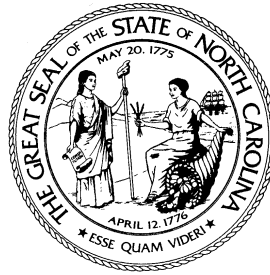


*Selected Benefits Available
To Law Enforcement Officers*

*North Carolina Department of Justice
Roy Cooper
Attorney General*



*Law Enforcement & Prosecutions Division
Law Enforcement Liaison Section
(Revised October 2000)*

I gratefully acknowledge the extensive research done on this project in 1989 by Jeanelle Medlin, a Legal Intern with the Department of Justice, and a Law Student at the Wake Forest University School of Law. This information would not have been as complete without her substantial contributions.

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*Robin P. Pendergraft
Special Deputy Attorney General
Law Enforcement Liaison Section*

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DEATH BENEFITS

I. STATE

**A. WORKER'S COMPENSATION ACT
(G.S. Chapter 97)**

1. MONETARY

- a. Weekly compensation payments equal to 66 2/3% of the average weekly wages of the deceased employee at the time of the accident, not less than \$30 per week, and up to an annually updated maximum amount per week for a maximum period of 400 weeks from the date of the death of the employee. (*Note: There are some exceptions to the 400 weeks limitation for certain widows, widowers, and dependent children*)
- b. The maximum is calculated by multiplying the average weekly insured wage as defined by G.S. § 96-8(22) by 1.10. The figure derived from this calculation is rounded to the figure's nearest multiple of two dollars.
- c. \$2,000 maximum burial expenses are also provided.

2. SPECIAL SITUATIONS

- a. Spouse is unable to support him or herself because of physical or mental disabilities which existed when the employee dies, shall receive compensation for the spouse's lifetime or until remarriage.
- b. Dependent child receives compensation until 18 years of age.

3. ELIGIBILITY

- a. Death must result from a compensable injury or occupational disease. A compensable injury is accidental and work related and occurs at a definite time. An occupational disease occurs over a gradual period of time.
- b. The employee or his representative must give written notice within 30 days of the occurrence of the accident or death, including full details of the accident or disease.
- c. Claim must be filed within two years of occurrence of accident which caused death. Filing requirements for those employees who become disabled and then die as a result of this injury differ from the general rule, and can be found in G.S. § 97-38.

4. BENEFITS PAYABLE TO: (*listed in order of priority*)

- a. Dependents (widow, widower, or child are presumed to be dependent)
- b. Next of kin as defined by G.S. § 97-40

5. All compensation is exempt from creditors' claims and State taxes.

6. To file a claim, contact the Industrial Commission.

**B. TEACHERS' AND STATE EMPLOYEES RETIREMENT SYSTEM (TSERS)
LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM (LGRS)**

Death Benefits

(G.S. Chapter 135) and (G.S. Chapter 128)

1. EXPLANATION
 - a. TSERS applies to law enforcement officers employed by the **State**. (Includes State Highway Patrol, SBI, ALE, DMV, etc.)
 - b. LGERS applies to law enforcement officers employed by **cities** and **counties**. (Includes Sheriff Offices, City Police, etc.)
 - c. Can transfer membership from one system to another, but cannot be a member of both at the same time.

2. MONETARY
 - a. State: Maximum payment in lump sum of \$50,000 but no less than \$25,000.
Local: Maximum payment in lump sum of \$20,000.
 - b. Specifically, the payment shall be equal to the highest salary for 12 months consecutive during the 24 months prior to death.

3. ELIGIBILITY
 - a. A law enforcement officer as defined in G.S. § 135-1(11b) and G.S. § 128.21(11b).
 - b. Has contributed 6% of the officer's salary to the system for at least one year.
 - c. An officer who has died within 180 days from last day of actual service shall be deemed to be in service at the date of the officer's death.
 - d. Line of duty death **not** required; natural or accidental death still qualifies.

4. SURVIVOR'S ALTERNATE BENEFIT
If the officer named only one beneficiary **and** the officer was 50 with 15 years of service, or was 55 with 5 years of service, or had 20 years of service, then that beneficiary has the option of receiving a refund of the member's accumulated contributions, or a monthly benefit for life.
5. BENEFITS PAYABLE TO ANY NAMED BENEFICIARY.
6. With the exceptions of child support obligations, benefits are exempt from levy and sale, garnishment, attachment or any other process.
7. To file a claim, contact the Retirement Systems Division of the Department of State Treasurer.

