

GENERAL ASSEMBLY OF NORTH CAROLINA
FOURTH EXTRA SESSION 2016

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HOUSE BILL DRH30011-MM-5Z (12/14)

Short Title: Modify Certain Appts/Employment. (Public)

Sponsors: Representatives Lewis, Bryan, Horn, and Ross (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE SUPERINTENDENT OF PUBLIC INSTRUCTION'S ROLE AS THE ADMINISTRATIVE HEAD OF THE DEPARTMENT OF PUBLIC INSTRUCTION, TO CHANGE THE APPOINTMENTS PROCESS FOR THE BOARDS OF TRUSTEES FOR THE CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA, TO MODIFY THE APPOINTMENT OF HEADS OF PRINCIPAL STATE DEPARTMENTS, AND TO IMPLEMENT THE STATEWIDE CLASSIFICATION AND COMPENSATION SYSTEM.

The General Assembly of North Carolina enacts:

PART I. CLARIFY ROLES/DPI/SBE

SECTION 1. G.S. 115C-11 reads as rewritten:

"§ 115C-11. Organization and internal procedures of Board.

...

(a1) Student advisors. – The ~~Governor~~Superintendent of Public Instruction is hereby authorized to appoint two high school students who are enrolled in the public schools of North Carolina as advisors to the State Board of Education. The student advisors shall participate in State Board deliberations in an advisory capacity only. The State Board may, in its discretion, exclude the student advisors from executive sessions.

~~The Governor shall make initial appointments of student advisors to the State Board as follows:~~

- (1) ~~One high school junior shall be appointed for a two year term beginning September 1, 1986, and expiring June 14, 1988; and~~
- (2) ~~One high school senior shall be appointed for a one year term beginning September 1, 1986, and expiring June 14, 1987. When an initial or subsequent term expires, the Governor~~The Superintendent of Public Instruction shall ~~appoint a stagger~~ the appointments of the two student advisors so that a high school junior ~~for~~is serving in the first year of a two-year term and a high school senior is serving in the second year of a two-year term simultaneously. The appointment of a high school junior shall be made beginning June 15 of that each year. If a student advisor is no longer enrolled in the public schools of North Carolina or if a vacancy otherwise occurs, the ~~Governor~~Superintendent of Public Instruction shall appoint a student advisor for the remainder of the unexpired term.

Student advisors shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.



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1 ...
 2 (a3) Superintendent Advisor. – The ~~Governor~~Superintendent of Public Instruction shall
 3 appoint a superintendent of a local school administrative unit as an advisor to the State Board of
 4 Education. The superintendent advisor shall serve for a term of one year. The superintendent
 5 advisor shall participate in State Board deliberations and committee meetings in an advisory
 6 capacity only. The State Board may, in its discretion, exclude the superintendent advisor from
 7 executive sessions.

8 In the event that a superintendent advisor ceases to be a superintendent in a local school
 9 administrative unit, the position of superintendent advisor shall be deemed vacant. In the event
 10 that a vacancy occurs in the position for whatever reason, the ~~Governor~~Superintendent of Public
 11 Instruction shall appoint a superintendent advisor for the remainder of the unexpired term. The
 12 superintendent advisor to the State Board shall receive per diem and necessary travel and
 13 subsistence expenses in accordance with the provisions of G.S. 138-5.

14 ...
 15 (i) Administrative Assistance. – The Superintendent of Public Instruction shall provide
 16 technical assistance and administrative assistance, including staff, to the State Board of Education
 17 through the Department of Public Instruction."

18 **SECTION 2.** G.S. 115C-12 reads as rewritten:

19 "**§ 115C-12. Powers and duties of the Board generally.**

20 The general supervision and administration of the free public school system shall be vested in
 21 the State Board of Education. The State Board of Education shall establish ~~policy~~all needed rules
 22 and regulations for the system of free public schools, subject to laws enacted by the General
 23 Assembly. In accordance with Sections 7 and 8 of Article III of the North Carolina Constitution,
 24 the Superintendent of Public Instruction, as an elected officer and Council of State member, shall
 25 administer all needed rules and regulations adopted by the State Board of Education through the
 26 Department of Public Instruction. The powers and duties of the State Board of Education are
 27 defined as follows:

28"

29 **SECTION 3.** G.S. 115C-19 reads as rewritten:

30 "**§ 115C-19. Chief administrative officer of the State Board of Education.**

31 As provided in Article IX, Sec. 4(2) of the North Carolina Constitution, the Superintendent of
 32 Public Instruction shall be the secretary and chief administrative officer of the State Board of
 33 Education. ~~As secretary and chief administrative officer of the State Board of Education, the~~
 34 ~~Superintendent manages on a day-to-day basis the administration of the free public school system,~~
 35 ~~subject to the direction, control, and approval of the State Board. Subject to the direction, control,~~
 36 ~~and approval of the State Board of Education, the Superintendent of Public Instruction~~As provided
 37 in Sections 7 and 8 of Article III of the North Carolina Constitution, the Superintendent of Public
 38 Instruction shall be an elected officer and Council of State member and shall carry out the duties
 39 prescribed under ~~G.S. 115C-21~~G.S. 115C-21 as the administrative head of the Department of
 40 Public Instruction. The Superintendent of Public Instruction shall administer all needed rules and
 41 regulations adopted by the State Board of Education through the Department of Public
 42 Instruction."

43 **SECTION 4.** G.S. 115C-21 reads as rewritten:

44 "**§ 115C-21. Powers and duties generally.**

45 (a) Administrative Duties. – ~~Subject to the direction, control, and approval of the State~~
 46 ~~Board of Education, it~~It shall be the duty of the Superintendent of Public Instruction:

47 (1) To organize and establish a Department of Public Instruction which shall
 48 include ~~such~~ divisions and departments ~~as the State Board considers necessary~~
 49 for supervision and administration of the public school ~~system~~system, to
 50 administer the funds appropriated for the operation of the Department of Public
 51 Instruction, and to enter into contracts for the operations of the Department of

