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SENATE BILL DRS35444-LRa-183A

Short Title: Public Workforce Modernization Act. (Public)

Sponsors: Senators Corbin, Johnson, and Lee (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO MODERNIZE AND SIMPLIFY THE STATE HUMAN RESOURCES SYSTEM
3 AND TO APPROPRIATE FUNDS FOR THAT PURPOSE.

4 The General Assembly of North Carolina enacts:

5
6 **PART I. MODERNIZED STATE HUMAN RESOURCES**

7 **SECTION 1.1.(a)** Enactment. – The General Statutes are amended by adding a new
8 Chapter to read:

9 **"Chapter 126A.**

10 **"Public Workforce Modernization Act.**

11 **"Article 1.**

12 **"Human Resources System Goals and Definitions.**

13 **"§ 126A-1. Title.**

14 This Chapter shall be known and may be cited as the "Public Workforce Modernization Act."

15 **"§ 126A-2. Purpose of Chapter; roles of OSHR, Commission; employer agencies in Human**
16 **Resources system; goals of system.**

17 (a) It is the intent and purpose of this Chapter to establish a decentralized human
18 resources system, where appropriate, and without additional cost to the State, under direction of
19 the Governor, based on modern principles of personnel administration and applying the best
20 methods as evolved in government and industry. It is also the purpose of this Chapter to apply
21 the human resource system to the employees of State agencies and universities, and to local
22 employees paid entirely or in part from federal funds, except to the extent that local governing
23 boards are authorized by this Chapter to establish local rules, local pay plans, and local personnel
24 systems.

25 To ensure that State government continuously serves the best interests of the people in North
26 Carolina, the human resources system established by this Chapter shall be governed by core
27 principles. The State Human Resources system considered as a whole, shall advance the
28 following principles. If a policy, practice, or rule directly violates one of these principles, then
29 the policy, practice, or rule is without authority and unenforceable.

30 (1) Public service employment shall be based on equal opportunity and shall be
31 free of discrimination on any basis prohibited by federal or State law while
32 preserving privacy and constitutional rights.

33 (2) The value of public service shall be bolstered by fair compensation and
34 benefits, stable career paths, employment protections, opportunities for
35 engagement and development, and an ability to make a positive impact for the
36 people of North Carolina.



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- 1 (3) Accountability, to the public and within an organization, shall be maintained
2 by establishing clear roles, measurable goals, and transparent reporting that
3 ensures compliance with laws, policies, and organizational standards.
- 4 (b) Roles of Commission, OSHR, and agency Human Resources staff. –
- 5 (1) OSHR shall have the oversight functions listed in G.S. 126A-21.
- 6 (2) Agency heads shall be responsible and accountable for execution of
7 Commission policies and rules for their employees.

8 **"§ 126A-3. Definitions.**

9 The following definitions apply in this Chapter:

- 10 (1) Agency. – A State department, university, division, bureau, commission,
11 council, agency, or other institution of government with one or more employee
12 positions that are subject to one or more provisions of this Chapter. The term
13 "agency" does not include local boards of education or entities of local
14 governments except as listed in G.S. 126A-170(a).
- 15 (2) Agency head. – The head of an agency, such as a Cabinet secretary, the elected
16 official in charge of a Council of State agency, the chancellor of a university
17 institution, or the executive director of a commission.
- 18 (3) Cabinet agency. – A unit of the executive branch of State government, such
19 as a department, an institution, a division, a commission, a board, or a council
20 that is under the control of the Governor. The term does not include an agency
21 that is under the control of an official who is a member of the Council of State.
- 22 (4) Career State employee. – As defined in 126A-4.
- 23 (5) Council of State agency. – An agency that is under the control of an official
24 who is a member of the Council of State.
- 25 (6) Employee. – An individual hired to carry out assigned tasks in return for
26 payment and who operates under the guidance and supervision of the
27 employer. The term "employee" does not include independent contractors.
- 28 (7) Employer. – The State of North Carolina.
- 29 (8) Employing agency. – The government entity that hired and that has the power
30 to separate a person who is covered by all or a portion of this Chapter.
- 31 (9) Exempt managerial position. – A position delegated with significant
32 managerial or programmatic responsibility that is essential to the successful
33 operation of a State department, agency, or division, so that the application of
34 G.S. 126A-81 to an employee in the position would cause undue disruption to
35 the operations of the agency, department, institution, or division.
- 36 (10) Exempt policymaking position. – A position delegated with the authority to
37 impose the final decision as to a settled course of action to be followed within
38 a department, agency, or division, so that a loyalty to the Governor or other
39 elected department head in their respective offices is reasonably necessary to
40 implement the policies of their offices. The term does not include personnel
41 professionals.
- 42 (11) OSHR. – The Office of State Human Resources.
- 43 (12) Personnel professional. – Any employee whose primary job duties involve
44 administrative personnel and human resources functions.
- 45 (13) Probationary employee. – As defined in G.S. 126A-4.
- 46 (14) Qualifications. – Training or education; years of experience; or other skills,
47 knowledge, and abilities that bear a reasonable functional relationship to the
48 abilities and skills required in the position.
- 49 (15) Commission. – The State Human Resources Commission.

- 1 (16) State employee. – An employee of an agency. The term "State employee" does
2 not include employees of local boards of education or employees of local
3 governments except as listed in G.S. 126A-170.
- 4 (17) Supervisor. – A position that has other employees report directly to that
5 position.
- 6 (18) Temporary employee. – A State employee who is employed in a temporary
7 appointment for a limited term, including a State employee hired from the
8 OSHR Temporary Solutions Program, directly hired by an agency, hired by
9 an agency from a private staffing firm, or hired by any other method used to
10 fill a workforce need for a limited period of time. The term does not include a
11 career State employee.

12 **"§ 126A-4. Career State employee defined.**

13 (a) For the purposes of this Chapter, unless the context clearly indicates otherwise,
14 "career State employee" means a State employee or an employee of a local entity who is covered
15 by this Chapter pursuant to G.S. 126A-170(a)(2) who:

- 16 (1) Is in a permanent position with a permanent appointment, and
17 (2) Has been continuously employed by the State of North Carolina or a local
18 entity as provided in G.S. 126-170(a)(2) in a position subject to this Chapter
19 for at least the immediate 12 preceding months or 18 months as may be
20 required by G.S. 126A-34(a)(2).

21 (b) As used in this Chapter, "probationary State employee" means a State employee who
22 is exempt from certain provisions of this Chapter pursuant to G.S. 126A-171 only because the
23 employee has not been continuously employed by the State for the time period required by
24 subsection (a) or (d) of this section.

25 (c) As used in this Chapter, "permanent experiential state employee" means a State
26 employee who is exempt from certain provisions of this Chapter pursuant to G.S. 126A-172 only
27 because the employee has not successfully completed the required program of employment and
28 education and the time period required by subsection (a) of this section.

29 (d) Notwithstanding the provisions of subsection (a) above:

- 30 (1) Employees who are hired by a State agency in a sworn law enforcement
31 position or forensic scientist position and who are required to complete a
32 formal training program prior to assuming law enforcement or forensic
33 scientist duties with the hiring agency shall become career State employees
34 only after being employed by the agency or 24 continuous months. An
35 employee who has career state employee status retains that status if he or she
36 transfers from a position that does not require completion of a formal training
37 program into a position that does require a formal training program, even if
38 the employee has worked for the agency for fewer than 24 continuous months.
- 39 (2) Employees of The University of North Carolina who are exempt from the
40 minimum wage and overtime compensation provisions of the Fair Labor
41 Standards Act and who attained career status before September 1, 2023, have
42 the option of either (i) continuing employment with career State employee
43 status if the employee remains in the position the employee occupied on
44 August 31, 2023, or (ii) waiving career State employee status and continuing
45 employment as an exempt employee under G.S. 126A-178(9). The University
46 shall provide each affected employee with a written explanation of the impact
47 of an election to waive career State employee status. An employee's election
48 to waive career State employee status must be acknowledged either through
49 the employee's written or electronic signature within 60 days of receiving the
50 written explanation.

1 (3) Probationary State employees of The University of North Carolina who are
2 exempt from the minimum wage and overtime compensation provisions of the
3 Fair Labor Standards Act and were hired before September 1, 2023, have the
4 option of either (i) continuing employment for the time period required by
5 subsection (a) of this section or subdivision (1) of this subsection and earning
6 career State employee status or (ii) continuing employment as an exempt
7 employee under G.S. 126A-178(9). The University shall provide each
8 affected employee with a written explanation of the impact of an election to
9 continue employment as an exempt employee. An employee's election to
10 continue employment as an exempt employee must be acknowledged either
11 through the employee's written or electronic signature within 60 days of
12 receiving the written explanation.

13 (4) When an employee transfers employment between two local entities, or
14 between a state agency and a local entity, that employee resets the period of
15 consecutive service stated in subdivision (a) of this section.

16 **"§§ 126A-5 through 126A-19.** Reserved for future codification purposes.

17 "Article 2.

18 "Oversight of the State Human Resources System.

19 **"§ 126A-20. State Human Resources Commission.**

20 (a) There is hereby established the State Human Resources Commission (hereinafter
21 referred to as "the Commission").

22 (b) The Commission shall consist of nine members, appointed as follows:

23 (1) One member appointed by the General Assembly upon the recommendation
24 of the Speaker of the House of Representatives who shall be an attorney
25 licensed to practice law in North Carolina.

26 (2) One member appointed by the General Assembly upon the recommendation
27 of the President Pro Tempore of the Senate who shall be an attorney licensed
28 to practice law in North Carolina.

29 (3) One member appointed by the General Assembly upon the recommendation
30 of the Speaker of the House of Representatives who shall be from private
31 business or industry and who shall have a working knowledge of, or practical
32 experience in, human resources management.

33 (4) One member appointed by the General Assembly upon the recommendation
34 of the President Pro Tempore of the Senate who shall be from private business
35 or industry and who shall have a working knowledge of, or practical
36 experience in, human resources management.

37 (5) One member who is a veteran of the Armed Forces of the United States
38 appointed by the Governor upon the nomination of the Veterans' Affairs
39 Commission and who is a State employee subject to this Chapter serving in a
40 nonexempt supervisory position. The member may not be a human resources
41 professional.

42 (6) One member appointed by the Governor who is a State employee subject to
43 this Chapter serving in a nonexempt nonsupervisory position. The member
44 may not be a human resources professional. The Governor shall consider
45 nominations submitted by the State Employees Association of North Carolina.

46 (7) One member appointed by the Governor upon the recommendation of the
47 North Carolina Association of County Commissioners who is a local
48 government employee subject to this Chapter serving in a supervisory
49 position. The member may not be a human resources professional.

50 (8) One member appointed by the Governor upon the recommendation of the
51 North Carolina Association of County Commissioners who is a local

1 government employee subject to this Chapter serving in a nonsupervisory
2 position. The member may not be a human resources professional.

3 (9) One member of the public at large appointed by the Governor.

4 (c) Each member of the Commission shall be appointed for a term of four years. Members
5 of the Commission may serve no more than two consecutive terms. Appointments by the General
6 Assembly shall be made in accordance with G.S. 120-121, and vacancies in those appointments
7 shall be filled in accordance with G.S. 120-122. Vacancies in appointments made by the
8 Governor occurring prior to the expiration of a term shall be filled by appointment for the
9 unexpired term.

10 (d) No member of the Commission may serve on a case where there would be a conflict
11 of interest. The appointing authority may at any time remove any Commission member for cause.

12 (e) Members of the Commission who are State or local government employees subject
13 to this Chapter shall be entitled to administrative leave without loss of pay for all periods of time
14 required to conduct the business of the Commission.

15 (f) Five members of the Commission shall constitute a quorum.

16 (g) The Governor shall designate one member of the Commission as chair.

17 (h) The Commission shall meet quarterly, and at other times at the call of the chair.

18 **"§ 126A-21. Office of State Human Resources established; responsibilities; administration;
19 supervision; appointment; compensation and tenure of Director.**

20 (a) There is hereby established the Office of State Human Resources (hereinafter referred
21 to as "OSHR") which shall be placed for organizational purposes within the Office of the
22 Governor. Notwithstanding Chapter 143A of the General Statutes, OSHR shall exercise all of its
23 statutory powers in this Chapter, which shall be under the administration and supervision of a
24 Director of OSHR (hereinafter referred to as "the Director") appointed by the Governor. The
25 salary of the Director shall be fixed by the Governor. The Director shall be a Cabinet-level
26 position that serves at the pleasure of the Governor.

27 (b) OSHR shall be responsible for the following activities, and such other activities as
28 specified in this Chapter:

- 29 (1) Providing policy and rule development for the Commission and implementing
30 and administering all policies, rules, and procedures established by the
31 Commission.
- 32 (2) Providing training in personnel management to agencies, departments, and
33 institutions including train-the-trainer programs for those agencies,
34 departments, and institutions who request such training and where sufficient
35 staff and expertise exist to provide the training within their respective
36 agencies, departments, and institutions.
- 37 (3) Providing technical assistance in the management of personnel programs and
38 activities to agencies, departments, and institutions.
- 39 (4) Negotiating decentralization agreements with all agencies, departments, and
40 institutions where it is cost-effective to include delegation of authority for
41 certain classification and corresponding salary administration actions and
42 other personnel programs to be specified in the agreements.
- 43 (5) Administering such centralized programs and providing services as approved
44 by the Commission which have not been transferred to agencies, departments,
45 and institutions or where this authority has been rescinded for noncompliance.
- 46 (6) Providing approval authority of personnel actions involving classification and
47 compensation where such approval authority has not been transferred by the
48 Commission to agencies, departments, and institutions or where such
49 authority has been rescinded for noncompliance.

- 1 (7) Maintaining a computer database of all relevant and necessary information on
2 employees and positions within agencies, departments, and institutions in the
3 State's personnel system.
- 4 (8) Developing criteria and standards to measure the level of compliance or
5 noncompliance with established Commission policies, rules, procedures,
6 criteria, and standards in agencies, departments, and institutions to which
7 authority has been delegated for classification, salary administration,
8 performance management, development, evaluation, and other decentralized
9 programs, and determining through routine monitoring and periodic review
10 process, that agencies, departments, and institutions are in compliance or
11 noncompliance with established Commission policies, rules, procedures,
12 criteria, and standards.
- 13 (9) Implementing corrective actions in cases of noncompliance.
- 14 (c) OSHR may charge reasonable fees for services provided to agencies and local
15 governments.

16 **"§ 126A-22. Commission policies.**

17 (a) Subject to the approval of the Governor, the Commission shall establish policies or
18 rules that are necessary and appropriate to effectuate the authority provided by this Chapter in
19 order to administer an effective, modern human resources system, including but not limited to
20 policies or rules related to the following:

- 21 (1) Classification.
22 (2) Compensation.
23 (3) Hiring.
24 (4) Onboarding.
25 (5) Benefits and terms of employment.
26 (6) Grievances and just cause.
27 (7) Separation.
28 (8) Political activity.
29 (9) Temporary employee.
30 (10) Local governments.
31 (11) Workers compensation.
32 (12) Whistle blower protections.
33 (13) Equal employment opportunity.
34 (14) Privacy of personnel records.

35 (b) Rules or policies promulgated by the Commission shall further the purposes of this
36 Chapter and the governing principles of the civil service system as stated in G.S. 126A-2.

37 (c) The policies and rules of the Commission shall not limit the power of any elected or
38 appointed department head, in the department head's discretion and upon the department head's
39 determination that it is in the best interest of the Department, to transfer, demote, or separate a
40 State employee who is not a career State employee as defined by this Chapter.

41 (d) The Director of OSHR has authority to grant exceptions or variances from
42 Commission rules or policies.

43 **"§ 126A-23. Decentralization agreements.**

44 (a) Decentralization agreements with Executive Branch agencies shall require a person,
45 designated in the agency, to be accountable to the Director of the OSHR for the compliance of
46 all personnel actions taken pursuant to the delegated authority of the agency. Such agreements
47 shall specify the required rules and standards for agency personnel administration.

48 (b) The Director of OSHR shall have the authority to take appropriate corrective actions
49 including adjusting employee salaries and changing employee classifications that are not in
50 compliance with policy or standards and to suspend decentralization agreements for agency
51 noncompliance with the required personnel administration standards.

"§ 126A-24. State of the State Workforce Report.

(a) Beginning January 15, 2027, and annually thereafter, OSHR shall report on the state of the state employee workforce and statewide human resources programs to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Oversight Committee on General Government, the Fiscal Research Division, and the Appropriations Committees of the House of Representatives and the Senate. This report shall include:

- (1) A comparison of state employee compensation rates and benefits compared to national trends. The report shall include at least the following:
 - a. An overview of economic conditions and labor market trends,
 - b. An analysis of the competitiveness of state salary and benefits,
 - c. A review of recruitment and retention efforts and results, and
 - d. The results of the annual compensation surveys conducted pursuant to subsection (b) of this section.
- (2) The safety, health, and workers' compensation activities of State agencies in compliance with G.S. 143-583 and the fines levied against State agencies pursuant to Article 16 of Chapter 95 of the General Statutes;
- (3) The costs associated with the defense or settlement of administrative grievances and lawsuits filed by current or former State employees and applicants for State employment;
- (4) Agency compliance with Temporary Solutions policies and rules adopted pursuant to N.C.G.S. § 126-6.3, including:
 - a. The number and type of all exceptions made by the Director of the OSHR.
 - b. A list of agencies with invoices with due dates greater than 60 days.
 - c. A list of agencies with temporary employees who exceeded 11 months of consecutive employment, including a count of employees who exceed 11 months of consecutive employment, and the average number of days employees exceeded this limit.

(b) To guide the Governor and the General Assembly in making decisions regarding the compensation of State employees, the OSHR shall conduct annual compensation surveys. The Commission shall present the results of the compensation survey as part of the report under subsection (a) of this section.

"§§ 126A-25 through 126A-29. Reserved for future codification purposes.

"Article 3.

"Classification and Minimum Qualifications.

"§ 126A-30. Commission oversight of classification system; minimum job qualifications.

(a) Subject to the approval of the Governor, the Commission may establish policies or rules governing each of the following including but not limited to:

- (1) Position classification plans which provide for the classification and reclassification, or other grouping of positions subject to this Article according to the duties and responsibilities of the positions.
- (2) For each group of positions, reasonable minimum qualifications as to education, experience, specialized training, licenses, certifications, and other job-related requirements pertinent to the work to be performed.
- (3) The process of position classification and reclassification.
- (4) Procedures for hiring employees on the basis of specific demonstrated competencies, rather than years of experience or education.

(b) The Commission may prepare a classification system that organizes positions in state government into a classification, based on their duties and responsibilities. Classifications may be grouped, subdivided, ranked, or otherwise organized in such manner as the Commission deems appropriate.

1 (c) The classification system shall set minimum qualifications for classifications or other
2 groupings of positions, which may include skills, competencies, education, experience, licenses,
3 certifications, or other requirements pertinent to the work to be performed.

4 (d) The Commission may develop a procedure for the periodic review of classification
5 specifications, including revisions to classifications, and establishment of new classifications by
6 the Commission

7 **"§ 126A-31. Reducing barriers to State employment.**

8 The Commission shall do all of the following:

- 9 (1) Regularly assess the educational, experiential, and training requirements
10 necessary for each position within each State agency.
- 11 (2) Determine when practical experience and training, such as military service, an
12 apprenticeship, or a trade school education, rather than a four-year college
13 degree, is the appropriate qualification for a position.
- 14 (3) Identify jobs for which the educational, experiential, and training
15 requirements could be reduced from their present level.
- 16 (4) Remove language for a four-year college degree in position descriptions, to
17 the extent practicable, when they are not necessary for the position.

18 **"§ 126A-32. Employer flexibility for classification.**

19 (a) When a job classification exists solely within one agency the agency may modify
20 existing classification specifications provided they report such modifications to OSHR. Agencies
21 shall consult with OSHR prior to making modifications. Each employing agency is granted
22 flexibility to classify or reclassify positions according to the Commission classification system,
23 provided employees meet the minimum requirements for the classification.

24 **"§ 126A-33. State employee appointment types.**

25 (a) All State employees are assigned a position with an appointment type.