C. LAW ENFORCEMENT OFFICER'S DEATH BENEFIT ACT (G.S. Chapter 143, Article 12A)

1. MONETARY
 - a. \$25,000 maximum total benefit.

Death Benefits

- b. \$10,000 upon death, then \$5,000 annually for a maximum of three years.
2. ELIGIBILITY
 - a. Full-time law enforcement officer (See G.S. § 143-166.2(d)).
 - b. Killed in the line of duty.
 - c. Benefits from other sources are not affected by nor interfere with this Act.
3. BENEFITS PAYABLE TO: (*listed in order of priority*) (See G.S. § 143-166.2).
 - a. Spouse.
 - b. Dependent children.
 - c. Dependent parents.
4. BENEFITS ARE EXEMPT FROM STATE AND LOCAL TAXES.
5. TO FILE A CLAIM, CONTACT THE INDUSTRIAL COMMISSION.

D. SEPARATE INSURANCE BENEFITS PLAN FOR STATE AND LOCAL GOVERNMENTAL LAW ENFORCEMENT OFFICERS (G.S. Chapter 143, Article 12F)

1. MONETARY
 - a. A group life insurance benefit for active duty officers of no more than \$5,000.
 - b. A group life insurance benefit for former officers of no more than \$4,000.
 - c. An accidental line-of-duty death benefit of no more than \$2,100.
2. ELIGIBILITY
 - a. All law enforcement officers employed by State or local governments.
 - b. Former law enforcement officers previously employed by State or local governments with 20 or more years of service or, who are receiving a disability retirement allowance or benefits from the Disability Income Plan.
 - c. Is separate and apart from the TSERS and LGERS (membership in either system is **not** a prerequisite).
 - d. Must have been a member six (6) months prior to death, or if an actively employed officer and death results from an accident, at any time after employment.
 - e. No dues or contributions required since benefit is funded through costs of court assessed in criminal cases.
3. BENEFITS PAYABLE TO:
 - a. Surviving spouse or estate if no beneficiary is named, or to another person if the officer specifies in writing to the Board of Trustees.

Death Benefits

4. Benefits are nonforfeitable, and exempt from levy, sale, garnishment, or from any State or local taxes.
5. To file a claim, contact the Retirement Systems Division of the Department of State Treasurer.

II. FEDERAL

A. PUBLIC SAFETY OFFICERS' DEATH BENEFITS (42 U.S.C. § 3796)

1. **MONETARY**
 - a. A death benefit whose amount is increased every October 1st to reflect a cost of living increase (tied to the Consumer Price Index). The current monetary value (October 2000) is \$151, 635.
 - b. \$3,000 **maximum** interim benefit payment is allowed where there is a showing of need and there is great likelihood that the benefit will be paid.
 - (1) The amount of the interim payment will be deducted from any final award.
 - (2) If there is no final benefit award, then the interim award must be repaid unless it is waived due to hardship.
2. **ELIGIBILITY**
 - a. Any federal, state or local law enforcement officer killed, or who died as a result of an injury sustained, in the line of duty.
 - b. **No Benefits if:**
 - (1) Death results from officer's intentional misconduct, voluntary intoxication, gross negligence while performing his duties, or self-inflicted injury.
 - (2) The beneficiary was a substantial contributing factor to the officer's death;
or
 - (3) The officer is a military law enforcement officer.
3. **BENEFITS PAYABLE TO:**
 - a. Spouse if there are no children.
 - b. Children in equal shares if there is no surviving spouse.
 - c. If there is a surviving child or children then 1/2 to surviving spouse and 1/2 to a surviving child or children in equal shares. A child is defined as any natural child of the deceased officer born before or after the officer's death, or any adopted or step-

NOTE: An autopsy is required to ascertain such factors as voluntary intoxication.

Death Benefits

child of the deceased officer. At the time of the officer's death, the benefits are payable to children who are 18 and under, or who are 19 through 22 and are full-time students, or to those who are over 18 and are incapable of self-support due to mental or physical disability.

- d. If no spouse or children of any age, then to parents of the officer in equal shares.
4. To file a claim, contact the Public Safety Officers' Benefit program staff at the U.S. Department of Justice. Additional information can be obtained through the public safety agency, or unit in which the deceased officer served.
5. Benefits are exempt from execution or attachment by creditors, and from federal income and estate taxes.
6. Benefits are not reduced by a benefit received at the State or local level. Additionally, State and local benefits must not be reduced by benefits from the Public Safety Officer's Benefits Act.
7. The Bureau of Justice Assistance has been given \$150,000 out of the death benefits fund to develop an assistance program for families of officers killed in the line of duty.