- 1 Public Instruction. All appointments of administrative and supervisory
 2 personnel to the staff of the Department of Public ~~Instruction are subject to the~~
 3 ~~approval of the State Board of Education, which~~Instruction, including staff
 4 -serving the State Board of Education, shall be under the control and
 5 management of the Superintendent of Public Instruction who may terminate
 6 these appointments ~~for cause~~ in conformity with Chapter 126 of the General
 7 Statutes, the North Carolina Human Resources Act.
- 8 (2) To keep the public informed as to the problems and needs of the public schools
 9 by constant contact with all school administrators and teachers, by personal
 10 appearance at public gatherings, and by information furnished to the press of
 11 the State.
- 12 (3) To report biennially to the Governor 30 days prior to each regular session of the
 13 General Assembly, such report to include information and statistics of the
 14 public schools, with recommendations for their improvement and for changes in
 15 the school law.
- 16 (4) To have printed and distributed such educational bulletins as are necessary for
 17 the professional improvement of teachers and for the cultivation of public
 18 sentiment for public education, and to have printed all forms necessary and
 19 proper for the administration of the Department of Public Instruction.
- 20 (5) To ~~manage~~ have under his or her direction and control, all those matters
 21 relating to the direct supervision and administration of the public school system
 22 ~~that the State Board delegates to the Superintendent of Public~~
 23 ~~Instruction system.~~
- 24 (6) To create ~~and administer~~ special fund funds within the Department of Public
 25 Instruction to manage funds received as grants from nongovernmental sources
 26 in support of public education. ~~Effective July 1, 1995, this special fund is~~
 27 ~~transferred to the State Board of Education and shall be administered by the~~
 28 ~~State Board~~ education in accordance with G.S. 115C-410.
- 29 (7) Repealed by Session Laws 1995, c. 72, s. 2.
- 30 (8) To administer through the Department of Public Instruction, all needed rules
 31 and regulations established by the State Board of Education.
- 32 (9) To have under his or her direction and control all matters relating to provision
 33 of staff services and support to the State Board of Education, including
 34 implementation of federal programs on behalf of the State Board.
- 35 (b) Duties as Secretary to the State Board of Education. – ~~Subject to the direction, control,~~
 36 ~~and approval of the State Board of Education,~~ As secretary to the State Board of Education, it shall
 37 be the duty of the Superintendent of Public Instruction:
- 38 (1) ~~To administer through the Department of Public Instruction, the instructional~~
 39 ~~policies established by the Board.~~
- 40 (1a) Repealed by Session Laws 1995, c. 72, s. 2.
- 41 (1b) To administer funds appropriated for the operations of the State Board of
 42 Education and for aid to local school administrative units.
- 43 (2) To keep the Board informed regarding developments in the field of public
 44 education.
- 45 (3) To make recommendations to the Board with regard to the problems and needs
 46 of education in North Carolina.
- 47 (4) To make available to the public schools a continuous program of
 48 comprehensive supervisory services.
- 49 (5) To collect and organize information regarding the public schools, on the basis
 50 of which he or she shall furnish the Board such tabulations and reports as may
 51 be required by the Board.

- 1 (6) To communicate to the public school administrators all information and
 2 instructions regarding ~~instructional policies and procedures~~ needed rules and
 3 regulations adopted by the Board.
- 4 (7) To have custody of the official seal of the Board and to attest all deeds, leases,
 5 or written contracts executed in the name of the Board. All deeds of
 6 conveyance, leases, and contracts affecting real estate, title to which is held by
 7 the Board, and all contracts of the Board required to be in writing and under
 8 seal, shall be executed in the name of the Board by the chairman and attested by
 9 the secretary; and proof of the execution, if required or desired, may be had as
 10 provided by law for the proof of corporate instruments.
- 11 (8) To attend all meetings of the Board and to keep the minutes of the proceedings
 12 of the Board in a well-bound and suitable book, which minutes shall be
 13 approved by the Board prior to its adjournment; and, as soon thereafter as
 14 possible, to furnish to each member of the Board a copy of said minutes.
- 15 (9) To perform such other duties as may be necessary and appropriate for the
 16 Superintendent of Public Instruction in the role as secretary to the Board ~~may~~
 17 ~~assign to him from time to time.~~ Board."

18 **SECTION 5.** G.S. 115C-408(a) reads as rewritten:

19 "(a) It is the policy of the State of North Carolina to create a public school system that
 20 graduates good citizens with the skills demanded in the marketplace, and the skills necessary to
 21 cope with contemporary society, using State, local and other funds in the most cost-effective
 22 manner. The Board shall have general supervision and administration of the educational funds
 23 provided by the State and federal governments, except those mentioned in Section 7 of Article IX
 24 of the State Constitution, and also excepting such local funds as may be provided by a county,
 25 city, or district. The Superintendent of Public Instruction shall administer any available
 26 educational funds through the Department of Public Instruction in accordance with all needed
 27 rules and regulations adopted by the State Board of Education."

28 **SECTION 6.** G.S. 115C-410 reads as rewritten:

29 **"§ 115C-410. Power to accept gifts and grants.**

30 The Board is authorized to adopt all needed rules and regulations related to the creation and
 31 administration of special funds within the Department of Public Instruction to manage any funds
 32 received as grants from nongovernmental sources in support of public education. In accordance
 33 with the State Board's rules and regulations, the Superintendent of Public Instruction is authorized
 34 to create and administer such special funds and to accept, receive, use, or reallocate to local school
 35 administrative units any gifts, donations, grants, devises, or other forms of voluntary
 36 contributions."

37 **SECTION 7.** G.S. 126-5(d) reads as rewritten:

- 38 "(d) (1) Exempt Positions in Cabinet Department. – Subject to the provisions of this
 39 Chapter, which is known as the North Carolina Human Resources Act, the
 40 Governor may designate a total of ~~1,500~~ 300 exempt positions throughout the
 41 following departments and offices:
- 42 a. Department of Administration.
 - 43 b. Department of Commerce.
 - 44 c. Repealed by Session Laws 2012-83, s. 7, effective June 26, 2012, and
 45 by Session Laws 2012-142, s. 25.2E(a), effective January 1, 2013.
 - 46 d. Department of Public Safety.
 - 47 e. Department of Natural and Cultural Resources.
 - 48 f. Department of Health and Human Services.
 - 49 g. Department of Environmental Quality.
 - 50 h. Department of Revenue.
 - 51 i. Department of Transportation.

- j. Repealed by Session Laws 2012-83, s. 7, effective June 26, 2012, and by Session Laws 2012-142, s. 25.2E(a), effective January 1, 2013.
 - k. Department of Information Technology.
 - ~~l. Office of State Budget and Management.~~
 - ~~m. Office of State Human Resources.~~
 - n. Department of Military and Veterans Affairs.
- (2) Exempt Positions in Council of State Departments and Offices. – The Secretary of State, the Auditor, the Treasurer, the Attorney General, the Commissioner of Agriculture, the Commissioner of Insurance, and the Labor Commissioner may designate exempt positions. The State Board of Education may designate exempt positions in the Department of Public Instruction. The number of exempt policymaking positions in each department headed by an elected department head listed above in this ~~sub-subdivision~~ sub-subdivision, other than the Department of Public Instruction, shall be limited to ~~20–25~~ 25 exempt policymaking positions or ~~one–two percent (1%)~~ (2%) of the total number of full-time positions in the department, whichever is greater. The number of exempt managerial positions shall be limited to ~~20–25~~ 25 positions or ~~one–two percent (1%)~~ (2%) of the total number of full-time positions in the department, whichever is greater. The number of exempt policymaking positions designated by the State Board of Education shall be limited to 70 exempt policymaking positions or two percent (2%) of the total number of full-time positions in the department, whichever is greater. The number of exempt managerial positions designated by the State Board of Education shall be limited to 70 exempt managerial positions or two percent (2%) of the total number of full-time positions in the department, whichever is greater.

....

(2c) Change in Exempt Position Designation. – If the status of a position designated exempt pursuant to this subsection is changed and the position is made subject to the provisions of this Chapter, an employee occupying the position who has been continuously employed in a permanent position for the immediate 12 preceding months, shall be deemed a career State employee as defined by G.S. 126-1.1(a) upon the effective date of the change in designation.

...."

SECTION 8. G.S. 126-5(d), as amended by Section 7 of this act, reads as rewritten:

- "(d) (1) Exempt Positions in Cabinet Department. – Subject to the provisions of this Chapter, which is known as the North Carolina Human Resources Act, the Governor may designate a total of 300 exempt positions throughout the following departments and offices:
- a. Department of Administration.
 - b. Department of Commerce.
 - c. Repealed by Session Laws 2012-83, s. 7, effective June 26, 2012, and by Session Laws 2012-142, s. 25.2E(a), effective January 1, 2013.
 - d. Department of Public Safety.
 - e. Department of Natural and Cultural Resources.
 - f. Department of Health and Human Services.
 - g. Department of Environmental Quality.
 - h. Department of Revenue.
 - i. Department of Transportation.
 - j. Repealed by Session Laws 2012-83, s. 7, effective June 26, 2012, and by Session Laws 2012-142, s. 25.2E(a), effective January 1, 2013.
 - k. Department of Information Technology.