- 26 (1) A position is the unique duties and responsibilities that a person or persons
27 performs and to which a person or persons are assigned.
- 28 (2) An appointment defines the terms and expected duration of employment,
29 determining benefits eligibility and the position's relationship to the
30 provisions of this Chapter.

31 (b) All State employees will have one of the following appointment types:

- 32 (1) Permanent. An appointment to a position established and expected to continue
33 indefinitely. Permanent appointments include the following subcategories:
 - 34 a. Probationary appointment. As defined in G.S. 126A-4(b) a permanent
35 State employee is in a probationary appointment for at least the first
36 12 months of his or her tenure.
 - 37 b. Career State appointment. As defined in G. S. 126A-4(a), a State
38 employee employed in a permanent position subject to this chapter
39 who has been continuously employed for the time period necessary to
40 become a career State employee.
 - 41 c. Permanent experiential appointment. As defined in G. S. 126A-4(c), a
42 State employee hired for both employment and educational or training
43 purposes in a permanent position, which may include but is not limited
44 to registered apprenticeships, informal apprenticeships, fellowships or
45 other work-based learning programs.
 - 46 d. Permanent exempt appointment. A State employee employed in a
47 permanent position that is not a probationary or experiential employee
48 and is exempt from some or all of this Chapter.
- 49 (2) Non-permanent. An appointment to a position for a finite period of time or
50 duration. Non-permanent appointments include the following subcategories:

- 1 a. Temporary appointment. A State employee employed for a period
2 typically not to exceed 11 months, including those hired through
3 JoinNC, or an employee in an internship or externship, or any other
4 type of temporary appointment.
- 5 b. Time-Limited appointment. A State employee hired into a position
6 that has a limited duration not to exceed three years.
- 7 c. Non-permanent experiential appointment. A State employee hired for
8 both employment and educational or training purposes in a position
9 that is expected to exist for a limited time or duration, which may
10 include but is not limited to registered apprenticeships, informal
11 apprenticeships, fellowships or other work-based learning programs.
- 12 (c) An employee who moves from a non-permanent appointment to a permanent
13 appointment shall have a probationary appointment for at least 12 months.
- 14 (d) The following exceptions apply:
- 15 (1) If a time-limited appointment exceeds three years, the employee is designated
16 as having a permanent appointment, and, notwithstanding (c) of this section,
17 will not be required to have a probationary appointment.
- 18 (2) A time-limited appointment may be made to a permanent position only when
19 that position is vacant due to the incumbent's leave of absence and the
20 replacement employee's services will be needed for a period of one year or
21 less.
- 22 (e) Notwithstanding any other provision of law, this section will apply to all State
23 employees whether subject or exempt from this chapter, except it will not apply to the legislative
24 or judicial branches, the University system, or employees of local governments subject to
25 G.S. 126A-170(a)(2) and (3).

26 **"§ 126A-34. Probationary or permanent experiential appointment to career State**
27 **employee.**

- 28 (a) Probationary Appointment – An appointment is a probationary appointment under
29 these circumstances:
- 30 (1) When an employee in a probationary appointment successfully completes 12
31 months, such employee may become a career State employee. Before
32 approving the employee's appointment to a career State employee, the
33 employee's supervisor shall make an affirmative determination that the
34 employee has shown successful performance.
- 35 (2) Should a supervisor require additional time to assess whether a probationary
36 employee's performance is successful or needs improvement, the supervisor
37 may extend the probationary period once by six months.
- 38 (3) If the employee's supervisor has not made a determination to separate the
39 employee based on performance or conduct prior to 12 months of tenure or
40 requested an extension of the probationary period, the employee will become
41 a career State employee upon 12 months of tenure.
- 42 (b) Permanent Experiential Appointment – An appointment is a permanent experiential
43 appointment under these circumstances:
- 44 (1) When an employee in a permanent experiential appointment successfully
45 completes a program for both employment and educational or training
46 purposes of at least 12 months, such employee may become a career State
47 employee. Before approving the employee's appointment as a career State
48 employee, the employee's supervisor shall make an affirmative determination
49 that the employee has shown successful performance in the program.
- 50 (2) If the employee's supervisor has not made a determination to separate the
51 employee based on their performance or conduct prior to the end of the

1 experiential program, the employee will become a career State employee upon
2 completion of the program so long as the program is at least 12 months.

3 Following successful completion of a program that is less than 12 months, the employee will
4 be designated as a probationary employee and will serve in a probationary appointment as
5 described in subsection (a)(1) of this section.

6 "§§ 126A-35 through 126A-39. Reserved for future codification purposes.

7 "Article 4.

8 "Compensation.

9 **"§ 126A-40. Commission oversight of compensation system.**

10 (a) Subject to the approval of the Governor, the Commission may establish policies or
11 rules regarding the following, including but not limited to:

12 (1) The setting of compensation, including but not limited to salary ranges,
13 salaries, longevity pay, performance pay, and bonuses. Such policies or rules
14 may address both temporary or permanent pay adjustments and one-time
15 bonuses, awards, or other compensation.

16 (2) A compensation system for employees subject to act, including but not limited
17 to pay structure and salary ranges.

18 (b) Policies or rules established under this Article should advance outcomes including
19 but not limited to the following:

20 (1) Making State government a competitive and attractive employment option for
21 recruitment and retention, including considering State government
22 competitiveness compared to alternative employment opportunities in the
23 local labor market.

24 (2) Providing substantially similar compensation levels for positions with
25 substantially similar work.

26 (3) Recognizing and rewarding employee performance, including allowing State
27 employees excelling in their position to advance in compensation.

28 **"§ 126A-41. Employing agency flexibility for compensation.**

29 (a) Each employing agency is granted flexibility to establish employee salaries within
30 SHRC-determined Commission-determined salary ranges for respective position classifications.

31 (b) Nothing in this section or in G.S. 126A-32 diminishes the powers of the Commission
32 or the Director of OSHR under any other provision of this Chapter or relating to corrective actions
33 taken when an employing agency fails to comply with this section.

34 **"§ 126A-42. Additional compensation flexibility for certain agencies.**

35 Notwithstanding any provision of this Chapter, each agency may set the salary of its exempt
36 policymaking and exempt managerial positions within the minimum rates, and the maximum
37 rates, established by the Commission under G.S. 126A-40, plus ten percent (10%).

38 **"§ 126A-43. Minimum salary for State employees.**

39 The Commission shall increase the minimum of all salary ranges in any compensation plan
40 it maintains to at least thirty-one thousand two hundred dollars (\$31,200). This minimum salary
41 applies only to full-time State employees who are not placed on leave without pay during the
42 year. The minimum salary does not apply to State-funded local employees.

43 "§§ 126A-44 through 126A-49. Reserved for future codification purposes.

44 "Article 5.

45 "Recruitment and Hiring.

46 "Part 1. General Provisions.

47 **"§ 126A-50. Commission oversight of recruitment and hiring.**

48 (a) Subject to the approval of the Governor, the Commission may establish policies or
49 rules governing the following including but not limited to:

50 (1) The posting of positions;

51 (2) Job applications;

- 1 (3) Recruitment programs designed to promote public employment, communicate
2 current hiring activities within State government, and attract a sufficient flow
3 of internal and external applicants;
4 (4) Determining the relative fitness of applicants for the respective positions;
5 (5) The appointment, promotion, transfer, redeployment, demotion and
6 suspension of employees; and
7 (6) The implementation of G.S. 126A-57.2.
8 (b) The policies and rules established pursuant to G.S. 126A-50(a) shall:
9 (1) Assure recruitment, selection, and hiring procedures are similar across
10 agencies and encourage open and fair competition for positions and the hiring
11 of a diverse State government workforce.
12 (2) Assure that State supervisory and management personnel, and personnel
13 professionals, receive adequate training to implement the State's recruitment,
14 selection, and hiring policies.
15 (3) Otherwise implement the State's policy of nonpolitical hiring practices in
16 accordance with this Chapter.

17 **"§ 126A-51. Posting requirement.**

- 18 (a) An agency shall publicly post and accept applications in a fair and open competition
19 to hire for any permanent or time-limited position subject to this Article.
20 (b) All vacancies for which any State agency openly recruit shall be posted on a website
21 maintained by OSHR.
22 (c) Agencies may determine if a vacancy is open only to applicants internal to the
23 recruiting agency or internal to State government. Internal postings shall be marked as such and
24 posted on a website maintained by OSHR.
25 (d) A position that is publicly posted shall include a closing date, unless the agency
26 approves a continuous position.
27 (e) Notwithstanding subsection (a) of this section, an employing agency head may
28 determine, based on business needs and in accordance with Commission policy, that the agency
29 will not openly recruit for a vacancy otherwise subject to this Article.

30 **"§ 126A-52. Employee search firms; limitation on compensation for assisting person in
31 obtaining State employment.**

- 32 (a) Employers may retain employee search firms to assist them in finding candidates for
33 State employment, subject to subsection (b) of this section.
34 (b) It shall be unlawful for any person, firm or corporation to collect, accept or receive
35 any compensation, consideration or thing of value for obtaining on behalf of any other person,
36 or aiding or assisting any other person in obtaining employment with the State of North Carolina;
37 provided, however, any person, firm, or corporation that is duly licensed and supervised by the
38 North Carolina Department of Labor as a private employment service acting in the normal course
39 of business, may collect such regular and customary fees for services rendered pursuant to a
40 written contract when such fees are paid by someone other than the State of North Carolina;
41 however, any person, firm, or corporation collecting fees for this service must have been licensed
42 by the North Carolina Department of Labor for a period of not less than one year.

43 Any person, firm or corporation collecting fees for this service must make a monthly report
44 to the Department of Labor listing the name of the person, firm or corporation collecting fees and
45 the person for whom a job was found, the nature and purpose of the job obtained, and the fee
46 collected by the person, firm or corporation collecting the fee. Violation of this section shall
47 constitute a Class 1 misdemeanor.

48 **"§ 126A-53. Increasing efficiency of State job application process.**

- 49 (a) OSHR shall streamline the job application process for State positions by enabling
50 applicants to upload resumes or website profiles. An applicant remains responsible for ensuring

1 that all information required for initial screening appears correctly in the completed State job
2 application after importing the applicant's resume or profile.

3 (b) For job applications requiring references, supplemental questions, or other
4 information not typically found on resumes and not needed for initial screening, State agencies
5 may collect this information later in the selection process, including during job interviews.

6 **"§ 126A-54. Hiring from the pool of most qualified persons; political hirings limited;
7 work-based learning.**

8 (a) Agencies shall select an applicant to hire for a position from the pool of the most
9 qualified persons, based on job-related qualifications using fair and valid selection criteria.
10 Qualified persons means applicants for employment who meet the minimum qualifications for
11 the classification. Minimum qualifications means the minimum education and experience set
12 forth in the class specification of the vacancy being filled. Any additional knowledge, skills, and
13 abilities listed in the job posting beyond the minimum qualifications shall be interpreted as
14 management preferences.

15 (b) When assessing applicant qualifications, an agency may employ either of the
16 following flexible hiring approaches, notwithstanding subsection (a) of this section:

17 (1) Skills-based hiring. – An agency may assess whether an individual meets the
18 minimum qualifications based on their demonstrated competencies without
19 relying solely on education, length of experience, or documented credentials.
20 An agency may also, to determine the pool of most qualified, use an
21 assessment process that tests whether the applicant demonstrates sufficient
22 competency or skill level in a technical discipline, behavioral skills, or other
23 relevant competencies necessary to perform the work for the classification.
24 Agencies shall ensure such assessments are fair and reasonably related to
25 predicting success in a position.

26 (2) Work-based learning. – Agencies may offer registered apprenticeships
27 through the Apprenticeship Council established in G.S. 115D-11.6, and
28 agencies may also offer informal apprenticeships, fellowships, and other
29 work-based learning programs that are not offered through the Apprenticeship
30 Council in an experiential appointment as defined in G.S.126A-33(b)(1)c and
31 G.S.126A-33(b)(2)c. At the time of posting, an agency may identify positions
32 appropriate for a permanent or non-permanent experiential appointment and
33 may hire an applicant for a work-based learning program who is expected to
34 meet the minimum qualifications following a fixed time period of
35 employment and education or training that occurs while in State employment,
36 not to exceed four years. Persons hired into experiential appointments under
37 this section may be selected for the position regardless of whether other
38 applicants in the pool already possess the minimum qualifications for the
39 position. A hiring under this subsection is exempt from the priorities identified
40 in 126A-57.

41 **"§ 126A-55. Political hirings limited.**

42 (a) All agencies shall select from the pool of the most qualified persons for State
43 government employment without regard to political affiliation or political influence.

44 (b) It is a violation of this section if:

45 (1) The complaining applicant timely applied for the State government position
46 in question, was among the most qualified persons who applied, but was not
47 hired; or

48 (2) The successful applicant for the position was not among the most qualified
49 persons applying for the position and the hiring decision was based upon
50 political affiliation or political influence.

51 **"§ 126A-56. Hiring candidate from most qualified pool in previous posting.**

1 (a) In addition to the authority granted by G.S. 126A-56.3(1), an employing agency is
2 authorized to directly hire, without posting, into a vacant position so long as all of the following
3 conditions are met:

4 (1) The employer previously posted for recruitment, in accordance with G.S.
5 126A-51, a position that has the same or comparable classification as the
6 position that is now vacant.

7 (2) The person who is now being hired applied for that previous vacancy.

8 (3) The employer selected the person to be within the pool of the most qualified
9 persons for the previous vacancy, in accordance with G.S. 126A-54, but did
10 not hire that person.

11 (4) For the position that is now vacant, the person who is now being hired meets
12 the minimum education and experience requirements for the classification and
13 has a salary set within the vacant position's classification range.

14 (b) Except as otherwise provided in this section, the hiring shall be exempt from this
15 Chapter, including any procedural or substantive requirements, such as publicly posting the
16 position, requiring a new application, holding a new interview or new reference checks, and
17 following the priorities for certain types of applicants under State law. The exemption from this
18 Chapter for the hiring process shall not affect whether the position is subject to this Chapter once
19 the employee is hired.

20 (c) The hiring shall not be exempt from G.S. 126A-101, G.S. 126A-102, G.S. 126A-103, and
21 Articles 15 and 16 of this Chapter.

22 **"§ 126A-56.1. Non-permanent to permanent hiring.**

23 (a) Agencies may directly hire an employee serving in a non-permanent appointment into
24 a vacant permanent position if all of the following conditions are met:

25 (1) The employee has worked for a minimum of three months in a substantially
26 similar role with satisfactory performance. This three-month period excludes
27 any mandatory breaks required under G.S. 126A-111.

28 (2) The temporary employee meets the minimum education and experience
29 requirements established for the position classification, and the employee's
30 salary is set within the approved classification range.

31 (3) The hiring manager and the hiring manager's supervisor both approve the hire.

32 The Director of OSHR may waive the requirements specified in subdivisions (2) and (3) of
33 this subsection at his or her discretion.

34 (b) Notwithstanding any other provision in this Chapter, an individual hired by an agency
35 as a temporary employee from a private staffing firm is not eligible for appointment to a vacant
36 permanent position under this subsection.

37 (c) Unless otherwise provided, a hiring under this section is exempt from the provisions
38 of this Chapter, including any procedural or substantive requirements, including posting the
39 position, requiring an application, holding an interview or new reference checks, selecting the
40 applicants from the pool of the most qualified persons, or following the priorities list in
41 G.S. 126A-57. This exemption for the hiring process does not affect whether the position is
42 subject to this Chapter once the employee is hired.

43 (d) A hiring under this section is not exempt from G.S. 126A-101, G.S. 126A-102, or G.S.
44 126A-103 or from Articles 15 or 16 of this Chapter."

45 **"§ 126A-56.2. Lateral transfers.**

46 Based on its business or operational needs, an agency may transfer an existing employee into
47 any vacant position at the same agency which is in the same classification and at an equal or
48 higher salary, without posting the position. Such transfer is not a disciplinary action requiring
49 just cause and will not require agreement from the employee. Employees in supervisor positions
50 may be transferred pursuant to this section only if (i) the employee is not a career State employee,

1 (ii) the employee consents to the transfer, or (iii) the employee is transferred into another
2 supervisor position.

3 **"§ 126A-56.3. Authorization to have applications considered for postings at other agencies;
4 job postings that apply to all agencies.**

5 Each employing agency is granted flexibility, notwithstanding other provisions of this
6 Chapter, to do the following:

- 7 (1) Offer qualified applicants for employment the option to have their
8 applications considered for future positions at other agencies within the same
9 or comparable classification.
- 10 (2) Permit agencies to recruit and hire applicants from job postings that apply to
11 all vacancies in a particular classification across all State agencies.

12 **"§ 126A-57. Order of hiring priorities.**

13 The hiring priorities created by law shall have the following relative order, from highest
14 priority over other applicants to lowest:

- 15 (1) The State employee promotional priority under G.S. 126A-57.1.
- 16 (2) At equal priority:
 - 17 a. The reduction-in-force priority under G.S. 126A-94; and
 - 18 b. The reemployment rights for certain exempt policymaking or exempt
19 managerial employees under G.S. 126A-57.2.
- 20 (3) The preference for veterans, National Guard members, and spouses of
21 active-duty troops under G.S. 126A-57.3.

22 **"§ 126A-57.1. Career State employee promotional priority.**

23 If a career State employee subject to this Article:

- 24 (1) Applies for another position of State employment that would constitute a
25 promotion; and
- 26 (2) Has substantially equal qualifications as an applicant who is not a career State
27 employee;

28 then the career State employee shall receive priority consideration over the applicant who is not
29 a career State employee. This priority consideration shall not apply when the only applicants
30 considered for the vacancy are current career State employees.

31 **"§ 126A-57.2. Reemployment rights for employees hired before August 21, 2013.**

32 (a) An exempt policymaking or exempt managerial employee may be transferred,
33 demoted, or separated from his or her position by the department head authorized to designate
34 the exempt position except as follows:

- 35 (1) When an employee who has the minimum service requirements for a career
36 State employee as defined in 126A-4 but less than 10 years of cumulative
37 service in subject positions prior to placement in an exempt policymaking or
38 exempt managerial position is removed from an exempt policymaking or
39 exempt managerial position, for reasons other than just cause, the employee
40 shall have priority to any position that becomes available for which the
41 employee is qualified, according to policies regulating and defining priority
42 as promulgated by the Commission.
- 43 (2) When an employee who has 10 years or more cumulative service, including
44 the immediately preceding 12 months, in subject positions prior to placement
45 in an exempt policymaking or exempt managerial position is removed from
46 an exempt policymaking or exempt managerial position, for reasons other than
47 just cause, the employee shall be reassigned to a subject position within the
48 same department or agency, or if necessary within another agency, at the same
49 grade and salary, including all across-the-board increases since placement in
50 the position designated as exempt, as his or her most recent subject position.

1 (3) When a career State employee as defined by G.S. 126A-4 who has more than
2 two but less than 10 years or more of cumulative service in a subject position
3 moves from one exempt policymaking or exempt managerial position covered
4 by this subsection to another exempt policymaking or exempt managerial
5 position covered by this subsection without a break in service and that
6 employee is later removed from the last exempt policymaking or exempt
7 managerial position , for reasons other than just cause, the employee shall
8 have priority to any position that becomes available for which the employee
9 is qualified, according to the rules regulating and defining priority as adopted
10 by the Commission.

11 (4) When a career State employee as defined by G.S. 126A-4 who has 10 years
12 or more of cumulative service moves from one exempt policymaking or
13 exempt managerial position covered by this subsection to another exempt
14 policymaking or exempt managerial covered by this subsection without a
15 break in service and that employee is later removed from the last exempt
16 policymaking or exempt managerial position, for reasons other than just
17 cause, the employee shall be reassigned to a subject position within the same
18 department or agency, or if necessary, within another department or agency.
19 The employee shall be paid at the same grade and salary as the employee's
20 most recent subject position, including all across-the-board legislative
21 increases awarded since the employee's placement in the position that was
22 designated as exempt.

