

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025

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SENATE BILL 1041
PROPOSED COMMITTEE SUBSTITUTE S1041-PCS35466-BNf-14

Short Title: Public Workforce Modernization Act.

(Public)

Sponsors:

Referred to:

May 4, 2026

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.** The General Statutes are amended by adding a new Chapter to read:

8 **"Chapter 126A.**

9 **"North Carolina Human Resources Act.**

10 **"Article 1.**

11 **"State Human Resources System.**

12 **"Part 1. Goals, Definitions.**

13 **"§ 126A-1. Purpose of Chapter.**

14 (a) It is the intent and purpose of this Chapter to establish a decentralized human
15 resources system, where appropriate, without additional cost to the State, under the direction of
16 the Governor, based on modern principles of personnel administration, that applies the best
17 methods evolved through government and industry. It is also the purpose of this Chapter to apply
18 the human resources system to the employees of the executive branch and to local employees
19 paid entirely or in part from federal funds, except to the extent that local governing boards are
20 authorized by this Chapter to establish local rules, local pay plans, and local personnel systems.
21 Agency heads shall be responsible and accountable for execution of Commission policies and
22 rules for their employees.

23 (b) To ensure that State government continuously serves the best interests of the people
24 of North Carolina, the human resources system established by this Chapter shall be governed by
25 the following core principles:

- 26 (1) Public service employment should be based on equal opportunity and free of
27 discrimination on any basis prohibited by federal or State law.
28 (2) The value of public service should be bolstered by fair compensation and
29 benefits, stable career paths, employment protections, opportunities for
30 engagement and development, and an ability to make a positive impact for the
31 people of North Carolina.
32 (3) Accountability to the public and within agencies should be maintained by
33 establishing clear roles, measurable goals, and transparent reporting to ensure
34 compliance with law and policy.

35 **"§ 126A-2. Definitions.**

- 36 (1) Agency. – An executive branch agency or a local agency.



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- 1 (2) Agency head. – The head of an agency, such as a member of the Council of
2 State, a cabinet Secretary, the President of The University of North Carolina,
3 or an executive director of a commission.
- 4 (3) Cabinet agency. – An executive branch agency that is under the control of the
5 Governor.
- 6 (4) Career employee. – An employee in a career appointment as provided in Part
7 2 of this Article.
- 8 (5) Commission. – The State Human Resources Commission.
- 9 (6) Council of State agency. – An executive branch agency under the control of a
10 member of the Council of State.
- 11 (7) Director. – The Director of the Office of State Human Resources.
- 12 (8) Employee. – An individual hired to carry out assigned tasks in return for
13 payment operating under the guidance and supervision of an employing
14 agency. This term does not include independent contractors.
- 15 (9) Employing agency. – The agency that hired an employee and has the power
16 to separate the employee from a position.
- 17 (10) Executive branch agency. – Any department, commission, division, board,
18 bureau, council, or institution of the State within the executive branch of
19 government, including The University of North Carolina.
- 20 (11) Exempt managerial employee. – An employee designated as an exempt
21 managerial position as provided in Part 3 of this Article.
- 22 (12) Exempt policymaking employee. – An employee designated as an exempt
23 policymaking position as provided in Part 3 of this Article.
- 24 (13) Experiential program. – A program for both employment and educational or
25 training purposes, such as a registered apprenticeship, informal
26 apprenticeship, fellowship, or other work-based learning program.
- 27 (14) Local agency. – One of the following:
- 28 a. Area mental health, developmental disabilities, and substance abuse
29 authorities, except as otherwise provided in Chapter 122C of the
30 General Statutes. A consolidated county human services agency
31 created pursuant to G.S. 153A-77(b) is not considered a local agency
32 under this subdivision.
- 33 b. Local social services departments.
- 34 c. County health departments and district health departments.
- 35 d. Local emergency management agencies that receive federal
36 grant-in-aid funds.
- 37 (15) Local employee. – An employee of a local agency and any other county
38 employee as designated by a board of county commissioners.
- 39 (16) OSHR. – The Office of State Human Resources.
- 40 (17) Personnel professional. – Any employee whose primary job duties involve
41 administrative personnel and human resources functions.
- 42 (18) Policy. – A policy, rule, standard, practice, procedure, criteria, or regulation
43 established by the Commission, subject to the approval of the Governor.
- 44 (19) Qualifications. – Training, education, years of experience, or other skills,
45 knowledge, and abilities that bear a reasonable functional relationship to the
46 abilities and skills required in the position.
- 47 (20) State employee. – An employee of an executive branch agency, including The
48 University of North Carolina.
- 49 (21) Supervisor. – A position that has other employees directly report to it.
- 50 (22) Temporary employee. – An employee classified as a temporary employee as
51 provided in Part 2 of this Article.

1 career employee with no probationary period if the employee remains
2 continuously employed by the State.
3 (e) Except for career and probationary appointments, the appointment types in this
4 section do not apply to local employees.

5 **"§ 126A-10.1. Qualification as career employee.**

6 (a) An employee in a probationary appointment shall be assigned a career appointment
7 as follows:

- 8 (1) An employee who successfully completes 12 months of employment in a
9 probationary appointment shall be assigned a career appointment except as
10 provided in subdivisions (2) and (3) of this subsection. The employee shall be
11 assigned a career appointment unless there is a supervisory extension of the
12 probationary period or separation based on performance or conduct prior to
13 the completion of the 12 months of employment.
14 (2) If the employee's supervisor determines an additional six-month period is
15 needed to assess whether the employee's performance in the probationary
16 appointment is successful or needs improvement, the employee who
17 successfully completes a total of 18 months of probationary appointment shall
18 be assigned a career appointment.
19 (3) An employee hired in a sworn law enforcement position or forensic scientist
20 position who is required to complete a formal training program prior to
21 assuming law enforcement or forensic scientist duties with the employing
22 agency shall be assigned a career appointment only after being employed by
23 the agency for 24 continuous months in a probationary appointment. An
24 employee who has a career appointment retains that appointment if the
25 employee transfers from a position that does not require completion of a
26 formal training program into a position under this subdivision that does
27 require a formal training program, even if the employee has worked for the
28 agency for fewer than 24 continuous months.

29 (b) An employee in a permanent experiential appointment shall be assigned a career
30 appointment as follows:

- 31 (1) For experiential programs of 12 months or longer, an employee who
32 successfully completes an experiential program in a permanent experiential
33 appointment shall be assigned a career appointment. The employee shall be
34 assigned a career appointment unless there is a separation based on
35 performance or conduct prior to the completion of the experiential program.
36 (2) For experiential programs of less than 12 months, an employee who
37 successfully completes the experiential program shall be assigned a
38 probationary appointment and shall receive a career appointment as provided
39 in subsection (a) of this section.

40 (c) When an employee transfers employment between two local agencies, or between an
41 executive branch agency and a local agency, that employee resets the period of consecutive
42 service required in subsection (a) of this section.

43 (d) Employees of The University of North Carolina who are exempt from the minimum
44 wage and overtime compensation provisions of the Fair Labor Standards Act and who attained
45 career status before September 1, 2023, have the option of either (i) continuing employment with
46 a career employee appointment if the employee remains in the position the employee occupied
47 on August 31, 2023, or (ii) waiving the career employee appointment and continuing employment
48 as a statutorily exempt employee, as defined in Part 3 of this Article. The University shall provide
49 each affected employee with a written explanation of the impact of an election to waive the career
50 employee appointment. An employee's election to waive the career employee appointment must

1 be acknowledged either through the employee's written or electronic signature within 60 days of
2 receiving the written explanation.

3 "Part 3. Application of the North Carolina Human Resources Act.

4 "§ 126A-15. Definitions.

5 For the purposes of this Part, the terms used in Part 2 of this Article and the following
6 definitions apply:

- 7 (1) Designated employees of policymakers. – Any of the following who have
8 been designated as exempt by the agency head and provided written notice:
9 a. For each agency, three confidential assistants for each agency head
10 and one confidential assistant for each chief deputy or chief
11 administrative assistant.
12 b. The chief deputy or chief administrative assistant to the head of each
13 agency.
- 14 (2) Exempt managerial employee. – A position designated under G.S. 126A-15.4.
- 15 (3) Exempt policymaking employee. – A position designated under
16 G.S. 126A-15.4.
- 17 (4) Exempt wardens. – Wardens of State adult correctional facilities that have
18 been designated as exempt by the agency head and provided written notice.
19 Exempt wardens shall be public servants under G.S. 138A-3(70) and shall file
20 Statements of Economic Interest under G.S. 138A-22.
- 21 (5) Limited exemption employees. – Any of the following:
22 a. The Office of the Commissioner of Banks and its employees.
23 b. The following employees of the Department of Natural and Cultural
24 Resources:
25 1. Director and Associate Directors of the North Carolina
26 Museum of History.
27 2. Program Chiefs and Curators.
28 3. Regional History Museum Administrators and Curators.
29 4. Employees assigned to assist the North Carolina Symphony
30 Society, Incorporated.
31 5. Director, Associate Directors, and Curators of Tryon Palace.
32 6. Director, Associate Directors, and Curators of the
33 Transportation Museum.
34 7. Director and Associate Directors of the North Carolina Arts
35 Council.
36 8. Director, Assistant Directors, and Curators of the Division of
37 State Historic Sites.
38 c. Employees of the Department of Information Technology (DIT), and
39 employees in all agencies, departments, and institutions with similar
40 classifications as DIT employees, who voluntarily relinquish annual
41 longevity payments, relinquish any claim to longevity pay, or
42 voluntarily relinquish any claim to career status or eligibility for career
43 status as approved by the State Chief Information Officer and the
44 Director of OSHR.
45 d. Employees of the Utilities Commission and the Commission's Public
46 Staff.
- 47 (6) Specialized Treasurer's Office employees. – All of the following:
48 a. Employees of the Department of State Treasurer possessing
49 specialized skills or knowledge necessary for the proper
50 administration of investment programs and compensated pursuant to
51 G.S. 147-65.2(b).

- 1 b. Employees of the Department of State Treasurer possessing
2 specialized skills or knowledge necessary for the proper
3 administration of the Supplemental Retirement Plans and
4 compensated pursuant to G.S. 135-91(c2).
- 5 (7) State employees compensated as teachers. – Teaching and related educational
6 classes of employees of the Division of Juvenile Justice of the Department of
7 Public Safety, the Department of Health and Human Services, and any other
8 agency whose salaries are set in the same manner as for corresponding public
9 school employees in accordance with Chapter 115C of the General Statutes.
- 10 (8) Statutorily exempt employees. – Any of the following:
- 11 a. Constitutional officers of the executive branch of the State.
12 b. Deputy commissioners appointed pursuant to G.S. 97-79.
13 c. Members of executive branch boards, committees, commissions,
14 councils, and advisory councils compensated on a per diem basis.
15 d. Officials or employees whose salaries are fixed by the General
16 Assembly, except for those employees on a legislatively established
17 salary schedule not otherwise exempted by this Chapter, or by the
18 Governor, or by the Governor and Council of State, or by the Governor
19 subject to the approval of the Council of State.
20 e. Employees of the Office of the Governor that the Governor, at any
21 time, in the Governor's discretion, exempts from the application of this
22 Chapter by means of a letter to the Director designating these
23 employees.
24 f. Employees of the Office of the Lieutenant Governor, that the
25 Lieutenant Governor, at any time, in the Lieutenant Governor's
26 discretion, exempts from the application of this Chapter by means of
27 a letter to the Director designating these employees.
28 g. Employees of The University of North Carolina who are exempt from
29 the minimum wage and overtime compensation provisions of the Fair
30 Labor Standards Act, instructional and research staff, student-oriented
31 professionals, finance professionals, business office professionals,
32 auditor professionals, information technology professionals,
33 physicians, dentists, pilots, and the faculty of the North Carolina
34 School of Science and Mathematics, and all temporary employees.
35 The Board of Governors of The University of North Carolina shall
36 have the authority to establish positions under this subdivision to be
37 exempt from this Chapter without further review or approval by any
38 other agency.
39 h. Employees of a regional school established pursuant to Part 10 of
40 Article 16 of Chapter 115C of the General Statutes.
41 i. Employees of a school for the deaf or blind governed by Article 9C of
42 Chapter 115C of the General Statutes hired on or after July 1, 2024.
43 j. Employees whose salaries are fixed under the authority vested in the
44 Board of Governors of The University of North Carolina by the
45 provisions of G.S. 116-11(4), 116-11(5), and 116-14.
46 k. Employees of the North Carolina Cooperative Extension Service of
47 North Carolina State University and North Carolina Agricultural and
48 Technical State University who are employed in county operations and
49 who are not exempt pursuant to sub-subdivision g. or j. of this
50 subdivision.
51 l. Employees of the North Carolina State Ports Authority.

- 1 m. Employees of the North Carolina Global TransPark Authority.
2 n. The executive director and one associate director of the North Carolina
3 Center for Nursing established under Article 9F of Chapter 90 of the
4 General Statutes.
5 o. Employees of the Tobacco Trust Fund Commission established in
6 Article 75 of Chapter 143 of the General Statutes.
7 p. Employees of the North Carolina Turnpike Authority.
8 q. The Executive Administrator of the State Health Plan for Teachers and
9 State Employees and employees of the State Health Plan for Teachers
10 and State Employees as designated by law or by the Executive
11 Administrator of the Plan.
12 r. The North Carolina State Lottery Director and employees of the North
13 Carolina State Lottery.
14 s. The Chief Administrative Law Judge of the Office of Administrative
15 Hearings and five employees of the Office of Administrative Hearings
16 as designated by the Chief Administrative Law Judge.
17 t. The Executive Director and the Assistant Director of the U.S.S. North
18 Carolina Battleship Commission.
19 u. The Executive Director, Deputy Director, all other directors, assistant
20 and associate directors, and center fellows of the North Carolina
21 Center for the Advancement of Teaching.
22 v. Employees of the Department of Commerce employed in the Rural
23 Economic Development Division.
24 w. Employees of the North Carolina Health Information Exchange
25 Authority.
26 x. Employees of the Division of Health Benefits of the Department of
27 Health and Human Services.
28 y. The Associate Superintendent of Early Education of the Department
29 of Public Instruction who serves as chief academic officer of early
30 education.
31 z. Employees of the North Carolina Youth Outdoor Engagement
32 Commission.
33 aa. Employees of the Division of State Operated Healthcare Facilities of
34 the Department of Health and Human Services who are (i) health care
35 professionals licensed under Chapter 90 or Chapter 90B of the General
36 Statutes or (ii) engineers responsible for maintenance or buildings
37 operations at one of the health care facilities operated by the Secretary
38 of the Department of Health and Human Services under
39 G.S. 122C-181.
40 bb. The Executive Director of the North Carolina Boxing and Combat
41 Sports Commission created pursuant to G.S. 143-652.2.
42 cc. No more than 10 employees of the State Bureau of Investigation
43 designated by the Director of the State Bureau of Investigation.
44 dd. No more than 17 employees of the State Highway Patrol as designated
45 by the Commander of the State Highway Patrol.
46 ee. The Chief Investment Officer of the North Carolina Investment
47 Authority and employees of the North Carolina Investment Authority
48 who possess specialized skills or knowledge necessary for the proper
49 administration of investment programs and who are employed in a
50 position designated by the Chief Investment Officer as exempt in
51 accordance with G.S. 147-72.1.

