, on or after July 1, 1990, a member  
21 shall receive the following service retirement allowance:

22 (1) A member who is a law enforcement officer or an  
23 eligible former law enforcement officer shall  
24 receive a service retirement allowance computed as  
25 follows:

26 a. If the member's service retirement date occurs  
27 on or after his 55th birthday, and completion  
28 of five years of creditable service as a law  
29 enforcement officer, or after the completion  
30 of 30 years of creditable service, the  
31 allowance shall be equal to one and seventy-  
32 two hundredths percent (1.72%) of his average  
33 final compensation, multiplied by the number  
34 of years of his creditable service.

1                    b. This allowance shall also be governed by the  
2                    provisions of G.S. 135-5(b9)(1)b.

3            (2) A member who is not a law enforcement officer or an  
4            eligible former law enforcement officer shall  
5            receive a service retirement allowance computed as  
6            follows:

7            a. If the member's service retirement date occurs  
8            on or after his 65th birthday upon the  
9            completion of five years of creditable service  
10           or after the completion of 30 years of  
11           creditable service or on or after his 60th  
12           birthday upon the completion of 25 years of  
13           creditable service, the allowance shall be  
14           equal to one and seventy-two hundredths  
15           percent (1.72%) of his average final  
16           compensation, multiplied by the number of  
17           years of creditable service.

18           b. This allowance shall also be governed by the  
19           provisions of G.S. 135-5(b9)(2)b. c. and d."

20            Sec. 5. G.S. 135-5 is amended by adding a new  
21 subsection to read:

22            "(rr) Increase in Allowance as to Persons on Retirement Rolls  
23 as of June 1, 1990. From and after July 1, 1990, the retirement  
24 allowance to or on account of beneficiaries on the retirement  
25 rolls as of June 1, 1990, shall be increased by five and five-  
26 tenths percent (5.5%) of the allowance payable on June 1, 1990.  
27 This allowance shall be calculated on the basis of the allowance  
28 payable and in effect on June 30, 1990, so as not to be  
29 compounded on any other increase granted by act of the 1989  
30 Session of the General Assembly (1990 Regular Session)."

31            Sec. 6. G.S. 135-58(a) reads as rewritten:

32            "(a) Any member who retires under the provisions of subsection  
33 (a) or subsection (c) of G.S. 135-57 before July 1, 1990 after he  
34 either has attained his sixty-fifth birthday or has completed 24  
35 years or more of creditable service shall receive an annual

1 retirement allowance, payable monthly, which shall commence on  
2 the effective date of his retirement and shall be continued on  
3 the first day of each month thereafter during his lifetime, the  
4 amount of which shall be computed as the sum of (1), (2) and (3)  
5 following, provided that in no event shall the annual allowance  
6 payable to any member be greater than an amount which, when added  
7 to the allowance, if any, to which he is entitled under the  
8 Teachers' and State Employees' Retirement System, the Legislative  
9 Retirement System or the North Carolina Local Governmental  
10 Employees' Retirement System (prior in any case to any reduction  
11 for early retirement or for an optional mode of payment) would  
12 total three fourths of his final compensation:

13 (1) Four percent (4%) of his final compensation, multiplied by  
14 the number of years of his creditable service rendered as a  
15 justice of the Supreme Court or judge of the Court of Appeals;

16 (2) Three and one-half percent (3 1/2%) of his final  
17 compensation, multiplied by the number of years of his creditable  
18 service rendered as a judge of the superior court or as  
19 administrative officer of the courts;

20 (3) Three percent (3%) of his final compensation, multiplied by  
21 the number of years of his creditable service rendered as a judge  
22 of the district court, district attorney, or clerk of superior  
23 court."