B. WORKER'S COMPENSATION (5 U.S.C. § 8102) (5 U.S.C § 8133)

1. PURPOSE - SUPPLEMENTARY
 - a. To provide compensation benefits for State and local law enforcement officers equivalent to those received by Federal officers.
 - b. If State and local benefits are less than Federal benefits, Worker's Compensation will pay the difference.
2. MONETARY
 - a. If no child is eligible for benefits, the widow or widows's benefit is 50% of the officer's pay at the time of his death.
 - b. If a child is eligible, the widow or widower receives 45% and each child receives 15%, but the total to both cannot exceed 75% of the officer's pay.
 - c. If the children are sole survivors, 40% goes to the first child and 15% to each additional child, not to exceed 75% of the officer's pay.
3. ELIGIBILITY (5 U.S.C. § 8191)

Must be a law enforcement officer who at the time of death, was:

 - a. Apprehending or trying to apprehend anyone who has committed a crime against the U.S. or was sought by U.S. law enforcement for committing a crime, or was sought as a material witness in a criminal action by the U.S.; or
 - b. Protecting or guarding a person held for a crime against the U.S., or is a material

Death Benefits

- witness to the same; or
 - c. Preventing or trying to prevent a crime against the U.S.
- 4. BENEFITS PAYABLE TO:
 - a. Spouse and children.
 - b. Parents, if there are no children or spouse.
 - c. Siblings, grandparents and grandchildren also qualify, if there is no surviving spouse, children or parents.
- 5. BENEFITS PAYABLE UNTIL:
 - a. Spouse dies, or remarries before age of 55.
 - (1) Remarriage after 55 will not terminate payments;
 - (2) Remarriage before 55 entitles spouse to a lump sum equal to 24 times the determined monthly benefit.
 - b. Child, sibling, or grandchild dies, marries or becomes 18. Support will continue after 18 if they are incapable of self-support or are and remain single and a full-time student.
 - c. Parent dies, marries or ceases to be dependent.
- 6. COST OF LIVING INCREASES
If benefits have been paid for more than one year, then benefit payments are automatically increased each March 1st based on the Consumer Price Index.
- 7. FUNERAL AND BURIAL EXPENSES
 - a. Maximum of \$800.
 - b. Body will be transported when an officer dies away from home.
- 8. To file a claim, contact the office of Workers' Compensation Programs of the U.S. Department of Labor.

C. FEDERAL DEDUCTIONS

In making benefit payments, the Federal Government may offset any benefits received from any other sources.

III. ASSOCIATIONS

A. CONCERNS OF POLICE SURVIVORS (COPS)

COPS provides support services and assistance to survivors of officers killed in the line of duty. The group also provides guidelines for departments to use in handling the survivors of officers killed in the line of duty. Although COPS does not offer any monetary benefits, their support network is a valuable resource for those facing the death of a loved one who was a law enforcement officer.

B. Various law enforcement associations provide both monetary and support network benefits for

Death Benefits

member officers who have been injured or killed in the line of duty as well as support for the officers' survivors.

DISABILITY BENEFITS

I. STATE

A. WORKER'S COMPENSATION ACT (G.S. CHAPTER 97)

1. MONETARY

- a. Before monetary benefits can begin, a seven (7) day waiting period must be satisfied. During this time, an employer may allow an employee to use sick leave, vacation, annual leave, or any other disability benefits provided directly by the employer during the first seven (7) calendar days of disability. If the disability has a duration of more than twenty-one (21) days, compensation will be allowed from the date of the disability forward (G.S. § 97-28). (*Note: Payment for medical treatment is exempted from this waiting period.*)
- b. Total Incapacity (Temporary and Permanent) (G.S. § 97-29)
 - 1) Temporary total incapacity - Officer is paid a weekly compensation of 66 2/3% of the officer's average weekly wages during this temporary period. The minimum payment must be no less than \$30 per week, and the maximum amount is set annually.
 - 2) Permanent total incapacity - Officer receives 66 2/3% of the officers average weekly wages as well as reasonable and necessary medically related expenses for care or rehabilitation for his or her lifetime.
- c. Partial Incapacity - (Temporary and Permanent) (G.S. § 97-30)
 - 1) All medically related expenses reasonably required to cure or give relief for as long as the Industrial Commission deems necessary.
 - 2) Compensation equal to 66 2/3% of the difference between officer's average weekly wages before the injury and his average weekly wages which he is able to earn after the injury, for a maximum of 300 weeks from the date of the injury.
- d. Compensation For Specific Injuries (G.S. § 97-31)

An officer will receive 66 2/3% of his average weekly wages for "x" number of weeks depending on the loss. Losses covered include fingers, toes, hands, feet, arms, legs, back, sight, hearing, etc. If bodily injuries are not specifically listed with their accompanying

compensation amounts, the Commission may award proper compensation within certain limits.

2. ELIGIBILITY

- a. Accident or injury must be work related.