- 1 ff. Liaisons to the Collaboration for Prosperity Zones set out in
2 G.S. 143B-28.1 for the Departments of Commerce, Environmental
3 Quality, and Transportation.
- 4 (9) University health employees. – Any of the following:
5 a. Employees of the University of North Carolina Health Care System.
6 b. Employees of the University of North Carolina Hospitals at Chapel
7 Hill.
8 c. Employees of the clinical patient care programs of the School of
9 Medicine of the University of North Carolina at Chapel Hill.
10 d. Employees of the Medical Faculty Practice Plan, a division of the
11 School of Medicine of East Carolina University.
12 e. Employees of UNC-CH Dental School Clinical Operations, a division
13 of the Adams School of Dentistry at the University of North Carolina
14 at Chapel Hill.
15 f. Employees of ECU Dental School Clinical Operations, a division of
16 the School of Dental Medicine at East Carolina University.
- 17 (10) University police officers. – Commissioned police officer positions of The
18 University of North Carolina. Employees in these positions are eligible for all
19 employment and retirement benefits provided to State law enforcement
20 officers subject to this Chapter.

21 **"§ 126A-15.1. Application of this Chapter.**

22 (a) Except as otherwise provided, this Chapter applies to all executive branch employees
23 and local employees.

24 (b) This Chapter does not apply to the following:

- 25 (1) Public school superintendents, principals, teachers, and other public school
26 employees, except for G.S. 126A-71 and Article 14.
27 (2) Employees of community colleges whose salaries are fixed in accordance with
28 G.S. 115D-6.1 and G.S. 115D-20 and employees of the Community Colleges
29 System Office whose salaries are fixed by the State Board of Community
30 Colleges in accordance with G.S. 115D-3, except for G.S. 126A-71,
31 126A-103, and 126A-104 and Article 14.
32 (3) Employees of the Office of Proprietary Schools whose salaries are fixed by
33 the State Board of Proprietary Schools in accordance with G.S. 115D-89.2.
34 (4) Officers, employees, and members of the governing board of a North Carolina
35 nonprofit corporation with which the Department of Commerce has contracted
36 pursuant to the authority granted in G.S. 143B-431.01.
37 (5) Constitutional officers, officials, and employees of the Judicial Department.
38 (6) Constitutional officers, officials, and employees of the General Assembly.

39 **"§ 126A-15.2. Exemptions from this Chapter.**

40 (a) Probationary employees are exempt from the following:

- 41 (1) All of Article 8 of this Chapter, except for G.S. 126A-84(b)(1) and (2).
42 (2) G.S. 126A-91.

43 (b) Permanent experiential employees are exempt from the following:

- 44 (1) Article 3 of this Chapter.
45 (2) Article 4 of this Chapter, except for G.S. 126A-43.
46 (3) All of Article 8 of this Chapter, except for G.S. 126A-84(b)(1) and (2).
47 (4) G.S. 126A-91.

48 (c) Non-permanent experiential employees are exempt from the following:

- 49 (1) Article 3 of this Chapter.
50 (2) Article 4 of this Chapter, except for G.S. 126A-43.
51 (3) All of Article 8 of this Chapter, except for G.S. 126A-84(b)(1) and (2).

- 1 (4) Article 9 of this Chapter.
- 2 (d) Temporary employees are exempt from the following:
- 3 (1) Article 3 of this Chapter.
- 4 (2) Article 4 of this Chapter, except for G.S. 126A-43.
- 5 (3) Article 5 of this Chapter, except for G.S. 126A-52.
- 6 (4) Part 2 of Article 6 of this Chapter.
- 7 (5) Article 7 of this Chapter.
- 8 (6) Article 8 of this Chapter.
- 9 (7) Article 9 of this Chapter.
- 10 (e) Time-limited appointments are exempt from the following:
- 11 (1) All of Article 8 of this Chapter, except for G.S. 126A-84(c)(1) and (2).
- 12 (2) Article 9 of this Chapter.
- 13 (f) Employees in a position with an experience-based salary schedule established in the
14 Current Operations Appropriations Act, as defined in G.S. 143C-1.1, are exempt from Article 4
15 of this Chapter.
- 16 (g) Limited exception employees are exempt from the following:
- 17 (1) Article 3 of this Chapter.
- 18 (2) Article 4 of this Chapter, except for G.S. 126A-43.
- 19 (3) G.S. 126A-50(4) and policies adopted pursuant to that subdivision.
- 20 (4) G.S. 126A-72(a)(1), covering hours and days of work, vacation, and sick
21 leave.
- 22 (5) Part 3 of Article 7 of this Chapter.
- 23 (h) Specialized Treasurer's Office employees are exempt from the following:
- 24 (1) Article 3 of this Chapter.
- 25 (2) Article 4 of this Chapter, except for G.S. 126A-43.
- 26 (3) Article 5 of this Chapter, except for G.S. 126A-52 and G.S. 126A-57.3.
- 27 (4) Part 2 of Article 6 of this Chapter.
- 28 (5) Parts 2 and 3 of Article 7 of this Chapter.
- 29 (6) Article 8 of this Chapter.
- 30 (i) Exempt policymaking employees and designated employees of policymakers are
31 exempt from the following:
- 32 (1) Article 5 of this Chapter, except for G.S. 126A-52 and G.S. 126A-57.2.
- 33 (2) Part 2 of Article 6 of this Chapter.
- 34 (3) Article 8 of this Chapter.
- 35 (4) Article 10 of this Chapter.
- 36 (5) G.S. 126A-92(b).
- 37 (6) G.S. 126A-93.
- 38 (j) Exempt managerial employees and exempt wardens are exempt from the following:
- 39 (1) Part 2 of Article 5 of this Chapter.
- 40 (2) All of Article 8 of this Chapter, except for G.S. 126A-84(b)(1) and (2).
- 41 (3) Article 10 of this Chapter.
- 42 (4) G.S. 126A-92(b).
- 43 (5) G.S. 126A-93.
- 44 (k) Statutorily exempt employees are exempt from the following:
- 45 (1) Article 3 of this Chapter.
- 46 (2) Article 4 of this Chapter, except for G.S. 126A-43.
- 47 (3) Article 5 of this Chapter, except for G.S. 126A-52.
- 48 (4) Part 2 of Article 6 of this Chapter.
- 49 (5) Parts 2 and 3 of Article 7 of this Chapter.
- 50 (6) Article 8 of this Chapter.
- 51 (7) Article 9 of this Chapter, except for G.S. 126A-95.

- 1 (8) Article 10 of this Chapter.
- 2 (l) State employees compensated as teachers are exempt from the following:
- 3 (1) Article 3 of this Chapter.
- 4 (2) Article 4 of this Chapter, except for G.S. 126A-43.
- 5 (3) Article 5 of this Chapter, except for G.S. 126A-52.
- 6 (4) Part 2 of Article 6 of this Chapter.
- 7 (5) Part 1 of Article 7 of this Chapter, except as to G.S. 126A-71.
- 8 (6) Article 8 of this Chapter.
- 9 (7) Article 9 of this Chapter, except for G.S. 126A-95.
- 10 (8) Article 10 of this Chapter.
- 11 (m) University health employees are exempt from the following:
- 12 (1) Article 3 of this Chapter.
- 13 (2) Article 4 of this Chapter, except for G.S. 126A-43.
- 14 (3) Article 5 of this Chapter, except for G.S. 126A-52 and G.S. 126A-57.3.
- 15 (4) Part 2 of Article 6 of this Chapter.
- 16 (5) Parts 2, 3, and 4 of Article 7 of this Chapter.
- 17 (6) Article 8 of this Chapter.
- 18 (7) Article 9 of this Chapter, except for G.S. 126A-95.
- 19 (n) University police employees are exempt from the following:
- 20 (1) Article 3 of this Chapter.
- 21 (2) Article 4 of this Chapter, except for G.S. 126A-43.
- 22 (3) Article 5 of this Chapter, except for G.S. 126A-52 and G.S. 126A-57.3.
- 23 (4) Part 2 of Article 6 of this Chapter.
- 24 (5) Parts 2, 3, and 4 of Article 7 of this Chapter.
- 25 (7) Article 9 of this Chapter, except for G.S. 126A-95.
- 26 (8) Article 10 of this Chapter.
- 27 (o) Local employees are exempt from the following:
- 28 (1) G.S. 126A-57.3.
- 29 (2) Parts 1, 2, and 3 of Article 7 of this Chapter.
- 30 (3) G.S. 126A-94.
- 31 (4) Article 13 of this Chapter.

32 **"§ 126A-15.3. Additional exemptions for experiential programs.**

33 Notwithstanding G.S. 126A-15.2, for good cause or based on requirements of an experiential
34 program set by the federal government or an external funding source, the Director may make an
35 experiential program exempt from additional Articles or sections of this Chapter.

36 **"§ 126A-15.4. Process for designating exempt managerial and policy positions.**

37 (a) An exempt managerial position is a position delegated with significant managerial or
38 programmatic responsibility that is essential to the successful operation of an agency, so that the
39 application of G.S. 126A-81 to an employee in the position would cause undue disruption to the
40 operations of the agency.

41 (b) An exempt policymaking position is a position delegated with the authority to impose
42 the final decision as to a settled course of action to be followed within an agency, so that loyalty
43 to the Governor or member of the Council of State in their respective offices is reasonably
44 necessary to implement the policies of their offices. The term does not include personnel
45 professionals.

46 (c) 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 and Management.

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

- 16 (1) The Secretary of State.
- 17 (2) The Auditor.
- 18 (3) The Treasurer.
- 19 (4) The Attorney General.
- 20 (5) The Commissioner of Agriculture.
- 21 (6) The Commissioner of Insurance.
- 22 (7) The Commissioner of Labor. – Notwithstanding the designation limits of this
23 subsection, the Commission shall designate three additional full-time
24 equivalent attorney positions as exempt policymaking positions.
- 25 (8) The Superintendent of Public Instruction. – Notwithstanding the designation
26 limits of this subsection, the Superintendent may designate up to 70 exempt
27 policymaking positions or two percent (2%) of the total number of full-time
28 positions in the department, whichever is greater, and up to 70 exempt
29 managerial positions or two percent (2%) of the total number of full-time
30 positions in the department, whichever is greater.

31 (e) Exempt Policymaking and Exempt Managerial Positions in the Office of the State
32 Controller and the State Board of Elections. –

- 33 (1) The State Controller. – The total number of exempt positions, policymaking
34 and managerial, is limited to 10.
- 35 (2) The Executive Director of the State Board of Elections. – The total number of
36 exempt positions is limited to the following seven positions: Agency Human
37 Relations Director II, Agency General Counsel II, Assistant General Counsel
38 II, Public Information Manager, Legislative Affairs Manager, Internal
39 Auditor, and Administrative Officer III.

40 (f) Designation of Additional Positions. – The Governor or member of the Council of
41 State may request that additional positions be designated as exempt. The request shall be made
42 by sending a list of exempt policymaking and exempt managerial positions that exceed the limit
43 imposed by this subsection to the Speaker of the North Carolina House of Representatives and
44 the President of the North Carolina Senate. A copy of the list also shall be sent to the Director.
45 The General Assembly may authorize all, or part of, the additional positions to be designated as
46 exempt policymaking and exempt managerial positions.

- 47 (1) If the General Assembly is in session when the list is submitted and does not
48 act within 30 days after the list is submitted, the list is deemed approved by
49 the General Assembly, and the positions shall be designated as exempt
50 positions.

1 (2) If the General Assembly is not in session, the list shall be submitted to the
2 Joint Legislative Commission on Governmental Operations, and if the
3 Commission does not meet within 90 days of submission, the list is deemed
4 approved pursuant to G.S. 120-76.1(b), and the positions shall be designated
5 as exempt.

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

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

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

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

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

32 **"§ 126A-15.5. Notice of being exempt from this Chapter; disputes about whether employees**
33 **are subject to this Chapter.**

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

39 (b) Where a statute specifies a process for a position that is inconsistent with the process
40 established in this Chapter, the position is exempt from this Chapter to that extent.

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

43 **"§ 126A-15.6. Agencies to adopt policies for exempt employees.**

44 When a statute makes a position exempt from this Chapter regarding any subject, an agency
45 shall address that subject by either adopting its own policy or the Commission policy.

46 "Article 2.

47 "Oversight of the State Human Resources System.

48 **"§ 126A-20. State Human Resources Commission.**

49 (a) There is established the State Human Resources Commission.

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

- 1 (1) One member appointed by the General Assembly upon the recommendation
2 of the Speaker of the House of Representatives who shall be an attorney
3 licensed to practice law in North Carolina.
- 4 (2) One member appointed by the General Assembly upon the recommendation
5 of the President Pro Tempore of the Senate who shall be an attorney licensed
6 to practice law in North Carolina.
- 7 (3) One member appointed by the General Assembly upon the recommendation
8 of the Speaker of the House of Representatives who shall be from private
9 business or industry and who shall have a working knowledge of, or practical
10 experience in, human resources management.
- 11 (4) One member appointed by the General Assembly upon the recommendation
12 of the President Pro Tempore of the Senate who shall be from private business
13 or industry and who shall have a working knowledge of, or practical
14 experience in, human resources management.
- 15 (5) One member who is a veteran of the Armed Forces of the United States
16 appointed by the Governor upon the nomination of the Veterans' Affairs
17 Commission and who is a State employee subject to this Chapter serving in a
18 nonexempt supervisory position. The member may not be a human resources
19 professional.
- 20 (6) One member appointed by the Governor who is a State employee subject to
21 this Chapter serving in a nonexempt nonsupervisory position. The member
22 may not be a human resources professional. The Governor shall consider
23 nominations submitted by the State Employees Association of North Carolina.
- 24 (7) One member appointed by the Governor upon the recommendation of the
25 North Carolina Association of County Commissioners who is a local
26 government employee subject to this Chapter serving in a supervisory
27 position. The member may not be a human resources professional.
- 28 (8) One member appointed by the Governor upon the recommendation of the
29 North Carolina Association of County Commissioners who is a local
30 government employee subject to this Chapter serving in a nonsupervisory
31 position. The member may not be a human resources professional.
- 32 (9) One member of the public at large appointed by the Governor.

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

39 (d) No member of the Commission may vote on a matter where there would be a conflict
40 of interest. The appointing authority may at any time remove any Commission member for cause.

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

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

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

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

47 **"§ 126A-21. Office of State Human Resources.**

48 (a) There is established the Office of State Human Resources which shall be placed for
49 organizational purposes within the Office of the Governor. Notwithstanding Chapter 143A of the
50 General Statutes, OSHR shall exercise all of its statutory powers in this Chapter under the

1 administration and supervision of a Director appointed by and serving at the pleasure of the
2 Governor. The Governor shall fix the salary of the Director.

3 (b) OSHR has the following duties, in addition to any other duties specified in this
4 Chapter:

- 5 (1) Providing policy development for the Commission and implementing and
6 administering all policies established by the Commission.
- 7 (2) Providing training in personnel management to agencies, including
8 train-the-trainer programs upon agency request when sufficient staff and
9 expertise exist to provide the training within the agency.
- 10 (3) Providing technical assistance to agencies in the management of personnel
11 programs and activities.
- 12 (4) Negotiating decentralization agreements with agencies where it is cost
13 effective to include delegation of authority for certain classification and
14 corresponding salary administration actions and other personnel programs
15 specified in the agreements.
- 16 (5) Administering centralized programs and providing services as approved by
17 the Commission that have not been transferred to agencies, or when an
18 agency's authority has been rescinded for noncompliance.
- 19 (6) Approving personnel actions involving classification and compensation
20 where the approval authority has not been transferred to agencies, or when an
21 agency's authority has been rescinded for noncompliance.
- 22 (7) Maintaining a database of all relevant and necessary information on
23 employees and positions within agencies in the State's human resources
24 system. OSHR shall ensure compliance with all applicable laws in developing
25 the technology that supports the human resources system. The Director may
26 authorize an agency to operate its own human resources system technology in
27 accordance with policies on human resources systems technology established
28 by OSHR.
- 29 (8) Developing policies to measure the level of agency compliance with
30 established Commission policies when authority has been delegated to an
31 agency for classification, salary administration, performance management,
32 development, evaluation, and other decentralized programs.
- 33 (9) Determining through routine monitoring and periodic review whether
34 agencies are in compliance with established Commission policies.
- 35 (10) Implementing corrective actions in cases of agency noncompliance.