23 (b) A department head is authorized to use existing budgeted positions within his
24 department in order to carry out the provisions of subsection (a) of this section. If it is necessary
25 to meet the requirements of subsection (a) of this section, a department head may use salary
26 reserve funds authorized for his or her department.

27 **"§ 126A-57.3. Preference for veterans, National Guard members, and spouses of**
28 **active-duty troops.**

29 (a) It shall be the policy of the State of North Carolina that, in appreciation for their
30 service to this State and this country , and in recognition of the time and advantage lost toward
31 the pursuit of a civilian career, veterans, eligible members of the National Guard, and other
32 eligible persons under this section shall be granted preference in employment for positions
33 subject to the provisions of G.S. 126A-51 with every State agency.

34 (b) Definitions – The following definitions apply in this section:

35 (1) Eligible member of the National Guard. – Any of the following:

- 36 a. A resident of North Carolina who is a current member in good standing
37 of either the North Carolina Army National Guard or the North
38 Carolina Air National Guard.
- 39 b. A resident of North Carolina who is a former member of either the
40 North Carolina Army National Guard or the North Carolina Air
41 National Guard, whose discharge is under honorable conditions with
42 a minimum of six years of creditable service.
- 43 c. The surviving spouse and dependent of a member of the North
44 Carolina Army National Guard or the North Carolina Air National
45 Guard.

46 (2) Eligible person. – Any of the following:

- 47 a. A veteran.
- 48 b. The spouse of a disabled veteran.
- 49 c. The surviving spouse or dependent of a deceased veteran.
- 50 d. An eligible member of the National Guard.

1 e. The spouse of a service member who is serving in the Armed Forces
2 of the United States on active duty.

3 (3) Veteran. – A person who served in the Armed Forces of the United States on
4 active duty, for reasons other than training, and has been discharged under
5 other than dishonorable conditions.

6 (c) The Commission shall issue a policy to provide for a veteran and national guard
7 preference. The policy shall include a provision that any eligible person who has reason to believe
8 that he or she did not receive a veteran's preference in accordance with the provisions of this
9 Article section or rules adopted under it may appeal that denial as provided by 126-34.01 and
10 G.S. 126-34.02 G.S. 126A-83 and 126A-84.

11 (d) Notwithstanding Article 17, and notwithstanding provisions in that Article that only
12 certain provisions of this Chapter apply to some employees, this section applies to all persons
13 covered by this Chapter except those exempted by G.S. 126A-176, G.S. 126A-178,
14 G.S. 126A-185, or G.S. 126A-182, but this section does not apply to those persons covered by
15 G.S. 126A-170(a)(2). G.S. 128-15 shall apply to those persons exempted from coverage of this
16 section, but shall not apply to any person covered by this section.

17 "Part 2. Interchange of Government Employees.

18 **"§ 126A-58. Interchange of governmental employees.**

19 (a) Short Title. – This section shall be known and may be cited as the "North Carolina
20 Interchange of Governmental Employees Act of 1977."

21 (b) Definitions. – The following definitions apply in this section:

22 (1) Assigned employee. – An employee of a sending agency who is assigned or
23 detailed to a receiving agency as part of the employee's regular duties with the
24 sending agency.

25 (2) Employee on leave. – An employee on leave of absence without pay from a
26 sending agency who becomes an employee of a receiving agency while on
27 leave from the sending agency.

28 (3) Receiving agency. – Any division, department, agency, instrumentality,
29 authority, or political subdivision of the federal government or of a state or
30 local government which, under this section, receives an employee of another
31 governmental division, department, agency, instrumentality, authority, or
32 political subdivision of the federal government or of a state or local
33 government.

34 (4) Sending agency. – Any division, department, agency, instrumentality,
35 authority, or political subdivision of the federal government or of a state or
36 local government which, under this section, sends any employee thereof to
37 another governmental division, department, agency, instrumentality,
38 authority, or political subdivision of the federal government or of a state or
39 local government.

40 (c) Authority to interchange employees. – The authority for the interchange of employees
41 is as follows:

42 (1) Any division, department, agency, instrumentality, authority, or political
43 subdivision of the State of North Carolina is authorized to participate in a
44 program of interchange of employees with divisions, departments, agencies,
45 instrumentalities, authorities, or political subdivisions of the federal
46 government, of another state, or of this State, as a sending agency or a
47 receiving agency.

48 (2) The period of individual assignment, detail, or leave of absence under an
49 interchange program shall not exceed two years.

50 (3) The temporary assignment of the employee may be terminated by mutual
51 agreement between the sending agency and the receiving agency.

1 (4) Elected officials may not participate in a program of interchange.
2 (d) Status of employees of sending agency. – The status of employees of a sending agency
3 is governed as follows:

4 (1) Employees of a sending agency participating in an exchange of personnel
5 authorized by subsection (c) may be considered during such participation to
6 be either assigned employees or employees on leave.

7 (2) Assigned employees shall be entitled to the same salary and employment
8 benefits to which they would be entitled as employees of the sending agency
9 and shall remain employees of the sending agency for all purposes unless
10 otherwise provided in this section or in a written agreement between the
11 sending agency and the receiving agency.

12 (3) Employees on leave shall have the same rights, benefits and obligations as
13 other State or local employees subject to this Chapter who are granted leaves
14 of absences, unless otherwise provided in this section, or in a written
15 agreement between the sending agency and the receiving agency.

16 (4) When a division, department, agency, instrumentality, authority or political
17 subdivision of the State of North Carolina acts as a sending agency, employees
18 participating in an exchange of personnel authorized by subsection (c),
19 whether considered assigned employees or employees on leave, shall have the
20 same rights, benefits and obligations to participate in and receive benefits,
21 including death benefits, from any retirement system of which they are
22 members as employees of the sending agency, whether they are members of
23 the Teachers' and State Employees' Retirement System, the North Carolina
24 Local Governmental Employees' Retirement System, the Law Enforcement
25 Officers' Benefit and Retirement Fund, or other Retirement System which has
26 been or may be established by the State for public employees; provided,
27 however, that the receiving agency agrees to and makes the employer
28 contributions and deducts from the salary of the employee the employee
29 contributions for continued membership in such Retirement System.
30 Provided, further, that if no contributions are paid into the appropriate
31 Retirement System during the period that the employee participates in the
32 exchange of personnel authorized by this section, such employee shall remain
33 entitled to death benefits resulting from his death during the period of the
34 exchange. Provided, that where duplicate benefits would otherwise be payable
35 on account of disability or death, the employee or his estate shall elect, within
36 one year of the date of disability or death, which benefits to receive.

37 (e) Travel expenses of employees from this State. – A sending agency in this State shall
38 not pay the travel expenses of its assigned or on leave employees and shall not pay the travel
39 expenses of such employees incurred in the course of performing work for the receiving agency.
40 Such expenses shall be borne by the receiving agency.

41 (f) Status of employees of other governments. – The status of employees of other
42 governments is governed as follows:

43 (1) When a division, department, agency, instrumentality, authority or political
44 subdivision of the State of North Carolina acts as a receiving agency, assigned
45 employees of the sending agency remain the employees of the sending agency
46 and continue to receive the employment benefits of the sending agency unless
47 otherwise specified in a written agreement between the sending agency and
48 the receiving agency.

49 (2) When a division, department, agency, instrumentality, authority or political
50 subdivision of this State acts as a receiving agency, employees on leave from
51 the sending agency will receive appointments as employees with the receiving

1 agency and will be entitled to the same employment benefits as other
2 employees of the receiving agency unless otherwise specified in a written
3 agreement between the sending agency and the receiving agency. Such
4 appointments may be made without regard to any rules or regulations of the
5 receiving agency regarding the selection of employees; but all rules of the
6 North Carolina Human Resources Act shall apply to State employees.

7 (g) Travel expenses of employees of other governments. A receiving agency in the State
8 of North Carolina may, in accordance with its travel regulations and travel regulations by law,
9 pay the travel expenses incurred in the course of an assigned employee's duties or incurred in the
10 course of the duties of an employee on leave with the receiving agency on the same basis as the
11 travel expenses of regular employees are paid.

12 (h) Administration. The Commission and any State division, department, agency,
13 instrumentality, authority or political subdivision participating in an interchange of employees
14 program may promulgate rules or regulations necessary for the administration of such program,
15 so long as such rules or regulations do not conflict with the provisions of this section or any other
16 provision of law.

17 "§ 126A-59. Reserved for future codification purposes.

18 "Article 6.

19 "Verification and Onboarding.

20 "Part 1. Verification and Onboarding Procedures for All Positions.

21 "§ 126A-60. **Commission oversight of onboarding for all positions.**

22 (a) Subject to the approval of the Governor, the Commission may establish policies or
23 rules governing the following, including but not limited to:

24 (1) Confirmation of eligibility to work in the United States.

25 (2) Verification of credentials and employment history.

26 (b) Notwithstanding any other provision of this Chapter, this Part of this Article applies
27 to all employees of agencies in the executive, judicial, or legislative branches.

28 "§ 126A-61. **E-Verify.**

29 (a) Each State agency, department, institution, university, community college, and local
30 education agency shall verify, in accordance with the E-Verify Program administered by the
31 United States Department of Homeland Security pursuant to 8 U.S.C. § 1101, et seq, each
32 individual's legal status or authorization to work in the United States after hiring the individual
33 as an employee to work in the United States.

34 (b) OSHR may operate a centralized program to electronically offer E-Verify access to
35 employing agencies.

36 "§ 126A-62. **Fraudulent disclosure and willful nondisclosure on application for State
37 employment; penalties.**

38 (a) Any employee who knowingly and willfully discloses false or misleading
39 information, or conceals dishonorable military service; or conceals prior employment history or
40 other requested information, either of which are significantly related to job responsibilities on an
41 application for State employment or any document attached to or supplementing an application
42 may be subjected to disciplinary action up to and including immediate dismissal from
43 employment. Dismissal shall be mandatory where the applicant discloses false or misleading
44 information in order to meet position qualifications. Application forms for State employment
45 shall include a statement informing applicants of the consequences of such fraudulent disclosure
46 or lack of disclosure. This statement shall also appear on any screen that allows an applicant to
47 attach materials to, or supplement, a State application.

48 (b) Each agency shall verify the status of credentials and the accuracy of statements
49 contained in the application of each new employee within 90 days from the date of employment.
50 Failure to verify the application shall not bar action under subsection (a) of this section.

51 "Part 2. Verification and Onboarding Procedures.

"§ 126A-63. Commission oversight of onboarding for positions that are subject to this Part.

(a) Subject to the approval of the Governor, the Commission may establish policies or rules governing the following, including but not limited to:

- (1) Employee onboarding.
- (2) Reference checks.

(b) This Part of this Article and the policies or rules established under subsection (a) of this section apply only to positions that are not made exempt from this Chapter.

"§§ 126A-64 through 126A-69. Reserved for future codification purposes.

"Article 7.

"Benefits, Terms, and Conditions of Employment.

"Part 1. Paid Parental Leave and Bereavement Leave.

"§ 126A-70. Commission oversight of benefits that apply to all permanent positions.

(a) Subject to the approval of the Governor, the Commission may establish policies or rules governing the following, including but not limited to:

- (1) Paid parental leave.
- (2) Bereavement leave.

(b) This Part applies to positions and employees otherwise exempt from this Chapter except for employees of the legislative and judicial branches.

(c) The legislative and judicial branches shall adopt parental leave policies.

"§ 126A-71. Paid parental leave.

(a) Definitions. – The following definitions apply in this section:

- (1) Child. – A newborn biological child or a newly placed adopted, foster, or otherwise legally placed child under the age of 18 whose parent is a State employee eligible for leave under subsection (b) of this section.
- (2) Parent. – Includes a parent by adoption, foster care, or another legal placement.
- (3) Qualifying event. – When a State employee becomes a parent to a child.

(b) Paid Parental Leave. – The Commission shall adopt rules and policies to provide that a permanent, probationary, or time-limited full-time State employee may take the following paid parental leave:

- (1) Up to twelve weeks of paid leave after giving birth to a child; or
- (2) Up to twelve weeks of paid leave after any other qualifying event.

(c) Rulemaking – The Commission shall adopt rules and policies to provide for:

- (1) A part-time permanent or time-limited State employee to be able to take a prorated amount of paid leave, not to exceed twelve weeks after giving birth or after any other qualifying event.
- (2) A period of minimum service before an employee becomes eligible for paid leave under this section, which must credit employees for aggregate service in an agency, excluding the legislative and judicial branches, community college located in this State, and public school unit that provides paid parental leave in accordance with this section.
- (3) A maximum number of uses of paid parental leave within a 12-month period.
- (4) Available leave amounts following a miscarriage or death of a child during birth

(d) Requirements. – The paid parental leave authorized by this section:

- (1) Is available without exhaustion of the employee's sick and vacation leave and is awarded in addition to shared leave under G.S. 126A-75, or other leave authorized by State or federal law.
- (2) Has no cash value upon termination from employment.
- (3) May not be used for calculating an employee's retirement benefits.

1 (e) The provisions of this section shall apply to employees of agencies excluding the
2 legislative and judicial branches; to public school employees; and to community college
3 employees. The appropriate governing board, officer, or entity shall adopt rules and policies to
4 award paid parental leave to employees that are substantially equivalent to those adopted by the
5 Commission.

6 "Part 2. Benefits, Terms, and Conditions.

7 **"§ 126A-72. Commission oversight of benefits, terms, and conditions of employment.**

8 (a) Subject to the approval of the Governor, the Commission may establish policies or
9 rules governing the following. including but not limited to:

- 10 (1) Hours and days of work, vacation, sick, and other types of leave, and holidays,
11 subject to the restrictions in G.S. 126A-73 and 74.
- 12 (2) Cooperation with the State Board of Education, the Department of Public
13 Instruction, The University of North Carolina, and the Community Colleges
14 System and other appropriate resources in developing programs in, including
15 but not limited to, management and supervisory skills, performance
16 evaluation, specialized employee skills, accident prevention, equal
17 employment opportunity awareness, and customer service.
- 18 (3) To maintain an accredited Certified Public Manager program.
- 19 (4) To maintain a program of meritorious service awards and recognition of State
20 employees, public personnel management, and management excellence and to
21 authorize agencies to provide bonuses to employees who receive these awards.
- 22 (5) Programs of employee assistance, productivity incentives, and equal
23 opportunity, as well as safety and health programs required by Article 13 of
24 this Chapter.
- 25 (6) Agency support and changes in work conditions for victims of workplace
26 violence, workplace threats, workplace trauma, or domestic violence.
- 27 (7) Financial assistance for employee development and employee discounts for
28 services.
- 29 (8) Flexible work options for State employees, including but not limited to
30 programs of telework or remote work, identifying positions which may be
31 filled on a job-sharing basis, making available options of different work
32 schedules, and offering opportunities for permanent part-time jobs.
- 33 (9) Other matters pertaining to the terms and conditions of employment and such
34 other programs and procedures as may be necessary to promote efficiency of
35 administration and provide for a fair and modern system of personnel
36 administration.

37 **"§ 126A-73. Paid State holidays.**

38 (a) The legal public holidays established by the Commission as paid holidays for State
39 employees shall include Martin Luther King, Jr.'s Birthday and Veterans Day. The Commission
40 shall not provide for more than 13 paid holidays per year, with three paid holidays being given
41 for Christmas.

42 (b) The University of North Carolina and its constituent institutions may adopt alternative
43 dates to recognize the legal public holidays

44 **"§ 126A-74. Minimum leave granted State employees.**

45 The amount of vacation leave granted to each full-time State employee subject to the
46 provisions of this Chapter shall be determined in accordance with a graduated scale established
47 by the Commission which shall allow the equivalent rate of not less than 120 hours vacation per
48 calendar year, prorated monthly, cumulative to at least 240 hours. On December 31 of each year,
49 any State employee who has vacation leave in excess of the allowed accumulation shall have that
50 leave converted to sick leave. Sick leave allowed as needed to such State employees shall be at
51 a rate not less than 80 hours for each calendar year, cumulative from year to year.

"Part 3. Voluntary Shared Leave.

"§ 126A-75. Voluntary shared leave.

(a) The Commission, in cooperation with the State Board of Community Colleges and the State Board of Education, shall adopt rules and policies to allow any employee at a State agency to share leave voluntarily with an immediate family member who is an employee of a State agency, community college, or public school; and with a coworker's immediate family member who is an employee of a State agency, community college, or public school..

(b) The Commission shall adopt rules and policies for the voluntary shared leave program to allow an employee at a State agency to donate sick leave to a nonfamily member employee of a State agency.

"Part 4. Flexible Compensation Plan.

"§ 126A-76. Flexible compensation plan.

(a) The Director of OSHR may provide eligible officers and employees of State agencies not covered by the provisions of G.S. 116-17.2 a program of dependent care assistance as available under section 129 and related sections of the Internal Revenue Code of 1986, as amended. The Director of OSHR may authorize State agencies to enter into annual agreements with employees who elect to participate in the program to provide for a reduction in salary. With the approval of the Director of OSHR, savings in the employer's share of contributions under the Federal Insurance Contributions Act on account of the reduction in salary may be used to pay some or all of the administrative expenses of the program. Should the Director of OSHR decide to contract with a third party to administer the terms and conditions of a program of dependent care assistance, the Director of OSHR may select a contractor only upon a thorough and completely competitive procurement process.

(b) Notwithstanding any other provisions of law relating to the salaries of officers and employees of State agencies, the Director of OSHR may provide a plan of flexible compensation to eligible officers and employees of State agencies, not covered by the provisions of G.S. 116-17.2 for benefits available under section 125 and related sections of the Internal Revenue Code of 1986, as amended. This plan shall not replace, substitute for, or duplicate any benefits provided to employees and officers under Article 1A of Chapter 120 of the General Statutes, Articles 1, 3B, 4, and 6 of Chapter 135 of the General Statutes. The plan may, however, include offerings for products and benefits that are supplemental or additional to these statutory benefits. If a plan of flexible compensation is offered, then a TRICARE supplement shall be offered.

In providing a plan of flexible compensation, the Director of OSHR may authorize State agencies, to enter into agreements with their employees for reductions in the salaries of employees electing to participate in the plan of flexible compensation provided by this Part.

(c) With the approval of the Director of OSHR, savings in the employer's share of contributions under the Federal Insurance Contributions Act on account of the reduction in salary may be used to pay some or all of the administrative expenses of the program. Should the Director of OSHR decide to contract with a third party to administer the terms and conditions of a plan of flexible compensation as provided by this section, it may select such a contractor only upon a thorough and completely advertised competitive procurement process.

(d) As used in this section, the term "eligible officers and employees" means any officer or employee authorized to participate in the Teachers' and State Employees' Retirement System, the Consolidated Judicial Retirement System, the Legislative Retirement System, and the State Health Plan.

"§§ 126A-77 through 126A-79. Reserved for future codification purposes.

"Article 8.

"Just Cause, Disciplinary Actions, and Grievances.

"§ 126A-80. Commission oversight of just cause, disciplinary actions, and grievances.

1 Subject to the approval of the Governor, the Commission may establish policies or rules
2 governing the following, including but not limited to:

- 3 (1) The definition of just cause.
- 4 (2) The investigation of complaints and the issuing of such binding corrective
5 orders or such other appropriate action concerning employment, promotion,
6 demotion, transfer, discharge, reinstatement, and any other issue defined as a
7 contested case issue by this Chapter.
- 8 (3) The assessment of reasonable attorneys' fees and witnesses' fees against the
9 State agency involved.
- 10 (4) An alternative dispute resolution procedure.
- 11 (5) The disciplinary demotion, suspension, or dismissal of employees and the
12 disciplinary process.
- 13 (6) The grievance process.
- 14 (7) Review and approval of settlements, including authorization for agencies to
15 enter into settlement agreements for remedies other than back pay, front pay,
16 other omitted benefits, and attorneys' fees.

17 **"§ 126A-81. Just cause; disciplinary actions for State employees.**

18 (a) No career State employee subject to the Chapter shall be discharged, suspended, or
19 demoted for disciplinary reasons, except for just cause.