Disability Benefits

- b. Officer must give employer written notice of the accident within 30 days after the occurrence of the accident. (G.S. § 97-22).
 - c. Officer has 2 years from the date of the accident to file a claim with the Industrial Commission. (G.S. § 97-24)
 - d. Members of the State Highway Patrol, certain State law enforcement officers and deputy sheriffs who serve upon a fee basis are sometimes treated differently under this Act.
3. BENEFITS ARE EXEMPT FROM ALL CLAIMS OF CREDITORS AND FROM INCOME TAXES. (G.S. § 97-21)

B. SALARY CONTINUATION PLAN FOR CERTAIN STATE LAW ENFORCEMENT OFFICERS (GS CHAPTER 43, ARTICLE 12B)

1. MONETARY
 - a. State law enforcement officers listed in this section who are unable to perform any of their duties because of a total or partial incapacity, where that incapacity resulted from an injury by accident or an occupational disease arising out of the performance of their duties, shall receive their regular salary without reduction as long as the officer remains employed in that position.
 - b. The officer's continued salary shall be in lieu of all compensation provided for the first two years of incapacity by the Worker's Compensation Act, but shall not deny the officer any other benefits provided by the Worker's Compensation Act to which he is entitled.
 - c. The officer must report the incapacity as soon as possible.

C. TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM (TSERS) DISABILITY INCOME PLAN (G.S. § 135-100)

1. ELIGIBILITY
 - a. State employee in service and a member of the TSERS who is temporarily or permanently disabled.
 - b. State employee has not been terminated, retired, died, or become a beneficiary under the Plan.
 - c. State employee must be employed for at least one year.
 - d. Has waited a period of 60 days from the onset of disability before receiving benefits.
 - e. A State law enforcement officer is not covered under the provisions of the Plan for any disability occurring during any period while on leave without pay unless the leave of absence is an employer approved leave of absence and the State employee is in receipt of temporary total benefits under the North Carolina Workers' Compensation Act.

Disability Benefits

2. SHORT-TERM DISABILITY BENEFITS.
 - a. Requirements
 - 1) One year contributing membership service in the Retirement System within 3 years before disability.
 - 2) Disability must have been continuous from the date of incapacity and incurred while an employee.
 - 3) Employer and physician must certify that the employee can no longer perform his duties.
 - b. Monetary
 - 1) Payable for 365 days but may be extended by the Board of Trustees for an additional period of not more than 365 days.
 - 2) Monthly benefit equal to 50% of the monthly salary plus 50% of 1/12 of annual longevity pay.
 - 3) Maximum \$3,000 per month.
 - 4) Benefits are reduced by monthly payments from Workers' Compensation, the Veteran's Administration, any other federal agency, or pursuant to G.S. § 127A-108 which addresses the pay and care of soldiers, airmen, and sailors disabled in service.
 - c. An officer may return to service for trial rehabilitation for no more than 40 continuous days in order to continue benefits.
3. LONG-TERM DISABILITY BENEFITS
 - a. Requirements
 - 1) Officer must have at least five years of contributing membership service in the Retirement System earned within 8 years before the end of the short-term disability period.
 - 2) Officer must apply within 180 days after the end of the short-term disability period, after salary continuation payments end, or after payments for worker's compensation cease, whichever is later. The Board of Trustees may extend the

filing deadline for one additional 180 day period under limited circumstances.
 - 3) Medical Board must certify that officer's disability was incurred at the time of active employment, is permanent and he can no longer perform his duties.
 - 4) Officer cannot be receiving any other payments for the same disability which existed before the officer became a member of the Retirement System.
 - b. Monetary
 - 1) During the first 36 months of long-term disability, benefits are equal to 65% of the officer's monthly salary plus 65% of 1/12 of his annual longevity pay.
 - 2) Maximum of \$3,900 per month.
 - 3) Monthly payments will be reduced by payments from Workers' Compensation, Social Security disability benefits, federal Veteran's

Disability Benefits

Administration benefits, any other federal agency benefits, or benefits paid pursuant to G.S. § 127A-108.

- 4) After 36 months, monthly payments will be reduced by the amount of Social Security disability benefits the officer could have received under Social Security had he been awarded that benefit.
4. When the officer reaches the age of service requirements for retirement, disability benefits will cease and he will receive retirement payments.
5. Under the Plan, officers must report all their earnings, including a copy of the officer's federal income tax form, to the Board of Trustees.
6. Officer receiving benefits under the Plan is considered in service and is covered by the Death Benefit Plan and Survivor's Alternate Benefit as long as the right to a benefit did not accrue under the former Disability Salary Continuation Plan.
7. Benefits may be increased by any percentage across-the-board salary increase granted to State employees by the General Assembly.
8. Benefits under the Plan are exempt from State and local taxes, levy and garnishment.

D. LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEMS (LGERS) (G.S. § 128-27)

1. DISABILITY RETIREMENT BENEFIT
 - a. Monetary
 - 1) Formula for Annual Disability Retirement Benefit
 - a) $1.72\% \times$ average final compensation \times years of creditable service for member retiring on or after July 1, 1995.
 - b) Average final compensation means the average of officer's salary during his four highest paid years in a row.
 - c) Average final compensation is calculated as of officer's disability retirement date, but creditable service is counted as though officer continued working to the earliest date he would have qualified for an unreduced service retirement allowance (age 55 or 30 years of service).
 - d) Cost of living increases may be provided by the System after officer retires.
 - 2) PAYMENT OPTIONS
Five different payment plans are available.