36 (c) Except for services required to be provided by statute, OSHR may charge fees to
37 cover the full costs for participation in education, training, or consultation services offered by
38 OSHR.

39 **"§ 126A-22. Commission policies.**

40 (a) Subject to the approval of the Governor, the Commission shall establish policies,
41 including rules adopted in G.S. 150B of the General Statutes, as necessary to effectuate the
42 authority granted under this Chapter in order to administer an effective modern human resources
43 system, including policies related to the following:

- 44 (1) Classification, in accordance with Article 3 of this Chapter.
- 45 (2) Compensation, in accordance with Article 4 of this Chapter.
- 46 (3) Hiring, in accordance with Article 5 of this Chapter.
- 47 (4) Onboarding, in accordance with Article 6 of this Chapter.
- 48 (5) Benefits and terms of employment, in accordance with Article 7 of this
49 Chapter.
- 50 (6) Grievances and just cause, in accordance with Article 8 of this Chapter.
- 51 (7) Separation, in accordance with Article 9 of this Chapter.

"Classification and Minimum Qualifications.

"§ 126A-30. Classification system and minimum qualifications.

(a) The Commission shall establish policies on classification and minimum qualifications of positions subject to this Article and Part 2 of Article 1 of this Chapter, including the following:

- (1) Position classification plans that provide for the classification and reclassification or other grouping of positions subject to this Article and Part 2 of Article 1 of this Chapter according to the duties and responsibilities of the positions.
- (2) For each group of positions, reasonable minimum qualifications related 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 shall prepare a classification system that organizes agency positions into a classification based on the position duties and responsibilities. Classifications may be grouped, subdivided, ranked, or otherwise organized in a manner the Commission deems appropriate. The system shall set minimum qualifications for classifications or other groupings of positions.

(c) The Commission shall develop a procedure for the periodic review of the classification system and policies, including revisions to classifications and establishment of new classifications.

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

The Commission shall do all of the following:

- (1) Regularly assess the minimum qualifications for each position in an agency. The Commission shall review the necessary educational, experimental, and training requirements for each position.
- (2) Determine when practical experience and training, such as military service, an apprenticeship, or a trade school education instead of a bachelor's degree is the appropriate qualification for a position.
- (3) Identify jobs for which the minimum qualifications could be reduced from their present level.
- (4) To the extent practicable, remove requirements for a bachelor's degree from position descriptions when the degree is not necessary for the position.

"§ 126A-32. Agency flexibility for classification.

(a) When a job classification exists solely within one agency, the agency may modify the classification after consultation with OSHR. The agency shall report any modification made to a classification to OSHR.

(b) Agencies may classify or reclassify positions in accordance with the Commission classification system established by G.S. 126A-30 when employees in the position meet the minimum qualifications for the classification.

(c) Nothing in this section limits the Commission or Director's ability to enforce corrective actions against an agency modifying classifications beyond the scope of the flexibility provided in this section.

"Article 4.

"Compensation.

"§ 126A-40. Compensation system.

(a) The Commission shall establish policies on compensation for positions subject to this Article, including the following:

- (1) The setting of compensation, including salary ranges, salaries, longevity pay, performance pay, and bonuses. These policies shall address temporary and

1 permanent pay adjustments and one-time bonuses, awards, and other
2 compensation.

3 (2) A compensation system.

4 (b) The Commission shall establish compensation policies under subsection (a) of this
5 section that (i) make State government a competitive and attractive employment option for
6 recruitment and retention, (ii) provide substantially similar compensation levels for positions
7 with substantially similar work, and (iii) recognize and reward performance.

8 **"§ 126A-41. Agency flexibility for compensation.**

9 (a) Each agency shall set employee salaries for positions subject to this Article in
10 accordance with the compensation system established by the Commission in accordance with
11 G.S. 126A-40. Each agency may set an employee's salary at any point within the salary range for
12 the position classification established by the Commission.

13 (b) Each agency with an exempt policymaking position or an exempt managerial position
14 may set the salary for that position within the salary range established by the Commission plus
15 ten percent (10%).

16 (c) Nothing in this section limits the Commission or Director's ability to enforce
17 corrective actions against an agency setting compensation beyond the scope of the flexibility
18 provided in this section.

19 **"§ 126A-42. Minimum salary.**

20 The Commission shall set the minimum for all salary ranges in the compensation system
21 established in accordance with G.S. 126A-40 to at least thirty-one thousand two hundred dollars
22 (\$31,200). This minimum salary applies to full-time employees who are not placed on leave
23 without pay during the year. This minimum salary does not apply to State-funded local
24 employees.

25 "Article 5.

26 "Recruitment and Hiring.

27 "Part 1. General Provisions.

28 **"§ 126A-50. Recruitment and hiring.**

29 (a) The Commission shall establish policies on recruitment and hiring for positions
30 subject to this Article, including the following:

31 (1) The posting of positions.

32 (2) Job applications.

33 (3) Recruitment programs designed to promote public employment, communicate
34 current hiring activities within agencies, and attract a sufficient flow of
35 internal and external applicants.

36 (4) How to determine the relative fitness of applicants for the respective positions.

37 (5) The appointment, promotion, transfer, redeployment, demotion and
38 suspension of employees.

39 (6) The implementation of the redeployment requirements for employees hired
40 before August 21, 2013, as required by G.S. 126A-57.2.

41 (b) The Commission shall establish recruitment and hiring policies under subsection (a)
42 of this section that (i) assure recruitment, selection, and hiring procedures are similar across
43 agencies, (ii) encourage open and fair competition for positions and the hiring of a diverse
44 workforce, and (iii) otherwise implement the State's policy of nonpolitical hiring practices in
45 accordance with this Chapter. The Commission shall ensure that the polices address the training
46 necessary for supervisors, management personnel, and personnel professionals to implement the
47 policies.

48 **"§ 126A-51. Posting positions.**

49 (a) Each agency shall publicly post and accept applications in a fair and open competition
50 to hire for any permanent or time-limited positions subject to this Article, unless the agency head
51 determines, based on business needs and in accordance with Commission policy, that the agency

1 will not openly recruit for the vacancy. Any vacancy for which an agency is openly recruiting
2 shall be posted on a website maintained by OSHR.

3 (b) Each State agency may determine whether a vacancy is open only to applicants within
4 the agency or currently employed by another State agency. Each local agency may determine
5 whether a vacancy is open only to applicants within the agency. These vacancies shall be marked
6 as internal when posted to the website maintained by OSHR.

7 (c) Each position post shall include a closing date unless the agency approves a
8 continuous position.

9 **"§ 126A-52. Private personnel service.**

10 (a) An agency may retain a private personnel service to assist in finding candidates for a
11 position, subject to the limitations of this section.

12 (b) No person, firm, or corporation shall collect, accept, or receive any compensation,
13 consideration, or thing of value for obtaining on behalf of any other person, or aiding or assisting
14 any other person in obtaining, employment with an agency, except as provided in subsection (c)
15 of this section.

16 (c) Any business that has been licensed for more than one year by the Department of
17 Labor as a private personnel service may collect regular and customary fees for services rendered
18 pursuant to a written contract when the fees are paid by someone other than the agency. Any
19 private personnel service collecting fees under this section shall make a monthly report to the
20 Department of Labor listing the name of the private personnel service collecting fees and the
21 person for whom a job was found, the nature and purpose of the job obtained, and the amount of
22 the fee collected.

23 (d) A violation of this section shall constitute a Class 1 misdemeanor.

24 **"§ 126A-53. Increasing efficiency of application process.**

25 (a) OSHR shall streamline the application process for agency positions by enabling
26 applicants to upload resumes or website profiles. An applicant is responsible for ensuring that all
27 information required for initial screening appears correctly in the completed application after
28 importing his or her resume or profile.

29 (b) Any additional information not typically found on resumes and not needed for initial
30 screening, such as references or answers to supplemental questions, may be collected by agencies
31 later in the selection process, including during an interview.

32 **"§ 126A-54. Hiring from pool of most qualified candidates.**

33 (a) Agencies shall select an applicant to hire for a position from the pool of the most
34 qualified candidates using fair and valid selection criteria. A qualified candidate is a person who
35 timely applied for the position and meets the minimum qualifications for the position
36 classification. Any additional knowledge, skills, and abilities listed in the posting for the position
37 beyond the minimum qualifications are management preferences.

38 (b) When selecting qualified candidates pursuant to subsection (a) of this section, an
39 agency may use skills-based hiring to determine whether a person meets the minimum
40 qualifications based on demonstrated competencies, instead of solely based on education,
41 experience, or credentials. An agency may use an assessment process that tests whether the
42 applicant demonstrates sufficient competency or skill level in a technical discipline, behavioral
43 skills, or other relevant competencies necessary to perform the work for the position
44 classification. Agencies using an assessment process shall ensure that it is fair and reasonably
45 related to predicting success in the position.

46 (c) Notwithstanding subsection (a) of this section, agencies may offer experiential
47 programs to candidates not meeting the minimum qualifications for the position classification.
48 An agency may identify positions appropriate for a permanent or non-permanent experiential
49 appointment and hire an applicant who is expected to meet the minimum qualifications for the
50 position classification following a fixed time period of employment and education or training
51 that occurs while employed, not to exceed four years. Employees hired into experiential

1 appointments may be selected for the position regardless of whether there are qualified
2 candidates in the applicant pool. An experiential appointment hiring is exempt from the hiring
3 priorities identified in G.S. 126A-57.

4 **"§ 126A-55. Political hiring limited.**

5 (a) Each agency shall select from the pool of the most qualified candidates as required
6 by G.S. 126A-54, without regard to political affiliation or political influence.

7 (b) It is a violation of this section if all of the following are met:

8 (1) The complaining applicant timely applied for the position.

9 (2) The complaining applicant was not hired into the position.

10 (3) The complaining applicant was among the most qualified candidates applying
11 for the position as compared to other applicants for the position using fair and
12 valid selection criteria.

13 (4) The successful applicant for the position was not among the most qualified
14 candidates for the position.

15 (5) The hiring decision was based upon political affiliation or political influence.

16 **"§ 126A-56. Hiring candidate from most qualified pool in previous posting.**

17 (a) An agency may directly hire into a vacant position without posting if all of the
18 following are met:

19 (1) The agency has previously posted for recruitment, in accordance with
20 G.S. 126A-51, a position that has the same classification or a comparable
21 classification to the vacant position.

22 (2) The person to be hired applied to the previous vacancy.

23 (3) The agency determined the person to be among the most qualified candidates
24 for the previous vacancy in accordance with G.S. 126A-54, but did not hire
25 the person.

26 (4) The person to be hired meets the minimum qualifications for the position
27 classification of the vacancy and will have a salary set within the vacant
28 position's salary range.

29 (b) A hiring under this section is not subject to the other requirements of this Article.

30 **"§ 126A-56.1. Non-permanent to permanent hiring.**

31 (a) An agency may directly hire an employee serving in a non-permanent position into a
32 vacant permanent position if all of the following are met:

33 (1) The employee was employed directly by the agency of JoinNC in the
34 non-permanent appointment.

35 (2) The employee has worked for a minimum of three months in a substantially
36 similar role, excluding any mandatory breaks required under G.S. 126A-111,
37 with satisfactory performance.

38 (3) The employee meets the minimum qualifications for the position
39 classification and the employee's salary is set within the vacant position's
40 salary range.

41 (4) The hiring manager and the hiring manager's supervisor approve the hiring.

42 (b) The Director may waive the requirements of subdivisions (3) and (4) of subsection
43 (a) of this section in his or her discretion.

44 (c) A hiring under this section is not subject to the other requirements of this Article.

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

46 Notwithstanding the posting requirements of G.S. 126A-51, based on its business or
47 operational needs, an agency may transfer an existing employee into a vacant position with the
48 same classification at an equal or higher salary at the agency with the consent of the employee.
49 Employees in supervisory positions may be transferred pursuant to this section only if the
50 employee is not a career employee or the transfer is to another supervisory position.

51 **"§ 126A-56.3. Consider applications for vacancies in the same or similar classification.**

1 (a) Each agency may offer qualified candidates the option to have their applications
2 considered for future positions at other agencies within the same classification or comparable
3 classification.

4 (b) OSHR may maintain a pool of qualified applicants for vacancies in particular
5 classifications that are accessible for agencies to use for recruitment and hiring.

6 **"§ 126A-57. Order of hiring priority.**

7 The following is the order of hiring priority for any position subject to this Article:

8 (1) The career employee promotional priority under G.S. 126A-57.1.

9 (2) At equal priority, the following:

10 a. The reduction-in-force priority under G.S. 126A-93.

11 b. The reemployment rights for certain exempt policymaking or exempt
12 managerial employees under G.S. 126A-57.2.

13 (3) The preference for veterans, National Guard members, and spouse of
14 active-duty troops under G.S. 126A-57.3.

15 **"§ 126A-57.1. Career employee promotional priority.**

16 If a career employee in a position subject to this Article meets all of the following, the
17 employee shall receive priority consideration over an applicant who is not a career employee:

18 (1) The career employee applies for a position at an agency that would constitute
19 a promotion.

20 (2) The career employee has substantially equal qualifications to any applicant
21 who is not a career employee.

22 **"§ 126A-57.2. Reemployment rights for employees hired before August 21, 2013.**

23 (a) An exempt policymaking or exempt managerial employee may be transferred,
24 demoted, or separated from his or her position by the agency head authorized to designate the
25 exempt position except as follows:

26 (1) When an employee who has the minimum service requirements to be a career
27 employee but less than 10 years of cumulative service in subject positions
28 prior to placement in an exempt policymaking or exempt managerial position
29 is removed from an exempt policymaking or exempt managerial position, for
30 reasons other than just cause, the employee shall have priority to any position
31 that becomes available for which the employee is qualified, according to
32 policies regulating and defining priority established by the Commission.

33 (2) When an employee who has 10 years or more cumulative service, including
34 the immediately preceding 12 months, in subject positions prior to placement
35 in an exempt policymaking or exempt managerial position is removed from
36 an exempt policymaking or exempt managerial position, for reasons other than
37 just cause, the employee shall be reassigned to a subject position within the
38 same agency, or if necessary within another agency, at the same grade and
39 salary, including all across-the-board increases since placement in the position
40 designated as exempt, as his or her most recent subject position.

41 (3) When a career employee who has more than two but less than 10 years of
42 cumulative service in a subject position moves from one exempt policymaking
43 or exempt managerial position covered by this subsection to another exempt
44 policymaking or exempt managerial position covered by this subsection
45 without a break in service and that employee is later removed from the last
46 exempt policymaking or exempt managerial position, for reasons other than
47 just cause, the employee shall have priority to any position that becomes
48 available for which the employee is qualified, according to the policies
49 regulating and defining priority as established by the Commission.

50 (4) When a career employee who has 10 years or more of cumulative service
51 moves from one exempt policymaking or exempt managerial position covered

1 by this subsection to another exempt policymaking or exempt managerial
2 covered by this subsection without a break in service and that employee is
3 later removed from the last exempt policymaking or exempt managerial
4 position, for reasons other than just cause, the employee shall be reassigned
5 to a subject position within the same agency, or if necessary, within another
6 agency. The employee shall be paid at the same grade and salary as the
7 employee's most recent subject position, including all across-the-board
8 legislative increases awarded since the employee's placement in the position
9 that was designated as exempt.

10 (b) An agency head is authorized to use existing budgeted positions within his or her
11 agency to carry out the provisions of subsection (a) of this section. If it is necessary to meet the
12 requirements of subsection (a) of this section, an agency head may use salary reserve funds
13 authorized for his or her agency.

14 **"§ 126A-57.3. Preference for veterans, National Guard members, and spouses of**
15 **active-duty troops.**

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

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

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

23 a. A resident of North Carolina who is a current member in good standing
24 of either the North Carolina Army National Guard or the North
25 Carolina Air National Guard.