- 1 l. Repealed.
- 2 m. Repealed.
- 3 n. Department of Military and Veterans Affairs.
- 4 (2) Exempt Positions in Council of State Departments and Offices. – The Secretary
5 of State, the Auditor, the Treasurer, the Attorney General, the Superintendent of
6 Public Instruction, the Commissioner of Agriculture, the Commissioner of
7 Insurance, and the Labor Commissioner may designate exempt positions. ~~The~~
8 ~~State Board of Education may designate exempt positions in the Department of~~
9 ~~Public Instruction.~~ The number of exempt policymaking positions in each
10 department headed by an elected department head listed above in this sub-
11 subdivision, ~~other than the Department of Public Instruction~~, sub-subdivision
12 shall be limited to 25 exempt policymaking positions or two percent (2%) of the
13 total number of full-time positions in the department, whichever is greater. The
14 number of exempt managerial positions shall be limited to 25 positions or two
15 percent (2%) of the total number of full-time positions in the department,
16 whichever is greater. The number of exempt policymaking positions designated
17 by the ~~State Board of Education~~ Superintendent of Public Instruction shall be
18 limited to 70 exempt policymaking positions or two percent (2%) of the total
19 number of full-time positions in the department, whichever is greater. The
20 number of exempt managerial positions designated by the ~~State Board of~~
21 ~~Education~~ Superintendent of Public Instruction shall be limited to 70 exempt
22 managerial positions or two percent (2%) of the total number of full-time
23 positions in the department, whichever is greater.
- 24 (2a) Designation of Additional Positions. – The ~~Governor~~, Governor or elected
25 department head, ~~or State Board of Education head~~ may request that additional
26 positions be designated as exempt. The request shall be made by sending a list
27 of exempt positions that exceed the limit imposed by this subsection to the
28 Speaker of the North Carolina House of Representatives and the President of
29 the North Carolina Senate. A copy of the list also shall be sent to the Director of
30 the Office of State Human Resources. The General Assembly may authorize all,
31 or part of, the additional positions to be designated as exempt positions. If the
32 General Assembly is in session when the list is submitted and does not act
33 within 30 days after the list is submitted, the list shall be deemed approved by
34 the General Assembly, and the positions shall be designated as exempt
35 positions. If the General Assembly is not in session when the list is submitted,
36 the 30-day period shall not begin to run until the next date that the General
37 Assembly convenes or reconvenes, other than for a special session called for a
38 specific purpose not involving the approval of the list of additional positions to
39 be designated as exempt positions; the policymaking positions shall not be
40 designated as exempt during the interim.
- 41 (2b) Designation of Liaison Positions. – Liaisons to the Collaboration for Prosperity
42 Zones set out in G.S. 143B-28.1 for the Departments of Commerce,
43 Environmental Quality, and Transportation are designated as exempt.
- 44 (2c) Changes in Exempt Position Designation. – If the status of a position
45 designated exempt pursuant to this subsection is changed and the position is
46 made subject to the provisions of this Chapter, an employee occupying the
47 position who has been continuously employed in a permanent position for the
48 immediate 12 preceding months, shall be deemed a career State employee as
49 defined by G.S. 126-1.1(a) upon the effective date of the change in designation.
- 50 (3) Letter. – These positions shall be designated in a letter to the Director of the
51 Office of State Human Resources, the Speaker of the House of Representatives,

1 and the President of the Senate by July 1 of the year in which the oath of office
2 is administered to each Governor unless the provisions of subsection (d)(4)
3 apply.

4 (4) Vacancies. – In the event of a vacancy in the Office of Governor or in the office
5 of a member of the Council of State, the person who succeeds to or is appointed
6 or elected to fill the unexpired term shall make such designations in a letter to
7 the Director of the Office of State Human Resources, the Speaker of the House
8 of Representatives, and the President of the Senate within 180 days after the
9 oath of office is administered to that person. ~~In the event of a vacancy in the
10 Office of Governor, the State Board of Education shall make these designations
11 in a letter to the Director of the Office of State Human Resources, the Speaker
12 of the House of Representatives, and the President of the Senate within 180
13 days after the oath of office is administered to the Governor.~~

14 (5) Creation, Transfer, or Reorganization. – ~~The Governor, Governor or~~ elected
15 ~~department head, or State Board of Education head~~ may designate as exempt a
16 position that is created or transferred to a different department, or is located in a
17 department in which reorganization has occurred, after October 1 of the year in
18 which the oath of office is administered to the Governor. The designation must
19 be made in a letter to the Director of the Office of State Human Resources, the
20 Speaker of the North Carolina House of Representatives, and the President of
21 the North Carolina Senate within 180 days after such position is created,
22 transferred, or in which reorganization has occurred.

23 (6) Reversal. – Subsequent to the designation of a position as an exempt position as
24 hereinabove provided, the status of the position may be reversed and made
25 subject to the provisions of this Chapter by the ~~Governor, Governor or~~ by an
26 ~~elected department head, or by the State Board of Education head~~ in a letter to
27 the Director of the Office of State Human Resources, the Speaker of the North
28 Carolina House of Representatives, and the President of the North Carolina
29 Senate.

30 (7) Hearing Officers. – Except for deputy commissioners appointed pursuant to
31 G.S. 97-79 and as otherwise specifically provided by this section, no employee,
32 by whatever title, whose primary duties include the power to conduct hearings,
33 take evidence, and enter a decision based on findings of fact and conclusions of
34 law based on statutes and legal precedents shall be designated as exempt. This
35 subdivision shall apply beginning July 1, 1985, and no list submitted after that
36 date shall designate as exempt any employee described in this subdivision."

37 **SECTION 9.** G.S. 143-745(a)(1) reads as rewritten:

38 "(1) "Agency head" means the Governor, a Council of State member, a cabinet
39 secretary, the President of The University of North Carolina, the President of
40 the Community College System, the State Controller, and other independent
41 appointed officers with authority over a State agency. ~~The agency head for the
42 Department of Public Instruction shall be the State Board of Education."~~

43 **SECTION 10.** G.S. 143A-44.1 reads as rewritten:

44 **"§ 143A-44.1. Creation.**

45 There is hereby created a Department of Public Instruction. The head of the Department of
46 Public Instruction is the ~~State Board of Education. Any provision of G.S. 143A-9 to the contrary
47 notwithstanding, the appointment of the State Board of Education shall be as prescribed in Article
48 IX, Section (4)(1) of the Constitution. Superintendent of Public Instruction."~~

49 **SECTION 11.** G.S. 143A-44.2 is repealed.

50 **SECTION 12.** G.S. 143A-44.3 reads as rewritten:

51 **"§ 143A-44.3. Superintendent of Public Instruction; creation; transfer of powers and duties.**

1 The office of the Superintendent of Public Instruction, as provided for by Article III, Section 7
2 of the Constitution, and the Department of Public Instruction are transferred to the Department of
3 Public Instruction. The Superintendent of Public Instruction shall be the Secretary and Chief
4 Administrative Officer of the State Board of Education, and shall have all powers and duties
5 conferred by this Chapter and the Constitution, delegated to him or her by the Governor and by the
6 State Board of Education, and conferred by Chapter 115C of the General Statutes, Statutes and the
7 laws of this State."