Disability Benefits

- b. Eligibility
 - 1) An officer may claim the benefit, if after five (5) years of creditable service, he becomes totally and permanently disabled. If an officer's disability was the result of an accident which occurred while in the performance of duty, then the officer only needs one year of creditable service in order to qualify for this benefit.
 - 2) The Medical Board must certify that he is disabled.
- c. Claims

To claim retirement benefits, send an application to the Board of Trustees of the Retirement System.

E. SEPARATE INSURANCE BENEFITS PLAN FOR STATE AND LOCAL LAW ENFORCEMENT OFFICERS (G.S. CHAPTER 143, ARTICLE 12F)

- 1. MONETARY

This Plan provides accident and sickness disability insurance benefits payable to an officer any time after becoming a participant in the Plan.
- 2. ELIGIBILITY
 - a. All law enforcement officers employed by State or local governments.
 - b. Former law enforcement officers previously employed by State or local governments with 20 or more years of service, or who are receiving a disability retirement allowance from a State-administered retirement system, or who are receiving a benefit from the Disability Income Plan.
- 3. BENEFITS ARE EXEMPT FROM GARNISHMENTS, LEVY AND SALE.
(G.S. § 143-166.60(h))

F. SUPPLEMENTAL RETIREMENT INCOME PLAN - 401(k) (G.S. § 143-166.30(d) and G.S. § 143-166.50(e))

- 1. MONETARY
 - a. Any participant who has become disabled and unable to continue working may request that all contributions and interest in the account be refunded either in lump sum payment or periodic installments.
- 2. ELIGIBILITY
 - a. All law enforcement officers employed by State or local governments.
 - b. Proof of disability and inability to work must be documented.

3. Officers receiving a disability payment do not have to pay the federal excise tax of 10% but will be subject to income tax at withdrawal.

II. FEDERAL

A. WORKER'S COMPENSATION (5 U.S.C. § 8102-8191)

1. MONETARY
 - a. Medical, surgical, hospital services and supplies, as well as travel and incidental expenses are covered.
 - b. Total Disability - employee shall receive 66 2/3% of the employee's monthly salary during the period of disability.
 - c. Partial Disability - employee shall receive monthly compensation equal to 66 2/3 % of the difference between the employee's monthly salary prior to injury and the salary the officer is able to earn after the injury.
 - d. Permanent disability compensation scheduled for certain losses: Compensation is provided for loss or loss of use of a member or function of the body, including disfigurement. This is computed by multiplying 66 2/3% of the employee's monthly pay times the number of weeks specified for the particular loss.
 - 1) Benefits for loss of earning capacity **may** be paid after the scheduled benefits have terminated. Such compensation is payable if the officer is unable to resume regular work, and is based on the difference between the officer's salary at the time of the accident and his capacity to earn wages after the accident.
 - 2) If the employee's condition requires a "constant attendant," then he may receive \$1500 maximum per month for this service.
 - 3) If rehabilitation therapy is necessary, then the employee may receive a maximum of \$200 per month for this service.
2. ELIGIBILITY (5 U.S.C. § 8191)

Must be a law enforcement officer who became injured while in the performance of duty and who was at the time:

 - a. Apprehending or trying to apprehend anyone who had committed a crime against the U.S. or was sought by U.S. law enforcement for committing a crime, or was sought as a material witness in a criminal action by the U.S.; or
 - b. Protecting or guarding a person held for a crime against the U.S. or is a material witness to the same; or
 - c. Preventing or trying to prevent a crime against the U.S.
3. The injured officer or someone on his behalf must notify the employer in writing of the

Disability Benefits

injury within 30 day from the date of injury.

4. To file a claim, contact the office of Secretary of Labor, Worker's Compensation Programs, within the U.S. Department of Labor.
5. FEDERAL DEDUCTIONS
In making benefit payments, the Federal government may offset any benefits received from other sources.

III. OTHER

Some law enforcement associations may offer a disability income insurance plan for members who become disabled due to sickness or accident. Officers should inquire of the various association as to any disability benefits.