26 b. A resident of North Carolina who is a former member of either the
27 North Carolina Army National Guard or the North Carolina Air
28 National Guard, whose discharge is under honorable conditions with
29 a minimum of six years of creditable service.

30 c. The surviving spouse or dependent of a member of the North Carolina
31 Army National Guard or the North Carolina Air National Guard.

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

33 a. A veteran.

34 b. The spouse of a disabled veteran.

35 c. The surviving spouse or dependent of a deceased veteran.

36 d. An eligible member of the National Guard.

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

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

42 (c) The Commission shall establish a policy to provide for a veteran and National Guard
43 preference. The policy shall include a provision that any eligible person who has reason to believe
44 that he or she did not receive a veteran's preference in accordance with the provisions of this
45 section or policies adopted under it may appeal that denial as provided by G.S. 126A-83 and
46 G.S. 126A-84.

47 (d) G.S. 128-15 shall apply to those persons exempted from coverage of this section but
48 shall not apply to any person covered by this section.

49 "Part 2. Interchange of Governmental Employees.

50 **"§ 126A-58. Interchange of governmental employees.**

- 1 (a) Short Title. – This section shall be known and may be cited as the "North Carolina
2 Interchange of Governmental Employees Act."
- 3 (b) Definitions. – The following definitions apply in this section:
- 4 (1) Assigned employee. – An employee of a sending agency who is assigned or
5 detailed to a receiving agency as part of the employee's regular duties with the
6 sending agency.
- 7 (2) Employee on leave. – An employee on leave of absence without pay from a
8 sending agency who becomes an employee of a receiving agency while on
9 leave from the sending agency.
- 10 (3) Receiving agency. – Any division, department, agency, instrumentality,
11 authority, or political subdivision of the federal government or of a state or
12 local government which, under this section, receives an employee of another
13 governmental division, department, agency, instrumentality, authority, or
14 political subdivision of the federal government or of a state or local
15 government.
- 16 (4) Sending agency. – Any division, department, agency, instrumentality,
17 authority, or political subdivision of the federal government or of a state or
18 local government which, under this section, sends any employee thereof to
19 another governmental division, department, agency, instrumentality,
20 authority, or political subdivision of the federal government or of a state or
21 local government.
- 22 (c) Authority to Interchange Employees. – The authority for the interchange of
23 employees is as follows:
- 24 (1) Any division, department, agency, instrumentality, authority, or political
25 subdivision of the State of North Carolina may participate in a program of
26 interchange of employees with divisions, departments, agencies,
27 instrumentalities, authorities, or political subdivisions of the federal
28 government, of another state, or of this State, as a sending agency or a
29 receiving agency.
- 30 (2) The period of individual assignment, detail, or leave of absence under an
31 interchange program shall not exceed two years.
- 32 (3) The temporary assignment of the employee may be terminated by mutual
33 agreement between the sending agency and the receiving agency.
- 34 (4) Elected officials may not participate in a program of interchange.
- 35 (d) Status of Employees of Sending Agency. – The status of employees of a sending
36 agency is governed as follows:
- 37 (1) Employees of a sending agency participating in an exchange of personnel
38 authorized by subsection (c) of this section may be considered during such
39 participation to be either assigned employees or employees on leave.
- 40 (2) Assigned employees shall be entitled to the same salary and employment
41 benefits to which they would be entitled as employees of the sending agency
42 and shall remain employees of the sending agency for all purposes unless
43 otherwise provided in this section or in a written agreement between the
44 sending agency and the receiving agency.
- 45 (3) Employees on leave shall have the same rights, benefits and obligations as
46 other State or local employees subject to this Chapter who are granted leaves
47 of absence, unless otherwise provided in this section, or in a written agreement
48 between the sending agency and the receiving agency.
- 49 (4) Employees of a sending agency of this State participating in an exchange of
50 personnel authorized by subsection (c) of this section, whether considered
51 assigned employees or employees on leave, shall have the same rights,

1 benefits and obligations to participate in and receive benefits, including death
2 benefits, from any retirement system of which they are members as employees
3 of the sending agency if the receiving agency agrees to and makes the
4 employer contributions and deducts from the salary of the employee the
5 employee contributions for continued membership in that retirement system,
6 whether they are members of the Teachers' and State Employees' Retirement
7 System, the North Carolina Local Governmental Employees' Retirement
8 System, the Law Enforcement Officers' Benefit and Retirement Fund, or any
9 other Retirement System established by the State for public employees. If the
10 employee remains entitled to death benefits resulting from his or her death
11 during the period of the exchange, where duplicate benefits would otherwise
12 be payable on account of disability or death, the employee or his or her estate
13 shall elect, within one year of the date of disability or death, which benefits to
14 receive.

15 (e) Travel Expenses of Employees from this State. – A sending agency in this State shall
16 not pay the travel expenses of its assigned or on leave employees and shall not pay the travel
17 expenses of such employees incurred in the course of performing work for the receiving agency.
18 expenses shall be borne by the receiving agency.

19 (f) Status of Employees of Other Governments. – The status of employees of other
20 governments is governed as follows:

21 (1) When a division, department, agency, instrumentality, authority, or political
22 subdivision of the State of North Carolina acts as a receiving agency, assigned
23 employees of the sending agency remain the employees of the sending agency
24 and continue to receive the employment benefits of the sending agency unless
25 otherwise specified in a written agreement between the sending agency and
26 the receiving agency.

27 (2) When a division, department, agency, instrumentality, authority, or political
28 subdivision of this State acts as a receiving agency, employees on leave from
29 the sending agency will receive appointments as employees with the receiving
30 agency and will be entitled to the same employment benefits as other
31 employees of the receiving agency unless otherwise specified in a written
32 agreement between the sending agency and the receiving agency. Such
33 appointments may be made without regard to any rules or regulations of the
34 receiving agency regarding the selection of employees; but applicable rules of
35 the North Carolina Human Resources Act shall apply to the assigned
36 employees.

37 (g) Travel Expenses of Employees of Other Governments. – A receiving agency in the
38 State of North Carolina may, in accordance with its travel regulations and travel regulations by
39 law, pay the travel expenses incurred in the course of an assigned employee's duties or incurred
40 in the course of the duties of an employee on leave with the receiving agency on the same basis
41 as the travel expenses of regular employees are paid.

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

47 "Article 6.

48 "Verification and Onboarding.

49 "Part 1. Verification of Eligibility to Work and Application Materials.

50 **"§ 126A-60. Onboarding of all positions.**

51 The Commission shall establish policies on onboarding, including the following:

1 (1) Confirmation of a person's eligibility to work in the United States.

2 (2) Verification of a person's credentials and employment history.

3 **"§ 126A-61. E-Verify.**

4 (a) Each agency, community college, and public school unit as defined in G.S. 115C-5
5 shall verify, in accordance with the E-Verify Program administered by the United States
6 Department of Homeland Security pursuant to 8 U.S.C. § 1101, et seq., each individual's legal
7 status or authorization to work in the United States after hiring the individual as an employee to
8 work in the United States.

9 (b) OSHR may operate a centralized program to electronically offer E-Verify access to
10 executive branch agencies.

11 **"§ 126A-62. Fraudulent disclosure or concealment on application.**

12 (a) Any employee who knowingly and willfully (i) discloses false or misleading
13 information, (ii) conceals dishonorable military service, or (iii) conceals prior employment
14 history or other requested information significantly related to job responsibilities on an
15 application or any document supplementing an application may be subjected to disciplinary
16 action, including immediate dismissal from employment. An employing agency shall dismiss an
17 employee who discloses false or misleading information to meet the minimum qualifications for
18 the position classification. Applications and any screen allowing an applicant to attach
19 supplemental materials shall include a statement informing applicants of the consequences of
20 fraudulent disclosure or concealment.

21 (b) Each agency shall verify the credentials and the accuracy of application materials of
22 each new employee within 90 days of employment. Failure to verify the application does not bar
23 disciplinary action taken under subsection (a) of this section.

24 "Part 2. Verification and Onboarding Procedures.

25 **"§ 126A-63. Onboarding.**

26 The Commission shall adopt policies on onboarding for positions subject to this Part,
27 including the following:

28 (1) Employee onboarding.

29 (2) Reference checks.

30 "Article 7.

31 "Benefits, Terms, and Conditions of Employment.

32 "Part 1. Paid Parental Leave and Bereavement Leave.

33 **"§ 126A-70. Benefits for all positions, not including temporary positions.**

34 The Commission shall establish policies on paid parental leave and bereavement leave.

35 **"§ 126A-71. Paid parental leave.**

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

37 (1) Child. – A newborn biological child or a newly placed adopted, foster, or
38 otherwise legally placed child under the age of 18 whose parent is an
39 employee eligible for leave under subsection (b) of this section.

40 (2) Reserved for future codification purposes.

41 (3) Parent. – Includes a parent by adoption, foster care, or another legal
42 placement.

43 (4) Qualifying event. – When an employee becomes a parent to a child.

44 (b) Any eligible full-time employee subject to this section may take up to 12 weeks of
45 paid leave after a qualifying event.

46 (c) The Commission shall establish policies that provide for the following:

47 (1) A part-time employee subject to this section shall be able to take a prorated
48 amount of paid leave, not to exceed 12 weeks, after a qualifying event.

49 (2) A period of minimum service before a employee becomes eligible for paid
50 leave under this section that credits employees for aggregate service in an
51 agency.

1 (3) A maximum number of uses of paid parental leave within a 12-month period.

2 (4) Available leave amounts following a miscarriage or death of a child during
3 birth.

4 (d) The paid parental leave authorized by this section is available without exhaustion of
5 the employee's sick and vacation leave and is awarded in addition to shared leave under
6 G.S. 126A-75 or other leave authorized by federal or State law. Paid parental leave has no cash
7 value upon separation from employment and shall not be used in the calculation of an employee's
8 retirement benefits.

9 (e) Local boards of education and boards of trustees of community colleges shall adopt
10 policies substantially equivalent to those adopted by the Commission.

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

12 **"§ 126A-72. Benefits, terms, and conditions of employment.**

13 (a) The Commission shall establish policies on benefits, terms, and conditions of
14 employment for positions subject to this Article, including the following:

15 (1) Establishing hours and days of work, vacation leave, sick leave, and other
16 types of leave, and holidays, in accordance with G.S. 126A-73 and
17 G.S. 126A-74.

18 (2) Cooperating with the State Board of Education, the Department of Public
19 Instruction, The University of North Carolina, the Community Colleges
20 System Office, and other appropriate resources in developing programs in
21 management and supervisory skills, performance evaluation, specialized
22 employee skills, accident prevention, equal employment opportunity
23 awareness, and customer service.

24 (3) Maintaining an accredited Certified Public Manager program.

25 (4) Maintaining a program of meritorious service awards and recognition of
26 employees, public personnel management, and management excellence and
27 authorizing agencies to provide bonuses to employees who receive these
28 awards.

29 (5) Establishing programs of employee assistance, productivity incentives, and
30 equal opportunity.

31 (6) Maintaining safety and health programs required by Article 13 of this Chapter.

32 (7) Providing financial assistance for employee development and employee
33 discounts for services.

34 (8) Allowing flexible work options for employees, including programs of
35 telework or remote work, job-sharing, alternate work schedules, and
36 permanent part-time positions.

37 (9) Promoting efficiency of administration and providing a fair and modern
38 human resources system.

39 **"§ 126A-73. Paid State holidays.**

40 (a) The legal public holidays established by the Commission as paid holidays for
41 employees shall include Martin Luther King Jr.'s Birthday and Veterans Day. The Commission
42 shall not establish more than 13 paid holidays per year. Three paid holidays shall be given for
43 Christmas.

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

46 **"§ 126A-74. Minimum leave granted to employees.**

47 The Commission shall establish a graduated scale for the amount of vacation leave granted
48 to each full-time employee subject to this Article. The scale shall allow the equivalent rate of at
49 least 120 hours of vacation leave per calendar year, prorated monthly, cumulative to at least 240
50 hours. On December 31 of each year, any employee who has vacation leave in excess of the

1 allowed accumulation shall have that leave converted to sick leave. The rate of sick leave for
2 employees shall be at least 80 hours per calendar year, cumulative from year to year.

3 "Part 3. Voluntary Shared Leave.

4 **"§ 126A-75. Voluntary shared leave.**

5 (a) The Commission shall adopt policies to allow any employee to share leave voluntarily
6 with another employee who is an immediate family member or a coworker's immediate family
7 member, whether or not the employees are employed by the same agency.

8 (b) The Commission shall adopt policies in cooperation with the State Board of
9 Community Colleges and the State Board of Education to allow for employees to share leave
10 voluntarily with an immediate family member or coworker's immediate family member who is
11 employed by a community college or local board of education.

12 (c) The Commission shall adopt policies to allow an employee to donate sick leave to a
13 non-family member employee.

14 "Part 4. Flexible Compensation Plan.

15 **"§ 126A-76. Flexible compensation plan.**

16 (a) The Director may provide eligible officers and employees a program of dependent
17 care assistance as available under section 129 and related sections of the Internal Revenue Code
18 of 1986, as amended. The Director may authorize agencies employing eligible officers and
19 employees to enter into annual agreements with employees who elect to participate in the
20 program to provide for a reduction in salary. With the approval of the Director, savings in the
21 employer's share of contributions under the Federal Insurance Contributions Act on account of
22 the reduction in salary may be used to pay some or all of the administrative expenses of the
23 program. If the Director decides to contract with a third party to administer the terms and
24 conditions of a program of dependent care assistance, the Director may select a contractor only
25 upon a thorough and completely competitive procurement process.

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

34 (c) In providing a plan of flexible compensation, the Director may authorize agencies
35 employing eligible officers and employees to enter into agreements with their employees for
36 reductions in the salaries of employees electing to participate in the plan of flexible compensation
37 provided by this Part.

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

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

48 "Article 8.

49 "Just Cause, Disciplinary Actions, and Grievances.

50 **"§ 126A-80. Just cause, disciplinary actions, and grievances.**

1 The Commission shall establish policies on just cause, disciplinary actions, and grievances,
2 including the following:

- 3 (1) The definition of just cause.
- 4 (2) The investigation of complaints and the issuing of binding corrective orders
5 or other appropriate action concerning employment, promotion, demotion,
6 transfer, discharge, reinstatement, and any other issue defined as a contested
7 case issue under G.S. 126A-84(c).
- 8 (3) The assessment of reasonable attorneys' fees and witnesses' fees against the
9 agency involved in the grievance.
- 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. Disciplinary actions.**

18 (a) No career employee subject to this Article shall be dismissed, suspended, or demoted
19 for disciplinary reasons, except for just cause.

20 (b) In determining whether just cause exists for dismissal, suspension, or demotion for
21 unacceptable personal conduct, an employing 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, including
25 harm to the agency's operations, efficiency, mission, reputation, or public
26 trust.
- 27 (4) The employee's work history.
- 28 (5) Discipline imposed in past cases of similar violations. An agency may modify
29 its disciplinary standard when it determines that past precedent is no longer
30 appropriate and the modification is grounded in articulable reasoning and
31 applied fairly and consistently to current and prospective cases.

32 (c) The employing agency shall exercise reasonable discretion in identifying which of
33 the factors outlined in subsection (b) of this section are most relevant given the facts presented
34 and how to weigh the various factors to determine appropriate discipline. No discipline shall fail
35 solely for failing to consider one of the factors in subsection (b) of this section if just cause was
36 present.

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

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

47 (e) In cases where an employing agency has decided to take disciplinary action, the
48 employee shall be given written notice before the action is taken that explains the specific acts
49 or omissions that are the reasons for the disciplinary action. The written notice shall also explain
50 the employee's appeal rights. The employee may appeal to the agency head through the agency
51 grievance procedure for a final agency decision within 15 days of receiving the notice. If the

1 employee appeal involves an allegation of discrimination, retaliation, or harassment, the
2 employee shall file an equal employment opportunity inquiry within 15 days of receiving the
3 notice before appealing through the agency grievance procedure. The employee will have 15
4 days following the closure of the equal employment opportunity inquiry to appeal through the
5 agency grievance procedure for a final agency decision.