8 **SECTION 13.** G.S. 14-234(d6) is repealed.

9 **SECTION 14.** G.S. 115C-75.5(4) reads as rewritten:

10 "(4) ASD Superintendent. – The superintendent of the ASD appointed by the ~~State~~
11 ~~Board of Education~~Superintendent of Public Instruction in accordance with
12 G.S. 115C-75.6(b)."

13 **SECTION 15.** G.S. 115C-75.6 reads as rewritten:

14 **"§ 115C-75.6. Achievement School District.**

15 (a) There is established the Achievement School District (ASD) under the administration
16 of the State Board of ~~Education~~Education and the Superintendent of Public Instruction. The ASD
17 shall assume the supervision, management, and operation of elementary schools that have been
18 selected as achievement schools pursuant to this Article.

19 (b) ~~An ASD Superintendent Selection Advisory Committee shall be established to make a~~
20 ~~recommendation to the State Board of Education on appointment of a superintendent to serve as~~
21 ~~the executive officer of the ASD. The Committee shall ensure that the individual recommended~~
22 ~~has qualifications consistent with G.S. 115C-271(a). The Lieutenant Governor shall serve as chair~~
23 ~~of the Committee and shall appoint the following additional members:~~

24 (1) ~~Three members of the State Board of Education.~~

25 (2) ~~One teacher or retired teacher.~~

26 (3) ~~One principal or retired principal.~~

27 (4) ~~One superintendent or retired superintendent.~~

28 (5) ~~One parent of a student currently enrolled in a low performing school, as~~
29 ~~defined in G.S. 115C-105.37.~~

30 (c) ~~The State Board of Education~~Superintendent of Public Instruction shall ~~consider the~~
31 ~~recommendation of the ASD Superintendent Selection Advisory Committee and shall~~ appoint a
32 superintendent to serve as the executive officer of the ASD. The ASD Superintendent shall serve
33 at the pleasure of the ~~State Board of Education~~Superintendent of Public Instruction at a salary
34 established by the ~~State Board of Education~~Superintendent of Public Instruction within the funds
35 appropriated for this purpose. The ASD Superintendent shall have qualifications consistent with
36 G.S. 115C-271(a) and report directly to the ~~State Board of Education~~Superintendent of Public
37 Instruction.

38 (d) By January 15 annually, the State Board of ~~Education~~Education, Superintendent of
39 Public Instruction, and the ASD Superintendent shall report to the Joint Legislative Education
40 Oversight Committee on all aspects of operation of ASD, including the selection of achievement
41 schools and their progress."

42 **SECTION 16.** G.S. 115C-150.11 reads as rewritten:

43 **"§ 115C-150.11. State Board of Education as governing agency.**

44 The State Board of Education shall be the sole governing agency for the Governor Morehead
45 School for the Blind, the Eastern North Carolina School for the Deaf, and the North Carolina
46 School for the Deaf. The ~~Department~~Superintendent of Public Instruction through the Department
47 of Public Instruction shall be responsible for the ~~administration~~administration, including
48 appointment of staff, and oversight of a school governed by this Article."

49 **SECTION 17.** G.S. 115C-218 reads as rewritten:

50 **"§ 115C-218. Purpose of charter schools; establishment of North Carolina Charter Schools**
51 **Advisory Board and North Carolina Office of Charter Schools.**

- 1 ...
- 2 (b) North Carolina Charter Schools Advisory Board. –
- 3 (1) Advisory Board. – There is created the North Carolina Charter Schools
- 4 Advisory Board, hereinafter referred to in this Article as the Advisory Board.
- 5 The Advisory Board shall be located administratively within the Department of
- 6 Public Instruction and shall report to the State Board of Education.
- 7 (2) Membership. – The State Superintendent of Public Instruction, or the
- 8 Superintendent's designee, shall be the secretary of the Advisory Board and a
- 9 nonvoting member. The Chair of the State Board of Education shall appoint a
- 10 member of the State Board to serve as a nonvoting member of the Advisory
- 11 Board. The Advisory Board shall consist of the following 11 voting members:
- 12 a. ~~Three members appointed by the Governor, including the chair of the~~
- 13 ~~Advisory Board.~~
- 14 b. ~~Three~~Four members appointed by the General Assembly upon the
- 15 recommendation of the President Pro Tempore of the Senate, in
- 16 accordance with G.S. 120-121.
- 17 c. ~~Three~~Four members appointed by the General Assembly upon the
- 18 recommendation of the Speaker of the House of Representatives, in
- 19 accordance with G.S. 120-121.
- 20 d. ~~One member~~Two members appointed by the State Board of Education
- 21 who ~~is~~are not a ~~current member~~members of the State Board of
- 22 Education and who ~~is~~are charter school ~~advocate~~advocates in North
- 23 Carolina.
- 24 e. The Lieutenant Governor or the Lieutenant Governor's designee.
- 25 (3) Covered board. – The Advisory Board shall be treated as a board for purposes
- 26 of Chapter 138A of the General Statutes.
- 27 (4) Qualifications of members. – Members appointed to the Advisory Board shall
- 28 collectively possess strong experience and expertise in public and nonprofit
- 29 governance, management and finance, assessment, curriculum and instruction,
- 30 public charter schools, and public education law. All appointed members of the
- 31 Advisory Board shall have demonstrated an understanding of and a
- 32 commitment to charter schools as a strategy for strengthening public education.
- 33 (5) Terms of office and vacancy appointments. – Appointed members shall serve
- 34 four-year terms of office beginning on July 1. No appointed member shall serve
- 35 more than eight consecutive years. Vacancy appointments shall be made by the
- 36 appointing authority for the remainder of the term of office.
- 37 (6) Presiding officers and quorum. – The Advisory Board shall annually elect a
- 38 chair and a vice-chair from among its membership. The chair shall preside over
- 39 the Advisory Board's meetings. In the absence of the chair, the vice-chair shall
- 40 preside over the Advisory Board's meetings. A majority of the Advisory Board
- 41 constitutes a quorum.
- 42 (7) Presiding officers and quorum. – Meetings. – Meetings of the Advisory Board
- 43 shall be held upon the call of the chair or the vice-chair with the approval of the
- 44 chair.
- 45 (8) Expenses. – Members of the Advisory Board shall be reimbursed for travel and
- 46 subsistence expenses at the rates allowed to State officers and employees by
- 47 G.S. 138-6(a).
- 48 (9) Removal. – Any appointed member of the Advisory Board may be removed by
- 49 a vote of at least two-thirds of the members of the Advisory Board at any duly
- 50 held meeting for any cause that renders the member incapable or unfit to
- 51 discharge the duties of the office.