20 (b) In determining whether just cause exists for dismissal for unacceptable personal
21 conduct, an agency shall consider all of the following factors:

- 22 (1) The severity of the conduct.
- 23 (2) The subject matter of the conduct and whether it was job-related.
- 24 (3) The actual harm or risk of potential harm resulting from the conduct,
25 including, but not limited to the agency's operations, efficiency, mission,
26 reputation, or public trust.
- 27 (4) The employee's work history.
- 28 (5) Discipline imposed in past cases of similar violations; however, nothing in
29 this section shall be interpreted to prevent an agency from modifying its
30 disciplinary standard when it determines that past precedent is no longer
31 appropriate, provided that modification is grounded in articulable reasoning
32 and applied fairly and consistently to current and prospective cases.

33 The agency shall exercise reasonable discretion in identifying which factors are most relevant
34 given the facts presented and how to weigh various factors to determine appropriate discipline.
35 No discipline shall fail solely for failing to consider one of the above factors if just cause was
36 present.

37 (c) In determining whether just cause exists for dismissal for issues of job performance,
38 the agency shall employ the following standards:

- 39 (1) Unsatisfactory job performance: an agency shall assess whether the employee
40 fails to satisfactorily perform job requirements as specified in the job
41 description, work plan, or as directed by management.
- 42 (2) Grossly inefficient job performance: In addition to assessing the performance
43 standard above, an agency shall assess whether that failure results in harm or
44 the potential for harm, including death, serious bodily injury, or loss of or
45 damage to State property or funds that result in a serious impact on the State
46 or work unit.

47 (d) In cases of such disciplinary action, the employee shall, before the action is taken, be
48 furnished with a statement in writing setting forth the specific acts or omissions that are the
49 reasons for the disciplinary action and the employee's appeal rights. The employee shall be
50 permitted 15 days from the date the statement is delivered to appeal to the head of the agency
51 through the agency grievance procedure for a final agency decision. If the employee appeal

1 involves an allegation of discrimination, retaliation, or harassment, the employee will first file
2 an EEO Inquiry 15 days from the date the statement is delivered, before appealing through the
3 agency grievance procedure. The employee will have 15 days following the closure of the EEO
4 Inquiry to appeal through the agency grievance procedure for a final agency decision. However,
5 an employee may be suspended without warning for causes relating to personal conduct
6 detrimental to State service, pending the giving of written reasons, in order to avoid undue
7 disruption of work or to protect the safety of persons or property or for other serious reasons.

8 (e) If the employee is not satisfied with the final agency decision or is unable, within a
9 reasonable period of time, to obtain a final agency decision, the employee may appeal to the
10 Office of Administrative Hearings. Such appeal shall be filed not later than 30 days after receipt
11 of notice of the final agency decision.

12 (f) In accordance with G.S. 150B-34(a), the administrative law judge shall decide the
13 case based upon the preponderance of the evidence, giving due regard to the demonstrated
14 knowledge and expertise of the agency with respect to facts and inferences within the specialized
15 knowledge of the agency.

16 **"§ 126A-82. Temporary redeployment of employees after criminal charges filed.**

17 If criminal charges are filed against an employee, the agency may redeploy that employee,
18 without just cause and without the agreement of the employee, to a different position or different
19 set of job duties. The employee's salary shall not be decreased as a result of the redeployment,
20 and this redeployment shall end if the charges against the employee are dropped or the employee
21 is acquitted of those charges. Nothing in this section shall be interpreted to prevent an agency
22 from taking disciplinary action against the employee, in addition to or in lieu of redeployment if
23 there is just cause.

24 **"§ 126A-83. Grievance; resolution.**

25 (a) Any State employee having a grievance arising out of or due to the employee's
26 employment shall first discuss the problem or grievance with the employee's supervisor, unless
27 the problem or grievance is with the supervisor. Then the employee shall follow the grievance
28 procedure approved by the Commission. This procedure shall include mandatory mediation. The
29 proposed agency final decision shall not be issued nor become final until reviewed and approved
30 by OSHR.

31 (b) The agency grievance procedure and OSHR review shall be completed within 120
32 days from the date the grievance is filed. If a State employee files multiple grievances within the
33 same calendar month, the grievances will be merged and the 120-day timeline under this section
34 will reset. The Office of Administrative Hearings is authorized to issue gatekeeping orders to
35 prevent abuse of the grievance process.

36 **"§ 126A-84. Grievance appeal process; grounds.**

37 (a) Once a final agency decision has been issued in accordance with G.S. 126A-83, an
38 applicant for State employment, a State employee, or former State employee may file a contested
39 case in the Office of Administrative Hearings under Article 3 of Chapter 150B of the General
40 Statutes. The contested case must be filed within 30 days of receipt of the final agency decision.
41 Except for cases of extraordinary cause shown, the Office of Administrative Hearings shall hear
42 and issue a final decision in accordance with G.S. 150B-34 within 180 days from the
43 commencement of the case. In deciding cases under this section, the Office of Administrative
44 Hearings may grant the following relief:

- 45 (1) Reinstatement of any employee to the position from which the employee has been
46 removed.
- 47 (2) Order the employment, promotion, transfer, or salary adjustment of any
48 individual to whom it has been wrongfully denied.
- 49 (3) Direct other suitable action to correct the abuse which may include the
50 requirement of payment for any loss of salary which has resulted from the
51 improper action of the appointing authority.

1 An aggrieved party in a contested case under this section shall be entitled to judicial review
2 of a final decision by appeal to the Court of Appeals as provided in G.S. 7A-29(a). The procedure
3 for the appeal shall be as provided by the rules of appellate procedure. The appeal shall be taken
4 within 30 days of receipt of the written notice of final decision. A notice of appeal shall be filed
5 with the Office of Administrative Hearings and served on all parties to the contested case hearing.

6 (b) The following issues may be heard as contested cases after completion of the agency
7 grievance procedure and the OSHR review:

8 (1) Discrimination or harassment. – An applicant for State employment, a State
9 employee, or former State employee may allege discrimination or harassment
10 based on race, religion, color, national origin, sex, age, disability, genetic
11 information, or political affiliation if the employee believes that he or she has
12 been discriminated against in his or her application for employment or in the
13 terms and conditions of the employee's employment, or in the termination of
14 his or her employment.

15 (2) Retaliation. – An applicant for State employment, a State employee, or former
16 State employee may allege retaliation for protesting discrimination based on
17 race, religion, color, national origin, sex, age, disability, political affiliation,
18 or genetic information if the employee believes that he or she has been
19 retaliated against in his or her application for employment or in the terms and
20 conditions of the employee's employment, or in the termination of the
21 employee's employment.

22 (3) Just cause for dismissal, demotion, or suspension. – A career State employee
23 may allege that he or she was dismissed, demoted, or suspended for
24 disciplinary reasons without just cause. A dismissal, demotion, or suspension
25 which is not imposed for disciplinary reasons shall not be considered a
26 disciplinary action within the meaning of this section. However, in contested
27 cases conducted pursuant to this section, an employee may appeal an
28 involuntary nondisciplinary separation due to an employee's unavailability in
29 the same fashion as if it were a disciplinary action, but the agency shall only
30 have the burden to prove that the employee was unavailable.

31 (4) Veteran's and National Guard preference. – An applicant for State
32 employment or a State employee may allege that he or she was denied
33 veteran's preference or National Guard preference in violation of the law.

34 (5) Failure to post or give priority consideration. – An applicant for State
35 employment or a State employee may allege that he or she was denied hiring
36 or promotion because a position was not posted in accordance with this
37 Chapter; or a career State employee may allege that he or she was denied a
38 promotion as a result of a failure to give priority consideration for promotion
39 as required by G.S. 126A-57.1 or a career State employee may allege that he
40 or she was denied hiring as a result of the failure to give him or her a
41 reduction-in-force priority.

42 (6) Whistleblower. – A whistleblower grievance as provided for in Article 14 of
43 this Chapter.

44 (c) Any issue for which an appeal to the Office of Administrative Hearings has not been
45 specifically authorized by this section shall not be grounds for a contested case hearing.

46 (d) In contested cases conducted pursuant to this section, the burden of showing that a
47 career State employee was discharged, demoted, or suspended for just cause rests with the
48 employer. In all other contested cases, the burden of proof rests on the employee.

49 (e) The Office of Administrative Hearings may award attorneys' fees to an employee
50 where reinstatement or back pay is ordered or where an employee prevails in a whistleblower

1 grievance. The remedies provided in this subsection in a whistleblower appeal shall be the same
2 as those provided in G.S. 126A-143.

3 (f) The Office of Administrative Hearings shall report to OSHR and the Joint Legislative
4 Administrative Procedure Oversight Committee on the number of cases filed under this section
5 and on the number of days between filing and closing of each case. The report shall be filed on
6 a semiannual basis.

7 **"§ 126A-85. Alternative dispute resolution.**

8 In its discretion, the Commission may adopt alternative dispute resolution procedures for the
9 resolution of matters constituting and not constituting grounds for a grievance under this Article.
10 Any matters not constituting grounds for an appeal under G.S. 126A-84 shall not be heard by the
11 Office of Administrative Hearings as a contested case.

12 **"§ 126A-86. Judicial review of fee awards.**

13 With respect to a decision of the Office of Administrative Hearings assessing or refusing to
14 assess reasonable witness fees or a reasonable attorneys' fee, the decision shall be subject to
15 judicial review in accordance with G.S. 126A-84(a). The reviewing court may reverse or modify
16 the decision of the Office of Administrative Hearings if the decision is unreasonable or the award
17 is inadequate. An employee who obtains a reversal or modification of the Office of
18 Administrative Hearings' decision in an appeal under this section shall be entitled to recover court
19 costs and a reasonable attorneys' fee for representation in connection with the appeal."

20 **"§§ 126A-87 through 126A-89.** Reserved for future codification purposes.

21 "Article 9.

22 "Separation, Offboarding, and Reductions in Force.

23 **"§ 126A-90. Commission oversight of separation of employees.**

24 Subject to the approval of the Governor, the Commission may establish policies or rules
25 governing the following including but not limited to:

- 26 (1) The separation of employees.
- 27 (2) Voluntary separation incentives.
- 28 (3) Furloughing employees by placing them on temporary unpaid leave without
29 pay in response to a loss of funding.
- 30 (4) Reductions in force.

31 **"§ 126A-91. Voluntary separation incentives.**

32 Any agency may reorganize and restructure its positions through a voluntary separation
33 process which provides incentives to separate in accordance with a policy approved by the
34 Commission and subject to approval by the Office of State Budget and Management.

35 **"§ 126A-92. Reductions in force.**

36 No loss of funds shall be required as a precondition for a reduction in force. Reductions in
37 force may be used to reorganize an agency to better accomplish its functions, respond to lack of
38 work, or respond to shortage of funds. A reduction in force does not require elimination of the
39 positions affected by the reduction in force.

40 **"§ 126A-93. Reductions in force notification.**

41 State employees to be affected by a reduction in force shall be notified of the reduction in
42 force as soon as practicable, and in any event, no less than 30 days prior to the effective date of
43 the reduction in force.

44 **"§ 126A-94. Reductions in force priority policy.**

45 The Commission may provide for and adopt policies governing the priority and salary rights
46 of State employees separated from State employment as the result of reductions in force who
47 accept a position in State government to provide that the employee shall be paid a salary no
48 higher than the maximum of the salary grade of the position accepted.

49 **"§ 126A-95. Discontinued service retirement allowance and severance wages for certain
50 State employees.**

1 (a) When the closing of a State institution or a reduction in force will accomplish
2 economies in the State Budget, the State employees who were separated from employment as a
3 result of the closure or reduction in force shall receive from the last employing agency either a
4 discontinued service retirement allowance or severance wages, provided reemployment is not
5 available. As used in this section, "economies in the State Budget" means economies resulting
6 from elimination of a job and its responsibilities or from a lack of funds to support the job. The
7 agency head shall determine, in his or her discretion, whether to pay a discontinued service
8 retirement allowance or severance wages, after the opportunity for consultation with the Director
9 of Office of State Budget and Management and OSHR. Severance wages shall not be paid to an
10 employee who chooses a discontinued service retirement. Severance wages shall not be subject
11 to employer or employee retirement contributions. Severance wages shall be paid according to
12 the policies adopted by the Commission.

13 Notwithstanding any other provisions of the State's retirement laws, any employee of the
14 State who is a member of the Teachers' and State Employees' Retirement System or the
15 Law-Enforcement Officers' Retirement System and whose job is involuntarily terminated as a
16 result of economies in the State budget may be entitled to a discontinued service retirement
17 allowance, subject to the approval of the employing agency and the availability of agency funds.
18 An unreduced discontinued service retirement allowance, not otherwise allowed, may be
19 approved for employees with 20 or more years of creditable retirement service who are at least
20 55 years of age; or a discontinued service retirement allowance, not otherwise allowed, may be
21 approved for employees with 20 or more years of creditable retirement service who are at least
22 50 years of age, reduced by one-fourth of one percent (1/4 of 1%) for each month that retirement
23 precedes the employee's fifty-fifth birthday. In cases where a discontinued service retirement
24 allowance is approved, the employing agency shall make a lump sum payment to the
25 Administrator of the State Retirement Systems equal to the actuarial present value of the
26 additional liabilities imposed upon the System, to be determined by the System's consulting
27 actuary, as a result of the discontinued service retirement, plus an administrative fee to be
28 determined by the Administrator, plus an amount to be deposited in the Retiree Health Benefit
29 Fund. The amount to be deposited in the Retiree Health Benefit Fund shall be calculated by
30 multiplying the number of years between the employee's date of discontinued service retirement
31 and the employee's earliest unreduced retirement date under G.S. 135-5 by the most recent
32 employer contribution rate to the Retiree Health Benefit Fund and then, if the employee is or
33 would be eligible for retiree medical coverage under the State Health Plan for Teachers and State
34 Employees, multiplying that figure by the salary used in the discontinued salary retirement
35 calculation.

36 The salary used to determine severance wages under this section is the last annual salary
37 except that if the employee was promoted within the previous 12 months, the last annual salary
38 is that annual salary prior to the promotion. If the annual salary prior to the promotion is used, it
39 shall be adjusted to account for any across-the-board legislative salary increases. Excluded from
40 any calculation are any benefits such as, but not limited to, overtime pay, shift pay, holiday
41 premium, or longevity pay. The salary used to determine the discontinued retirement allowance
42 under this section is the same as the average final compensation under G.S. 135-1(5).

43 (b) Any employee separated from State government and paid severance wages under this
44 section shall not be employed under a contractual arrangement by any State agency, other than
45 the constituent institutions of The University of North Carolina and the constituent institutions
46 of the North Carolina Community College System until the end of the time period through which
47 the employee is receiving severance. This subsection does not affect any reduction in force rights
48 that the employee may have.

49 "§§ 126A-96 through 126A-99. Reserved for future codification purposes.

50 "Article 10.

51 "Inappropriate Political Activity.

"§ 126A-100. Appropriate political activity of State employees defined.

(a) Each State employee retains all the rights and obligations of citizenship provided in the Constitution and laws of the State of North Carolina and the Constitution and laws of the United States of America; however, no State employee subject to this Chapter or temporary State employee shall:

(1) Take any active part in managing a campaign, or campaign for political office or otherwise engage in political activity while on duty or within any period of time during which he is expected to perform services for which he receives compensation from the State;

(2) Otherwise use the authority of their State position, or utilize State funds, supplies or vehicles to secure support for or oppose any candidate, party, or issue in an election involving candidates for office or party nominations, or affect the results thereof.

(b) No head of any agency or other State employee exercising supervisory authority shall make, issue, or enforce any rule or policy the effect of which is to interfere with the right of any State employee as an individual to engage in political activity while not on duty or at times during which he is not performing services for which he receives compensation from the State. A State employee who is or may be expected to perform his duties on a twenty-four hour per day basis shall not be prevented from engaging in political activity except during regularly scheduled working hours or at other times when actually performing the duties of office. The willful violation of this subdivision shall be a Class 1 misdemeanor.

"§ 126A-101. Promise or threat to obtain political contribution or support.

(a) It is unlawful for a State employee or a person appointed to State office, other than elective office or office on a board, commission, committee, or council whose function is advisory only, whether or not subject to this Article, to coerce:

(1) a State employee subject to this Article,

(2) an applicant for a position subject to this Article

to support or contribute to a political candidate, political committee as defined in G.S. 163-278.6, or political party or to change the party designation of the individual's voter registration by threatening that change in employment status or discipline or preferential personnel treatment will occur with regard to an individual listed in subdivisions (1) and (2) of this subsection.

(a1) It is unlawful for a public servant as defined in G.S. 138A-3(70)a. to coerce a person as described in G.S. 138A-32(d)(1), (2), or (3) to support or contribute to a political candidate, political committee as defined in G.S. 163-278.6, or a political party by threatening discipline or promising preferential treatment with regard to that person's business with the individual's State office or that person's activities regulated by the individual's State office.

(b) Any person violating this section shall be guilty of a Class 2 misdemeanor.

(c) A State employee subject to this Article who without probable cause falsely accuses a State employee or a person appointed to State office of violating this section shall be subject to discipline or change in employment status in accordance with the provisions of G.S. 126A-81 and may, as otherwise provided by law, be subject to criminal penalties for perjury or civil liability for libel, slander, or malicious prosecution.

"§ 126A-102. Threat to obtain political contribution or support.

(a) It is unlawful for any person to coerce:

(1) a State employee subject to this Article,

(2) an applicant for a position subject to this Article

to support or contribute to a political candidate, political committee as defined in G.S. 163-278.6, or political party or to change the party designation of his or her voter registration by explicitly threatening that change in employment status or discipline or preferential personnel treatment will occur with regard to any person listed in subdivisions (1) and (2) of this subsection.

(b) Any person violating this section shall be guilty of a Class 2 misdemeanor.

1 (c) A State employee subject to this Article who without probable cause falsely accuses
2 a person of violating this section shall be subject to discipline or change in employment status in
3 accordance with the provisions of G.S. 126A-84 and may, as otherwise provided by law, be
4 subject to criminal penalties for perjury or civil liability for libel, slander, or malicious
5 prosecution.

6 **"§ 126A-103. Compelled speech prohibited.**

7 (a) Each State agency, department, and institution shall comply with the following:

- 8 (1) Refrain from soliciting or requiring an applicant for employment to endorse
9 or opine about beliefs, affiliations, ideals, or principles regarding matters of
10 contemporary political debate or social action as a condition of employment.
11 (2) Refrain from soliciting or requiring an applicant for employment to describe
12 the applicant's actions in support of, or in opposition to, the beliefs,
13 affiliations, ideals, or principles identified in subdivision (1) of this
14 subsection.

15 (b) Nothing in subsection (a) shall infringe on the ability of an applicant for employment
16 to voluntarily opine or speak regarding any matter, including matters of contemporary political
17 debate or social action.

18 (c) No application for employment shall inquire into matters prohibited as compelled
19 speech under this section.

20 (d) Nothing in this section shall be construed to:

- 21 (1) Prohibit discussion with or questions to an applicant regarding the content of
22 the applicant's resume, curriculum vitae, or other written work or oral remarks.
23 (2) Affect the ability of the prospective employing agency from complying with
24 applicable federal or State law, including employment oaths, appointment
25 affidavits, and licensure and certification requirements.
26 (3) Apply to speech protected by the First Amendment of the U.S. Constitution.

27 **"§ 126A-104. Ensuring dignity and nondiscrimination in State government workplaces.**

28 (a) The General Assembly finds that Article I, Section 1 of the Constitution of this State
29 recognizes the equality and rights of all persons. Therefore, it is the intent of the General
30 Assembly that State employees respect the dignity of others, acknowledge the right of others to
31 express differing opinions, and the right to freedom of speech and association and that State
32 agencies employ training methods and procedures to further that intent.

33 (b) For the purposes of this section, "promote" shall mean compelling State employees
34 to affirm or profess belief in the concepts described in subsection (c) of this section.