RETIREMENT BENEFITS

I. STATE

**A. Local Governmental Employees' Retirement System (LGERS)
(G.S. Chapter 128, Article 3)**

**Teachers' and State Employees' Retirement System (TSERS)
(G.S. Chapter 135, Article 1)**

1. MONETARY

- a. Formula for Annual Retirement Benefit for members retiring on or after July 1, 2000.
 - 1) $1.81\% \times$ average final compensation \times years of creditable service (TSERS)
 - 2) $1.78\% \times$ average final compensation \times years of creditable service (LGERS).
 - 3) Average final compensation means the average of officer's salary during officer's four highest paid years in a row.
 - 4) Cost of living increases may be provided by the System after retirement.
- b. Payment Options
 - 1) Five (5) different payment plans are available.
 - 2) The main difference is whether any payment goes to a beneficiary after officer's death.
 - 3) If payment does not go to a beneficiary, the officer will receive 100% of his benefits for life.
- c. Exemptions
 - 1) Benefits are subject to North Carolina taxes, with a maximum exemption of \$4,000 on money received from certain retirement systems (local, State, or Federal)
 - 2) Part of the retirement benefits are subject to Federal tax.

2. ELIGIBILITY

- a. Service Requirements
 - 1) For full benefits, must have 30 years of creditable service, or be 55 with 5 years of creditable service as a law enforcement officer.
 - 2) For reduced benefits, be 50 with 15 years of creditable service as a law enforcement officer.
 - 3) Credit for military service.
Officers who were local or State government employees prior to entering the military and who return to work with the same employer, under certain circumstances, are eligible at no cost to count their military service time as creditable service toward retirement.
 - 4) Officers who do not satisfy the requirements to obtain military service credits

Retirement Benefits

(as above) at no cost are eligible under certain circumstances to purchase credit for their military service.

- b. Contributions
 - 1) 6% of an employee's gross salary is automatically deducted and paid to the Retirement System.
 - 2) Employer's contribution is based on data from actuarial studies. (This rate is set by the legislature)
- c. Claiming Benefits

To claim Retirement Benefits, a completed application must be filed with the Retirement System at least 1 day but not more than 90 days before the planned retirement date. The effective retirement date is always the first day of a month.

3. DEPARTURE NOT DUE TO RETIREMENT OR DEATH

- a. Refund of employee contributions but no employer contributions. An employee with five years of service, or one whose termination is involuntary, will also receive the accumulated regular interest on the employee's contributions.
- b. When an employee leaves, and contributions are left in the fund, the employee may elect to retire on a deferred service retirement allowance at age 55 if the employee rendered five (5) years of service or more; or at age 50 if the employee rendered fifteen (15) years of service.
- c. Time of refunds - no sooner than 60 days after termination of employment.

B. SPECIAL SEPARATION ALLOWANCE (G.S. § 143-166.41) (G.S. § 143-166.42)

1. MONETARY

- a. The officer shall receive an annual separation allowance beginning on the last day of the month in which he retires on a basic service retirement.
 - 1) To calculate the benefit, multiply $.0085 \times$ the officer's final base rate of compensation \times the officer's years of creditable service.
 - 2) The allowance shall be paid in 12 equal installments on the last day of each month.
 - 3) The allowance is treated for tax purposes as compensation. (*Note: The allowance is also subject to FICA taxes*)
- b. Payment ends:
 - 1) Upon the officer's death; or
 - 2) On the last day of the month in which the officers turns 62; or
 - 3) On the first day of re-employment of a State officer by a State agency. A local officer should conduct a careful inquiry with his employer as to what types of reemployment will terminate the payment of the officer's benefit. The employer's legal analysis of the relevant statutes will determine the guidelines to be utilized in evaluating the effect of an officer's reemployment

Retirement Benefits

with a governmental entity on his special separation allowance benefit.

2. ELIGIBILITY

- a. Sworn State or local law enforcement officers.
- b. Service (4 requirements)
 - 1) 30 years or more of creditable service, or 55 years old with 5 or more years of creditable service; and
 - 2) Not be 62 years old; and
 - 3) Completed at least 5 years of continuous service as a law enforcement officer immediately prior to a service retirement; and
 - 4) At least 50% of the officer's creditable service must be as a law enforcement officer for purposes of retirement.
- c. This section does not affect the benefits to which an officer may be entitled from other sources.
- d. The officer's employer will determine the eligibility of the employee for the benefits provided.

C. SUPPLEMENTAL RETIREMENT INCOME PLAN - 401(k) (SRIP) (G.S. § 143-166.30(d) and G.S. § 143-166.50(e))

1. MONETARY

a. Contribution of Funds

- 1) Employer contributes an amount equal to 5% of each State and local law enforcement officer's salary into that officer's SRIP account.
- 2) An officer can contribute an amount up to 15% of the officer's own compensation into the officer's own SRIP account.
- 3) \$0.50 of each court cost collected is deposited in the SRIP and is divided among the accounts of all **State** law enforcement officers.
- 4) \$1.25 of each court cost collected is deposited in the SRIP and is divided among the accounts of all **local** law enforcement officers, except elected sheriffs.
- 5) Contributions by an officer are made through pre-tax payroll deduction.