- 1 (10) Powers and duties. – The Advisory Board shall have the following duties:
2 a. To make recommendations to the State Board of Education on the
3 adoption of rules regarding all aspects of charter school operation,
4 including time lines, standards, and criteria for acceptance and approval
5 of applications, monitoring of charter schools, and grounds for
6 revocation of charters.
7 b. To review applications and make recommendations to the State Board
8 for final approval of charter applications.
9 c. To make recommendations to the State Board on actions regarding a
10 charter school, including renewals of charters, nonrenewals of charters,
11 and revocations of charters.
12 d. To undertake any other duties and responsibilities as assigned by the
13 State Board.
- 14 (11) Duties of the chair of the Advisory Board. – In addition to any other duties
15 prescribed in this Article, the chair of the Advisory Board, or the chair's
16 designee, shall advocate for the recommendations of the Advisory Board at
17 meetings of the State Board upon the request of the State Board.
- 18 (c) North Carolina Office of Charter Schools. –
19 (1) Establishment of the North Carolina Office of Charter Schools. – There is
20 established the North Carolina Office of Charter Schools, hereinafter referred to
21 in this Article as the Office of Charter Schools. The Office of Charter Schools
22 shall be administratively located in the Department of Public ~~Instruction,~~
23 ~~subject to the supervision, direction, and control of the State Board of~~
24 ~~Education.~~Instruction. The Office of Charter Schools shall consist of an
25 executive director appointed by the ~~State Board of Education~~Superintendent of
26 Public Instruction and such other professional, administrative, technical, and
27 clerical personnel as may be necessary to assist the Office of Charter Schools in
28 carrying out its powers and duties.
- 29 (2) Executive Director. – The Executive Director shall report to and serve at the
30 pleasure of the ~~State Board of Education~~Superintendent of Public Instruction at
31 a salary established by the ~~State Board~~Superintendent within the funds
32 appropriated for this purpose. The duties of the Executive Director shall include
33 presenting the recommendations of the Advisory Board at meetings of the State
34 Board upon the request of the State Board.
- 35 (3) Powers and duties. – The Office of Charter Schools shall have the following
36 powers and duties:
37 a. Serve as staff to the Advisory Board and fulfill any task and duties
38 assigned to it by the Advisory Board.
39 b. Provide technical assistance and guidance to charter schools operating
40 within the State.
41 c. Provide technical assistance and guidance to nonprofit corporations
42 seeking to operate charter schools within the State.
43 d. Provide or arrange for training for charter schools that have received
44 preliminary approval from the State Board.
45 e. Assist approved charter schools and charter schools seeking approval
46 from the State Board in coordinating services with the Department of
47 Public Instruction.
48 f. Other duties as assigned by the ~~State Board~~Superintendent of Public
49 Instruction.

1 (4) Agency cooperation. – All State agencies and departments shall cooperate with
2 the Office of Charter Schools in carrying out its powers and duties as necessary
3 in accordance with this Article."

4 **SECTION 18.** G.S. 115C-218.20(b) reads as rewritten:

5 "(b) No civil liability shall attach to the State Board of Education, the Superintendent of
6 Public Instruction, or to any of their members or employees, individually or collectively, for any
7 acts or omissions of the charter school."

8 **SECTION 19.** G.S. 115C-238.73(g) reads as rewritten:

9 "(g) There shall be no liability for negligence on the part of the board of directors, or its
10 employees, or the State Board of Education, the Superintendent of Public Instruction, or ~~its~~any of
11 their members or employees, individually or collectively, arising from any act taken or omission
12 by any of them in carrying out the provisions of this section. The immunity established by this
13 subsection shall not extend to gross negligence, wanton conduct, or intentional wrongdoing that
14 would otherwise be actionable. The immunity established by this subsection shall be deemed to
15 have been waived to the extent of indemnification by insurance, indemnification under Articles
16 31A and 31B of Chapter 143 of the General Statutes, and to the extent sovereign immunity is
17 waived under the Tort Claims Act, as set forth in Article 31 of Chapter 143 of the General
18 Statutes."

19 **SECTION 20.** G.S. 115C-332(g) reads as rewritten:

20 "(g) There shall be no liability for negligence on the part of a local board of education, or its
21 employees, or the State Board of Education, the Superintendent of Public Instruction, or ~~its~~any of
22 their members or employees, individually or collectively, arising from any act taken or omission
23 by any of them in carrying out the provisions of this section. The immunity established by this
24 subsection shall not extend to gross negligence, wanton conduct, or intentional wrongdoing that
25 would otherwise be actionable. The immunity established by this subsection shall be deemed to
26 have been waived to the extent of indemnification by insurance, indemnification under Articles
27 31A and 31B of Chapter 143 of the General Statutes, and to the extent sovereign immunity is
28 waived under the Tort Claims Act, as set forth in Chapter 31 of Chapter 143 of the General
29 Statutes."

30 **SECTION 21.** G.S. 115C-333(e) reads as rewritten:

31 "(e) Civil Immunity. – There shall be no liability for negligence on the part of the State
32 Board of ~~Education~~Education, the Superintendent of Public Instruction, or a local board of
33 education, or their members or employees, individually or collectively, arising from any action
34 taken or omission by any of them in carrying out the provisions of this section. The immunity
35 established by this subsection shall not extend to gross negligence, wanton conduct, or intentional
36 wrongdoing that would otherwise be actionable. The immunity established by this subsection shall
37 be deemed to have been waived to the extent of indemnification by insurance, indemnification
38 under Articles 31A and 31B of Chapter 143 of the General Statutes, and to the extent sovereign
39 immunity is waived under the Tort Claims Act, as set forth in Article 31 of Chapter 143 of the
40 General Statutes."

41 **SECTION 22.** G.S. 115C-333.1(g) reads as rewritten:

42 "(g) Civil Immunity. – There shall be no liability for negligence on the part of the State
43 Board of ~~Education~~Education, the Superintendent of Public Instruction, or a local board of
44 education, or their members or employees, individually or collectively, arising from any action
45 taken or omission by any of them in carrying out the provisions of this section. The immunity
46 established by this subsection shall not extend to gross negligence, wanton conduct, or intentional
47 wrongdoing that would otherwise be actionable. The immunity established by this subsection shall
48 be deemed to have been waived to the extent of indemnification by insurance, indemnification
49 under Articles 31A and 31B of Chapter 143 of the General Statutes, and to the extent sovereign
50 immunity is waived under the Tort Claims Act, as set forth in Article 31 of Chapter 143 of the
51 General Statutes."

1 **SECTION 23.** G.S. 115C-390.3(c) reads as rewritten:

2 "(c) Notwithstanding any other law, no ~~officer~~officer, member, or employee of the State
3 Board of ~~Education~~Education, the Superintendent of Public Instruction, or of a local board of
4 ~~education~~education, individually or collectively, shall be civilly liable for using reasonable force
5 in conformity with State law, State or local rules, or State or local policies regarding the control,
6 discipline, suspension, and expulsion of students. Furthermore, the burden of proof is on the
7 claimant to show that the amount of force used was not reasonable."

8 **SECTION 24.** G.S. 115C-521 reads as rewritten:

9 "**§ 115C-521. Erection of school buildings.**

10 ...

11 (b) It shall be the duty of the local boards of education ~~of the several local school~~
12 ~~administrative school units of the State~~ to make provisions for the public school term by providing
13 adequate school buildings equipped with suitable school furniture and apparatus. The needs and
14 the cost of those buildings, equipment, and apparatus, shall be presented each year when the
15 school budget is submitted to the respective tax-levying authorities. The boards of commissioners
16 shall be given a reasonable time to provide the funds which they, upon investigation, shall find to
17 be necessary for providing their respective units with buildings suitably equipped, and it shall be
18 the duty of the several boards of county commissioners to provide funds for the same.