6 (f) Notwithstanding subsection (e) of this section, an employee may be suspended
7 without warning for causes relating to personal conduct detrimental to State service to avoid
8 undue disruption of work or to protect the safety of persons or property or for other serious
9 reasons.

10 (g) If the employee is not satisfied with the final agency decision or is unable, within a
11 reasonable period of time, to obtain a final agency decision, the employee may appeal to the
12 Office of Administrative Hearings. This appeal shall be filed within 30 days of receiving of notice
13 of the final agency decision.

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

18 **"§ 126A-82. Temporary redeployment of employees after criminal charges filed.**

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

25 **"§ 126A-83. Grievance; resolution.**

26 (a) Any employee having a grievance arising out of or due to his or her employment shall
27 first discuss the grievance with the employee's supervisor, unless the grievance is with the
28 supervisor. Then the employee shall follow the agency grievance procedure. The proposed final
29 agency decision shall not be issued or become final until reviewed and approved by OSHR.

30 (b) Any applicant having a grievance arising out of or due to his or her hiring shall follow
31 the agency grievance procedure. The proposed final agency decision shall not be issued or
32 become final until reviewed and approved by OSHR.

33 (c) The agency grievance procedure and OSHR review shall be completed within 120
34 days from the date the grievance is filed. If an employee or applicant files multiple grievances
35 within the same calendar month, the grievances shall be merged and the 120-day time line under
36 this section resets. The Office of Administrative Hearings may issue gatekeeping orders to
37 prevent abuse of the grievance process.

38 (d) Local agencies shall establish grievance procedures consistent with this Article that
39 do not require approval of a final agency decision by OSHR. Local employees shall follow local
40 agency grievance procedures.

41 **"§ 126A-84. Grievance appeal process.**

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

- 50 (1) Reinstatement of the employee to the position from which the employee has
51 been removed.

- 1 (2) Ordering the employment, promotion, transfer, or salary adjustment of any
2 individual to whom it has been wrongfully denied.
- 3 (3) Directing other suitable action to correct the abuse which may include the
4 requirement of payment for any loss of salary that has resulted from the
5 improper action of the agency.
- 6 (b) An aggrieved party in a contested case under this section shall be entitled to judicial
7 review of a final decision by appeal to the Court of Appeals as provided in G.S. 7A-29(a). The
8 appeal shall be taken within 30 days of receipt of the written notice of final decision. A notice of
9 appeal shall be filed with the Office of Administrative Hearings and served on all parties to the
10 contested case hearing.
- 11 (c) The following issues may be heard as contested cases after completion of the agency
12 grievance procedure and the OSHR review:
- 13 (1) Discrimination or harassment. – An applicant for employment, an employee,
14 or former employee may allege discrimination or harassment based on race,
15 religion, color, national origin, sex, age, disability, genetic information, or
16 political affiliation if the employee believes that he or she has been
17 discriminated against in his or her application for employment or in the terms
18 and conditions of the employee's employment, or in the termination of his or
19 her employment.
- 20 (2) Retaliation. – An applicant for employment, an employee, or former employee
21 may allege retaliation for protesting discrimination based on race, religion,
22 color, national origin, sex, age, disability, political affiliation, or genetic
23 information if the employee believes that he or she has been retaliated against
24 in his or her application for employment, in the terms and conditions of the
25 employee's employment, or in the termination of the employee's employment.
- 26 (3) Just cause for dismissal, demotion, or suspension. – A career employee may
27 allege that he or she was dismissed, demoted, or suspended for disciplinary
28 reasons without just cause. A dismissal, demotion, or suspension which is not
29 imposed for disciplinary reasons shall not be considered a disciplinary action
30 within the meaning of this section. However, in contested cases conducted
31 pursuant to this section, an employee may appeal an involuntary
32 nondisciplinary separation due to an employee's unavailability in the same
33 fashion as if it were a disciplinary action, but the agency shall only have the
34 burden to prove that the employee was unavailable.
- 35 (4) Veteran's and National Guard preference. – An applicant for employment or
36 an employee may allege that he or she was denied veteran's preference or
37 National Guard preference in violation of the law.
- 38 (5) Failure to post or give priority consideration. – An applicant for employment
39 or an employee may allege that he or she was denied hiring or promotion
40 because a position was not posted in accordance with this Chapter, or a career
41 State employee may allege that he or she was denied a promotion as a result
42 of a failure to give priority consideration for promotion as required by
43 G.S. 126A-57.1 or a career employee may allege that he or she was denied
44 hiring as a result of the failure to give him or her a reduction-in-force priority.
- 45 (6) Whistleblower. – A whistleblower grievance as provided in Article 14 of this
46 Chapter.
- 47 (d) Any issue for which an appeal to the Office of Administrative Hearings has not been
48 specifically authorized by this section shall not be grounds for a contested case hearing.
- 49 (e) In contested cases conducted pursuant to this section, the burden of showing that a
50 career employee was discharged, demoted, or suspended for just cause rests with the employing
51 agency. In all other contested cases, the burden of proof rests with the employee or applicant.

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

13 (b) Notwithstanding any other provisions of the State's retirement laws, any employee (i)
14 who is a member of the Teachers' and State Employees' Retirement System or the Law
15 Enforcement Officers' Retirement System and (ii) 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 (c) The salary used to determine severance wages under this section is the last annual
37 salary except that if the employee was promoted within the previous 12 months, the last annual
38 salary is the annual salary prior to the promotion. If the annual salary prior to the promotion is
39 used, it shall be adjusted to account for any across-the-board legislative salary increases.
40 Excluded from any calculation are any benefits such as overtime pay, shift pay, holiday premium,
41 or longevity pay. The salary used to determine the discontinued retirement allowance under this
42 section is the same as the average final compensation under G.S. 135-1(5).

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

48 "Article 10.

49 "Inappropriate Political Activity.

50 "§ 126A-100. Appropriate political activity of employees.

1 (a) Each employee retains all the rights and obligations of citizenship provided in the
2 Constitution and laws of the State and the Constitution and laws of the United States. Employees
3 subject to this Article shall not do any of the following:

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

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

12 (b) No agency head or other employee exercising supervisory authority shall make, issue,
13 or enforce any rule or policy the effect of which is to interfere with the right of any employee as
14 an individual to engage in political activity while not on duty or at times during which he or she
15 is not performing services for which he or she receives compensation from the State. An
16 employee who is or may be expected to perform his or her duties on a 24 hour per day basis shall
17 not be prevented from engaging in political activity except during regularly scheduled working
18 hours or at other times when actually performing the duties of office. The willful violation of this
19 section shall be a Class 1 misdemeanor.

20 **"§ 126A-101. Promise or threat to obtain political contribution or support.**

21 (a) It is unlawful for an employee or a person appointed to State office, other than elective
22 office or office on a board, commission, committee, or council whose function is advisory only,
23 whether or not subject to this Article, to coerce (i) an employee in a position subject to this Article
24 or (ii) an applicant for a position subject to this Article to support or contribute to a political
25 candidate, political committee as defined in G.S. 163-278.6, or political party, or to change the
26 party designation of the individual's voter registration by threatening that change in employment
27 status, discipline, or preferential personnel treatment will occur.

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

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

34 (d) An employee subject to this Article who without probable cause falsely accuses an
35 employee or a person appointed to State office of violating this section shall be subject to
36 discipline or change in employment status in accordance with the provisions of G.S. 126A-81
37 and may be subject to criminal penalties for perjury or civil liability for libel, slander, or
38 malicious prosecution.

39 **"§ 126A-102. Threat to obtain political contribution or support.**

40 (a) It is unlawful for any person to coerce (i) an employee subject to this Article or (ii)
41 an applicant for a position subject to this Article to support or contribute to a political candidate,
42 political committee as defined in G.S. 163-278.6, or political party, or to change the party
43 designation of his or her voter registration by explicitly threatening that change in employment
44 status, discipline, or preferential personnel treatment will occur.

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

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

51 **"§ 126A-103. Compelled speech prohibited.**

1 (a) Each agency shall refrain from soliciting or requiring an applicant for employment to
2 do any of the following:

3 (1) Endorse or opine about beliefs, affiliations, ideals, or principles regarding
4 matters of contemporary political debate or social action as a condition of
5 employment.

6 (2) Describe the applicant's actions in support of, or in opposition to, the beliefs,
7 affiliations, ideals, or principles regarding matters of contemporary political
8 debate or social action as a condition of employment.

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

12 (c) No application for employment shall inquire into matters prohibited as compelled
13 speech under subsection (a) of this section.

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

15 (1) Prohibit discussion with or questions to an applicant regarding the content of
16 the applicant's resume, curriculum vitae, or other written work or oral remarks.

17 (2) Affect the ability of the employing agency to comply with applicable federal
18 or State law, including employment oaths, appointment affidavits, and
19 licensure and certification requirements.

20 (3) Apply to speech protected by the First Amendment of the U.S. Constitution.

21 **"§ 126A-104. Ensuring dignity and nondiscrimination in State government workplaces.**

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

27 (b) Agencies shall not compel employees to affirm or profess belief in any of the
28 following concepts in the workplace or as part of any employee training program:

29 (1) One race or sex is inherently superior to another race or sex.

30 (2) An individual, solely by virtue of his or her race or sex, is inherently racist,
31 sexist, or oppressive.

32 (3) An individual should be discriminated against or receive adverse treatment
33 solely or partly because of his or her race or sex.

34 (4) An individual's moral character is necessarily determined by his or her race or
35 sex.

36 (5) An individual, solely by virtue of his or her race or sex, bears responsibility
37 for actions committed in the past by other members of the same race or sex.

38 (6) Any individual, solely by virtue of his or her race or sex, should feel
39 discomfort, guilt, anguish, or any other form of psychological distress.

40 (7) A meritocracy is inherently racist or sexist.

41 (8) The United States was created by members of a particular race or sex for the
42 purpose of oppressing members of another race or sex.

43 (9) The United States government should be violently overthrown.

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

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

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

1 generally and the county local government rules and regulations are filed with the Director, those
2 county rules will supersede the rules adopted by the Commission as to the county employees
3 otherwise subject to the provisions of this Chapter.

4 (b) County employees otherwise subject to the provisions of this Chapter shall not be
5 paid a salary less than the minimum nor more than the maximum of the applicable salary range
6 adopted by the board of county commissioners. A board of county commissioners may adjust the
7 salary ranges applicable to employees who are otherwise subject to the provisions of this Chapter,
8 in order to cause the level of pay to conform to local financial ability and fiscal policy. The
9 Commission shall establish policies to ensure that significant relationships within the schedule
10 of salary ranges are maintained.

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

15 (d) When a municipality is performing an activity by or through employees who are
16 subject to the provisions of this Chapter, the governing body of the municipality may exercise
17 the authority granted in subsections (a) and (b) of this section.

18 **"§ 126A-121. Human resources services to local governmental units.**

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

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

22 (2) Providing customized training programs.

23 (3) Responding to questions regarding personnel laws.

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

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

27 (b) Notwithstanding the provisions of G.S. 126A-161, 126A-163, 153A-98, and
28 160A-168:

29 (1) When a local agency indicates that it will permanently appoint a person who
30 does not meet the minimum qualifications for the classification of a position
31 subject to this Chapter, except for trainee and work-against appointments,
32 OSHR may contact any relevant members of the board supervising that local
33 agency, the county manager and commissioners, and the Department of
34 Health and Human Services. The message may identify the particular
35 qualifications that the proposed appointee would need to meet to have the
36 minimum qualifications of the class specification.

37 (2) When a local agency requests that OSHR make the final determination as to
38 whether the employee or applicant meets the minimum qualifications, OSHR
39 may share the relevant portions of the personnel file of a specific employee or
40 applicant with the Deputy Director of the Public Health or Social Services
41 Division of the Department of Health and Human Services, or similar State
42 departmental staff, to assist in determining qualification status.

43 **"§ 126A-122. Local human resources system.**

44 (a) The board of county commissioners of any county may establish and maintain a
45 human resources system for all employees of the county subject to its jurisdiction. This system
46 and any substantial changes to the system are subject to the approval of the Commission. The
47 Commission shall approve a system that is substantially equivalent to the human resources
48 system established under this Chapter for employees of local departments of social services, local
49 health departments, and area mental health programs, local emergency management programs.
50 If approved by the Commission, the employees covered by the county system shall be exempt
51 from all provisions of this Chapter except Article 15.

1 (b) With approval of each of the boards of commissioners of the county or counties which
2 comprise the area mental health authority, the area mental health authority may establish and
3 maintain a human resources system for all employees of the area mental health authority. This
4 system and any substantial changes to the system are subject to the approval of the Commission.
5 The Commission shall approve a system that is substantially equivalent to the human resources
6 system established under this Chapter for employees of area mental health authorities. If
7 approved by the Commission, the employees covered by the area mental health authority system
8 shall be exempt from all provisions of this Chapter except Article 15.

9 (c) A board of county commissioners may petition the Commission to determine whether
10 any portion of its human resources system meets the requirements in subsection (a) of this
11 section. Upon such determination, county employees shall be exempt from the provisions of this
12 Chapter relating to the approved portions of the county human resources system.

13 (d) The board of an area mental health authority, with the approval of each of the boards
14 of commissioners of the county or counties which comprise the area mental health authority, may
15 petition the Commission to determine whether any portion of its human resources system meets
16 the requirements in subsection (b) of this section. Upon such determination, area mental health
17 authority employees shall be exempt from the provisions of this Chapter relating to the approved
18 portions of the area mental health authority human resources system except as provided in
19 G.S. 122C-121.

20 (e) OSHR shall monitor at least annually county or area mental health authority human
21 resources systems approved under this section to ensure compliance.

22 (f) To define "substantially equivalent," the Commission shall implement the federal
23 merit system standards, which include recruitment and selection of employees, position
24 classification, pay administration, training, and employee relations.

25 **"§ 126A-123. Bonuses for local government.**

26 Local agencies are authorized to offer bonuses to employees subject to this Chapter. These
27 bonuses shall be consistent with the corresponding bonus policies for executive branch agency
28 employees.

29 **"Article 13.**

30 **"Employee Workplace Requirements Program for Safety, Health, and Workers' Compensation.**

31 **"§ 126A-131. Program goals.**

32 OSHR shall establish a written program for executive branch agencies for employee
33 workplace environmental, health, and safety, and workers' compensation. The program shall
34 promote safe and healthful working conditions, be based on clearly stated goals and objectives,
35 and provide managers and employees with an understanding of the State's concern for protecting
36 employees from job-related injuries and health impairment; preventing accidents and fires;
37 planning for emergencies and emergency medical procedures; identifying and controlling
38 physical, chemical, biological, and radiological hazards in the workplace; communicating
39 potential hazards to employees; and assuring adequate housekeeping and sanitation.

40 **"§ 126A-132. Program requirements.**

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

- 42 (1) The methods to be used to identify, analyze, and control new or existing
43 hazards, conditions, and operations.
- 44 (2) How managers, supervisors, and employees are responsible for implementing
45 the program, controlling accident-related expenditures, and how continued
46 participation of management and employees will be established, measured,
47 and maintained.
- 48 (3) How the plan will be communicated to all affected employees so that they are
49 informed of work-related physical, chemical, biological, or radiological
50 hazards, and controls necessary to prevent injury or illness.

- 1 (4) How managers, supervisors, and employees will receive training in avoidance
2 of job-related injuries and health impairment.
3 (5) How workplace accidents will be reported and investigated and how
4 corrective actions will be implemented.
5 (6) How safe work practices and rules will be communicated and enforced.
6 (7) The safety and health training program that will be made available to
7 employees.
8 (8) How employees can make complaints concerning safety and health problems
9 without fear of retaliation.
10 (9) How employees will receive medical attention following a work-related injury
11 or illness.