b. Withdrawal of Funds

There are six ways in which an officer may withdraw the funds in the officer's account:

- 1) Upon retirement; or
- 2) When leaving employment before becoming eligible to retire. The type of withdrawal can create income tax liability and subject an officer to a 10% federal excise tax unless the funds are reinvested in another qualified retirement plan or tax deferral program; or
- 3) Upon death, the funds in an officer's account will be paid to the officer's

Retirement Benefits

- designated beneficiary; or
- 4) For current reasons of financial hardship, up to 90% of an officer's account balance, excluding earnings from 401(k) contributions, can be withdrawn for purchasing a primary home, paying for college education, paying for extraordinary medical expenses, or preventing eviction or foreclosure. When funds are withdrawn for hardship reasons, they cannot be repaid and are treated as ordinary income for tax purposes in addition to being subject to the 10% federal excise tax, except when the money is used for medical expenses exceeding 7 1/2% of the officer's adjusted gross income.
 - 5) If an officer becomes permanently disabled, as approved by the Retirement Systems Division, and unable to work, the officer may withdraw the funds in the officer's account without incurring a 10% excise tax; or
 - 6) Upon reaching age 59 1/2, an officer may withdraw funds in the officer's account whether or not the officer has retired or left employment.
- c. Exemptions
- 1) Distribution from an officer's account after retirement are subject to North Carolina income tax, with a \$4,000 exemption on money received from all retirement resources.
 - 2) All distributions from an officer's account after retirement are taxed as ordinary income for federal tax purposes, and in some circumstances, may be subject to a 10% excise tax.
 - 3) The Plan Administrator is not required to withhold FICA taxes from distributions made to an officer after retirement.
- d. Loans - The North Carolina 401(k) Plan has established provisions for officers to obtain loans based on their accounts. Loan proceeds are not taxable and not subject to an IRS penalty. An officer may borrow a minimum of \$1,000, and a maximum amount determined by the officer's account status in conjunction with the loan amount requested by the officer. The principle and interest are paid back to the officer's account through post-tax payroll deductions.
- e. To file a claim, contact the Plan Administrator State 401(k) Services..

ADDITIONAL BENEFITS

I. EDUCATIONAL

A. COMMUNITY COLLEGES

Any of the State Community Colleges with enough student interest, will offer a convenient degree program schedule.

B. STATE FOUR-YEAR COLLEGES

Some State four-year colleges offer an Evening College program for those who wish to earn a bachelor's degree or more. Consult the college or university nearest you about the availability of a similar program.

C. CAREER DEVELOPMENT PROGRAM

North Carolina State University offers courses to all law enforcement officers to take for credit toward a bachelor's degree. The program consists of on-campus lectures which are taped and sent to the law enforcement agencies. The agencies then make copies and distribute them to their officers in the program. For more information, contact:

*Office of Instructional Telecommunications
North Carolina State University
Box 7401
Raleigh, North Carolina 27695
(919) 515-7730
Fax: (919) 515-5778*

D. ADMINISTRATIVE OFFICERS PROGRAM

This program is a 10-week course at North Carolina State University for officers to develop the academic background and administrative skills necessary to become effective managers. The cost is \$2,450.00 per officer which includes housing and meals at the N.C. Highway Patrol Training Center, tuition, fees and books.

For more information, write or call:

*Administrative Officers Program
Department of Political Science and Public Administration
Box 8102, North Carolina State University
Raleigh, North Carolina 27695-8102
(919) 515-5071*

II. LEGAL DEFENSE

Various organizations and associations have been formed in an effort to promote the interests of law enforcement officers. This publication cannot adequately address the specific benefits and eligibility requirements of each association. However, officers should be aware that differing associations do offer the possibility of monetary assistance to defray the costs of obtaining legal representation. This assistance may be limited to funding for legal representation in specified types of actions which arise due to the officer's conduct while undertaking job related activities. Additionally, most associations have limited resources, and they place restrictions on the maximum amount of resources which may be expended on behalf of an individual officer. In some instances, an association may conduct a case by case review of requests in order to determine if legal defense resources will be expended for a particular case. Officers who are interested in obtaining these types of benefits are encouraged to contact the various associations and research each association's respective benefit program in order to determine which programs are most suited to the officer's needs.

III. SCHOLARSHIPS

A. TUITION WAIVERS

In 1997 the legislature amended **G.S. § 115B** to provide for tuition waivers at state-supported institutions of higher education, community colleges, industrial education centers, and technical institutes for the spouse or any child (of a certain age) who is the survivor of a law enforcement officer or firefighter who was killed or permanently and totally disabled in the line of duty. This tuition waiver is available to survivors of officers killed or injured in the line of duty **on or after October 1, 1997**. Certain other restrictions apply. Contact the state supported school directly for information regarding this benefit.