24 Sec. 7. G.S. 135-58 is amended by adding a new  
25 subsection to read:

26 "(a1) Any member who retires under the provisions of  
27 subsection (a) or subsection (c) of G.S. 135-57 on or after July  
28 1, 1990 after he either has attained his sixty-fifth birthday or  
29 has completed 24 years or more of creditable service shall  
30 receive an annual retirement allowance, payable monthly, which  
31 shall commence on the effective date of his retirement and shall  
32 be continued on the first day of each month thereafter during his  
33 lifetime, the amount of which shall be computed as the sum of  
34 (1), (2) and (3) following, provided that in no event shall the  
35 annual allowance payable to any member be greater than an amount

1 which, when added to the allowance, if any, to which he is  
2 entitled under the Teachers' and State Employees' Retirement  
3 System, the Legislative Retirement System or the North Carolina  
4 Local Governmental Employees' Retirement System (prior in any  
5 case to any reduction for early retirement or for an optional  
6 mode of payment) would total three fourths of his final  
7 compensation:

8 (1) Four and three-tenths percent (4.3%) of his final  
9 compensation, multiplied by the number of years of his  
10 creditable service rendered as a justice of the Supreme Court or  
11 judge of the Court of Appeals;

12 (2) Three and eight-tenths percent (3.8%) of his final  
13 compensation, multiplied by the number of years of his creditable  
14 service rendered as a judge of the superior court or as  
15 administrative officer of the courts;

16 (3) Three and two-tenths percent (3.2%) of his final  
17 compensation, multiplied by the number of years of his creditable  
18 service rendered as a judge of the district court, district  
19 attorney, or clerk of superior court."

20 Sec. 8. G.S. 135-65 is amended by adding a new  
21 subsection to read:

22 "(k) Increase in Allowance as to Persons on Retirement Rolls  
23 as of June 1, 1990. From and after July 1, 1990, the retirement  
24 allowance to or on account of beneficiaries on the retirement  
25 rolls as of June 1, 1990, shall be increased by seven and five-  
26 tenths percent (7.5%) of the allowance payable on June 1, 1990.  
27 This allowance shall be calculated on the basis of the allowance  
28 payable and in effect on June 30, 1990, so as not to be  
29 compounded on any other increase granted by act of the 1989  
30 Session of the General Assembly (1990 Regular Session)."

31 Sec. 9. G.S. 120-4.21 reads as rewritten:

32 "§ 120-4.21. Service retirement benefits.

33 (a) Eligibility; Application. -- Any member in service may  
34 retire with full benefits who has reached 65 years of age with  
35 five years of creditable service. Any member in service may



1 retire with reduced benefits who has reached the age of 60 years  
2 with five years of creditable service. The member shall make  
3 written application to the Board of Trustees to retire on a  
4 service retirement allowance on the first day of the particular  
5 calendar month he designates. The designated date shall be no  
6 less than one day nor more than 90 days from the filing of the  
7 application. During this period of notification, a member may  
8 separate from service without forfeiting his retirement benefits.

9 (b) Computation. -- Upon retirement from service in accordance  
10 with subsection (a) of this ~~section~~, section before July 1, 1990,  
11 a member shall receive a service retirement allowance computed as  
12 follows:

13 (1) For a member whose retirement date occurs on or after his  
14 65th birthday and upon completion of five years of creditable  
15 service, four percent (4%) of his 'highest annual salary,'  
16 multiplied by the number of years of creditable service.

17 (2) For a member whose retirement date occurs on or after his  
18 60th and before his 65th birthday and upon completion of five  
19 years of creditable service, computation as in subdivision (1) of  
20 this subsection, reduced by one-fourth of one percent (1/4 of 1%)  
21 for each month his retirement date precedes his 65th birthday.

22 (b1) Computation. -- Upon retirement from service in accordance  
23 with subsection (a) of this section on or after July 1, 1990, a  
24 member shall receive a service retirement allowance computed as  
25 follows:

26 (1) For a member whose retirement date occurs on or after his  
27 65th birthday and upon completion of five years of creditable  
28 service, four and three-tenths percent (4.3%) of his 'highest  
29 annual salary,' multiplied by the number of years of creditable  
30 service.

31 (2) For a member whose retirement date occurs on or after his  
32 60th and before his 65th birthday and upon completion of five  
33 years of creditable service, computation as in subdivision (1) of  
34 this subsection, reduced by one-fourth of one percent (1/4 of 1%)  
35 for each month his retirement date precedes his 65th birthday.

1 (c) Limitations. -- In no event shall any member receive a  
2 service retirement allowance greater than seventy-five percent  
3 (75%) of his 'highest annual salary' nor shall he receive any  
4 service retirement allowance whatever while employed in a  
5 position that makes him a contributing member of any of the  
6 following retirement systems: The Teachers' and State Employees'  
7 Retirement System, the North Carolina Local Governmental  
8 Employees' Retirement System, the Law- Enforcement Officers'  
9 Retirement System, the Uniform Judicial Retirement System of  
10 North Carolina, the Uniform Solicitorial Retirement System of  
11 North Carolina or the Uniform Clerks of Court Retirement System  
12 of North Carolina. If he should become a member of any of these  
13 systems, payment of his service retirement allowance shall be  
14 suspended until he withdraws from membership in that system."