12 **"§ 126A-133. Model program; technical assistance; reports.**

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

- 14 (1) Maintain a model program of safety and health requirements to guide
15 executive branch agencies in the development of their individual programs
16 and in complying with the provisions of G.S. 95-148 and this Article.
17 (2) Establish guidelines for the creation and operation of executive branch agency
18 environmental, health and safety committees.
19 (3) Adopt policies that shall govern the administration of the workers'
20 compensation program and monitor compliance with Chapter 97 of the
21 General Statutes.
22 (4) Establish guidelines for the delegation of certain administrative functions as
23 necessary for the administration of the workers' compensation program to
24 State agencies, as defined in this section.

25 (b) Technical Assistance. – OSHR shall do the following:

- 26 (1) Provide consultative and technical services, including environmental, health,
27 and safety training to assist executive branch agencies in establishing and
28 administering their workplace environmental, health, and safety programs and
29 to address specific technical problems through risk management and
30 mitigation.
31 (2) Monitor compliance with this Article.

32 **"§ 126A-134. Executive branch agency safety and health committees.**

33 OSHR shall create, pursuant to guidelines adopted under subsection (a) of G.S. 126A-133,
34 committees to perform workplace inspections, review injury and illness records, make advisory
35 recommendations to the agency's managers, and perform other functions determined by OSHR
36 to be necessary for the effective implementation of this Article.

37 "Article 14.

38 "Protection for Reporting Improper Government Activities.

39 **"§ 126A-140. Statement of policy.**

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

- 43 (1) A violation of State or federal law, rule, or regulation.
44 (2) Fraud.
45 (3) Misappropriation of State resources.
46 (4) Substantial and specific danger to the public health and safety.
47 (5) Gross mismanagement, a gross waste of monies, or gross abuse of authority.

48 (b) Further, it is the policy of this State that employees be free of intimidation or
49 harassment when reporting to public bodies about matters of public concern, including offering
50 testimony to or testifying before appropriate legislative panels, or providing statements or
51 testimony to agents and employees of legislative panels duly appointed by the President Pro

1 Tempore of the Senate or the Speaker of the House of Representatives designated to conduct
2 inquiries on behalf of a legislative panel.

3 **"§ 126A-141. Protection from retaliation.**

4 (a) Agency heads and other employees exercising supervisory authority shall not
5 discharge, threaten, or otherwise discriminate against an employee regarding the employee's
6 compensation, terms, conditions, location, or privileges of employment because of any of the
7 following:

8 (1) The employee, or a person acting on behalf of the employee, reports or is
9 about to report, verbally or in writing, any activity described in
10 G.S. 126A-140, unless the employee knows or has reason to believe that the
11 report is inaccurate.

12 (2) The employee has refused to carry out a directive that in fact constitutes a
13 violation of State or federal law, rule, or regulation or poses a substantial and
14 specific danger to the public health and safety.

15 (b) Employees shall not retaliate against another employee because of any of the
16 following:

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

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

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

27 **"§ 126A-142. Civil actions for injunctive relief or other remedies.**

28 (a) Any employee injured by a violation of G.S. 126A-141 who is not subject to Article
29 8 of this Chapter may maintain an action in superior court against the person or agency who
30 committed the alleged violation within one year after the occurrence.

31 (b) Any claim arising under Article 21 of Chapter 95 of the General Statutes may be
32 maintained pursuant to the provisions of that Article only and may be redressed only by the
33 remedies and relief available under that Article.

34 **"§ 126A-143. Remedies.**

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

37 (1) An injunction, damages.

38 (2) Reinstatement of the employee.

39 (3) Payment of back wages.

40 (4) Full reinstatement of fringe benefits and seniority rights.

41 (5) Payment of costs, reasonable attorneys' fees or any combination of these.

42 (b) If an application for a permanent injunction is granted, the employee shall be awarded
43 costs and reasonable attorneys' fees.

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

48 **"§ 126A-144. Notice of employee protections and obligations.**

49 Employing agencies shall post notice in accordance with G.S. 95-9 or use other appropriate
50 means to keep employees informed of their protections and obligations under this Article.

51 **"§ 126A-145. Communications with members of the General Assembly.**

1 An employee's right to speak to a member of the General Assembly at the member's request
2 shall not be directly or indirectly limited by the employee's supervisor or by any policy of the
3 employing agency.

4 "Article 15.

5 "Equal Employment and Compensation Opportunity.

6 **"§ 126A-150. Equal opportunity for employment and compensation by executive branch**
7 **agencies and local political subdivisions.**

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

11 **"§ 126A-151. Equal employment opportunity training.**

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

14 **"§ 126A-152. Retaliation by executive branch agencies and local political subdivisions.**

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

17 **"§ 126A-153. Equal employment opportunity plans; reports; maintenance of services.**

18 (a) Each member of the Council of State under G.S. 143A-11, each of the principal
19 departments enumerated in G.S. 143B-6, and The University of North Carolina shall develop and
20 submit to the Director for review and approval on or before March 1 annually an Equal
21 Employment Opportunity plan which shall include goals and programs that provide positive
22 measures to assure equitable and fair representation of North Carolina's citizens.

23 (b) The Director shall provide services of Equal Employment Opportunity technical
24 assistance, training, oversight, monitoring, evaluation, support programs, and reporting to assure
25 that the State government's workforce is diverse at all occupational levels. These services shall
26 be provided by qualified personnel.

27 "Article 16.

28 "The Privacy of Employee Personnel Records.

29 **"§ 126A-160. Policies.**

30 The Commission shall establish policies on personnel records of positions subject to this
31 Article.

32 **"§ 126A-161. Personnel files not subject to inspection under G.S. 132-6.**

33 (a) Except as provided in G.S. 126A-162, 126A-162.1, and 126A-163, personnel files of
34 employees shall not be subject to inspection and examination under G.S. 132-6.

35 (b) The following definitions apply in this Article:

36 (1) Reserved for future codification purposes.

37 (2) Employee. – A current employee, former employee, or applicant for
38 employment at an agency.

39 (3) Personnel file. – Any employment-related or personal information gathered
40 by an employing agency or by OSHR. Employment-related information
41 contained in a personnel file includes information related to an individual's
42 application, selection, promotion, demotion, transfer, leave, salary, contract
43 for employment, benefits, suspension, performance evaluation, disciplinary
44 actions, and termination. Personal information contained in a personnel file
45 includes an individual's home address, social security number, medical
46 history, personal financial data, marital status, dependents, and beneficiaries.

47 (4) Record. – The personnel information that each employing agency is required
48 to maintain in accordance with G.S. 126A-162.

49 (c) Personnel files of former employees who have been separated from agency
50 employment for 10 or more years may be open to inspection and examination, except for papers
51 and documents relating to demotions and to disciplinary actions resulting in the dismissal of the

1 former employee. Retirement files maintained by the Retirement Systems Division of the
2 Department of State Treasurer shall be made public pursuant to G.S. 128-33.1 and G.S. 135-6.1.

3 **"§ 126A-162. Certain records to be kept by agencies open to inspection.**

4 (a) Each employing agency shall maintain a record with the following information for
5 each of its employees:

6 (1) Name.

7 (2) Date of original employment or appointment to agency service.

8 (3) The terms of any contract by which the employee is employed whether written
9 or oral, past and current, to the extent that the agency has such record in its
10 possession.

11 (4) Current position.

12 (5) Title.

13 (6) Current salary.

14 (7) Date and amount of each increase or decrease in salary with that agency.

15 (8) Date and type of each promotion, demotion, transfer, suspension, separation,
16 or other change in position classification with that agency.

17 (9) Date and general description of the reasons for each promotion with that
18 agency.

19 (10) Date and type of each dismissal, suspension, or demotion for disciplinary
20 reasons taken by the agency. If the disciplinary action was a dismissal, a copy
21 of the written notice of the final decision of the agency head setting forth the
22 specific acts or omissions that are the basis of the dismissal.

23 (11) The office or station to which the employee is currently assigned.

24 (b) For the purposes of this section, the term "salary" includes pay, benefits, incentives,
25 bonuses, and deferred and all other forms of compensation paid by the employing entity.

26 (c) Subject only to Commission policies on safekeeping of the records, every person
27 having custody of records shall permit them to be inspected, examined, and copied by any person
28 during regular business hours. Except as provided in G.S. 126A-162.1, any person who is denied
29 access to a record shall have the right to compel compliance with the provisions of this section
30 by application to a court of competent jurisdiction for a writ of mandamus or other appropriate
31 relief.

32 **"§ 126A-162.1. Certain restrictions on access to records.**

33 (a) Notwithstanding G.S. 126A-162, persons in the custody of or under the supervision
34 of the Division of Institutions of the Department of Adult Correction and persons in the custody
35 of local confinement facilities are not entitled to access the records made public under
36 G.S. 126A-162 and are prohibited from obtaining those records, absent a court order authorizing
37 access, custody, or possession of the records.

38 (b) An attorney investigating allegations of unlawful misconduct or abuse by a
39 Department of Adult Correction, Division of Institutions, employee shall be provided, upon
40 request, the following information about the employee: (i) his or her name, (ii) his or her current
41 or former position within the Division, and (iii) his or her dates of employment. The attorney
42 shall not give the offender copies of records or official documents absent a court order
43 authorizing access, custody, or possession.

44 **"§ 126A-163. Confidential information in personnel files.**

45 (a) All other information contained in a personnel file is confidential and shall not be
46 open for inspection and examination, except to the following persons:

47 (1) The employee or his or her properly authorized agent, who may examine his
48 or her own personnel file in its entirety except for (i) letter of references
49 solicited prior to employment or (ii) information concerning a medical
50 disability, mental or physical, that a prudent physician would not divulge to a

1 patient. An employee's medical record may be disclosed to a licensed
2 physician designated in writing by the employee.

3 (2) The supervisor and indirect supervisors of the employee.

4 (3) A potential agency supervisor during the interview process, only with regard
5 to performance management documents or to prevent application fraud.

6 (4) Members of the General Assembly who may inspect and examine personnel
7 records under the authority of G.S. 120-19.

8 (5) A party by authority of a proper court order may inspect and examine a
9 particular confidential portion of an employee's personnel file. In this
10 subdivision, "court order" includes a lawfully issued subpoena or discovery
11 request so long as the parties have moved for the court to issue a protective
12 order regarding the confidential personnel file information. A party may
13 lawfully delay producing requested confidential personnel file documents
14 until the court has ruled on that party's motion for protective order regarding
15 those documents.

16 (6) An official of an agency of the federal government, State government, or any
17 political subdivision thereof. Such an official may inspect any personnel
18 records when such inspection is deemed by the agency head as necessary and
19 essential to the proper function of the agency or to protect the safety of another
20 person. This information shall not be divulged for purposes of assisting in a
21 criminal prosecution or for purposes of assisting in a tax investigation.

22 (7) Staff performing human resources functions at the employing agency or
23 OSHR.

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

25 (9) A grievant's, during a grievance hearing held by the employing agency,
26 personnel file information may be provided to the grievant to the extent
27 necessary to adjudicate the grievance. If the agency provides confidential
28 personnel file information of a person other than the grievant, the grievant
29 shall keep that information confidential.

30 (10) An employing agency subject to this Article conducting a quasi-judicial
31 hearing or a party to that quasi-judicial hearing may have access to relevant
32 material in personnel files and may introduce copies of that material or
33 information based on that material as evidence in the hearing, either (i) upon
34 consent of the employee, former employee, or applicant for employment or
35 (ii) upon subpoena properly issued by the agency either upon request of a party
36 or on its own motion. Nothing in this Chapter shall impose liability on any
37 agent or officer of the State for compliance with this provision.

38 (b) Notwithstanding any other provision of this Article, an agency head may, in his or
39 her discretion, disclose to a person any promotion, demotion, suspension, reinstatement, transfer,
40 separation, dismissal, employment, or nonemployment of any employee and the reasons for the
41 action. An agency head may also permit any person to inspect or examine the personnel file, or
42 any portion of the file, of an employee when he or she determines that disclosure is essential to
43 maintaining the integrity of the agency or the level or quality of services it provides. Before
44 releasing any information or making any file available under this subsection, the agency head
45 shall prepare a memorandum stating the circumstances requiring disclosure and identifying the
46 information to be disclosed. The memorandum shall be retained in agency files and shall be a
47 public record.

48 **"§ 126A-164. Remedies of employee objecting to material in file.**

49 (a) An employee who objects to material in the employee's personnel file because he or
50 she considers it inaccurate or misleading may do any of the following:

- 1 (1) Place in his or her file a written statement relating to the material considered
 2 inaccurate or misleading.
 3 (2) Seek the removal of such material from the file in accordance with a grievance
 4 procedure under G.S. 126A-85(b).

5 (b) If the agency determines that material in the employee's personnel file is inaccurate
 6 or misleading, the agency shall remove or amend the inaccurate material to ensure that the file is
 7 accurate.

8 (c) Nothing in this section shall be construed to permit an employee to appeal the contents
 9 of a performance appraisal or written disciplinary action.

10 **"§ 126A-165. Penalty for permitting access to confidential file by unauthorized person.**

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

16 **"§ 126A-166. Penalty for accessing confidential file without authority.**

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

22
 23 **PART II. LEGISLATIVE HUMAN RESOURCES SYSTEM**

24 **SECTION 2.(a) G.S. 120-32 reads as rewritten:**

25 **"§ 120-32. Commission duties.**

26 The Legislative Services Commission is authorized to:

- 27 (1) ~~Determine the number, titles, classification, functions, compensation, and~~
 28 ~~other conditions of employment of the joint legislative service employees of~~
 29 ~~the General Assembly, including but not limited to the following departments:~~
 30 a. ~~Legislative Services Officer and personnel.~~
 31 b. ~~Electronic document writing system.~~
 32 c. ~~Proofreaders.~~
 33 d. ~~Legislative printing.~~
 34 e. ~~Enrolling clerk and personnel.~~
 35 f. ~~Library.~~
 36 g. ~~Research and bill drafting.~~
 37 h. ~~Printed bills.~~
 38 i. ~~Disbursing and supply.~~

39 ~~The provisions of G.S. 135-3(a)(8)c. do not apply to temporary employees of~~
 40 ~~the General Assembly with respect to compensation earned while a temporary~~
 41 ~~employee of the General Assembly. Establish a Legislative Human Resources~~
 42 ~~System as provided in Article 7E of this Chapter.~~

- 43 (2) ~~Determine the classification and compensation of employees of the respective~~
 44 ~~houses other than staff elected officers; however, the hiring of employees of~~
 45 ~~each house and their duties shall be prescribed by the rules and administrative~~
 46 ~~regulations of the respective house;~~

- 47 (2a) ~~Obtain a criminal history record check of a prospective employee, volunteer,~~
 48 ~~or contractor of the General Assembly and lobbyists and liaison personnel~~
 49 ~~registered under Chapter 120C of the General Statutes. The criminal history~~
 50 ~~record check shall be conducted by the State Bureau of Investigation as~~
 51 ~~provided in G.S. 143B-973. G.S.143B-1209.55. The criminal history report~~

1 shall be provided to the Legislative Services Officer and is not a public record
2 under Chapter 132 of the General Statutes.

3"

4 **SECTION 2.(b)** G.S. 120-32.5 is repealed.

5 **SECTION 2.(c)** Chapter 120 of the General Statutes is amended by adding a new
6 Article to read:

7 "Article 7E.

8 "Legislative Human Resources System.

9 "Part 1. Legislative Services Commission Policies.

10 **§ 120-36.30. Policies and equal employment opportunity.**

11 (a) The Legislative Services Commission is authorized to:

12 (1) Determine the number, titles, classification, functions, compensation, and
13 other conditions of employment of the joint legislative services employees of
14 the General Assembly, including, but not limited to, the following
15 departments:

16 a. Legislative Services Officer and personnel.