35 (c) The concepts listed in this subsection shall not be promoted in State government
36 workplaces or included as part of any State employee training program:

- 37 (1) One race or sex is inherently superior to another race or sex.
38 (2) An individual, solely by virtue of his or her race or sex, is inherently racist,
39 sexist, or oppressive.
40 (3) An individual should be discriminated against or receive adverse treatment
41 solely or partly because of his or her race or sex.
42 (4) An individual's moral character is necessarily determined by his or her race or
43 sex.
44 (5) An individual, solely by virtue of his or her race or sex, bears responsibility
45 for actions committed in the past by other members of the same race or sex.
46 (6) Any individual, solely by virtue of his or her race or sex, should feel
47 discomfort, guilt, anguish, or any other form of psychological distress.
48 (7) A meritocracy is inherently racist or sexist.
49 (8) The United States was created by members of a particular race or sex for the
50 purpose of oppressing members of another race or sex.
51 (9) The United States government should be violently overthrown.

1 (10) Particular character traits, values, moral or ethical codes, privileges, or beliefs
2 should be ascribed to a race or sex or to an individual because of the
3 individual's race or sex.

4 (11) The rule of law does not exist, but instead is a series of power relationships
5 and struggles among racial or other groups.

6 (12) All Americans are not created equal and are not endowed by their Creator with
7 certain unalienable rights, including life, liberty, and the pursuit of happiness.

8 (13) Governments should deny to any person within the government's jurisdiction
9 the equal protection of the law.

10 (d) Nothing in this section prevents a private contractor who provides training to State
11 employees from responding to questions that are raised by participants in the training and which
12 pertain to the concepts in subsection (c) of this section. However, the private contractor must
13 make it clear that the State government employer does not endorse those concepts.

14 (e) This section does not apply to speech protected by the First Amendment of the U.S.
15 Constitution.

16 **"§ 126A-105. Application.**

17 Notwithstanding any provision of law to the contrary, G.S. 126A-103 and 126A-104 shall
18 apply to all (i) State employees in the executive branch, including employees of The University
19 of North Carolina and the Community Colleges System Office, subject to this Article and (ii)
20 community college employees.

21 **"§ 126A-106. Disciplinary action for violation of laws limiting the role of politics in State
22 human resources functions.**

23 Failure to comply with this Article is grounds for disciplinary action which, in case of
24 deliberate or repeated violation, may include dismissal or removal from office.

25 **"§§ 126A-107 through 126A-109.** Reserved for future codification purposes.

26 "Article 11.

27 "Temporary Employees.

28 **"§ 126A-110. Commission oversight of temporary State employment.**

29 Subject to the approval of the Governor, the Commission may establish policies or rules
30 governing the following including but not limited to:

31 (1) The implementation of G.S. 126A-111 in a manner that is consistent across
32 all affected State agencies.

33 (2) Temporary employment.

34 **"§ 126A-111. Temporary employment needs of Cabinet and Council of State agencies; use
35 of the JoinNC Program.**

36 (a) Use of JoinNC Required for Cabinet Agencies. – Notwithstanding any other provision
37 of law, all Cabinet agencies that utilize temporary employees shall employ them through the
38 JoinNC Program administered by OSHR.

39 (b) Council of State agencies, Universities, and local entities as described in
40 G.S. 126A-170(a)(2) and consolidated agencies pursuant to G.S. 153A-77(b) may use the
41 JoinNC Program in the discretion of the Council of State agency, university and local entities.
42 G.S.126A-111(c)-(e) shall apply to persons hired by the program on behalf of the agency,
43 university and local entities.

44 (c) Temporary Employment Restrictions. – No temporary employee shall be employed
45 more than 11 consecutive months. A temporary employee shall only be eligible for reinstatement
46 on the job assignment after working 11 consecutive months if the temporary employee is
47 separated for at least 31 consecutive calendar days. Temporary employees shall not be used to
48 permanently expand the workforce beyond authorized levels.

49 (d) Prohibition. – OSHR may prohibit any agency, division, or organizational unit from
50 acquiring new temporary employees if that agency or division has an invoice owed to JoinNC
51 that is more than 90 days overdue and exceeds two hundred thousand dollars (\$200,000) and

1 such prohibition shall continue until all invoices over 90 days overdue are paid. The provisions
2 of this subsection do not apply to the North Carolina National Guard.

3 (e) Exceptions. – The following exceptions apply in this section:

4 (1) The following exemptions from the requirement in subsection (a) to use the
5 JoinNC Program shall apply:

6 a. Temporary employees performing work that is information
7 technology-related.

8 b. Council of State agencies, Universities, and local entities as described
9 in 126A-170(a)(2) and consolidated agencies pursuant to
10 G.S. 153A-77(b), may use the JoinNC Program at their discretion.

11 c. The Department of Transportation, Ferry Division, when there is an
12 established need for peak-season hires or when the work requires a
13 specific skill set beyond the scope of a temporary employee.

14 (2) The Director of OSHR may create exceptions to the requirements of
15 subsection (a) of this section only when the following conditions are met:

16 a. The JoinNC Program cannot meet the agency's employment needs for
17 a class of temporary job assignments.

18 b. Failure to recruit for the class of temporary job assignments will cause
19 severe harm to the agency's ability to provide services to the public.

20 (3) A temporary employee who is a full-time student, a retired employee, an
21 offender, an intern, or an extern, according to the definitions below, is exempt
22 from the requirements of subsection (b) of this section. The following
23 definitions apply in this subdivision:

24 a. Full-time student. – An undergraduate or graduate student considered
25 to be a full-time student by their higher education institution.

26 b. Retired employee. – An individual drawing retirement benefits and
27 who has signed a statement that the individual is not available for or
28 seeking permanent State employment.

29 c. Offender. – An individual in the custody of the Department of Adult
30 Correction participating in a work release program.

31 d. Intern. – A student who, regardless of the number of credit hours
32 enrolled, works to gain occupational experience for a period of at least
33 one academic semester.

34 e. Extern. – A student who, regardless of the number of credit hours
35 enrolled, is employed as part of a written agreement between the State
36 and an academic institution through which the student is paid and earns
37 course credit.

38 (4) The Director of OSHR may create exceptions to the requirements of
39 subsection (b) of this section only when all of the following conditions are
40 met:

41 a. The exception is in the best interests of the State because removing the
42 employee from the job assignment will cause severe harm to the
43 agency's ability to provide vital services to the public.

44 b. The exception will not result in extending the 11-month maximum
45 length of temporary employment beyond 22 months from the
46 employee's initial hire date.

47 All exceptions shall be in the sole discretion of the Director of OSHR except that the North
48 Carolina National Guard is hereby granted preferred status for exceptions meeting the criteria in
49 subsection (c) above, which shall not be denied by the Director. All exceptions shall be requested
50 in writing, include a justification of why the exception is necessary, and be kept on file in the
51 JoinNC Program Office. To the extent possible, the Director of OSHR or the Director's designee

1 shall advise agencies of alternative job classification options prior to approval of exceptions to
2 subsection (c) of this section.

3 (f) Cabinet and Council of State Agency Responsibilities. – Cabinet and Council of State
4 agencies are responsible for sending a separation request or notification of the 31-day separation
5 to OSHR before a temporary employee exceeds 11 consecutive months unless an exception from
6 subsection (c) of this section applies. Failure to provide timely separation requests may limit an
7 agency from future access to temporary employees.

8 (g) OSHR Responsibilities. – OSHR shall monitor the employment of all temporary
9 employees through JoinNC and employed directly by Cabinet and Council of State agencies. For
10 temporary employees still employed beyond 11 consecutive months, OSHR shall initiate
11 separation from any applicable HR and Payroll systems no more than two weeks past the
12 11-month limit unless an exception from this section applies. OSHR shall provide written notice
13 to agencies at intervals of 90, 60, and 30 days prior to a temporary employee reaching 11
14 consecutive months of service.

15 **"§ 126A-112. JoinNC Program assistance with recruiting.**

16 The JoinNC Program, using funds generated from the program, may assist with recruiting
17 State employees for any State government positions, including but not limited to permanent
18 positions.

19 **"§§ 126A-113 through 126A-119.** Reserved for future codification purposes.

20 "Article 12.

21 "Local Discretion as to Local Government Employees.

22 **"§ 126A-120. County or municipal employees may be made subject to rules adopted by
23 local governing body.**

24 (a) When a local government adopts rules and regulations governing annual leave, sick
25 leave, hours of work, holidays, and the administration of the pay plan for county local
26 government employees generally and the county local government rules and regulations are filed
27 with the Director of OSHR, the county rules will supersede the rules adopted by the Commission
28 as to the county employees otherwise subject to the provisions of this Chapter.

29 (b) No county employees otherwise subject to the provisions of this Chapter may be paid
30 a salary less than the minimum nor more than the maximum of the applicable salary range
31 adopted by the board of county commissioners. A board of county commissioners may adjust the
32 salary ranges applicable to employees who are otherwise subject to the provisions of this Chapter,
33 in order to cause the level of pay to conform to local financial ability and fiscal policy. The
34 Commission shall adopt policies and rules to ensure that significant relationships within the
35 schedule of salary ranges are maintained.

36 (c) When two or more counties are combined into a district for the performance of an
37 activity whose employees are subject to the provisions of this Chapter, the boards of county
38 commissioners of the counties may jointly exercise the authority hereinabove granted in
39 subsections (a) and (b) of this section.

40 (d) When a municipality is performing an activity by or through employees which are
41 subject to the provisions of this Chapter, the governing body of the municipality may exercise
42 the authority hereinabove granted in subsections (a) and (b) of this section.

43 **"§ 126A-121. Personnel services to local governmental units.**

44 (a) The Director may make the services and facilities of OSHR available to local
45 government units. These may include, without limitation:

46 (1) Providing State training programs to local governments.

47 (2) Providing customized training programs.

48 (3) Responding to questions regarding personnel laws.

49 (4) Posting jobs that are subject to this Chapter on OSHR's hiring platform.

50 (5) Collecting and distributing salary information from all county human services
51 agencies, including consolidated counties as defined by G.S. 153A-77.

1 (b) Notwithstanding the provisions of G.S. 126A-161, 126A-163, 153A-98, and
2 160A-168:

3 (1) When a local entity indicates that it will permanently appoint a person who
4 does not meet the class specification's minimum qualifications for a position
5 subject to this Chapter, except for trainee and work-against appointments,
6 OSHR may contact any relevant members of the board supervising that local
7 entity, the county manager and commissioners, and the Department of Health
8 and Human Services. The message may identify the particular qualifications
9 that the proposed appointee would need to meet to have the minimum
10 qualifications of the class specification.

11 (2) When a local entity requests that OSHR make the final determination as to
12 whether the employee or applicant meets the minimum qualifications, OSHR
13 may share the relevant portions of the personnel file of a specific employee or
14 applicant with the Deputy Director of the Public Health or Social Services
15 Division of the Department of Health and Human Services, or similar State
16 departmental staff, to assist in determining qualification status.

17 **"§ 126A-122. Local personnel system may be established; approval and monitoring; rules
18 and regulations.**

19 (a) The board of county commissioners of any county may establish and maintain a
20 personnel system for all employees of the county subject to its jurisdiction, which system and
21 any substantial changes to the system, shall be approved by the Commission as substantially
22 equivalent to the standards established under this Chapter for employees of local departments of
23 social services, local health departments, and area mental health programs, local emergency
24 management programs. If approved by the Commission, the employees covered by the county
25 system shall be exempt from all provisions of this Chapter except Article 15.

26 (a1) With approval of each of the boards of commissioners of the county or counties which
27 comprise the area mental health authority, the area mental health authority may establish and
28 maintain a personnel system for all employees of the area mental health authority, which system
29 and any substantial changes to the system, shall be equivalent to the standards established under
30 this Chapter for employees of area mental health authorities. If approved by the Commission, the
31 employees covered by the area mental health authority system shall be exempt from all provisions
32 of this Chapter except Article 15.

33 (b) A board of county commissioners may petition the Commission to determine whether
34 any portion of its total personnel system meets the requirements in (a) above. Upon such
35 determination, county employees shall be exempt from the provisions of this Chapter relating to
36 the approved portions of the county personnel system.

37 (b1) The board of an area mental health authority, with the approval of each of the boards
38 of commissioners of the county or counties which comprise the area mental health authority, may
39 petition the Commission to determine whether any portion of its total personnel system meets
40 the requirements in subsection (a1) above. Upon such determination, area mental health authority
41 employees shall be exempt from the provisions of this Chapter relating to the approved portions
42 of the area mental health authority personnel system except as provided in G.S. 122C-121.

43 (c) OSHR shall monitor at least annually county or area mental health authority personnel
44 systems approved under this section in order to ensure compliance.

45 (d) In order to define "substantially equivalent," the Commission is authorized to
46 promulgate rules and regulations to implement the federal merit system standards and these
47 regulations at a minimum shall include: recruitment and selection of employees; position
48 classification; pay administration; training; and employee relations.

49 **"§ 126A-123. Bonuses for local government.**

50 Local entities are authorized to offer bonuses to employees subject to this Chapter. These
51 bonuses shall be consistent with the corresponding bonus policies for State agency employees.

1 "§§ 126A-124 through 126A-129. Reserved for future codification purposes.

2 "Article 13.

3 "Executive Branch State Employees Workplace Requirements Program for Safety, Health, and
4 Workers' Compensation.

5 **"§ 126A-130. Definition.**

6 As used in this Article, "State agency" means any department, commission, division, board,
7 or institution of the State within the executive branch of government, including The University
8 of North Carolina system, and the Office of Administrative Hearings.

9 **"§ 126A-131. Program goals.**

10 OSHR shall establish a written program for State employee workplace environmental, health,
11 and safety, and workers' compensation. The program shall promote safe and healthful working
12 conditions, be based on clearly stated goals and objectives , and provide managers and
13 employees with a clear and firm understanding of the State's concern for protecting employees
14 from job-related injuries and health impairment; preventing accidents and fires; planning for
15 emergencies and emergency medical procedures; identifying and controlling physical, chemical,
16 biological, and radiological hazards in the workplace; communicating potential hazards to
17 employees; and assuring adequate housekeeping and sanitation.

18 **"§ 126A-132. Program requirements.**

19 The written program required under this Article shall describe, at a minimum, the following:

- 20 (1) The methods to be used to identify, analyze, and control new or existing
21 hazards, conditions, and operations.
- 22 (2) How managers, supervisors, and employees are responsible for implementing
23 the program, controlling accident-related expenditures, and how continued
24 participation of management and employees will be established, measured,
25 and maintained.
- 26 (3) How the plan will be communicated to all affected employees so that they are
27 informed of work-related physical, chemical, biological, or radiological
28 hazards, and controls necessary to prevent injury or illness.
- 29 (4) How managers, supervisors, and employees will receive training in avoidance
30 of job-related injuries and health impairment.
- 31 (5) How workplace accidents will be reported and investigated and how
32 corrective actions will be implemented.
- 33 (6) How safe work practices and rules will be communicated and enforced.
- 34 (7) The safety and health training program that will be made available to
35 employees.
- 36 (8) How employees can make complaints concerning safety and health problems
37 without fear of retaliation.
- 38 (9) How employees will receive medical attention following a work-related injury
39 or illness.

40 **"§ 126A-133. Model program; technical assistance; reports.**

41 (a) Model Program. – OSHR shall do the following:

- 42 (1) Maintain a model program of safety and health requirements to guide State
43 agencies in the development of their individual programs and in complying
44 with the provisions of G.S. 95-148 and this Article.
- 45 (2) Establish guidelines for the creation and operation of State agency
46 environmental, health and safety committees.
- 47 (3) Adopt policies that shall govern the administration of the workers'
48 compensation program and monitor compliance with Chapter 97 of the
49 General Statutes.

- 1 (4) Establish guidelines for the delegation of certain administrative functions as
2 necessary for the administration of the workers' compensation program to
3 State agencies, as defined in this section.
- 4 (b) Technical Assistance. – OSHR shall do the following:
- 5 (1) Provide consultative and technical services, including environmental, health,
6 and safety training to assist State agencies in establishing and administering
7 their workplace environmental, health, and safety programs and to address
8 specific technical problems through risk management and mitigation.
- 9 (2) Monitor compliance with this Article.

10 **"§ 126A-134. State agency safety and health committees.**

11 OSHR shall create, pursuant to guidelines adopted under subsection (a) of G.S. 126A-133,
12 committees to perform workplace inspections, review injury and illness records, make advisory
13 recommendations to the agency's managers, and perform other functions determined by OSHR
14 to be necessary for the effective implementation of the State Employees Workplace
15 Requirements Program for Safety and the workers' compensation program.

16 **"§ 126A-135. Legislative and judicial branch safety and health programs.**

17 The Legislative Services Commission and the Administrative Office of the Courts are
18 authorized to separately establish safety and health programs for their employees.

19 **"§§ 126A-136 through 126A-139.** Reserved for future codification purposes.

20 "Article 14.

21 "Protection for Reporting Improper Government Activities.

22 **"§ 126A-140. Statement of policy.**

23 (a) It is the policy of this State that State employees shall have a duty to report verbally
24 or in writing to their supervisor, department head, or other appropriate authority, evidence of
25 activity by a State agency or State employee constituting any of the following:

- 26 (1) A violation of State or federal law, rule or regulation.
27 (2) Fraud.
28 (3) Misappropriation of State resources.
29 (4) Substantial and specific danger to the public health and safety.
30 (5) Gross mismanagement, a gross waste of monies, or gross abuse of authority.

31 (b) Further, it is the policy of this State that State employees be free of intimidation or
32 harassment when reporting to public bodies about matters of public concern, including offering
33 testimony to or testifying before appropriate legislative panels, or providing statements or
34 testimony to agents and employees of legislative panels duly appointed by the President Pro
35 Tempore and/or the Speaker of the House designated to conduct inquiries on behalf of such
36 legislative panels.

37 **"§ 126A-141. Protection from retaliation.**

38 (a) No head of any agency, or other State employee exercising supervisory authority shall
39 discharge, threaten, or otherwise discriminate against a State employee regarding the State
40 employee's compensation, terms, conditions, location, or privileges of employment because:

- 41 (1) The State employee, or a person acting on behalf of the employee, reports or
42 is about to report, verbally or in writing, any activity described in
43 G.S. 126A-140, unless the State employee knows or has reason to believe that
44 the report is inaccurate.
45 (2) The State employee has refused to carry out a directive that in fact constitutes
46 a violation of State or federal law, rule, or regulation or poses a substantial
47 and specific danger to the public health and safety.

48 (b) No State employee shall retaliate against another State employee because:

- 49 (1) The employee, or a person acting on behalf of the employee, reports or is
50 about to report, verbally or in writing, any activity described in
51 G.S. 126A-140.

1 (2) The employee has refused to carry out a directive that may constitute a
2 violation of State or federal law, rule, or regulation, or poses a substantial and
3 specific danger to the public health and safety.

4 (c) The protections of this Article include State employees who report any activity
5 described in G.S. G.S. 126A-140 to the State Auditor as authorized by G.S. 147-64.6B, to the
6 Joint Legislative Commission on Governmental Operations as authorized by G.S. 120-75.1, or
7 to a legislative committee as required by G.S. 120-19.

8 **"§ 126A-142. Civil actions for injunctive relief or other remedies.**

9 Any State employee injured by a violation of G.S. 126A-141 who is not subject to Article 8
10 of this Chapter may maintain an action in superior court against the person or agency who
11 committed the alleged violation within one year after the occurrence. Any claim arising under
12 Article 21 of Chapter 95 of the General Statutes may be maintained pursuant to the provisions of
13 that Article only and may be redressed only by the remedies and relief available under that
14 Article.

15 **"§ 126A-143. Remedies.**

16 (a) A court, in rendering a judgment in an action brought pursuant to this Article, may
17 order any one or more of the following:

- 18 (1) An injunction, damages.
- 19 (2) Reinstatement of the employee.
- 20 (3) Payment of back wages.
- 21 (4) Full reinstatement of fringe benefits and seniority rights.
- 22 (5) Payment of costs, reasonable attorney's fees or any combination of these.

23 (b) If an application for a permanent injunction is granted, the employee shall be awarded
24 costs and reasonable attorney's fees.

25 (c) If in an action for damages the court finds that the employee was injured by a willful
26 violation of G.S.126A-141, the court shall award as damages three times the amount of actual
27 damages plus costs and reasonable attorney's fees against the individual or individuals found to
28 be in violation of G.S.126A-140.