19 Upon determination by a local board of education that the existing permanent school building
20 does not have sufficient classrooms to house the pupil enrollment anticipated for the school, the
21 local board of education may acquire and use as temporary classrooms for the operation of the
22 school, relocatable or mobile classroom units, whether built on the lot or not, which units and
23 method of use shall meet the approval of the School Planning Division of the ~~State Board of~~
24 ~~Education,~~Department of Public Instruction, and which units shall comply with all applicable
25 requirements of the North Carolina State Building Code and of the local building and electrical
26 codes applicable to the area in which the school is located. These units shall also be anchored in a
27 manner required to assure their structural safety in severe weather. The acquisition and installation
28 of these units shall be subject in all respects to the provisions of Chapter 143 of the General
29 Statutes. The provisions of Chapter 87, Article 1, of the General Statutes, shall not apply to
30 persons, firms or corporations engaged in the sale or furnishing to local boards of education and
31 the delivery and installation upon school sites of classroom trailers as a single building unit or of
32 relocatable or mobile classrooms delivered in less than four units or sections.

33 ...

34 (f) A local board of education may use prototype designs from the clearinghouse
35 established under subsection (e) of this section that is a previously approved and constructed
36 project by the School Planning Division of the ~~State Board of Education,~~Department of Public
37 Instruction and other appropriate review agencies. The local board of education may contract with
38 the architect of record to make changes and upgrades as necessary for regulatory approval.

39 "

40 **SECTION 25.** G.S. 115C-535 reads as rewritten:

41 "**§ 115C-535. Authority and rules for organization of system.**

42 The ~~State Board of Education~~Superintendent of Public Instruction is hereby authorized,
43 directed and empowered to establish a division to manage and operate a system of insurance for
44 public school ~~property~~property in accordance with all needed rules and regulations adopted by the
45 State Board of Education. The Board shall adopt such rules and regulations as, in its discretion,
46 may be necessary to provide all details inherent in the insurance of public school property. The
47 ~~Board~~Superintendent of Public Instruction shall employ a director, safety inspectors, engineers
48 and other personnel with suitable training and experience, which in ~~its~~his or her opinion is
49 necessary to insure and protect effectively public school property, and ~~it~~he or she shall fix their
50 compensation consistent with the approval policies of the ~~Personnel~~State Human Resources
51 Commission."

1 **SECTION 26.** G.S. 116-239.12(g) reads as rewritten:

2 "(g) There shall be no liability for negligence on the part of the board of trustees, or its
3 employees, or the State Board of ~~Education~~Education, the Superintendent of Public Instruction, or
4 ~~its~~their members or employees, individually or collectively, arising from any act taken or omission
5 by any of them in carrying out the provisions of this section. The immunity established by this
6 subsection shall not extend to gross negligence, wanton conduct, or intentional wrongdoing that
7 would otherwise be actionable. The immunity established by this subsection shall be deemed to
8 have been waived to the extent of indemnification by insurance, indemnification under Articles
9 31A and 31B of Chapter 143 of the General Statutes, and to the extent sovereign immunity is
10 waived under the Tort Claims Act, as set forth in Article 31 of Chapter 143 of the General
11 Statutes."

12 **SECTION 27.** G.S. 143B-146.16(g) reads as rewritten:

13 "(g) There shall be no liability for negligence on the part of the Secretary, the Department
14 of Health and Human Services or its employees, a residential school or its employees, or the State
15 Board of ~~Education~~Education, Superintendent of Public Instruction, or ~~its~~their members or
16 employees, individually or collectively, arising from any act taken or omission by any of them in
17 carrying out the provisions of this section. The immunity established by this subsection shall not
18 extend to gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be
19 actionable. The immunity established by this subsection shall be deemed to have been waived to
20 the extent of indemnification by insurance, indemnification under Articles 31A and 31B of
21 Chapter 143 of the General Statutes, and to the extent sovereign immunity is waived under the
22 Tort Claims Act, as set forth in Article 31 of Chapter 143 of the General Statutes."

23 **SECTION 28.** Section 8.37 of S.L. 2015-241, as amended by Section 8.30 of S.L.
24 2016-94, reads as rewritten:

25 **"BUDGET REDUCTIONS/DEPARTMENT OF PUBLIC INSTRUCTION**

26 **"SECTION 8.37.(a)** Notwithstanding G.S. 143C-6-4, the ~~State Board of Education~~
27 Department of Public Instruction may, after consultation with the Office of State Budget and
28 Management and the Fiscal Research Division, reorganize the Department of Public Instruction, if
29 necessary, to implement the budget reductions for the 2015-2017 fiscal biennium. Consultation
30 shall occur prior to requesting budgetary and personnel changes through the budget revision
31 process. The ~~State Board~~Department of Public Instruction shall provide a current organization
32 chart for the Department of Public Instruction in the consultation process and shall report to the
33 Joint Legislative Commission on Governmental Operations on any reorganization.

34 **"SECTION 8.37.(b)** In implementing budget reductions for the 2015-2017 fiscal biennium,
35 the ~~State Board of Education~~Department of Public Instruction shall make no reduction to funding
36 or positions for (i) the North Carolina Center for Advancement of Teaching and (ii) the Eastern
37 North Carolina School for the Deaf, the North Carolina School for the Deaf, and the Governor
38 Morehead School, except that the ~~State Board~~Superintendent of Public Instruction may, in its
39 discretion, reduce positions at these institutions that have been vacant for more than 16 months.
40 The ~~State Board~~Department of Public Instruction shall also make no reduction in funding to any of
41 the following entities:

- 42 (1) Communities in Schools of North Carolina, Inc.
- 43 (2) Teach For America, Inc.
- 44 (3) Beginnings for Parents of Children who are Deaf or Hard of Hearing, Inc.

45 **"SECTION 8.37.(c)** In implementing budget reductions for the 2016-2017 fiscal year, the
46 Department of Public Instruction shall do all of the following:

- 47 (1) In addition to the prohibition on a reduction to funding and positions for the
48 items listed in subsection (b) of this section, the Department shall make no
49 transfers from or reduction to funding or positions for the following:
 - 50 a. The Excellent Public Schools Act, Read to Achieve Program, initially
51 established under Section 7A.1 of S.L. 2012-142.

- 1 b. The North Carolina School Connectivity Program.
- 2 (2) The Department shall transfer the sum of fifty thousand dollars (\$50,000) to the
- 3 Office of Administrative Hearings to be allocated to the Rules Review
- 4 Commission, created by G.S. 143B-30.1, to pay for any litigation costs incurred
- 5 in the defense of *North Carolina State Board of Education v. The State of North*
- 6 *Carolina and The Rules Review Commission*, Wake County Superior Court,
- 7 File No. 14 CVS 14791 (filed November 7, 2014). These funds shall not revert
- 8 at the end of the 2016-2017 fiscal year but shall remain available during the
- 9 2017-2018 fiscal year for expenditure in accordance with the provisions of this
- 10 subdivision."

11 **SECTION 29.** By May 15, 2017, the State Board of Education shall revise, as

12 necessary, any of its rules and regulations to comply with the provisions of this Part.

13 **SECTION 30.** The Department of Public Instruction shall review all State laws and

14 rules and regulations governing the public school system to ensure compliance with the intent of

15 this Part to restore authority to the Superintendent of Public Instruction as the administrative head

16 of the Department of Public Instruction and the Superintendent's role in the direct supervision of

17 the public school system. By April 15, 2017, the Department of Public Instruction shall report to

18 the 2017 General Assembly on the results of its review, including any recommended legislation.