17 b. Electronic document writing system.

18 c. Proofreaders.

19 d. Legislative printing.

20 e. Enrolling clerk and personnel.

21 f. Library.

22 g. Research and bill drafting.

23 h. Printed bills.

24 i. Disbursing and supply.

25 The provisions of G.S. 135-3(a)(8)c. do not apply to temporary employees of
26 the General Assembly with respect to compensation earned while a temporary
27 employee of the General Assembly.

28 (2) Determine the classification and compensation of employees of the respective
29 houses other than staff elected officers; however, the hiring of employees of
30 each house and their duties shall be prescribed by the rules and administrative
31 regulations of the respective house.

32 (3) Obtain a criminal history record check of a prospective employee, volunteer,
33 or contractor of the General Assembly and lobbyists and liaison personnel
34 registered under Chapter 120C of the General Statutes. The criminal history
35 record check shall be conducted by the State Bureau of Investigation as
36 provided in G.S. 143B-973. G.S. 143B-1209.55. The criminal history report
37 shall be provided to the Legislative Services Officer and is not a public record
38 under Chapter 132 of the General Statutes.

39 (4) Confirm an individual's legal status or authorization to work in the United
40 States after hiring the individual as an employee, in accordance with the
41 E-Verify Program administered by the United States Department of
42 Homeland Security pursuant to 8 U.S.C. § 1101, et seq., each.

43 (5) Provide for parental leave benefits for employees.

44 (6) Coordinate with the Director of the Office of State Human Resources to offer
45 flexible compensation benefits as provided in G.S. 126A-76.

46 (7) Establish safety, health, and workers' compensation programs for employees.

47 **§ 120-36.32. Leave for temporary employees.**

48 Temporary part-time or full-time employees of the General Assembly who have four years
49 of aggregate employment with the General Assembly (temporary or permanent) shall receive the
50 same holidays, vacation leave, and sick leave as permanent part-time or full-time employees of

1 the General Assembly, respectively, or as may be determined by the Legislative Services
2 Commission.

3 **"§ 120-36.33. Equal employment opportunities.**

4 The General Assembly shall give equal opportunity for employment and compensation,
5 without regard to race, religion, color, national origin, sex, age, disability, or genetic information
6 to all persons otherwise qualified, and shall not retaliate against an employee for protesting
7 alleged violations of this section.

8 "Part 2. Protection for Reporting Improper Government Activities.

9 **"§ 120-36.35. Duty to report improper government activities.**

10 (a) It is the policy of the State that employees shall have a duty to report verbally or in
11 writing to their supervisor or other appropriate authority evidence of activity in the legislative
12 branch or an employee constituting any of the following:

13 (1) A violation of State or federal law, rule, or regulation.

14 (2) Fraud.

15 (3) Misappropriation of State resources.

16 (4) Substantial and specific danger to the public health and safety.

17 (5) Gross mismanagement, a gross waste of monies, or gross abuse of authority.

18 (b) Further, it is the policy of this State that employees be free of intimidation or
19 harassment when reporting to public bodies about matters of public concern, including offering
20 testimony to or testifying before appropriate legislative panels, or providing statements or
21 testimony to agents and employees of legislative panels duly appointed by the President Pro
22 Tempore of the Senate or the Speaker of the House of Representatives designated to conduct
23 inquiries on behalf of a legislative panel.

24 (c) Officers of the General Assembly and employees exercising supervisory authority
25 shall not discharge, threaten, or otherwise discriminate against an employee regarding the
26 employee's compensation, terms, conditions, location, or privileges of employment because of
27 any of the following:

28 (1) The employee, or a person acting on behalf of the employee, reports or is
29 about to report, verbally or in writing, any activity described in subsection (a)
30 of this section, unless the employee knows or has reason to believe that the
31 report is inaccurate.

32 (2) The employee has refused to carry out a directive that in fact constitutes a
33 violation of State or federal law, rule, or regulation or poses a substantial and
34 specific danger to the public health and safety.

35 (d) Employees shall not retaliate against another employee because of any of the
36 following:

37 (1) The employee, or a person acting on behalf of the employee, reports or is
38 about to report, verbally or in writing, any activity described in subsection (a)
39 of this section.

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

43 (e) The protections of this Article apply to employees who report any activity described
44 in subsection (a) of this section to the State Auditor as authorized by G.S. 147-64.6B, to the Joint
45 Legislative Commission on Governmental Operations as authorized by G.S. 120-75.1, or to a
46 legislative committee as required by G.S. 120-19.

47 (f) Any employee injured by a violation of this section may maintain an action in superior
48 court against the person or agency who committed the alleged violation within one year after the
49 occurrence. Any claim arising under Article 21 of Chapter 95 of the General Statutes may be
50 maintained pursuant to the provisions of that Article only and may be redressed only by the
51 remedies and relief available under that Article.

1 (g) A court, in rendering a judgment in an action brought pursuant to this section, may
2 order any one or more of the following:

3 (1) An injunction, damages.

4 (2) Reinstatement of the employee.

5 (3) Payment of back wages.

6 (4) Full reinstatement of fringe benefits and seniority rights.

7 (5) Payment of costs, reasonable attorneys' fees, or any combination of these.

8 (h) If an application for a permanent injunction is granted, the employee shall be awarded
9 costs and reasonable attorneys' fees.

10 (i) If in an action for damages the court finds that the employee was injured by a willful
11 violation of this section, the court shall award as damages three times the amount of actual
12 damages plus costs and reasonable attorneys' fees against the individual or individuals found to
13 be in violation of this section.

14 (j) The Legislative Services Commission shall post notice in accordance with G.S. 95-9
15 or use other appropriate means to keep employees informed of their protections and obligations
16 under this Article.

17 (k) An employee's right to speak to a member of the General Assembly at the member's
18 request shall not be directly or indirectly limited by the employee's supervisor or by any policy
19 of the Legislative Services Commission.

20 "Part 3. Employee Personnel Records.

21 **"§ 120-36.40. Privacy of employee personnel records.**

22 (a) The following definitions apply in this Part:

23 (1) Personnel. – A current employee, former employee, or applicant for
24 employment.

25 (2) Personnel file. – Any employment-related or personal information gathered
26 by the legislature. Employment-related information contained in a personnel
27 file includes information related to an individual's application, selection,
28 promotion, demotion, transfer, leave, salary, contract for employment,
29 benefits, suspension, performance evaluation, disciplinary actions, and
30 termination. Personal information contained in a personnel file includes an
31 individual's home address, social security number, medical history, personal
32 financial data, marital status, dependents, and beneficiaries.

33 (3) Record. – The personnel information that is maintained in accordance with
34 G.S. 120-36.41.

35 (b) The Commission shall establish policies on personnel records of positions subject to
36 this Part.

37 (c) Except as otherwise provided in this Part, personnel files of employees shall not be
38 subject to inspection and examination under G.S. 132-6. Personnel files of former employees
39 who have been separated from employment for 10 or more years may be open to inspection and
40 examination, except for papers and documents relating to demotions and to disciplinary actions
41 resulting in the dismissal of the former employee.

42 **"§ 120-36.41. Certain records to be kept by agencies open to inspection.**

43 (a) The legislature shall maintain a record with the following information for each of its
44 employees:

45 (1) Name.

46 (2) Date of original employment or appointment to service.

47 (3) The terms of any contract by which the employee is employed whether written
48 or oral, past and current, to the extent that the legislature has such record in its
49 possession.

50 (4) Current position.

51 (5) Title.

- 1 (6) Current salary.
- 2 (7) Date and amount of each increase or decrease in salary with the legislature.
- 3 (8) Date and type of each promotion, demotion, transfer, suspension, separation,
4 or other change in position classification with the legislature.
- 5 (9) Date and general description of the reasons for each promotion with the
6 legislature.
- 7 (10) Date and type of each dismissal, suspension, or demotion for disciplinary
8 reasons taken by the legislature. If the disciplinary action was a dismissal, a
9 copy of the written notice of the final decision setting forth the specific acts
10 or omissions that are the basis of the dismissal.
- 11 (11) The office or station to which the employee is currently assigned.
- 12 (b) For the purposes of this section, the term "salary" includes pay, benefits, incentives,
13 bonuses, and deferred and all other forms of compensation paid by the legislature.
- 14 (c) Subject only to Commission policies on safekeeping of the records, every person
15 having custody of records shall permit them to be inspected, examined, and copied by any person
16 during regular business hours. Except as provided in subsection (d) of this section, any person
17 who is denied access to a record shall have the right to compel compliance with the provisions
18 of this section by application to a court of competent jurisdiction for a writ of mandamus or other
19 appropriate relief.
- 20 (d) Persons in the custody of or under the supervision of the Division of Institutions of
21 the Department of Adult Correction and persons in the custody of local confinement facilities are
22 not entitled to access the records made public under subsection (a) of this section and are
23 prohibited from obtaining those records, absent a court order authorizing access, custody, or
24 possession of the records.
- 25 **§ 120-36.41. Confidential information in personnel files.**
- 26 (a) Other than information made public by G.S. 120-36.40, all other information
27 contained in a personnel file is confidential and shall not be open for inspection and examination,
28 except to the following persons:
- 29 (1) The employee or his or her properly authorized agent, who may examine his
30 or her own personnel file in its entirety except for (i) letter of references
31 solicited prior to employment or (ii) information concerning a medical
32 disability, mental or physical, that a prudent physician would not divulge to a
33 patient. An employee's medical record may be disclosed to a licensed
34 physician designated in writing by the employee.
- 35 (2) The supervisor and indirect supervisors of the employee.
- 36 (3) A potential agency supervisor during the interview process, only with regard
37 to performance management documents or to prevent application fraud.
- 38 (4) Members of the General Assembly who may inspect and examine personnel
39 records under the authority of G.S. 120-19.
- 40 (5) A party by authority of a proper court order may inspect and examine a
41 particular confidential portion of an employee's personnel file. In this
42 subdivision, "court order" includes a lawfully issued subpoena or discovery
43 request so long as the parties have moved for the court to issue a protective
44 order regarding the confidential personnel file information. A party may
45 lawfully delay producing requested confidential personnel file documents
46 until the court has ruled on that party's motion for protective order regarding
47 those documents.
- 48 (6) An official of an agency of the federal government, State government, or any
49 political subdivision thereof. Such an official may inspect any personnel
50 records when such inspection is deemed by the agency head as necessary and
51 essential to the proper function of the agency or to protect the safety of another

1 person. This information shall not be divulged for purposes of assisting in a
2 criminal prosecution or for purposes of assisting in a tax investigation.

3 (7) Staff performing human resources functions at the legislature.

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

5 (9) A grievant's, during a grievance hearing held by the legislature, personnel file
6 information may be provided to the grievant to the extent necessary to
7 adjudicate the grievance. If the legislature provides confidential personnel file
8 information of a person other than the grievant, the grievant shall keep that
9 information confidential.

10 (10) The legislature conducting a quasi-judicial hearing or a party to that
11 quasi-judicial hearing may have access to relevant material in personnel files
12 and may introduce copies of that material or information based on that
13 material as evidence in the hearing, either (i) upon consent of the employee,
14 former employee, or applicant for employment or (ii) upon subpoena properly
15 issued by the legislature either upon request of a party or on its own motion.
16 Nothing in this Chapter shall impose liability on any agent or officer of the
17 State for compliance with this provision.

18 (b) Notwithstanding any other provision of this Article, the Commission may, in its
19 discretion, disclose to a person any promotion, demotion, suspension, reinstatement, transfer,
20 separation, dismissal, employment, or nonemployment of any employee and the reasons for the
21 action. The Commission may also permit any person to inspect or examine the personnel file, or
22 any portion of the file, of an employee when it determines that disclosure is essential to
23 maintaining the integrity of the legislature or the level or quality of services it provides. Before
24 releasing any information or making any file available under this subsection, the Commission
25 shall prepare a memorandum stating the circumstances requiring disclosure and identifying the
26 information to be disclosed. The memorandum shall be retained in legislative files and shall be
27 a public record.

28 **"§ 120-36.42. Remedies of employee objecting to material in file.**

29 (a) An employee who objects to material in the employee's personnel file because he or
30 she considers it inaccurate or misleading may place in his or her file a written statement relating
31 to the material considered inaccurate or misleading.

32 (b) If the Commission determines that material in the employee's personnel file is
33 inaccurate or misleading, the Commission shall remove or amend the inaccurate material to
34 ensure that the file is accurate.

35 (c) Nothing in this section shall be construed to permit an employee to appeal the contents
36 of a performance appraisal or written disciplinary action.

37 **"§ 120-36.43. Penalty for permitting access to confidential file by unauthorized person.**

38 Any public official or employee who shall knowingly and willfully permit any person not
39 specifically authorized by this Part to have access, custody, or possession of any portion of a
40 personnel file designated as confidential by this Part shall be guilty of a Class 3 misdemeanor
41 and upon conviction shall only be fined in the discretion of the court but not in excess of five
42 hundred dollars (\$500.00).

43 **"§ 120-36.44. Penalty for accessing confidential file without authority.**

44 Any person not specifically authorized by this Part to have access to a personnel file
45 designated as confidential by this Part who shall knowingly and willfully examine in its official
46 filing place, or remove or copy any portion of a confidential personnel file shall be guilty of a
47 Class 3 misdemeanor and upon conviction shall only be fined in the discretion of the court but
48 not in excess of five hundred dollars (\$500.00)."

49
50 **PART III. JUDICIAL HUMAN RESOURCES SYSTEM**

1 (d) Employees shall not retaliate against another employee because of any of the
2 following:

3 (1) The employee, or a person acting on behalf of the employee, reports or is
4 about to report, verbally or in writing, any activity described in subsection (a)
5 of this section.

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

9 (e) The protections of this Article apply to employees who report any activity described
10 in subsection (a) of this section to the State Auditor as authorized by G.S. 147-64.6B, to the Joint
11 Legislative Commission on Governmental Operations as authorized by G.S. 120-75.1, or to a
12 legislative committee as required by G.S. 120-19.

13 (f) Any employee injured by a violation of this section may maintain an action in superior
14 court against the person or agency who committed the alleged violation within one year after the
15 occurrence. Any claim arising under Article 21 of Chapter 95 of the General Statutes may be
16 maintained pursuant to the provisions of that Article only and may be redressed only by the
17 remedies and relief available under that Article.

18 (g) A court, in rendering a judgment in an action brought pursuant to this section, may
19 order any one or more of the following:

20 (1) An injunction, damages.

21 (2) Reinstatement of the employee.

22 (3) Payment of back wages.

23 (4) Full reinstatement of fringe benefits and seniority rights.

24 (5) Payment of costs, reasonable attorney's fees or any combination of these.

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

27 (i) If in an action for damages the court finds that the employee was injured by a willful
28 violation of this section, the court shall award as damages three times the amount of actual
29 damages plus costs and reasonable attorney's fees against the individual or individuals found to
30 be in violation of this section.

31 (j) The judicial branch shall post notice in accordance with G.S. 95-9 or use other
32 appropriate means to keep employees informed of their protections and obligations under this
33 Article.

34 (k) An 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 judicial branch.

37 "Part 3.

38 "Employee Personnel Records.

39 **"§ 120-36.40. Privacy of employee personnel records.**

40 (a) The following definitions apply in this Part:

41 (1) Personnel. – A current employee, former employee, or applicant for
42 employment.

43 (2) Personnel file. – Any employment-related or personal information gathered
44 by the judicial branch. Employment-related information contained in a
45 personnel file includes information related to an individual's application,
46 selection, promotion, demotion, transfer, leave, salary, contract for
47 employment, benefits, suspension, performance evaluation, disciplinary
48 actions, and termination. Personal information contained in a personnel file
49 includes an individual's home address, social security number, medical
50 history, personal financial data, marital status, dependents, and beneficiaries.