15 Sec. 10. G.S. 120-4.22A is amended by adding a new  
16 subsection to read:

17 "(f) Increase in Allowance as to Persons on Retirement Rolls  
18 as of June 1, 1990. From and after July 1, 1990, the retirement  
19 allowance to or on account of beneficiaries on the retirement  
20 rolls as of June 1, 1990, shall be increased by seven and five-  
21 tenths percent (7.5%) of the allowance payable on June 1, 1990.  
22 This allowance shall be calculated on the basis of the allowance  
23 payable and in effect on June 30, 1990, so as not to be  
24 compounded on any other increase granted by act of the 1989  
25 Session of the General Assembly (1990 Regular Session)."

26 Sec. 11. G.S. 128-27(b11) reads as rewritten:

27 "(b11) Service Retirement Allowance of Members Retiring on or  
28 after July 1, ~~1989.~~ 1989, but before July 1, 1990. -- Upon  
29 retirement from service in accordance with subsection (a) above,  
30 on or after July 1, 1989, but before July 1, 1990, a member shall  
31 receive the following service retirement allowance:

32 (1) A member who is a law enforcement officer or an  
33 eligible former law enforcement officer shall  
34 receive a service retirement allowance computed as  
35 follows:

- 1           a.    If the member's service retirement date occurs  
2                on or after his 55th birthday, and completion  
3                of five years of creditable service as a law  
4                enforcement officer, or after the completion  
5                of 30 years of creditable service, the  
6                allowance shall be equal to one and sixty-  
7                three hundredths percent (1.63%) of his  
8                average final compensation, multiplied by the  
9                number of years of his creditable service.  
10           b.    This allowance shall also be governed by the  
11                provisions of G.S. 128-27(b8)(2).

12           (2)  A member who is not a law enforcement officer or an  
13                eligible former law enforcement officer shall  
14                receive a service retirement allowance computed as  
15                follows:

- 16           a.    If the member's service retirement date occurs  
17                on or after his 65th birthday upon the  
18                completion of five years of creditable service  
19                or after the completion of 30 years of  
20                creditable service or on or after his 60th  
21                birthday upon the completion of 25 years of  
22                creditable service, the allowance shall be  
23                equal to one and sixty-three hundredths  
24                percent (1.63%) of his average final  
25                compensation, multiplied by the number of  
26                years of creditable service.  
27           b.    This allowance shall also be governed by the  
28                provisions of G.S. 128-27(b7)(2a) and (3)."

29           Sec. 12.  G.S. 128-27 is amended by adding a new section  
30 to read:

31           "(b12) Service Retirement Allowance of Members Retiring on or  
32 after July 1, 1990. -- Upon retirement from service in accordance  
33 with subsection (a) above, on or after July 1, 1990, a member  
34 shall receive the following service retirement allowance:

- 1           (1) A member who is a law enforcement officer or an  
2           eligible former law enforcement officer shall  
3           receive a service retirement allowance computed as  
4           follows:
- 5           a. If the member's service retirement date occurs  
6           on or after his 55th birthday, and completion  
7           of five years of creditable service as a law  
8           enforcement officer, or after the completion  
9           of 30 years of creditable service, the  
10           allowance shall be equal to one and seventy-  
11           two hundredths percent (1.72%) of his average  
12           final compensation, multiplied by the number  
13           of years of his creditable service.
- 14           b. This allowance shall also be governed by the  
15           provisions of G.S. 128-27(b8)(2).
- 16           (2) A member who is not a law enforcement officer or an  
17           eligible former law enforcement officer shall  
18           receive a service retirement allowance computed as  
19           follows:
- 20           a. If the member's service retirement date occurs  
21           on or after his 65th birthday upon the  
22           completion of five years of creditable service  
23           or after the completion of 30 years of  
24           creditable service or on or after his 60th  
25           birthday upon the completion of 25 years of  
26           creditable service, the allowance shall be  
27           equal to one and seventy-two hundredths  
28           percent (1.72%) of his average final  
29           compensation, multiplied by the number of  
30           years of creditable service.
- 31           b. This allowance shall also be governed by the  
32           provisions of G.S. 128-27(b7)(2a) and (3)."
- 33           Sec. 13. G.S. 128-27 is amended by adding a new section  
34 to read:

1    "(hh) Increase in Allowance as to Persons on Retirement Rolls  
2 as of June 1, 1990. From and after July 1, 1990, the retirement  
3 allowance to or on account of beneficiaries on the retirement  
4 rolls as of June 1, 1990, shall be increased by five and five-  
5 tenths percent (5.5%) of the allowance payable on June 1, 1990.  
6 This allowance shall be calculated on the basis of the allowance  
7 payable and in effect on June 30, 1990, so as not to be  
8 compounded on any other increase granted by act of the 1989  
9 Session of the General Assembly (1990 Regular Session)."

10           Sec. 14. Sections 1 and 2 of this act shall become  
11 effective for taxable years beginning on or after January 1,  
12 1990. The remainder of this act shall become effective July 1,  
13 1990.



## LEGISLATIVE PROPOSAL 6

### SECTION-BY-SECTION

Section 1 repeals the \$4000 tax deduction for State income received from federal, State, and local retirement plans and repeals the \$2000 deduction for income from private retirement plans.

Section 2 removes the definition for "retirement benefits" from the Individual Income Tax Division section of the General Statutes.

Section 3 amends G.S. 135-5(b)(11) so that the current retirement formula (1.63%) will apply to retirees in the Teachers' and State Employees' Retirement System who retired after the last increase effective July 1, 1989, but before July 1, 1990. Section 4 increases the retirement formula from 1.63% to 1.72% for those retirees who retire on or after July 1, 1990 in the same retirement system. Section 5 increases the benefits 5.5% for beneficiaries of retirees in the same retirement system.

Sections 6, 7, and 8 parallel Sections 3, 4, and 5 for retirees and beneficiaries of retirees in the Consolidated Judicial Retirement System. The formula changes for this retirement system are as follows:

- 1) The retirement formula for a justice of the supreme court or a judge of the court of appeals who retires on or after July 1, 1990, is increased from 4% to 4.3%;
- 2) The retirement formula for a judge of the superior court or an administrative officer of the courts who retires on or after July 1, 1990, is increased from 3 1/2% to 3.8%;
- 3) The retirement formula for a district court judge, district attorney, or clerk of superior court who retires on or after July 1, 1990, is increased from 3% to 3.2%; and
- 4) The retirement benefits for beneficiaries is increased by 7.5%.

Section 9 parallels both Sections 3 and 4 combined for retirees in the Legislative Retirement System. The retirement formula is changed from 4% for a member who retires before July 1, 1990, to 4.3% for a member who retires on or after July 1, 1990. Section 10 parallels Section 5; it increases the benefits for beneficiaries of retirees in the Legislative Retirement System 7.5%.

Sections 11, 12, and 13 parallel Sections 3, 4, and 5 for retirees in the Local Governmental Retirement System. The percentage increases are the same as for retirees and their beneficiaries in the Teachers' and State Employees' Retirement System: a formula increase from 1.63% to 1.72% for retirees and a 5.5% benefits increase for beneficiaries.

Section 14 makes the repeal of the tax exemptions go into effect for the next tax year, which begins January 1, 1990. The remaining sections of the bill take effect July 1, 1990, the beginning of the next fiscal year.



LEGISLATIVE PROPOSAL 7

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

H

D

89-LDY-226

(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)

Short Title: Funds to Implement Merit Pay.

(Public)

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Sponsors: Rep. .

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Referred to:

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1                                   A BILL TO BE ENTITLED  
2 AN ACT TO APPROPRIATE FUNDS TO IMPLEMENT THE NEW PERFORMANCE PAY  
3 SYSTEM FOR STATE EMPLOYEES, ENACTED IN CHAPTER 796 OF THE 1989  
4 SESSION LAWS.  
5 The General Assembly of North Carolina enacts:  
6           Section 1. There is appropriated from the General Fund  
7 to the Office of State Personnel, Department of Administration,  
8 the sum of \$611,244 for the 1990-91 fiscal year as follows:  
9           (1) The sum of \$512,285 to provide training and  
10           technical assistance for the performance management  
11           and pay system; and  
12           (2) The sum of \$98,959 to administer and monitor the  
13           performance pay program.  
14           Sec. 2. This act shall become effective July 1, 1990.