19 **SECTION 31.** Notwithstanding G.S. 115C-11, as amended by this act, the current

20 student advisor and the local superintendent advisor members serving on the State Board of

21 Education as of the effective date of this Part shall serve the remainder of their terms. Thereafter,

22 as terms expire, or when a vacancy occurs prior to the expiration of a term, the student advisor and

23 local superintendent advisor members on the State Board shall be appointed by the Superintendent

24 of Public Instruction in accordance with G.S. 115C-11, as amended by this act.

25 **SECTION 32.** Notwithstanding G.S. 115C-218, as amended by this act, the current

26 members serving on the North Carolina Charter Schools Advisory Board as of the effective date of

27 this Part shall serve the remainder of their terms. Thereafter, as terms expire, or when a vacancy

28 occurs prior to the expiration of a term, the members on the North Carolina Charter Schools

29 Advisory Board shall be appointed in accordance with G.S. 115C-218, as amended by this act. If a

30 vacancy occurs in a seat appointed by the Governor, the State Board of Education shall fill that

31 vacancy for the remainder of that term. Upon expiration of that term, the member shall be

32 appointed in accordance with G.S. 115C-218.

33 **SECTION 33.** Sections 1 through 6 and Sections 8 through 32 of this Part become

34 effective January 1, 2017. The remainder of this Part is effective when it becomes law.

35

36 **PART II. MODIFY APPOINTMENT OF UNC BOARDS OF TRUSTEES**

37 **SECTION 35.** G.S. 116-31 reads as rewritten:

38 **"§ 116-31. Membership of the boards of trustees.**

39 (a) ~~All persons who, as of June 30, 1972, are serving as trustees of the regional universities~~

40 ~~and of the North Carolina School of the Arts, redesignated effective August 1, 2008, as the~~

41 ~~"University of North Carolina School of the Arts," except those who may have been elected to the~~

42 ~~Board of Governors, shall continue to serve for one year beginning July 1, 1972, and the terms of~~

43 ~~all such trustees shall continue for the period of one year.~~

44 (b) Effective July 1, 1972, a separate board of trustees shall be created for each of the

45 following institutions: North Carolina State University at Raleigh, the University of North

46 Carolina at Asheville, the University of North Carolina at Chapel Hill, the University of North

47 Carolina at Charlotte, the University of North Carolina at Greensboro, and the University of North

48 Carolina at Wilmington. ~~For the period commencing July 1, 1972, and ending June 30, 1973, each~~

49 ~~such board shall be constituted as follows:~~

- 50 (1) ~~Twelve or more persons elected prior to July 1, 1972, by and from the~~
- 51 ~~membership of the Board of Trustees of the University of North Carolina, and~~

1 (2) ~~The president of the student government of the institution, ex officio.~~
 2 (e) ~~If any vacancy should occur in any board of trustees during the year beginning July 1,~~
 3 ~~1972, the Governor may appoint a person to serve for the balance of the year.~~

4 (d) Except as provided in G.S. 116-65, ~~effective July 1, 1973,~~ each of the 16 institutions of
 5 higher education set out in G.S. 116-2(4) shall have board of trustees composed of 13 persons
 6 chosen as follows:

7 (1) Eight elected by the Board of ~~Governors,~~Governors.

8 (2) ~~Four appointed by the Governor, and~~

9 (2a) Four members appointed by the General Assembly under G.S. 120-121, two of
 10 whom shall be appointed upon the recommendation of the President Pro
 11 Tempore of the Senate and two of whom shall be appointed upon the
 12 recommendation of the Speaker of the House of Representatives.

13 (3) The president of the student government ex officio.

14 The Board of Trustees of the North Carolina School of Science and Mathematics shall be
 15 established in accordance with G.S. 116-233.

16 (e) ~~From and after July 1, 1973, the~~The term of office of all trustees, except the ex officio
 17 member, shall be four years, commencing on July 1 of odd-numbered years. In every
 18 odd-numbered year the Board of Governors shall elect four persons to each board of trustees and
 19 ~~the Governor~~General Assembly shall appoint two persons one person upon the recommendation
 20 of the President Pro Tempore of the Senate and one person upon the recommendation of the
 21 Speaker of the House of Representatives to each such board.

22 (g) ~~From and after July 1, 1973, any~~Any person who has served two full four-year terms in
 23 succession as a member of a board of trustees shall, for a period of one year, be ineligible for
 24 election or appointment to the same board but may be elected or appointed to the board of another
 25 institution.

26 (h) No member of the General Assembly or officer or employee of the State, The
 27 University of North Carolina, or any constituent institution shall be eligible for election or
 28 appointment as a trustee. No spouse of a member of the General Assembly, or of an officer or
 29 employee of a constituent institution may be a trustee of that constituent institution. Any trustee
 30 who is elected or appointed to the General Assembly or who becomes an officer or employee of
 31 the State, The University of North Carolina, or any constituent institution or whose spouse is
 32 elected or appointed to the General Assembly or becomes an officer or employee of that
 33 constituent institution shall be deemed thereupon to resign from his or her membership on the
 34 board of trustees.

35 (i) No person may serve simultaneously as a member of a board of trustees and as a
 36 member of the Board of Governors. Any trustee who is elected or appointed to the Board of
 37 Governors shall be deemed to resign as a trustee effective as of the date that his or her term
 38 commences as a member of the Board of Governors.

39 (j) ~~From and after July 1, 1973, whenever~~Whenever any vacancy shall occur in the
 40 membership of a board of trustees among those appointed by the ~~Governor,~~General Assembly, it
 41 shall be the duty of the secretary of the board to inform the ~~Governor~~General Assembly of the
 42 existence of such vacancy, and the ~~Governor shall appoint a person to fill the unexpired term,~~
 43 vacancy shall be filled as provided in G.S. 120-122, and whenever any vacancy shall occur among
 44 those elected by the Board of Governors, it shall be the duty of the secretary of the board to inform
 45 the Board of Governors of the existence of the vacancy, and the Board of Governors shall elect a
 46 person to fill the unexpired term. Whenever a member shall fail, for any reason other than ill
 47 health or service in the interest of the State or nation, to be present for three successive regular
 48 meetings of a board of trustees, his or her place as a member shall be deemed vacant."