B. PUBLIC SAFETY OFFICERS EDUCATIONAL ASSISTANCE

On November 13, 1998, the Police, Fire, and Emergency Officers Educational Assistance Act became law. This new federal program provides educational assistance for dependants of public safety officers killed or permanently and totally disabled (catastrophically injured) in the line of duty **on or after October 1, 1997**. Details on this scholarship assistance program may be obtained from the Public Safety Officers' Benefits Program. (See last page).

C. NORTH CAROLINA BAR ASSOCIATION

1. ELIGIBILITY

- a. Child of a North Carolina law enforcement officer slain or permanently disabled in the line of duty.
- b. Under 27 years of age.
- c. Accepted or enrolled at an accepted vocational school or institute of higher education.
- d. Based on need and merit.

2. MONETARY

- a. Scholarship payments are disbursed twice a year to qualifying children.
 - b. Amount of the disbursement depends on the amount allotted from the North Carolina Bar Foundation Endowment Fund.
3. A CHILD MAY APPLY FOR AND RECEIVE THE SCHOLARSHIP MORE THAN ONCE.
 4. THE MAXIMUM AMOUNT RECEIVED IS \$8,000 PER PERSON.
 5. For more information or an application, call or write:

*Scholarship Program
North Carolina Bar Association
Post Office Box 3688
Cary, North Carolina 27519
(919) 677-0561
1-800-662-7407*

D. NORTH CAROLINA LAW ENFORCEMENT WOMEN’S ASSOCIATION

The NCLEWA in conjunction with North Carolina Board of Community Colleges offers a scholarship which awards a lump sum of \$300 to a student majoring in Criminal Justice, Juvenile Justice, Corrections Science, or Police Science. Awards are based on financial need and academic achievement.

E. OTHER

Several law enforcement associations have established a scholarship program for children of its members. Each association should be contacted to ascertain the availability of these educational funds. Additionally, there are federally funded programs being developed to assist law enforcement officers or potential officers in obtaining a college degree. When more information is available, these details will be included in this publications.

The Police Corps is a college scholarship program for students who agree to work for a law enforcement agency for at least four years. Interested students:

- Must attend a four-year college or university full-time as an undergraduate. Graduate students may attend part-time.
- Must complete a 16-week training program.
- Must work for a law enforcement agency in North Carolina.
- May major in any subject that provides appropriate preparation for law enforcement.

Dependant children of officers slain in the line of duty may be awarded the scholarship noncompetitively without the requirement for service in a law enforcement agency.

RESOURCES

I. STATE

A. RETIREMENT SYSTEMS

1. Teachers' and State Employees' Retirement System.
2. Local Governmental Employees' Retirement System.

*Member Services Section - Retirement Systems Division
Department of State Treasurer
325 N. Salisbury Street
Raleigh, North Carolina 27611
(919) 733-4191*

B. INDUSTRIAL COMMISSION

*Paula Barnes, Chief Claims Examiner
Industrial Commission
Department of Commerce
430 N. Salisbury Street
Raleigh, North Carolina 27611
(919) 733-5020*

C. NORTH CAROLINA DEPARTMENT OF COMMUNITY COLLEGES

*Sharon Thompson, Director
Criminal Justice Education and Training
N.C. Department of Community Colleges
200 W. Jones Street
Raleigh, North Carolina 27603-1379
(919) 733-7051*

D. SUPPLEMENTAL RETIREMENT INCOME PLAN - 401(k)

*Ellen Crnkovic, Manager
State 401(k) Services
Post Office Box 27541
Raleigh, North Carolina 27626
(919) 716-9200 or (800) 722-4015*

E. POLICE CORP

*Law Enforcement Support Services
1950 Garner Road
Raleigh, North Carolina 27610-3926
(919) 715-5478
www.nccrimecontrol.org/less*

II. FEDERAL

A. WORKERS' COMPENSATION

*Office of Workers' Compensation Program
U.S. Department of Labor
Post Office Box 37117
Washington, D.C. 20013-7117
(202) 693-0031*

B. PUBLIC SAFETY OFFICERS' BENEFITS PROGRAM

*Valerie Neal, Chief/Program Specialist (Death Benefits)
Loretta Behm, Program Specialist (Educational Benefits & Appeals)
Public Safety Officers' Benefit Program
810 Seventh Street NW
Bureau of Justice Assistance
Washington, D.C. 20531
(202) 307-0635
1-888-744-6513*

III. ASSOCIATIONS

*CONCERNS OF POLICE SURVIVORS, INC.
Post Office Box 3199
Camdenton, MO 65020-3199
(573) 346-4911*

*NORTH CAROLINA BAR ASSOCIATION
8000 Weston Pkwy
Cary, North Carolina 27513-2123
(919) 677-0561
1-800-662-7407*

*North Carolina Department of Justice
Criminal Division - Law Enforcement Liaison Section*

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