29 **"§ 126A-144. Notice of employee protections and obligations.**

30 It shall be the duty of an employer of a State employee to post notice in accordance with
31 G.S. 95-9 or use other appropriate means to keep employees informed of their protections and
32 obligations under this Article.

33 **"§ 126A-145. Communications with members of the General Assembly.**

34 A State employee's right to speak to a member of the General Assembly at the member's
35 request shall not be directly or indirectly limited by the employee's supervisor or by any policy
36 of the department, agency, or institution that employs that State employee.

37 **"§§ 126A-146 through 126A-149.** Reserved for future codification purposes.

38 "Article 15.

39 "Equal Employment and Compensation Opportunity.

40 **"§ 126A-150. Equal opportunity for employment and compensation by State agencies and
41 local political subdivisions.**

42 All agencies and all local political subdivisions of North Carolina shall give equal opportunity
43 for employment and compensation, without regard to race, religion, color, national origin, sex,
44 age, disability, or genetic information to all persons otherwise qualified.

45 **"§ 126A-151. Equal employment opportunity training.**

46 Each agency shall enroll each newly appointed supervisor or manager within one year of
47 appointment in the Equal Employment Opportunity training offered or approved by OSHR.

48 **"§ 126A-152. Retaliation by State departments and agencies and local political
49 subdivisions.**

50 No agency or local political subdivision of the State shall retaliate against an employee for
51 protesting alleged violations of G.S. 126A-150.

"§ 126A-153. Equal employment opportunity plans; reports; maintenance of services.

(a) Each member of the Council of State under G.S. 143A-11, each of the principal departments enumerated in G.S. 143B-6, The University of North Carolina, the judicial branch, and the legislative branch, shall develop and submit on an annual basis an Equal Employment Opportunity plan which shall include goals and programs that provide positive measures to assure equitable and fair representation of North Carolina's citizens. The plans developed by the judicial branch and by the Legislative Services Office on behalf of the legislative branch shall be submitted to the General Assembly on or before June 1 of each year. All other such plans shall be submitted to the Director of OSHR for review and approval on or before March 1, of each year.

(b) The Director of OSHR will provide services of Equal Employment Opportunity technical assistance, training, oversight, monitoring, evaluation, support programs, and reporting to assure that State government's work force is diverse at all occupational levels. These services shall be provided by qualified personnel."

"§§ 126A-154 through 126A-159. Reserved for future codification purposes.

"Article 16.

"The Privacy of State Employee Personnel Records.

"§ 126A-160. Rules and regulations.

The Commission shall prescribe such rules or policies as it deems necessary to implement the provisions of this Article.

"§ 126A-161. Personnel files not subject to inspection under G.S. 132-6.

(a) Except as provided in G.S. 126A-162 and G.S. 126A-163, personnel files of State employees shall not be subject to inspection and examination as authorized by G.S. 132-6.

(b) The following definitions apply in this Article:

- (1) Employee. – A current State employee, former State employee, or applicant for State employment.
- (2) Employer. – Any State department, university, division, bureau, commission, council, or other agency subject to Article 16 of this Chapter.
- (3) Personnel file. – Any employment-related or personal information gathered by an employer or by OSHR. Employment-related information contained in a personnel file includes information related to an individual's application, selection, promotion, demotion, transfer, leave, salary, contract for employment, benefits, suspension, performance evaluation, disciplinary actions, and termination. Personal information contained in a personnel file includes an individual's home address, social security number, medical history, personal financial data, marital status, dependents, and beneficiaries.
- (4) Record. – The personnel information that each employer is required to maintain in accordance with G.S. 126A-162.

(c) Personnel files of former State employees who have been separated from State employment for 10 or more years may be open to inspection and examination except for papers and documents relating to demotions and to disciplinary actions resulting in the dismissal of the employee. Retirement files maintained by the Retirement Systems Division of the Department of State Treasurer shall be made public pursuant to G.S. 128-33.1 and G.S. 135-6.1.

"§ 126A-162. Certain records to be kept by State agencies open to inspection.

(a) Each agency shall maintain a record of each of its employees, showing the following information with respect to each such employee:

- (1) Name.
- (2) Date of original employment or appointment to State service.
- (3) The terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the agency has such record in its possession.

- 1 (4) Current position.
- 2 (5) Title.
- 3 (6) Current salary.
- 4 (7) Date and amount of each increase or decrease in salary with that agency.
- 5 (8) Date and type of each promotion, demotion, transfer, suspension, separation,
- 6 or other change in position classification with that agency.
- 7 (9) Date and general description of the reasons for each promotion with that
- 8 agency.
- 9 (10) Date and type of each dismissal, suspension, or demotion for disciplinary
- 10 reasons taken by the agency. If the disciplinary action was a dismissal, a copy
- 11 of the written notice of the final decision of the head of the department setting
- 12 forth the specific acts or omissions that are the basis of the dismissal.
- 13 (11) The office or station to which the employee is currently assigned.
- 14 (b) For the purposes of this section, the term "salary" includes pay, benefits, incentives,
- 15 bonuses, and deferred and all other forms of compensation paid by the employing entity.
- 16 (c) Subject only to rules and regulations for the safekeeping of the records, adopted by
- 17 the Commission, every person having custody of such records shall permit them to be inspected
- 18 and examined and copies thereof made by any person during regular business hours. Except as
- 19 provided in subsection (d) of this section, any person who is denied access to any such record
- 20 shall have a right to compel compliance with the provisions of this section by application to a
- 21 court of competent jurisdiction for a writ of mandamus or other appropriate relief.
- 22 (d) Notwithstanding any other provision of this section, persons in the custody of, or
- 23 under the supervision of, the Division of Institutions and persons in the custody of local
- 24 confinement facilities are not entitled to access the records made public under this section and
- 25 are prohibited from obtaining those records, absent a court order authorizing access to, or
- 26 custody, or possession.
- 27 (e) An attorney investigating allegations of unlawful misconduct or abuse by a Division
- 28 of Institutions employee shall be provided, upon request, information sufficient to identify the
- 29 full name or names of the employee alleged to be involved in the misconduct or abuse in the
- 30 current position of the employee within the Division; or, the last position held by the employee
- 31 and the last date of employment by the Division. The attorney may not give the offender copies
- 32 of departmental records or official documents absent a court order authorizing access to, or
- 33 custody, or possession.
- 34 **"§ 126A-163. Confidential information in personnel files; access to information.**
- 35 (a) All other information contained in a personnel file is confidential and shall not be
- 36 open for inspection and examination except to the following persons:
- 37 (1) The employee or his or her properly authorized agent, who may examine his
- 38 or her own personnel file in its entirety except for (i) letter of references
- 39 solicited prior to employment, or (ii) information concerning a medical
- 40 disability, mental or physical, that a prudent physician would not divulge to a
- 41 patient. An employee's medical record may be disclosed to a licensed
- 42 physician designated in writing by the employee.
- 43 (2) The supervisor and indirect supervisors of the employee.
- 44 (3) A potential State or local government supervisor, during the interview
- 45 process, only with regard to performance management documents or to
- 46 prevent application fraud.
- 47 (4) Members of the General Assembly who may inspect and examine personnel
- 48 records under the authority of G.S. 120-19.
- 49 (5) A party by authority of a proper court order may inspect and examine a
- 50 particular confidential portion of a State employee's personnel file. In this
- 51 subdivision, "court order" includes a lawfully issued subpoena or discovery

1 request so long as the parties have moved for the court to issue a protective
2 order regarding the confidential personnel file information. A party may
3 lawfully delay producing requested confidential personnel file documents
4 until the court has ruled on that party's motion for protective order regarding
5 those documents.

6 (6) An official of an agency of the federal government, State government or any
7 political subdivision thereof. Such an official may inspect any personnel
8 records when such inspection is deemed by the agency head as necessary and
9 essential to the proper function of said agency or to protect the safety of
10 another person; provided, however, that such information shall not be
11 divulged for purposes of assisting in a criminal prosecution, nor for purposes
12 of assisting in a tax investigation.

13 (7) Staff performing human resources functions at the employer or OSHR.

14 (8) Persons accessing a personnel file under G.S. 17C-10.2 or 17E-7.1.

15 (9) During a grievance hearing held by the employing agency, personnel file
16 information may be provided to the grievant to the extent necessary to
17 adjudicate the grievance. If the agency provides confidential personnel file
18 information of a person other than the grievant, the grievant shall keep that
19 information confidential.

20 (10) A party to a quasi-judicial hearing of a State agency subject to this Article, or
21 a State agency subject to this Article which is conducting a quasi-judicial
22 hearing, may have access to relevant material in personnel files and may
23 introduce copies of such material or information based on such material as
24 evidence in the hearing either upon consent of the employee upon subpoena
25 properly issued by the agency either upon request of a party or on its own
26 motion. Nothing in this Article shall impose liability on any agent or officer
27 of the State for compliance with this provision, notwithstanding any other
28 provision of this Article

29 (b) Notwithstanding any other provision of this Chapter, a department head may, in his
30 or her discretion, disclose the following information to a person or corporation about any
31 departmental employee:

32 (1) Any promotion, demotion, suspension, reinstatement, transfer, separation,
33 dismissal, employment, or nonemployment; and

34 (2) The reasons for any such action.

35 (c) A department head may also permit any person or corporation to inspect or examine
36 the personnel file of such individual, or any portion thereof.

37 (d) A department head may take the actions described in subsection (c) only when he or
38 she determines that disclosure is essential to maintaining the integrity of the department or the
39 level or quality of services it provides.

40 (e) Before releasing any information or making any file or portion thereof available under
41 subsections (b), (c), or (d) of this section, the department head shall prepare a memorandum
42 stating the circumstances requiring disclosure and identifying the information to be disclosed.
43 The memorandum shall be retained in departmental files and shall be a public record.

44 **"§ 126A-164. Remedies of employee objecting to material in file.**

45 An employee who objects to material in the employee's file because he or she considers it
46 inaccurate or misleading may:

47 (1) Place in his or her file a written statement relating to the material the employee
48 considers to be inaccurate or misleading.

49 (2) Seek the removal of such material from the file in accordance with a grievance
50 procedure approved by the Commission.

1 If the agency determines that material in the employee's file is inaccurate or misleading, the
2 agency shall remove or amend the inaccurate material to ensure that the file is accurate. Nothing
3 in this subsection shall be construed to permit an employee to appeal the contents of a
4 performance appraisal or written disciplinary action.

5 **"§ 126A-165. Penalty for permitting access to confidential file by unauthorized person.**

6 Any public official or employee who shall knowingly and willfully permit any person to have
7 access to or custody or possession of any portion of a personnel file designated as confidential
8 by this Article, unless such person is one specifically authorized by G.S. 126A-163 to have access
9 thereto for inspection and examination, shall be guilty of a Class 3 misdemeanor and upon
10 conviction shall only be fined in the discretion of the court but not in excess of five hundred
11 dollars (\$500.00).

12 **"§ 126A-166. Penalty for examining, copying, etc., confidential file without authority.**

13 Any person, not specifically authorized by G.S. 126A-163 to have access to a personnel file
14 designated as confidential by this Article, who shall knowingly and willfully examine in its
15 official filing place, remove or copy any portion of a confidential personnel file shall be guilty
16 of a Class 3 misdemeanor and upon conviction shall only be fined in the discretion of the court
17 but not in excess of five hundred dollars (\$500.00).

18 **"§§ 126A-167 through 126A-169.** Reserved for future codification.

19 "Article 17.

20 "Exemptions from the Public Employment Modernization Act.

21 **"§ 126A-170. Application of this Chapter; certain local government employees made
22 subject to this Chapter.**

23 (a) Each section of this Chapter applies to each of the following types of employees,
24 subject to the exemptions listed in this Chapter and in other laws:

25 (1) All State employees not exempted by law.

26 (2) All employees of the following local entities:

27 a. Area mental health, developmental disabilities, and substance abuse
28 authorities, except as otherwise provided in Chapter 122C of the
29 General Statutes.

30 b. Local social services departments.

31 c. County health departments and district health departments.

32 d. Local emergency management agencies that receive federal
33 grant-in-aid funds.

34 (3) County employees not included under subdivision (2) of this subsection as the
35 several boards of county commissioners may from time to time determine.

36 (b) An employee of a consolidated county human services agency created pursuant to
37 G.S. 153A-77(b) is not considered an employee of an entity listed in this subsection.

38 **"§ 126A-171. Exemption for probationary employees.**

39 Article 8 of this Chapter and G.S. 126A-91 do not apply to a State employee who is in a
40 probationary appointment except that G.S. 126A-84(b)(1) and (2) apply.

41 **"§ 126A-172. Exemption for experiential employees.**

42 (a) Articles 3, 4, and 8 of this Chapter, and G.S. 126A-91, do not apply to a State
43 employee in a permanent experiential appointment except that G.S. 126A-84(b)(1) and (2) apply.

44 (b) Articles 3, 4, 8, and 9 of this Chapter do not apply to a State employee in a
45 non-permanent experiential appointment, except that G.S. 126A-84(b)(1) and (2) apply.

46 (c) Notwithstanding (a) and (b) above, for good cause or based on requirements of an
47 apprenticeship, fellowship, or other work-based learning program set by the federal government
48 or an external funding source, the Director of OSHR may make an apprenticeship, fellowship, or
49 other work-based learning program exempt from additional articles or sections of this Chapter.

50 **"§ 126A-173. Exemption for temporary employees.**

1 Only Part 1 of Article 6, and Articles 10, 11, 15, and 16 of this Chapter apply to a State
2 employee in a temporary appointment.

3 **"§ 126A-174. Exemption for time-limited employees.**

4 (a) Only Articles 8 and 9 of this Chapter do not apply to a State employee in a
5 time-limited appointment, except that G.S. 126A-84(b)(1) and (2) apply.

6 (b) Time-limited appointments may be made to exempt positions, in which case the
7 time-limited employee will be exempt from the provisions of the act from which the position is
8 exempt.

9 **"§ 126A-175. Separation of exempt employees.**

10 An employee who is exempt from Article 8 of this Chapter may be transferred, demoted, or
11 separated from his or her position, without just cause, by that employee's direct or indirect
12 supervisor, by the agency head, or by the person authorized to designate the position as exempt.

13 **"§ 126A-176. Exempt policymaking employees, chief deputies, and confidential assistants.**

14 (a) The following are exempt from Article 5 and Part 2 of Article 6 of this Chapter;
15 G.S. 126A-93; G.S. 126A-94; and Article 8 and Article 10 of this Chapter.

16 (1) For each agency, three confidential assistants for each agency head and one
17 confidential assistant for each chief deputy or chief administrative assistant.

18 (2) Employees in exempt policymaking positions designated pursuant to
19 G.S. 126A-189.

20 (3) The chief deputy or chief administrative assistant to the head of each agency.

21 (4) Three full-time equivalent attorney positions of the Commissioner of Labor
22 designated pursuant to Section 4.2.(a) of Session Law 2025-92, which shall
23 not be subject to the limitations under G.S. 126A-189(b).

24 (b) The agency head shall designate chief deputies and confidential assistants as exempt
25 under subdivision (a)(1) or subdivision (a)(3) of this subsection by written notice to the employee
26 who is being designated as exempt.

27 **"§ 126A-177. Exempt managerial employees and exempt wardens.**

28 (a) The following are exempt from Part 2 of Article 5, Article 8, G.S. 126A-93 and
29 G.S. 126A-94, and Article 10 of this Chapter, except that G.S. 126A-84(b)(1) and (2) apply.

30 (1) Employees in exempt managerial positions designated pursuant to
31 G.S. 126A-189.

32 (2) Wardens of State adult correctional facilities.

33 (b) The agency head shall designate wardens as exempt under subdivision (a)(2) of this
34 section by written notice to the employee who is being designated as exempt.

35 (c) Wardens exempt under subdivision (a)(2) of this section shall be public servants
36 under G.S. 138A-3(70) and shall file Statements of Economic Interest under G.S. 138A-22.
37 Employees in these positions shall receive the protections of G.S. 126A-57.2, formerly
38 G.S. 126-5(e), if the employees were hired before August 21, 2013 and have the minimum
39 cumulative service to qualify under G.S. 126A-57.2.

40 **"§ 126A-178. Statutorily exempt employees.**

41 The following are exempt from Articles 3, 4, 5, Part 2 of Article 6, Part 2 and Part 3 of Article
42 7, Articles 8, 9, and 10 of this Chapter.

43 (1) Constitutional officers of the State.

44 (2) Officers and employees of the Judicial Department.

45 (3) Deputy commissioners appointed pursuant to G.S. 97-79.

46 (4) Officers and employees of the General Assembly.

47 (5) Members of boards, committees, commissions, councils, and advisory
48 councils compensated on a per diem basis.

49 (6) Officials or employees whose salaries are fixed by the General Assembly,
50 except for those employees on a legislatively established salary schedule not
51 otherwise exempted by this Chapter, or by the Governor, or by the Governor

- 1 and Council of State, or by the Governor subject to the approval of the Council
2 of State.
- 3 (7) Employees of the Office of the Governor that the Governor, at any time, in
4 the Governor's discretion, exempts from the application of this Chapter by
5 means of a letter to the Director of OSHR designating these employees.
- 6 (8) Employees of the Office of the Lieutenant Governor, that the Lieutenant
7 Governor, at any time, in the Lieutenant Governor's discretion, exempt from
8 the application of this Chapter by means of a letter to the Director of OSHR
9 designating these employees.
- 10 (9) Employees of The University of North Carolina who are exempt from the
11 minimum wage and overtime compensation provisions of the Fair Labor
12 Standards Act, instructional and research staff, student-oriented professionals,
13 finance professionals, business office professionals, auditor professionals,
14 information technology professionals, physicians, dentists, pilots, and the
15 faculty of the North Carolina School of Science and Mathematics, and all
16 temporary employees. The Board of Governors of The University of North
17 Carolina shall have the authority to establish positions under this subdivision
18 to be exempt from this Chapter without further review or approval by any
19 other State agency.
- 20 (10) Employees of a regional school established pursuant to Part 10 of Article 16
21 of Chapter 115C of the General Statutes.
- 22 (11) Employees of a school for the deaf or blind governed by Article 9C of Chapter
23 115C of the General Statutes hired on or after July 1, 2024.
- 24 (12) Employees whose salaries are fixed under the authority vested in the Board of
25 Governors of The University of North Carolina by the provisions of
26 G.S. 116-11(4), 116-11(5), and 116-14.
- 27 (13) Employees of the North Carolina Cooperative Extension Service of North
28 Carolina State University and North Carolina Agricultural and Technical State
29 University who are employed in county operations and who are not exempt
30 pursuant to subdivision (8) or (9) of this subsection.
- 31 (14) Employees of the North Carolina State Ports Authority.
- 32 (15) Employees of the North Carolina Global TransPark Authority.
- 33 (16) The executive director and one associate director of the North Carolina Center
34 for Nursing established under Article 9F of Chapter 90 of the General Statutes.
- 35 (17) Employees of the Tobacco Trust Fund Commission established in Article 75
36 of Chapter 143 of the General Statutes.
- 37 (18) Employees of the North Carolina Turnpike Authority.
- 38 (19) The Executive Administrator of the State Health Plan for Teachers and State
39 Employees and employees of the State Health Plan for Teachers and State
40 Employees as designated by law or by the Executive Administrator of the
41 Plan.
- 42 (20) The North Carolina State Lottery Director and employees of the North
43 Carolina State Lottery.
- 44 (21) The Chief Administrative Law Judge of the Office of Administrative Hearings
45 and five employees of the Office of Administrative Hearings as designated by
46 the Chief Administrative Law Judge.
- 47 (22) The Executive Director and the Assistant Director of the U.S.S. North
48 Carolina Battleship Commission.
- 49 (23) The Executive Director, Deputy Director, all other directors, assistant and
50 associate directors, and center fellows of the North Carolina Center for the
51 Advancement of Teaching.