49 **SECTION 36.** G.S. 116-233 reads as rewritten:

50 "**§ 116-233. Board of Trustees; appointment; terms of office.**

- 1 (a) Notwithstanding the provisions of G.S. 116-31(d), there shall be a Board of Trustees of
2 the School, which shall consist of up to 30 members as follows:
- 3 (1) Thirteen members who shall be appointed by the Board of Governors of The
4 University of North Carolina, one from each congressional district.
- 5 (2) Four members without regard to residency who shall be appointed by the Board
6 of Governors of The University of North Carolina.
- 7 (3) Three members, ex officio, who shall be the chief academic officers,
8 respectively, of constituent institutions. The Board of Governors shall in 1985
9 and quadrennially thereafter designate the three constituent institutions whose
10 chief academic officers shall so serve, such designations to expire on June 30,
11 1989, and quadrennially thereafter.
- 12 (4) The chief academic officer of a college or university in North Carolina other
13 than a constituent institution, ex officio. The Board of Governors shall
14 designate in 1985 and quadrennially thereafter which college or university
15 whose chief academic officer shall so serve, such designation to expire on June
16 30, 1989, and quadrennially thereafter.
- 17 (5) ~~Two~~ Three members appointed by the General Assembly upon the
18 recommendation of the President Pro Tempore of the Senate in accordance with
19 G.S. 120-121.
- 20 (6) ~~Two~~ Three members appointed by the General Assembly upon the
21 recommendation of the Speaker of the House of Representatives in accordance
22 with G.S. 120-121.
- 23 ~~(7) Two members appointed by the Governor.~~
- 24 (8) The president of the student government, ex officio, who shall be a nonvoting
25 member.
- 26 (9) Up to two additional nonvoting members selected at the discretion of the
27 chancellor and the Board of Trustees, with terms expiring June 30 of each year.
- 28 (b) Appointed members of the Board of Trustees shall be selected for their interest in and
29 commitment to public education and to the purposes of the School, and they shall be charged with
30 the responsibility of serving the interests of the whole State. In appointing members, the objective
31 shall be to obtain the services of the best qualified persons, taking into consideration the
32 desirability of diversity of membership, including men and women, representatives of different
33 races, and members of different political parties.
- 34 (c) No member of the General Assembly or officer or employee of the State, the School,
35 The University of North Carolina, or of any constituent institution of The University of North
36 Carolina, shall be eligible to be appointed to the Board of Trustees except as specified under
37 subdivision (3) of subsection (a) of this section. No spouse of a member of the General Assembly,
38 or of an officer or employee of the school may be a member of the Board of Trustees. Any
39 appointed trustee who is elected or appointed to the General Assembly or who becomes an officer
40 or employee of the State, except as specified under subdivision (3) of subsection (a) of this
41 section, or whose spouse is elected or appointed to the General Assembly or becomes such an
42 officer or employee of the School, shall be deemed thereupon to resign from his or her
43 membership on the Board of Trustees. This subsection does not apply to ex officio members.
- 44 (d) Members appointed under subdivisions (1) or (2) of subsection (a) of this section shall
45 serve staggered four-year terms expiring June 30 of odd numbered years.
- 46 (d1) Only an ex officio member shall be eligible to serve more than two successive terms.
- 47 (d2) Any vacancy in the membership of the Board of Trustees appointed under
48 G.S. 116-233(a)(1) or (2) shall be reported promptly by the Secretary of the Board of Trustees to
49 the Board of Governors of The University of North Carolina, which shall fill any such vacancy by
50 appointment of a replacement member to serve for the balance of the unexpired term. Any
51 vacancy in members appointed under G.S. 116-233(a)(5) or (6) shall be filled in accordance with

1 G.S. 120-122. ~~Any vacancy in members appointed under G.S. 116-233(a)(7) shall be filled by the~~
2 ~~Governor for the remainder of the unexpired term.~~ Reapportionment of congressional districts
3 does not affect the right of any member to complete the term for which the member was
4 appointed.

5 (e) ~~Of the initial members appointed under G.S. 116-233(a)(5), G.S. 116-233(a)(5) in~~
6 ~~1985, one member shall serve a term to expire June 30, 1987, and one member shall serve a term~~
7 ~~to expire June 30, 1989. Subsequent appointments shall be for four-year terms. The initial~~
8 ~~members appointed under G.S. 116-233(a)(6), G.S. 116-233(a)(6) in 1985 shall be appointed for~~
9 ~~terms to expire June 30, 1987. Subsequent appointments shall be for two-year terms. The initial~~
10 ~~members appointed under G.S. 116-233(a)(7) shall be appointed for terms to expire January 15,~~
11 ~~1989. Successors shall be appointed for four year terms.~~ terms until January 15, 2017, at which
12 point subsequent appointments shall be for four-year terms.

13 (e1) The initial members appointed under G.S. 116-233(a)(5) and (6) in 2017, and
14 successors of those members shall serve four-year terms.

15 (f) Whenever an appointed member of the Board of Trustees shall fail, for any reason
16 other than ill health or service in the interest of the State or nation, to be present at three successive
17 regular meetings of the Board, his or her place as a member of the Board shall be deemed vacant."

18 **SECTION 37.** This Part is effective when it becomes law and applies to (i) vacancy
19 appointments made on or after that date and (ii) appointments to fill terms expiring January 15,
20 2017, and thereafter. A vacancy by any board member appointed by the Governor to any board
21 affected by this Part shall be filled by joint recommendation of the Speaker of the House of
22 Representatives and the President Pro Tempore of the Senate, as provided in G.S. 120-121. The
23 terms of members holding office as of the effective date of this Part shall not be affected.

24 25 **PART III. SENATE CONFIRMATION OF CABINET APPOINTEES**

26 **SECTION 38.** G.S. 143B-9 reads as rewritten:

27 "**§ 143B-9. Appointment of officers and employees.**

28 (a) The head of each principal State department, except those departments headed by
29 popularly elected officers, shall be appointed by the Governor and serve at ~~his~~ the Governor's
30 pleasure. The salary of the head of each of the principal State departments shall be set by the
31 Governor, and the salary of elected officials shall be as provided by law.

32 For each head of each principal State department covered by this subsection, the Governor
33 shall notify the President of the Senate of the name of each person to be appointed, and the
34 appointment shall be subject to senatorial advice and consent in conformance with Section 5(8) of
35 Article III of the North Carolina Constitution unless (i) the senatorial advice and consent is
36 expressly waived by an enactment of the General Assembly or (ii) a vacancy occurs when the
37 General Assembly is not in regular session. Any person appointed to fill a vacancy when the
38 General Assembly is not in regular session may serve without senatorial advice and consent for no
39 longer than the earlier of the following:

40 (1) The date on which the Senate adopts a simple resolution that specifically
41 disapproves the person appointed.

42 (2) The date on which the General Assembly shall adjourn pursuant to a joint
43 resolution for a period longer than 30 days without the Senate adopting a simple
44 resolution specifically approving the person appointed.

45 (b) The head of a principal State department shall appoint a chief deputy or chief assistant,
46 and such chief deputy or chief assistant shall not be subject to the North Carolina Human
47 Resources Act. The salary of such chief deputy or chief assistant shall be set by the Governor.
48 Unless otherwise provided for in the Executive Organization Act of 1973, and subject to the
49 provisions of the ~~Personnel~~ Human Resources Act, the head of each principal State department
50 shall designate the administrative head of each transferred agency and all employees of each
51 division, section, or other unit of the principal State department."

1 **SECTION 39.** This Part is effective when it becomes law.
2

3 **PART IV. IMPLEMENT STATEWIDE CLASSIFICATION/COMPENSATION SYSTEM**

4 **SECTION 40.** Section 36.19A(a) of S.L. 2016-94 reads as rewritten:

5 **"SECTION 36.19A.(a)** The Office of State Human Resources shall ~~not~~ commence the
6 implementation phase of the Statewide Compensation System Project (Project) ~~prior to February~~
7 ~~1, 2017, no later than December 31, 2016.~~"

8 **SECTION 41.** This Part is effective when it becomes law.
9

10 **PART V. SEVERABILITY CLAUSE AND EFFECTIVE DATE**

11 **SECTION 42.** If any provision of this act or its application is held invalid, the
12 invalidity does not affect other provisions or applications of this act that can be given effect
13 without the invalid provisions or application, and to this end, the provisions of this act are
14 severable.

15 **SECTION 43.** Except as otherwise provided, this act is effective when it becomes
16 law.