## LEGISLATIVE PROPOSAL 7

### SECTION-BY-SECTION ANALYSIS

Section 1 of this bill appropriates funds for the 1990-91 fiscal year to implement and monitor the new performance pay system.

Section 2 makes this act effective July 1, 1990, the beginning of the next fiscal year.



LEGISLATIVE PROPOSAL 8

CODE NO. <<90EMP-H001>>

Requested by: Representative Barnes

-----ACCELERATED PAY PLAN FOR LOWEST PAID STATE EMPLOYEES

1           Sec. @. (a) The State Personnel Commission shall  
2 develop an accelerated pay plan for those State employees in the  
3 lowest pay grades. This accelerated pay plan shall be designed  
4 to take into consideration the labor market and economic  
5 indicators and to advance and retain a fully competent workforce.  
6 In developing and implementing this pay plan, the State Personnel  
7 Commission shall:

- 8           (1) Identify which pay grades are to be subject to this  
9           accelerated pay plan;  
10          (2) Adopt policies and rules to implement this plan;  
11          (3) Review the plan annually; and  
12          (4) Amend the plan as necessary, based on the labor  
13          market and economic indicators.

14 (b) Upward movement within the accelerated pay plan shall be  
15 based on the job performance of an employee meeting or exceeding  
16 performance requirements as determined by a specifically tailored  
17 performance appraisal system for employees within those pay  
18 grades subject to the accelerated pay plan.

19 (c) Employees who participate in the accelerated pay plan may  
20 not receive an additional performance increase pursuant to G.S.  
21 126-7.

22 (d) This section shall become effective January 1, 1991.

<< >>



## LEGISLATIVE PROPOSAL 8

### SECTION-BY-SECTION ANALYSIS

This legislative proposal is in the form of a special provision to be included in a budget bill enacted by the 1989 General Assembly (1990 Session).

The first section of this special provision directs the State Personnel Commission to develop an accelerated pay plan for those State employees in the lowest pay grades and to select which pay grades are to be subject to this plan.

The next section of the special provision provides that upward movement within the accelerated pay plan has to be based on performance which meets or exceeds performance requirements. A performance appraisal system that is specifically tailored to the pay grades subject to this accelerated plan is to be applied.

Subsection (c) of this special provision provides that employees who participate in the accelerated pay plan are prohibited from receiving additional performance increases pursuant to the performance pay system in G.S.126-7.

Subsection (d) makes the special provision effective January 1, 1991 to provide sufficient time for the State Personnel Commission to develop and implement the new plan.





APPENDIX A

GENERAL ASSEMBLY OF NORTH CAROLINA  
1989 SESSION  
RATIFIED BILL

CHAPTER 802  
SENATE BILL 231

AN ACT TO AUTHORIZE STUDIES BY THE LEGISLATIVE RESEARCH COMMISSION, TO CREATE AND CONTINUE VARIOUS COMMITTEES AND COMMISSIONS, TO MAKE APPROPRIATIONS THEREFOR, AND TO DIRECT VARIOUS STATE AGENCIES TO STUDY SPECIFIED ISSUES.

The General Assembly of North Carolina enacts:

PART I. TITLE

Section 1. This act shall be known as "The Studies Act of 1989."

. . .

PART XXI.-----STATE PERSONNEL SYSTEM STUDY COMMISSION

Sec. 21.1. There is created a Study Commission on the State Personnel System to be composed of 15 members: five Senators to be appointed by the President Pro Tempore of the Senate, five Representatives to be appointed by the Speaker of the House, and five public members to be appointed by the Governor. Appointments to the Study Commission shall be made within 30 days subsequent to the adjournment of the General Assembly in 1989. The President Pro Tempore of the Senate and the Speaker of the House shall each designate a cochairman from their appointees. Either cochairman may call the first meeting of the Study Commission. Vacancies shall be filled in the same manner as the original appointments were made.

Sec. 21.2. The Study Commission is authorized to study all aspects of the State personnel system, including the impact of State and local governmental employees retirement benefits increases, the impact of the exemption from State taxes of State, local, federal, and private retirement benefits, and public employees' day care and medical and dental benefits.