- 1 (24) Employees of the Department of Commerce employed in the Rural Economic
2 Development Division.
- 3 (25) Employees of the North Carolina Health Information Exchange Authority.
- 4 (26) Employees of the Division of Health Benefits of the Department of Health and
5 Human Services.
- 6 (27) The Associate Superintendent of Early Education who serves as chief
7 academic officer of early education.
- 8 (28) Employees of the North Carolina Youth Outdoor Engagement Commission.
- 9 (29) Employees of the Division of State Operated Healthcare Facilities of the
10 Department of Health and Human Services who are (i) health care
11 professionals licensed under Chapter 90 or Chapter 90B of the General
12 Statutes or (ii) engineers responsible for maintenance or buildings operations
13 at one of the health care facilities operated by the Secretary of the Department
14 of Health and Human Services under G.S. 122C-181.
- 15 (30) The Executive Director of the North Carolina Boxing and Combat Sports
16 Commission created pursuant to G.S. 143-652.2.
- 17 (31) No more than 10 employees of the State Bureau of Investigation designated
18 by the Director of the State Bureau of Investigation
- 19 (32) No more than 17 employees of the State Highway Patrol as designated by the
20 Commander of the State Highway Patrol.
- 21 (33) The Chief Investment Officer of the North Carolina Investment Authority and
22 employees of the North Carolina Investment Authority who possess
23 specialized skills or knowledge necessary for the proper administration of
24 investment programs and who are employed in a position designated by the
25 Chief Investment Officer as exempt in accordance with G.S. 147-72.1
- 26 (34) Liaisons to the Collaboration for Prosperity Zones set out in G.S. 143B-28.1
27 for the Departments of Commerce, Environmental Quality, and
28 Transportation.

29 **"§ 126A-179. Employees on experience-based salary schedules.**

30 An employee in a position with an experience-based salary schedule established in a Current
31 Operations Appropriations Act as defined in G.S. 143C-1.1 is exempt from Article 4 of this
32 Chapter.

33 **"§ 126A-180. Exemptions from classification, compensation, leave, and promotional
34 priority.**

35 The following are exempt from Articles 3, and 4, policies established under 126A-50(4),
36 policies established under 126A-72(a)(1) covering hours and days of work, vacation, and sick
37 leave, and Part 3 of Article 7 of this Chapter.

- 38 (1) The Office of the Commissioner of Banks and its employees.
- 39 (2) The following employees of the Department of Natural and Cultural
40 Resources:
- 41 a. Director and Associate Directors of the North Carolina Museum of
42 History.
- 43 b. Program Chiefs and Curators.
- 44 c. Regional History Museum Administrators and Curators.
- 45 d. Employees assigned to assist the North Carolina Symphony Society,
46 Incorporated.
- 47 e. Director, Associate Directors, and Curators of Tryon Palace.
- 48 f. Director, Associate Directors, and Curators of Transportation
49 Museum.
- 50 g. Director and Associate Directors of the North Carolina Arts Council.

1 h. Director, Assistant Directors, and Curators of the Division of State
2 Historic Sites.

3 (3) Employees of the Department of Information Technology (DIT), and
4 employees in all agencies, departments, and institutions with similar
5 classifications as DIT employees, who voluntarily relinquish annual longevity
6 payments, relinquish any claim to longevity pay, voluntarily relinquish any
7 claim to career status or eligibility for career status as approved by the State
8 Chief Information Officer and the Director of OSHR.

9 (4) Employees of the Utilities Commission and the Commission's Public Staff.

10 **"§ 126A-181. Treasurer's Office exemptions.**

11 The following are exempt from Articles 3, 4, and 5, Part 2 of Article 6, Part 2 and Part 3 of
12 Article 7, and Article 8 of this Chapter.

13 (1) Employees of the Department of State Treasurer possessing specialized skills
14 or knowledge necessary for the proper administration of investment programs
15 and compensated pursuant to G.S. 147-65.2(b).

16 (2) Employees of the Department of State Treasurer possessing specialized skills
17 or knowledge necessary for the proper administration of the Supplemental
18 Retirement Plans and compensated pursuant to G.S. 135-91(c).

19 **"§ 126A-182. Exemption for State employees compensated as teachers.**

20 Except as to Part 2 and Part 3 of Article 7 and Articles 15 and 16, this Chapter does not apply
21 to any of the teaching and related educational classes of employees of the Division of Juvenile
22 Justice of the Department of Public Safety, the Department of Health and Human Services, and
23 any other State agency whose salaries shall be set in the same manner as set for corresponding
24 public school employees in accordance with Chapter 115C of the General Statutes.

25 **"§ 126A-183. Exemption for university health employees.**

26 Except as to Part 1 of Article 6, Part 1 of Article 7, and Articles 10, 14, 15, and 16, this
27 Chapter does not apply to any of the following:

28 (1) Employees of the University of North Carolina Health Care System.

29 (2) Employees of the University of North Carolina Hospitals at Chapel Hill.

30 (3) Employees of the clinical patient care programs of the School of Medicine of
31 the University of North Carolina at Chapel Hill.

32 (4) Employees of the Medical Faculty Practice Plan, a division of the School of
33 Medicine of East Carolina University.

34 (5) Employees of UNC-CH Dental School Clinical Operations, a division of the
35 Adams School of Dentistry at the University of North Carolina at Chapel Hill.

36 (6) Employees of ECU Dental School Clinical Operations, a division of the
37 School of Dental Medicine at East Carolina University.

38 **"§ 126A-184. Exemption for university police officers.**

39 Except as to Part 1 of Article 6, Part 1 of Article 7, and Articles 8, 15, and 16, this Chapter
40 does not apply to commissioned police officer positions of the University of North Carolina.
41 Employees in positions covered by this exemption are eligible for all employment and retirement
42 benefits provided to State law enforcement officers subject to this Chapter.

43 **"§ 126A-185. Fully exempt employees.**

44 This Chapter does not apply to any of the following:

45 (1) Public school superintendents, principals, teachers, and other public school
46 employees.

47 (2) Employees of community colleges whose salaries are fixed in accordance with
48 G.S. 115D-6.1 and G.S. 115D-20 and employees of the Community Colleges
49 System Office whose salaries are fixed by the State Board of Community
50 Colleges in accordance with G.S. 115D-3.

- 1 (3) Employees of the Office of Proprietary Schools whose salaries are fixed by
2 the State Board of Proprietary Schools in accordance with G.S. 115D-89.2.
3 (4) Officers, employees, and members of the governing board of a North Carolina
4 nonprofit corporation with which the Department of Commerce has contracted
5 pursuant to the authority granted in G.S. 143B-431.01

6 **"§ 126A-186. Statutes that imply exemptions from this Chapter.**

7 Where a State law specifies a process for a position that is inconsistent with the process
8 established in this Chapter, the position is exempt from this Chapter to that extent. For example,
9 and not by way of limitation:

- 10 (1) A statute that identifies someone as being "appointed by" an agency head
11 makes that position exempt from Article 5 of this Chapter.
12 (2) A statute that identifies someone as serving "at the pleasure of" an agency
13 head makes that position exempt from Article 8 of this Chapter.

14 **"§ 126A-187. Agency discretion to adopt policies for exempt employees.**

15 When a statute makes a position exempt from this Chapter regarding any subject, an agency
16 has discretion to address that subject by adopting either its own policy or the Commission policy.

17 **"§ 126A-188. Sections of the Act that apply to otherwise exempt employees.**

18 (a) The following sections of this Chapter apply to certain positions that are otherwise
19 exempt from this Chapter, as listed below:

- 20 (1) Notwithstanding any provision of law of this Chapter, G.S. 126A-43 shall
21 apply to all full-time State employees.
22 (2) Notwithstanding any provision of law of this Chapter, G.S. 126A-52 shall
23 apply to all State employees.
24 (3) Notwithstanding any provision of law of this Chapter, G.S. 126A-57.2 shall
25 apply, to the extent indicated in that section, to all employees in exempt
26 managerial, exempt warden, and exempt policymaking positions hired before
27 August 1, 2013.
28 (4) Notwithstanding any other provision of this Chapter, G.S. 126A-71 applies to
29 all State employees, public school employees, and community college
30 employees. G.S. 126A-71 does not apply to employees described in
31 subdivisions (2) and (4) of G.S. 126A-178
32 (5) Notwithstanding any other provision of this section, Part 4 of Article 7 of this
33 Chapter applies to all exempt and nonexempt State employees in the
34 executive, legislative, and judicial branches unless provided otherwise by Part
35 4 of Article 7. Part 4 of Article 7 does not apply to employees described in
36 subdivisions (2) and (3) of G.S. 126A-170(a).
37 (6) Notwithstanding any other provision of this Chapter, G.S. 126A-95 applies to
38 all permanent exempt and nonexempt State employees in the executive,
39 legislative, and judicial branches unless provided otherwise by G.S. 126A-95.
40 G.S. 126A-95 does not apply to employees described in subdivisions (2) and
41 (3) of G.S. 126A-170(a).
42 (7) Notwithstanding any other provision of this Chapter, Article 14 of this
43 Chapter applies to all State employees, public school employees, and
44 community college employees.

45 **"§ 126A-189. Designation of exempt policymaking and exempt managerial positions.**

46 (a) Exempt Policymaking and Exempt Managerial Positions in Cabinet Departments. –
47 Subject to this Chapter, the Governor may designate a total of 425 exempt policymaking and
48 exempt managerial positions throughout the following departments and offices:

- 49 (1) Department of Administration.
50 (2) Department of Commerce.
51 (3) Department of Public Safety.

- 1 (4) Department of Natural and Cultural Resources.
- 2 (5) Department of Health and Human Services.
- 3 (6) Department of Environmental Quality.
- 4 (7) Department of Revenue.
- 5 (8) Department of Transportation.
- 6 (9) Department of Information Technology.
- 7 (10) Department of Military and Veterans Affairs.
- 8 (11) Department of Adult Correction.
- 9 (12) Office of State Human Resources.
- 10 (13) Office of State Budget & Management.

11 (b) Exempt Policymaking and Exempt Managerial Positions in Council of State
12 Departments and Offices, the Office of the State Controller, the State Board of Elections. – The
13 following officials may designate up to 25 exempt policymaking positions or two percent (2%)
14 of the total number of full-time positions in the department, whichever is greater and 25 exempt
15 managerial positions or two percent (2%) of the total number of full-time positions in the
16 department, whichever is greater, except as described below:

- 17 (1) The Secretary of State.
- 18 (2) The Auditor.
- 19 (3) The Treasurer.
- 20 (4) The Attorney General.
- 21 (5) The Superintendent of Public Instruction – the number of exempt
22 policymaking positions is limited to 70 or two percent (2%) of the total
23 number of full-time positions in the department, whichever is greater. The
24 number of exempt managerial positions is limited to 70 exempt managerial
25 positions or two percent (2%) of the total number of full-time positions in the
26 department, whichever is greater.
- 27 (6) The Commissioner of Agriculture.
- 28 (7) The Commissioner of Insurance.
- 29 (8) The Commissioner of Labor.
- 30 (9) The State Controller – The total number of exempt positions, policymaking
31 and managerial, is limited to 10.
- 32 (10) The Executive Director of the State Board of Elections – The total number of
33 exempt positions is limited to the following seven positions: Agency Human
34 Relations Director II, Agency General Counsel II, Assistant General Counsel
35 II, Public Information Manager, Legislative Affairs Manager, Internal
36 Auditor, and Administrative Officer III.

37 (c) Designation of Additional Positions. – The Governor or elected department head may
38 request that additional positions be designated as exempt. The request shall be made by sending
39 a list of exempt policymaking and exempt managerial positions that exceed the limit imposed by
40 this subsection to the Speaker of the North Carolina House of Representatives and the President
41 of the North Carolina Senate. A copy of the list also shall be sent to the Director of OSHR. The
42 General Assembly may authorize all, or part of, the additional positions to be designated as
43 exempt policymaking and exempt managerial positions.

- 44 (1) If the General Assembly is in session when the list is submitted and does not
45 act within 30 days after the list is submitted, the list is deemed approved by
46 the General Assembly, and the positions shall be designated as exempt
47 positions.
- 48 (2) If the General Assembly is not in session the list shall be submitted to the Joint
49 Legislative Commission on Governmental Operations and if the Commission
50 does not meet within 90 days of submission the list is deemed approved

1 pursuant to G.S. § 120-76.1(b) and the positions shall be designated as
2 exempt.

3 (d) Letter. – Exempt policymaking and exempt managerial positions shall be designated
4 in a letter to the Director of OSHR, the Speaker of the House of Representatives, and the President
5 of the Senate by July 1 of the year in which the oath of office is administered to each Governor
6 unless subsection (e) of this section applies.

7 (e) Vacancies. – In the event of a vacancy in the Office of Governor, the office of a
8 member of the Council of State, the Office of the State Controller, or the Executive Director of
9 the State Board of Elections, the person who succeeds to or is appointed or elected to fill the
10 unexpired term shall make designations in a letter to the Director of OSHR, the Speaker of the
11 House of Representatives, and the President of the Senate within 180 days after the oath of office
12 is administered to that person.

13 (f) Creation, Transfer, or Reorganization. – The Governor or elected department head
14 may designate as exempt a position that is created or transferred to a different department, or is
15 located in a department in which reorganization has occurred, after July 1 of the year in which
16 the oath of office is administered to the Governor. The designation shall be made in a letter to
17 the Director of OSHR, the Speaker of the North Carolina House of Representatives, and the
18 President of the North Carolina Senate within 180 days after the position is created, transferred,
19 or in which reorganization has occurred.

20 (g) Reversal. – Subsequent to the designation of a position as an exempt policymaking or
21 exempt managerial position, the status of the position may be reversed and made subject to this
22 Chapter by the Governor or by an elected department head in a letter to the Director of OSHR,
23 the Speaker of the North Carolina House of Representatives, and the President of the North
24 Carolina Senate.

25 (h) No Designation for Certain Positions. – Except for deputy commissioners appointed
26 pursuant to G.S. 97-79 and as otherwise specifically provided by this section, no employee, by
27 whatever title, whose primary duties include the power to conduct hearings, take evidence, and
28 enter a decision based on findings of fact and conclusions of law based on statutes and legal
29 precedents shall be designated as exempt.

30 **"§ 126A-190. Notice of being exempt from this Chapter; disputes about whether employees
31 are subject to this Chapter.**

32 (a) No employee shall be placed in an exempt policymaking or exempt managerial
33 position without 10 working days' prior written notification that the position is so designated. A
34 person applying for a position that is designated as policymaking or exempt managerial shall be
35 notified in writing at the time the person makes the application that the position is designated as
36 exempt.

37 (b) In case of a dispute as to whether an employee is subject to this Chapter, the dispute
38 shall be resolved as provided in Article 3 of Chapter 150B of the General Statutes."

39 **SECTION 1.1.(b) Repeal.** – Chapter 126 of the General Statutes is repealed.
40

41 **PART II. CONFORMING STATUTORY CHANGES**

42 **SECTION 2.1.** G.S. 95-127(3) reads as rewritten:

43 "(3) Classified service. – A position included in the State Merit System of
44 ~~Personnel Administration~~ Human Resources subject to the laws, rules and
45 regulations of the ~~State Personnel Board~~ State Human Resources Commission
46 as administered by the State ~~Personnel~~ Human Resources Director and as set
47 forth in Chapter ~~126~~ 126A of the General Statutes."

48 **SECTION 2.2.(a)** G.S. 115C-21(a)(1) reads as rewritten:

49 "(a) Administrative Duties. – It shall be the duty of the Superintendent of Public
50 Instruction:

(1) To organize and establish a Department of Public Instruction which shall include divisions and departments for supervision and administration of the public school system, to administer the funds appropriated for the operation of the Department of Public Instruction, in accordance with all needed rules and regulations adopted by the State Board of Education, and to enter into contracts for the operations of the Department of Public Instruction. All appointments of administrative and supervisory personnel to the staff of the Department of Public Instruction and the State Board of Education, except for certain personnel appointed by the State Board of Education as provided in G.S. 115C-11(j), shall be under the control and management of the Superintendent of Public Instruction who may terminate these appointments in conformity with ~~Chapter 126 of the General Statutes, the North Carolina Human Resources Act.~~ Chapter 126A of the General Statutes, the Public Workforce Modernization Act."

SECTION 2.2.(b) G.S. 115C-64.28(b) reads as rewritten:

"(b) The Associate Superintendent shall be appointed by the Superintendent of Public Instruction at a salary established by the Superintendent of Public Instruction within the funds appropriated for that purpose. The Associate Superintendent may be removed from the position by the Superintendent of Public Instruction. The Associate Superintendent shall be exempt from the provisions of Chapter 126 of the General Statutes, except for Articles 6 and 7 of Chapter 126 of the General Statutes.

All other staff shall be appointed, supervised, and directed by the Associate Superintendent and shall be subject to the provisions of Chapter ~~126~~126A of the General Statutes. Except for the Associate Superintendent, salaries and compensation of all staff personnel shall be fixed in the manner provided by law for fixing and regulating salaries and compensation by other State agencies."

SECTION 2.2.(c) G.S. 115C-238.68(8) reads as rewritten:

"(8) Paid parental leave. – Teachers employed by the board of directors shall be eligible for paid parental leave as provided in G.S. ~~126-8.6.126A-71.~~ The board of directors shall be eligible to receive funds as provided in G.S. 115C-336.1(b)."

SECTION 2.2.(d) G.S. 115C-268.1(g) reads as rewritten:

"(g) Personnel. – The Commission may employ, subject to Chapter ~~126-126A~~ of the General Statutes, the necessary personnel for the performance of its functions and fix compensation within the limits of funds available to the Commission."

SECTION 2.2.(e) G.S. 115C-407.61(a)(6) reads as rewritten:

"(6) Agree to adopt procedures for its operations that are comparable to those of Chapter 132 of the General Statutes, the Public Records Law, and provide for enforcement by the Superintendent. The procedures may provide for the confidentiality of personnel files comparable to ~~Article 7 of Chapter 126~~ Article 16 of Chapter 126A of the General Statutes."

SECTION 2.3. G.S. 120-86.1 reads as rewritten:

"§ 120-86.1. Personnel-related action unethical.

It shall be unethical for a legislator to take, promise, or threaten any legislative action, as defined in G.S. 120C-100(9), for the purpose of influencing or in retaliation for any action regarding State employee hirings, promotions, grievances, or disciplinary actions subject to Chapter ~~126~~126A of the General Statutes."

SECTION 2.4.(a) G.S.122C-121(a1) reads as rewritten:

"(a1) The area board shall establish the area director's salary under Article ~~312~~ of Chapter ~~126~~126A of the General Statutes. Notwithstanding G.S. ~~126-9(b),126A-120,~~ an area director may be paid a salary that is in excess of the salary ranges established by the State Human

1 Resources Commission. Any salary that is higher than the maximum of the applicable salary
2 range shall be supported by documentation of comparable salaries in comparable operations
3 within the region and shall also include the specific amount the board proposes to pay the
4 director. The area board shall not authorize any salary adjustment that is above the normal
5 allowable salary range without obtaining prior approval from the Director of the Office of State
6 Human Resources."

7 **SECTION 2.4.(b)** 122C-154 reads as rewritten:

8 "**§ 122C-154. Personnel.**

9 Employees under the direct supervision of the area director are employees of the area
10 authority. For the purpose of personnel administration, Chapter ~~126~~126A of the General Statutes
11 applies unless otherwise provided in this Article. Notwithstanding G.S. ~~126-9(b)~~,126A-120, an
12 employee of an area authority may be paid a salary that is in excess of the salary ranges
13 established by the State Human Resources Commission. Any salary that is higher than the
14 maximum of the applicable salary range shall be supported by documentation of comparable
15 salaries in comparable operations within the region and shall also include the specific amount the
16 board proposes to pay the employee. The area board shall not authorize any salary adjustment
17 that is above the normal allowable salary range without obtaining prior approval from the
18 Director of the Office of State Human Resources."

19 **SECTION 2.4.(c)** G.S. 122C-156(a) reads as rewritten:

20 "(a) The area authority shall establish a salary plan which shall set the salaries for
21 employees of the area authority. The salary plan shall be in compliance with Chapter ~~126~~126A
22 of the General Statutes. In a multi-county area, the salary plan shall not exceed the highest paying
23 salary plan of any county in that area. In a single-county area, the salary plan shall not exceed
24 the county's salary plan. The salary plan limitations set forth in this section may be exceeded only
25 if the area authority and the board or boards of county commissioners, as the case may be, jointly
26 agree to exceed these limitations."