Sec. 21.3. With the prior approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional and clerical staff to assist in the work of the Commission. Clerical staff shall be furnished to the Commission through the Offices of House and Senate Supervisors of Clerks. The expenses of employment

of the clerical staff shall be borne by the Commission. With the prior approval of the Legislative Services Commission, the Study Commission may hold its meetings in the State Legislative Building or the Legislative Office Building.

Sec. 21.4. The Study Commission may submit an interim report of its findings and recommendations and the status of its work on or before the first day of the 1990 Regular Session of the 1989 General Assembly. The Study Commission shall submit a final written report of its findings and recommendations on or before the convening of the 1991 Session of the General Assembly. All reports shall be filed with the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

Sec. 21.5. Members of the Commission shall be paid per diem, subsistence, and travel allowances as follows:

- (1) Commission members who are also members of the General Assembly, at the rate established in G.S. 120-3.1;
- (2) Commission members who are officials or employees of the State or local government agencies, at the rate established in G.S. 138-6;
- (3) All other Commission members, at the rate established in G.S. 138-5.

Sec. 21.6. There is allocated from the funds appropriated to the General Assembly to the Study Commission on the State Personnel System for its work the sum of \$25,000 for the 1989-90 fiscal year and the sum of \$20,000 for the 1990-91 fiscal year.

...

#### PART XXV.-----EFFECTIVE DATE

Sec. 25.1. This act shall become effective July 1, 1989.

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1989**

**S**

**1**

**SENATE JOINT RESOLUTION 59\***

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Sponsors: Senators Hunt of Moore; Royall, Marvin, and Sherron.

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Referred to: Rules.

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January 26, 1989

1 A JOINT RESOLUTION TO CONTINUE AS AN ONGOING STUDY THE  
2 STUDY OF THE STATE PERSONNEL SYSTEM.

3           Whereas, the current State Personnel System was established in 1965; and

4           Whereas, it is the policy of North Carolina, as set forth in G.S. 126-1, to  
5 provide a personnel system that applies the best methods that have evolved in  
6 government and industry; and

7           Whereas, there have been significant changes in the area of personnel  
8 since 1965; and

9           Whereas, there was no comprehensive study of the personnel system until  
10 1985; and

11           Whereas, the Legislative Research Commission's Committee on State  
12 Personnel as begun under Chapter 790 of the 1985 Session and continued under  
13 Chapter 873 of the 1987 Session should be an ongoing study and should continue to  
14 examine the entire range of personnel problems and needs of State employees;

15 Now, therefore, be it resolved by Senate, the House of Representatives concurring:

16           Section 1. The Legislative Research Commission, as structured by Article  
17 6B of Chapter 120 of the General Statutes, may continue as an ongoing study the  
18 study of the State Personnel System, as well as the entire range of personnel problems  
19 of State employees.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

H

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HOUSE JOINT RESOLUTION 140\*

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Sponsors: Representatives Stamey; Cunningham, Bowman, Tart, Fussell, Duncan,  
Wiser and Warren.

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Referred to: Rules.

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February 2, 1989

1 A JOINT RESOLUTION TO CONTINUE AS AN ONGOING STUDY THE  
2 STUDY OF THE STATE PERSONNEL SYSTEM.

3           Whereas, the current State Personnel System was established in 1965; and

4           Whereas, it is the policy of North Carolina, as set forth in G.S. 126-1, to  
5 provide a personnel system that applies the best methods that have evolved in  
6 government and industry; and

7           Whereas, there have been significant changes in the area of personnel  
8 since 1965; and

9           Whereas, there was no comprehensive study of the personnel system until  
10 1985; and

11           Whereas, the Legislative Research Commission's Committee on State  
12 Personnel as begun under Chapter 790 of the 1985 Session and continued under  
13 Chapter 873 of the 1987 Session should be an ongoing study and should continue to  
14 examine the entire range of personnel problems and needs of State employees;

15 Now, therefore, be it resolved by the House of Representatives, the Senate  
16 concurring:

17           Section 1. The Legislative Research Commission, as structured by Article  
18 6B of Chapter 120 of the General Statutes, may continue as an ongoing study the  
19 study of the State Personnel System, as well as the entire range of personnel problems  
20 of State employees.

## APPENDIX B

### Members STATE PERSONNEL SYSTEM STUDY COMMISSION

#### President Pro Tempore's Appointments

Hon. Wanda H. Hunt  
Co-Chair  
P.O. Box 1335  
Pinehurst, NC 28374  
(919)295-3794

Sen. Howard F. Bryan  
P.O. Box 1654  
Statesville, NC 28677  
(704)873-0501

Sen. Joseph E. 'Joe' Johnson  
Box 31507  
Raleigh, NC 27622  
(919)787-5200

Sen. A. P. 'Sandy' Sands, III  
P.O. Box 449  
Reidsville, NC 27323-0449  
(919)349-7041

Sen. James D. 'Jim' Speed  
Route 6, Box 542  
Louisburg, NC 27549  
(919)853-2167

#### Speaker's Appointments

Rep. Milton F. 'Toby' Fitch, Jr.  
Co-Chair  
615 E. Nash Street  
Wilson, NC 27893  
(919)291-6500

Rep. Bobby H. Barbee, Sr.  
P.O. Box 656  
Locust, NC 28097  
(704)888-4423

Rep. Anne C. Barnes  
313 Severin Street  
Chapel Hill, NC 27516  
(919)967-7610

Rep. Julia C. Howard  
203 Magnolia Avenue  
Mocksville, NC 27028  
(704)634-3538

Rep. Edd Nye  
P.O. Box 8  
Elizabethtown, NC 28337  
(919)862-3679

## Governor's Appointments

Matt L. Elmore, Director  
Dorothea Dix Hospital  
Station B Building  
805 Ruggles Drive  
Raleigh, NC 27603-2038  
(919)733-5407

Richard V. Lee, Director  
Office of State Personnel  
Administration Building  
116 W. Jones Street  
Raleigh, NC 27603-8003  
(919)733-7108

Karen E. Harris  
11828 Post Ridge  
Charlotte, NC 28226  
(919)373-8832

Calvin A. Michaels  
1504 Forest Valley Road  
Greensboro, NC 27410  
(919)379-2497

Susan B. Hutchins \*  
Personnel Director  
N.C. Department of Human Resources  
101 Blair Drive, Adams Building  
Raleigh, NC 27603  
(919)733-2940

Wilma Sherrill, Director  
Personnel Appointments,  
Boards and Commissions  
Office of the Governor  
Administration Building  
116 W. Jones Street  
Raleigh, NC 27603-8001  
(919)733-5811

\* Ms. Hutchins replaced Ms. Sherrill April 16, 1990, after Ms. Sherrill resigned.

### **"Ex Officio" Appointment by Senate President Pro Tempore 3/12/90:**

Sen. T. LaFontaine 'Fountain' Odom  
1100 S. Tryon Street  
Charlotte, NC 28203  
(704)372-4800

#### **Staff:**

Susan Iddings  
Bill Drafting Division  
(919)733-6660

Stanley Moore  
Fiscal Research Division  
(919)733-4910

#### **Clerk:**

Kathy Cooke  
Legislative Building, Room 1202  
O: (919)733-5808  
H: (919)787-8362

APPENDIX C

GENERAL ASSEMBLY OF NORTH CAROLINA  
1989 SESSION  
RATIFIED BILL

CHAPTER 796  
HOUSE BILL 73

AN ACT TO REVISE THE PERFORMANCE PAY SYSTEM IN EFFECT FOR  
STATE EMPLOYEES SUBJECT TO THE PROVISIONS OF CHAPTER 126 OF  
THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 126-7 reads as rewritten:

**§ 126-7. Performance salary increases for State employees.**

~~It shall be considered a part of the personnel policy of this State that salary increases as provided in the compensation plan shall be granted in accordance with a standard of efficiency as established by the State Personnel Commission. Each employee whose salary is at or below the third step of the salary range established for the class to which the position is assigned shall be granted a salary increase in an amount corresponding to the increments between steps of the applicable salary range at least once each year if the individual's performance merits the increase. Prior to July 1 of each biennium, each agency, board, commission, department, or institution of State government subject to the provisions of this Article shall file with the State Personnel Director a written description of the plan or method it is currently following in awarding or allocating efficiency or merit salary increments. At the same time, each such agency, board, commission, department, or institution shall cause a copy thereof to be distributed to each employee. The State Personnel Director, with the approval of the State Personnel Commission, shall modify, alter or disapprove any such plan submitted to him which he deems not to be in accordance with the provisions of this Article. Within the limit of available funds, each employee meeting higher standards may be granted increases up to but not exceeding the maximum of the salary range established for the class to which his position is assigned. If, in addition to the salary ranges, the State Personnel Commission shall establish uniform provisions for a system of payments over and above the standard salary ranges on the basis of longevity in service, that plan of payments shall not be considered in applying this policy governing annual salary increments. The head of each department, bureau, agency, or commission, when making his budget request for the ensuing biennium, shall anticipate the funds which will be required during the biennium for the purpose of paying salary increments and shall include those amounts in his budget request. In no case shall the amount estimated for annual increments above the third step of the range exceed two thirds of the sum which would be required to grant increments to all the personnel of the agency then receiving or who will receive a salary equal to or above the third step of the salary range. With the approval of the State Personnel Commission, State departments, bureaus, agencies, or commissions with 25 or less employees subject to the provisions of this Chapter may exceed the two-thirds restrictions herein provided.~~

**§ 126-7. Compensation of State employees.**

- his rating level. With the supervisor's written justification, an individual employee's increase may vary above or below the midrange value within the allowable range. A supervisor's performance appraisal plan, evaluation standards for each employee, and individual employee ratings and recommended performance increase amounts, with justification, shall be reviewed and approved by that supervisor's next higher level supervisor.
- (6) The State Personnel Director may suspend any performance increase that does not appear to meet the intent of the provisions of the performance pay system and require the originating department, agency, or institution to reconsider or justify the increase.
- (7) An employee who disputes the fairness of his performance evaluation or the sufficiency of the increase awarded or who believes that he was unfairly denied a performance increase shall first discuss the problem with his supervisor. Appeals of the supervisor's decision shall be made only to the grievance committee or internal performance review board of the department, agency, or institution which shall make a recommendation to the head of the department, agency, or institution for final decision. The State Personnel Director shall help a department, agency, or institution establish an internal performance review board or, if it includes employee members, to use its existing grievance committee to hear performance pay disputes. Notwithstanding G.S. 150B-2(2) and G.S. 126-22, 126-25, and 126-34, performance pay disputes, including disputes about individual performance appraisals, shall not be considered contested case issues.
- (8) The State Personnel Director shall monitor the performance appraisal system and performance increase distribution of each employing unit within each department, agency, and institution. Each department, agency, and institution shall submit to the Director annual reports which shall include data on the demographics of performance ratings, the frequency of evaluations, the performance pay increases awarded, and the implementation schedule for performance pay increases. The Director shall analyze the data to ensure that performance increases are distributed fairly within each department, agency, and institution and across all departments, agencies, and institutions of State government and shall report back to each department, agency, and institution on its appraisal and distribution performance.
- (9) The State Personnel Director shall report annually on the performance pay program to the Commission. The report shall evaluate the performance of each department, agency, and institution in the administration of its appraisal system and the distribution of performance increases within each department, agency, and institution and across State government. The report shall include recommendations for improving the performance appraisal system and alleviating inequities. Copies of the report shall be sent to the State Auditor.
- (10) The Commission shall report annually to the Governor, the Lieutenant Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Standing



## APPENDIX D

### LIST OF PERSONS APPEARING BEFORE THE COMMISSION

Ms. Betsy R. Smith, Ed.D., Manager, Performance Management System,  
Office of State Personnel

Mr. G. C. Davis, Deputy Director, Office of State Personnel

Dr. Robert A. Berlam, Executive Director, State Employees Association of  
North Carolina

Mr. John C. Rice, Executive Director, North Carolina Retired Governmental  
Employees Association

Dr. Robert L. Tomlinson, Associate Vice Chancellor, University of North  
Carolina-Greensboro

Mr. Billy R. Blackman, Chairman, Retirement Study Committee, State  
Employees Association of North Carolina

Mr. Edwin T. Barnes, Director, Retirement Systems Division, Department of  
State Treasurer

Mr. Ellis Hankins, North Carolina League of Municipalities

Mr. James B. Blackburn, North Carolina Association of County Commissioners

Representative Anne Barnes, Member of Commission

Ms. Kristine Lanning, Director of Governmental Relations, State Employees  
Association of North Carolina (appearing for Mr. Matt Elmore,  
Member of Commission, President, State Employees Association of  
North Carolina)