27 **SECTION 2.4.(d)** G.S. 122C-191(b) reads as rewritten:

28 "(b) Each area authority and State facility shall comply with the rules of the Commission
29 regarding quality assurance activities, including: program evaluation; utilization and peer review;
30 and staff qualifications, privileging, supervision, education, and training. These rules may not
31 nullify compliance otherwise required by Chapter ~~126~~126A of the General Statutes."

32 **SECTION 2.4.(e)** G.S. 122C-270(f) reads as rewritten:

33 "(f) The Attorney General may employ four attorneys, one to be assigned by him full-time
34 to each of the State facilities for the mentally ill, to represent the State's interest at commitment
35 hearings, rehearings and supplemental hearings held under this Article at the State facilities for
36 respondents admitted to those facilities pursuant to Part 3, 4, 7, or 8 of this Article or
37 G.S. 15A-1321 and to provide liaison and consultation services concerning these matters. These
38 attorneys are subject to Chapter ~~126~~126A of the General Statutes and shall also perform
39 additional duties as may be assigned by the Attorney General. The attorney employed by the
40 Attorney General in accordance with G.S. 114-4.2B shall represent the State's interest at
41 commitment hearings, rehearings and supplemental hearings held for respondents admitted to
42 the University of North Carolina Hospitals at Chapel Hill pursuant to Part 3, 4, 7, or 8 of this
43 Article or G.S. 15A-1321."

44 **SECTION 2.5.** G.S. 128-24(6) reads as rewritten:

45 "(6) Employees of a sending agency participating in an intergovernmental
46 exchange of personnel under the provisions of ~~Article 10 of Chapter 126~~ Part
47 2 of Article 5 of Chapter 126A shall remain members entitled to all benefits
48 of the Retirement System provided that the requirements of ~~Article 10 of~~
49 ~~Chapter 126~~ Part 2 of Article 5 of Chapter 126A are met. A member may
50 retain membership status while serving as an assigned employee or employee
51 on leave under the provisions of ~~Article 10 of Chapter 126~~ Part 2 of Article 5

1 of Chapter 126A for purposes of receiving the death benefit and, if applicable,
2 benefits under the Death Benefit Plan regardless of whether the member and
3 the member's employer are contributing to the member's account during the
4 exchange period, except that no duplicate benefits shall be paid."

5 **SECTION 2.6.(a)** G.S. 135-3(c) reads as rewritten:

6 "(c) Members who are participating in an intergovernmental exchange of personnel under
7 the provisions of ~~Article 10 of Chapter 126~~ Part 2 of Article 5 of Chapter 126A may retain their
8 membership status and receive all benefits provided by this Chapter during the period of the
9 exchange provided the requirements of ~~Article 10 of Chapter 126~~ Part 2 of Article 5 of Chapter
10 126A are met. A member participating in an intergovernmental exchange of personnel under
11 ~~Article 10 of Chapter 126~~ Part 2 of Article 5 of Chapter 126A shall, notwithstanding whether
12 the member and the member's employer are making contributions to the member's account during
13 the exchange period, be entitled to the death benefit and, if applicable, benefits under the Death
14 Benefit Plan under Article 8 of this Chapter, if the member otherwise qualifies under the
15 provisions of this Article, except that no duplicate benefits shall be paid."

16 **SECTION 2.6.(b)** G.S. 135-48.23(c1) reads as rewritten:

17 "(c1) The State Treasurer may employ such clerical and professional staff, and such other
18 assistance as may be necessary to assist the Executive Administrator, the Board of Trustees, and
19 the State Treasurer in carrying out their duties and responsibilities under this Article. The State
20 Treasurer may designate any managerial, professional, or policy-making positions as exempt
21 from the ~~North Carolina Human Resources Act~~ Public Workforce Modernization Act. All
22 exempt employees shall serve at the pleasure of the State Treasurer, and any vacancies in these
23 positions may be filled by the State Treasurer. Salaries of exempt employees shall be set by the
24 State Treasurer."

25 **SECTION 2.7.(a)** G.S. 143-202.4 reads as rewritten:

26 **"§ 143-202.4. Roanoke Island Festival Park staff.**

27 The Association shall serve as a search committee to seek out, interview, and recommend to
28 the Secretary of Natural and Cultural Resources an Executive Director of Roanoke Island Festival
29 Park. All Festival Park staff shall be considered employees of the Department of Natural and
30 Cultural Resources and shall be paid from the Historic Roanoke Island Fund as provided in
31 G.S. 143-202.3. Except as otherwise provided in this section, ~~or G.S. 126-5,~~ these employees
32 shall retain the same designations under the ~~North Carolina Human Resources Act, Chapter 126~~
33 ~~of the General Statutes,~~ Public Workforce Modernization Act, Chapter 127A of the General
34 Statutes, as they had prior to the transfer."

35 **SECTION 2.7.(b)** G.S. 143-554(a) reads as rewritten:

36 "(a) Any employee or former employee of an employing entity within the meaning of
37 G.S. 143-552(1)a whose employment is terminated pursuant to the provisions of this Part shall
38 be given the opportunity to appeal the employment termination to the State Human Resources
39 Commission according to the normal appeal and hearing procedures provided by Chapter ~~126~~
40 126A and the State Human Resources Commission rules adopted pursuant to the authority of that
41 Chapter; however, nothing herein shall be construed to give the right to termination reviews to
42 anyone exempt from that right under ~~G.S. 126-5~~ Article 17 of Chapter 126A."

43 **SECTION 2.7.(c)** G.S. 143-728(e) reads as rewritten:

44 "(e) Benefits. – An officer, employee, or member of a governing board of NCInnovation
45 is not a State employee, is not covered by Chapter ~~126~~126A of the General Statutes, and is not
46 entitled to State-funded employee benefits, including membership in the Teachers' and State
47 Employees' Retirement System and the State Health Plan for Teachers and State Employees."

48 **SECTION 2.7.(d)** G.S. 143-747(a1) reads as rewritten:

49 "(a1) The Council shall hire an Executive Director as selected by a majority of the Council.
50 The Executive Director shall serve at the will of the Council and be exempt from the provisions

1 of the ~~North Carolina Human Resources~~ Public Workforce Modernization Act under Chapter
2 ~~126126A~~ of the General Statutes."

3 **SECTION 2.8.(a)** G.S. 143B-53.2(c) reads as rewritten:

4 "(c) The exemptions to Chapter ~~126126A~~ of the General Statutes authorized by ~~G.S.~~
5 ~~126-5(e11)~~ Article 17 of that Chapter for the employees of the Department of Natural and
6 Cultural Resources listed in that subsection shall be used to develop organizational classification
7 and compensation innovations that will result in the enhanced efficiency of operations. The
8 Office of State Human Resources shall assist the Secretary of Natural and Cultural Resources in
9 the development and implementation of an organizational structure and human resources
10 programs that make the most appropriate use of the exemptions, including (i) a system of job
11 categories or descriptions tailored to the agency's needs; (ii) policies regarding paid time off for
12 agency personnel and the voluntary sharing of such time off; and (iii) a system of uniform
13 performance assessments for agency personnel tailored to the agency's needs. The Secretary of
14 Natural and Cultural Resources may, under the supervision of the Office of State Human
15 Resources, develop and implement organizational classification and compensation innovations
16 having the potential to benefit all State agencies."

17 **SECTION 2.8.(b)** G.S. 143B-168.12(a)(2) reads as rewritten:

18 "(2) The North Carolina Partnership and the local partnerships shall agree to adopt
19 procedures for its operations that are comparable to those of Article 33C of
20 Chapter 143 of the General Statutes, the Open Meetings Law, and Chapter
21 132 of the General Statutes, the Public Records Law, and provide for
22 enforcement by the Department. The procedures may provide for the
23 confidentiality of personnel files comparable to Article 716 of Chapter
24 ~~126126A~~ of the General Statutes."

25 **SECTION 2.8.(c)** G.S. 143B-168.14(a)(2) reads as rewritten:

26 "(2) The North Carolina Partnership and the local partnerships shall agree to adopt
27 procedures for its operations that are comparable to those of Article 33C of
28 Chapter 143 of the General Statutes, the Open Meetings Law, and Chapter
29 132 of the General Statutes, the Public Records Law, and provide for
30 enforcement by the Department. The procedures may provide for the
31 confidentiality of personnel files comparable to Article 716 of Chapter
32 ~~126126A~~ of the General Statutes."

33 **SECTION 2.8.(d)** G.S. 143B-431.01(j) reads as rewritten:

34 "(j) Benefits. – An officer, employee, or member of a governing board of a North Carolina
35 nonprofit corporation with which the Department contracts pursuant to this section is not a State
36 employee, is not covered by Chapter ~~126126A~~ of the General Statutes, and is not entitled to
37 State-funded employee benefits, including membership in the Teachers' and State Employees'
38 Retirement System and the State Health Plan for Teachers and State Employees."

39 **SECTION 2.8.(e)** G.S. 143B-1209.11(f) reads as rewritten:

40 "(f) The Bureau may provide a criminal record check to the schools within the Department
41 of Health and Human Services of a person who is employed, applies for employment, or applies
42 to be selected as a volunteer, if the employee or applicant consents to the record check. The
43 Department of Health and Human Services shall keep all information pursuant to this subsection
44 confidential, as provided in Article 7-16 of Chapter ~~126126A~~ of the General Statutes."

45 **SECTION 2.9.(a)** G.S. 150B-23(a) reads as rewritten:

46 "(a) A contested case shall be commenced by paying a fee in an amount established in
47 G.S. 150B-23.2 and by filing a petition with the Office of Administrative Hearings and, except
48 as provided in Article 3A of this Chapter, shall be conducted by that Office. The party that files
49 the petition shall serve a copy of the petition on all other parties and, if the dispute concerns a
50 license, the person that holds the license. A party that files a petition shall file a certificate of
51 service together with the petition. A petition shall be signed by a party, an attorney representing

1 a party, or other representative of the party as may specifically be authorized by law, and, if filed
2 by a party other than an agency, shall state facts tending to establish that the agency named as
3 the respondent has deprived the petitioner of property, has ordered the petitioner to pay a fine or
4 civil penalty, or has otherwise substantially prejudiced the petitioner's rights and that the agency
5 did any of the following:

- 6 (1) Exceeded its authority or jurisdiction.
- 7 (2) Acted erroneously.
- 8 (3) Failed to use proper procedure.
- 9 (4) Acted arbitrarily or capriciously.
- 10 (5) Failed to act as required by law or rule.

11 The parties in a contested case shall be given an opportunity for a hearing without undue
12 delay. Any person aggrieved may commence a contested case under this section.

13 A local government employee, applicant for employment, or former employee to whom
14 Chapter ~~126~~126A of the General Statutes applies may commence a contested case under this
15 Article in the same manner as any other petitioner. The case shall be conducted in the same
16 manner as other contested cases under this Article.

17 A business entity may represent itself using a nonattorney representative who is one or more
18 of the following of the business entity: (i) officer, (ii) manager or member-manager, if the
19 business entity is a limited liability company, (iii) employee whose income is reported on IRS
20 Form W-2, if the business entity authorizes the representation in writing, or (iv) owner of the
21 business entity, if the business entity authorizes the representation in writing and if the owner's
22 interest in the business entity is at least twenty-five percent (25%). Authority for and prior notice
23 of nonattorney representation shall be made in writing, under penalty of perjury, to the Office on
24 a form provided by the Office."

25 **SECTION 2.9.(b)** G.S. 150B-25.1(c) reads as rewritten:

26 "(c) The burden of showing by a preponderance of the evidence that a career State
27 employee subject to Chapter ~~126~~126A of the General Statutes was discharged, suspended, or
28 demoted for just cause rests with the agency employer."

29 **SECTION 2.9.(c)** G.S. 150B-33(b)(11) reads as rewritten:

30 "(11) Order the assessment of reasonable attorneys' fees and witnesses' fees against
31 the State agency involved in contested cases decided under this Article where
32 the administrative law judge finds that the State agency named as respondent
33 has substantially prejudiced the petitioner's rights and has acted arbitrarily or
34 capriciously or under Chapter ~~126~~126A where the administrative law judge
35 finds discrimination, harassment, or orders reinstatement or back pay."
36

37 **PART III. CLARIFYING AND TRANSITION PROVISIONS**

38 39 **CLARIFICATIONS OF REGARDING GRIEVANCES/STATUS OF CERTAIN** 40 **EMPLOYEES/OTHER MATTERS**

41 **SECTION 3.1.(a)** The provisions of Chapter 126 of the General Statutes as they
42 existed immediately prior to repeal shall continue to govern all of the following:

- 43 (1) Any contested case pending before the State Human Resources Commission
44 or the Office of Administrative Hearings on the effective date of the Public
45 Workforce Modernization Act (PWMA) as enacted by this act, including any
46 judicial review of such a case pending in the General Court of Justice.
- 47 (2) Any grievance, disciplinary action, or appeal initiated under Chapter 126 prior
48 to the effective date of the PWMA and not finally resolved as of that date.
- 49 (3) Any claim for back pay, reinstatement, or other relief arising from
50 employment actions that occurred prior to the effective date the PWMA.

- 1 (4) Any right to career State employee status vested under G.S. 126-1.1 prior to
2 the effective date of the PWMA.
- 3 (5) Any cause of action arising under Chapter 126 that accrued prior to the
4 effective date of the PWMA, regardless of when suit or administrative action
5 is initiated.
- 6 **SECTION 3.1.(b)** Effective on the effective date of the PWMA:
- 7 (1) The extension of the probationary period authorized in G.S. 126A-34(a)(2)
8 shall only apply to employees hired on or after the effective date.
- 9 (2) Any employee designated as a confidential assistant or confidential secretary
10 under former G.S. 126-5(c)(2) is automatically redesignated as a confidential
11 assistant under G.S. 126A-176(a)(1).
- 12 (3) Any employee designated as an exempt warden under former G.S. 126-5(c17)
13 or G.S. 126-5(c18) is automatically redesignated as an exempt warden under
14 G.S. 126A-177(a)(2).
- 15 (4) The provisions of G.S. 126A-174 will only apply to employees hired on or
16 after the effective date.
- 17

18 **SYSTEMATIC REVIEW OF RULES**

19 **SECTION 3.2.(a)** If a provision of Chapter 126A of the General Statutes conflicts
20 with an existing rule in Title 25, Chapter 01 of the North Carolina Administrative Code, the
21 provisions of Chapter 126A shall control. This subsection does not repeal any rule by operation
22 of this act.

23 **SECTION 3.2.(b)** Under the rulemaking authority in G.S. 126A-22 and Chapter
24 150B of the General Statutes, the Office of State Human Resources shall submit a revised
25 disciplinary policy to the State Human Resources Commission and the Governor. The
26 Commission, subject to the approval of the Governor, shall adopt the revised policy within 180
27 days after the effective date of Chapter 126A of the General Statutes. The State Human Resources
28 Commission shall review rules in Title 25, Chapter 01 of the North Carolina Administrative Code
29 pursuant to G.S. 150B-21.5 and repeal any rules it determines to be unnecessary after enactment
30 of this act.

31

32 **EFFECT ON AGREEMENTS AND PENDING LITIGATION**

33 **SECTION 3.3.(a)** All decentralization agreements, delegation agreements, and
34 memoranda of understanding between the Office of State Human Resources and any agency,
35 department, or institution in effect on the effective of the PWMA shall remain in effect until
36 modified or terminated in accordance with their terms or superseded by agreements executed
37 under the authority of Chapter 126A of the General Statutes.

38 **SECTION 3.3.(b)** No action or proceeding brought by or against the State Human
39 Resources Commission or the Office of State Human Resources, or against the State of North
40 Carolina concerning either, that is pending on the effective date of the PWMA shall be abated,
41 suspended, or otherwise affected by the enactment of that act. Any such action or proceeding
42 shall be prosecuted or defended under the law applicable at the time the action or proceeding was
43 initiated, provided that nothing in this subsection shall preclude any party from citing provisions
44 for persuasive guidance where the language of Chapter 126A and former Chapter 126 is identical
45 or substantially identical.

46

47 **CLASSIFICATION AND COMPENSATION ASSESSMENT**

48 **SECTION 3.4.(a)** The Office of State Human Resources shall assess the State's
49 classification and compensation system and identify opportunities for improvement, consulting
50 with agencies and outside experts, as needed. By October 1, 2027 the, OSHR shall report its
51 findings and recommendations to the chairs of the Senate Appropriations/Base Budget

1 Committee, the Chairs of the House Appropriations Committee, the Joint Legislative
2 Commission on Governmental Operations pursuant to G.S. 120-36.7, and the Fiscal Research
3 Division.

4 **SECTION 3.4.(b)** By March 1, 2027, and then annually thereafter, each executive
5 branch State agency shall report the following information to the OSHR, upon request:

- 6 (1) The five job classifications most difficult to recruit and retain during the prior
7 fiscal year.
- 8 (2) Actions taken to address those challenges, including requests for
9 reclassification, pay adjustments, or other flexibilities from OSHR.
- 10 (3) Whether existing classification or compensation policies constrained the
11 agency's ability to address those challenges, and if so, how.

12 **SECTION 3.4.(c)** The OSHR shall incorporate trends and recommended legislative
13 actions from this assessment into the annual State of the State Workforce Report required by
14 G.S. 126A-24.

15 **SECTION 3.4.(d)** Following the initial assessment and review of agency data,
16 OSHR shall contemplate executing a pilot on classification and compensation recommendations
17 in one or more executive branch agencies that volunteer to participate. The purpose of the pilot
18 is to test modifications to classification and compensation practices, including alternative job
19 titling, revised qualification standards, or adjusted pay-setting flexibility, that the OSHR
20 determines are likely to improve recruitment, retention, or time-to-hire outcomes.

21 22 **DEVELOP IMPROVED WORKFORCE ACCOUNTABILITY SYSTEM**

23 **SECTION 3.5.** By December 1, 2026, the Office of State Human Resources shall
24 submit to the State Human Resources Commission and the Governor a revised disciplinary
25 policy, containing an improved process for managing state employee performance and conduct.
26 The State Human Resources Commission, subject to the approval of the Governor, shall adopt a
27 revised Disciplinary Action Policy by April 1, 2027.

28 29 **PART IV. APPROPRIATION**

30 **SECTION 4.1.(a)** There is appropriated from the General Fund to the State Human
31 Resources Commission, Office of State Human Resources, the sum of one million four hundred
32 thousand dollars (\$1,400,000) in nonrecurring funds for the 2026-2027 fiscal year to provide
33 funding for up to six time-limited positions, and resources required, to implement the changes to
34 the State human resources system created by this act. These funds shall be transferred to a special
35 fund within the Office and may be expended only for the purposes authorized in subsection (b)
36 of this section.

37 **SECTION 4.1.(b)** These funds may be used for the following purposes only:

- 38 (1) For resources required to update State-wide policies and review rules.
- 39 (2) For training for agency leadership and hiring managers.
- 40 (3) For training for agency human resources division staff on revised policies,
41 rules, and processes.
- 42 (4) To provide technical assistance to agencies to support consistent and effective
43 application of changes to the human resources system.
- 44 (5) To collect and analyze data on the implementation of this act, including
45 tracking of agency compliance, workforce outcomes, and areas requiring
46 additional support.
- 47 (6) To develop continuous improvement processes by which OSHR identifies
48 implementation gaps, disseminates best practices, and adjusts guidance based
49 on agency experience and outcome data.

50 **SECTION 4.1.(c)** OSHR shall report to the Joint Legislative Commission on
51 Governmental Operations, the Chairs of the Senate Committee on Appropriations/Base Budget,

1 the Chairs of the House of Representatives Appropriations Committee, and the Fiscal Research
2 Division, each June 1 and December 1 on the use of these funds.

3

4 **PART V. EFFECTIVE DATES**

5 **SECTION 5.1.** This act is effective when it becomes law, except that:

6 (1) Parts I, II, and III of this act become effective October 1, 2026.

7 (2) Part IV of this act becomes effective July 1, 2026.