1 (3) Record. – The personnel information that is maintained in accordance with
2 G.S. 120-36.41.

3 (b) The Director of Administrative Office of the Courts shall establish policies on
4 personnel records of positions subject to this Part.

5 (c) Except as otherwise provided in this Part, personnel files of employees shall not be
6 subject to inspection and examination under G.S. 132-6. Personnel files of former employees
7 who have been separated from employment for 10 or more years may be open to inspection and
8 examination, except for papers and documents relating to demotions and to disciplinary actions
9 resulting in the dismissal of the former employee.

10 **"§ 120-36.41. Certain records to be kept by agencies open to inspection.**

11 (a) The judicial branch shall maintain a record with the following information for each
12 of its employees:

13 (1) Name.

14 (2) Date of original employment or appointment to service.

15 (3) The terms of any contract by which the employee is employed whether written
16 or oral, past and current, to the extent that the judicial branch has such record
17 in its possession.

18 (4) Current position.

19 (5) Title.

20 (6) Current salary.

21 (7) Date and amount of each increase or decrease in salary with the judicial
22 branch.

23 (8) Date and type of each promotion, demotion, transfer, suspension, separation,
24 or other change in position classification with the judicial branch.

25 (9) Date and general description of the reasons for each promotion with the
26 judicial branch.

27 (10) Date and type of each dismissal, suspension, or demotion for disciplinary
28 reasons taken by the judicial branch. If the disciplinary action was a dismissal,
29 a copy of the written notice of the final decision setting forth the specific acts
30 or omissions that are the basis of the dismissal.

31 (11) The office or station to which the employee is currently assigned.

32 (b) For the purposes of this section, the term "salary" includes pay, benefits, incentives,
33 bonuses, and deferred and all other forms of compensation paid by the judicial branch.

34 (c) Subject only to Commission policies on safekeeping of the records, every person
35 having custody of records shall permit them to be inspected, examined, and copied by any person
36 during regular business hours. Except as provided in subsection (d) of this section, any person
37 who is denied access to a record shall have the right to compel compliance with the provisions
38 of this section by application to a court of competent jurisdiction for a writ of mandamus or other
39 appropriate relief.

40 (d) Persons in the custody of or under the supervision of the Division of Institutions of
41 the Department of Adult Correction and persons in the custody of local confinement facilities are
42 not entitled to access the records made public under subsection (a) of this section and are
43 prohibited from obtaining those records, absent a court order authorizing access, custody, or
44 possession of the records.

45 **"§ 120-36.41. Confidential information in personnel files.**

46 (a) Other than information made public by G.S. 120-36.40, all other information
47 contained in a personnel file is confidential and shall not be open for inspection and examination,
48 except to the following persons:

49 (1) The employee or his or her properly authorized agent, who may examine his
50 or her own personnel file in its entirety except for (i) letter of references
51 solicited prior to employment or (ii) information concerning a medical

1 disability, mental or physical, that a prudent physician would not divulge to a
2 patient. An employee's medical record may be disclosed to a licensed
3 physician designated in writing by the employee.

4 (2) The supervisor and indirect supervisors of the employee.

5 (3) A potential agency supervisor during the interview process, only with regard
6 to performance management documents or to prevent application fraud.

7 (4) Members of the General Assembly who may inspect and examine personnel
8 records under the authority of G.S. 120-19.

9 (5) A party by authority of a proper court order may inspect and examine a
10 particular confidential portion of an employee's personnel file. In this
11 subdivision, "court order" includes a lawfully issued subpoena or discovery
12 request so long as the parties have moved for the court to issue a protective
13 order regarding the confidential personnel file information. A party may
14 lawfully delay producing requested confidential personnel file documents
15 until the court has ruled on that party's motion for protective order regarding
16 those documents.

17 (6) An official of an agency of the federal government, State government, or any
18 political subdivision thereof. Such an official may inspect any personnel
19 records when such inspection is deemed by the agency head as necessary and
20 essential to the proper function of the agency or to protect the safety of another
21 person. This information shall not be divulged for purposes of assisting in a
22 criminal prosecution or for purposes of assisting in a tax investigation.

23 (7) Staff performing human resources functions at the legislature.

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

25 (9) A grievant, during a grievance hearing held by the judicial branch, personnel
26 file information may be provided to the grievant to the extent necessary to
27 adjudicate the grievance. If the judicial branch provides confidential personnel
28 file information of a person other than the grievant, the grievant shall keep
29 that information confidential.

30 (10) The judicial branch conducting a quasi-judicial hearing or a party to that
31 quasi-judicial hearing may have access to relevant material in personnel files
32 and may introduce copies of that material or information based on that
33 material as evidence in the hearing, either (i) upon consent of the employee,
34 former employee, or applicant for employment or (ii) upon subpoena properly
35 issued by the judicial branch either upon request of a party or on its own
36 motion. Nothing in this Chapter shall impose liability on any agent or officer
37 of the State for compliance with this provision.

38 (b) Notwithstanding any other provision of this Article, the employer may, in its
39 discretion, disclose to a person any promotion, demotion, suspension, reinstatement, transfer,
40 separation, dismissal, employment, or nonemployment of any employee and the reasons for the
41 action. The employer may also permit any person to inspect or examine the personnel file, or any
42 portion of the file, of an employee when it determines that disclosure is essential to maintaining
43 the integrity of the employer or the level or quality of services it provides. Before releasing any
44 information or making any file available under this subsection, the employer shall prepare a
45 memorandum stating the circumstances requiring disclosure and identifying the information to
46 be disclosed. The memorandum shall be retained in the employer's files and shall be a public
47 record.

48 **"§ 120-36.42. Remedies of employee objecting to material in file.**

49 (a) An employee who objects to material in the employee's personnel file because he or
50 she considers it inaccurate or misleading may place in his or her file a written statement relating
51 to the material considered inaccurate or misleading.

1 (b) If the employer determines that material in the employee's personnel file is inaccurate
2 or misleading, the employer shall remove or amend the inaccurate material to ensure that the file
3 is accurate.

4 (c) Nothing in this section shall be construed to permit an employee to appeal the contents
5 of a performance appraisal or written disciplinary action.

6 **"§ 120-36.43. Penalty for permitting access to confidential file by unauthorized person.**

7 Any public official or employee who shall knowingly and willfully permit any person not
8 specifically authorized by this Part to have access, custody, or possession of any portion of a
9 personnel file designated as confidential by this Part shall be guilty of a Class 3 misdemeanor
10 and upon conviction shall only be fined in the discretion of the court but not in excess of five
11 hundred dollars (\$500.00).

12 **"§ 120-36.44. Penalty for accessing confidential file without authority.**

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

18
19 **PART IV. CONFORMING CHANGES**

20 **SECTION 4.1.** G.S. 1-54(9) reads as rewritten:

21 "(9) As provided in Article 14 of ~~Chapter 126~~ Chapter 126A of the General
22 Statutes, entitled "Protection for Reporting Improper Government
23 Activities"."

24 **SECTION 4.2.** G.S. 7A-29(a) reads as rewritten:

25 "(a) From any final order or decision of the North Carolina Utilities Commission not
26 governed by subsection (b) of this section, the Department of Health and Human Services under
27 G.S. 131E-188(b), the North Carolina Industrial Commission, the North Carolina State Bar under
28 G.S. 84-28, the Property Tax Commission under G.S. 105-290 and G.S. 105-342, the
29 Commissioner of Insurance under G.S. 58-2-80, the State Board of Elections under
30 G.S. 163-127.6, the Office of Administrative Hearings under ~~G.S. 126-34.02~~, G.S. 126A-84, or
31 the Secretary of Environmental Quality under G.S. 104E-6.2 or G.S. 130A-293, appeal as of right
32 lies directly to the Court of Appeals."

33 **SECTION 4.3.** G.S. 7A-146(13) reads as rewritten:

34 "(13) Investigating written complaints against magistrates. The chief district judge
35 may, in writing, delegate authority to an appointed chief magistrate to make
36 preliminary investigations into written complaints against magistrates and to
37 make a written report of their preliminary findings to the chief district judge.
38 However, the delegation shall not authorize the chief magistrate to make
39 written findings of misconduct or take any disciplinary action. Upon
40 investigation and written findings of misconduct in violation of the Rules of
41 Conduct for Magistrates, a chief district court judge may discipline a
42 magistrate in accordance with the Rules of Conduct for Magistrates. Written
43 complaints received by the chief district court judge and records of
44 investigations into those complaints are to be treated as personnel records
45 under ~~Article 7 of Chapter 126~~ Article 16 of Chapter 126A of the General
46 Statutes. Notwithstanding ~~Article 7 of Chapter 126~~ Article 16 of Chapter
47 126A of the General Statutes, once a letter of caution, written reprimand, or
48 suspension has been issued by the chief district court judge, the written
49 complaint, and the record of the chief district court judge's action on that
50 complaint, including any investigatory records, are no longer confidential
51 personnel records."

1 **SECTION 4.4.** G.S. 7A-754 reads as rewritten:

2 "**§ 7A-754. Qualifications; standards of conduct; removal.**

3 Only persons duly authorized to practice law in the General Court of Justice shall be eligible
4 for appointment as the Director and chief administrative law judge or as an administrative law
5 judge in the Office of Administrative Hearings. The Chief Administrative Law Judge and the
6 administrative law judges shall comply with the Model Code of Judicial Conduct for State
7 Administrative Law Judges, as adopted by the National Conference of Administrative Law
8 Judges, Judicial Division, American Bar Association, (revised August 1998), as amended from
9 time to time, except that the provisions of this section shall control as to the private practice of
10 law in lieu of Canon 4G, and ~~G.S. 126-13~~ G.S. 126A-100 shall control as to political activity in
11 lieu of Canon 5. Failure to comply with the applicable provisions of the Model Code may
12 constitute just cause for disciplinary action under ~~Chapter 126~~ Chapter 126A of the General
13 Statutes and grounds for removal from office. Neither the chief administrative law judge nor any
14 administrative law judge may engage in the private practice of law as defined in G.S. 84-2.1
15 while in office; violation of this provision shall constitute just cause for disciplinary action under
16 ~~Chapter 126~~ Chapter 126A of the General Statutes and shall be grounds for removal from office.
17 Each administrative law judge shall take the oaths required by Chapter 11 of the General Statutes.
18 An administrative law judge may be removed from office by the Director of the Office of
19 Administrative Hearings for just cause, as that term is used in ~~G.S. 126-35~~ G.S. 126A-81 and this
20 section."

21 **SECTION 4.5.** G.S. 7A-759 reads as rewritten:

22 "**§ 7A-759. Role as deferral agency.**

23 (a) The Office of Administrative Hearings is designated to serve as the State's deferral
24 agency for cases deferred by the Equal Employment Opportunity Commission to the Office of
25 Administrative Hearings as provided in Section 706 of the Civil Rights Act of 1964, 42 U.S.C.
26 § 2000e-5, the Age Discrimination in Employment Act, 29 U.S.C. § 621 et seq., and the
27 Americans with Disabilities Act, 42 U.S.C. § 12101 et seq. for charges filed by State or local
28 government employees covered under ~~Chapter 126~~ Chapter 126A of the General Statutes and
29 shall have all of the powers and authority necessary to function as a deferral agency.

30 (b) The Chief Administrative Law Judge is authorized and directed to contract with the
31 Equal Employment Opportunity Commission for the Office of Administrative Hearings to serve
32 as a deferral agency and to establish and maintain a Civil Rights Division in the Office of
33 Administrative Hearings to carry out the functions of a deferral agency.

34 (b1) As provided in the contract between the Office of Administrative Hearings and the
35 Equal Employment Opportunity Commission, a deferred charge for purposes of 42 U.S.C. §
36 2000e-5(c) or (d) is a charge that is filed by a State or local government employee covered under
37 ~~Chapter 126~~ Chapter 126A of the General Statutes and alleges an unlawful employment practice
38 prohibited under that Chapter or any other State law. A deferred charge may be filed with either
39 agency.

40 The date a deferred charge is filed with either agency is considered to be a commencement
41 of proceedings under State law for purposes of 42 U.S.C. § 2000e-5(c) or (d). The filing of a
42 deferred charge automatically tolls the time limit under ~~G.S. 126-7.2, 126-35, 126-38,~~
43 G.S. 126A-81 and ~~150B-23(f)~~ G.S. 150B-23(f) and any other State law that sets a time limit for
44 filing a contested case under Article 3 of Chapter 150B of the General Statutes alleging an
45 unlawful employment practice. These time limits are tolled until the completion of the
46 investigation and of any informal methods of resolution pursued pursuant to subsection (d) of
47 this section.

48 "

49 **SECTION 4.6.** G.S. 7A-760 reads as rewritten:

50 "**§ 7A-760. Number and status of employees; staff assignments.**

1 (a) The number of administrative law judges of the Office of Administrative Hearings
2 shall be established by the General Assembly. For matters related to Office of Administrative
3 Hearings staff, the Chief Administrative Law Judge shall have the same powers as those granted
4 to the head of a principal State department in G.S. 143B-10(c).

5 (a1) The Chief Administrative Law Judge and five employees of the Office of
6 Administrative Hearings as designated by the Chief Administrative Law Judge are exempt from
7 provisions of the North Carolina Human Resources Act as provided by ~~G.S. 126-5(e1)(27)-~~
8 G.S. 126A-15. All other employees of the Office of Administrative Hearings are subject to the
9 North Carolina Human Resources Act.

10 (b) The Chief Administrative Law Judge shall appoint a Codifier of Rules to serve in the
11 Office of Administrative Hearings. No person shall be appointed or designated the Codifier of
12 Rules except as provided in this section. The salary of the Codifier of Rules shall be ninety
13 percent (90%) of the salary of the Chief Administrative Law Judge. In lieu of merit and other
14 increment raises, the Codifier of Rules shall receive longevity pay on the same basis as is
15 provided to employees who are subject to the North Carolina Human Resources Act."

16 **SECTION 4.7.** G.S. 18C-113(c) reads as rewritten:

17 "(c) Personnel records of the Commission are subject to ~~Article 7 of Chapter 126~~ Article
18 16 of Chapter 126A of the General Statutes."

19 **SECTION 4.8.** G.S. 18C-120 reads as rewritten:

20 "**§ 18C-120. Selection of the Director; powers and duties.**

21 (a) The Commission shall select a Director to operate and administer the Lottery and to
22 serve as the Secretary of the Commission. Except as to the provisions of ~~Articles 6 and 7 of~~
23 ~~Chapter 126~~ Articles 15 and 16 of Chapter 126A of the General Statutes, the Director shall be
24 exempt from the North Carolina Human Resources Act.

25 (b) The Director shall have the following powers and duties, under the supervision of the
26 Commission:

27 ...

28 (3) To set the salaries of all Commission employees, subject to the approval of
29 the Commission. Except for the provisions of ~~Articles 6 and 7 of Chapter 126~~
30 Articles 15 and 16 of Chapter 126A of the General Statutes, all employees of
31 the Commission shall be exempt from the North Carolina Human Resources
32 Act.

33"

34 **SECTION 4.9.** G.S. 53C-2-3 reads as rewritten:

35 "**§ 53C-2-3. The Office of the Commissioner of Banks.**

36 ...

37 (c) Except as otherwise provided in this Chapter, the OCOB and its employees are
38 exempt from portions of the North Carolina Human Resources Act as provided in
39 G.S. 126A-15.2, including the classification and compensation rules policies established by the
40 State Human Resources Commission pursuant to ~~G.S. 126-4(1) through (4); G.S. 126-4(5) only~~
41 ~~as it applies to~~ for classification, compensation, hours and days of work, vacation, vacation and
42 sick leave; G.S. 126-4(6) only as it applies to leave, promotion and transfer; G.S. 126-4(10) only
43 as it applies to the transfer, and prohibition of the establishment of incentive pay programs; and
44 ~~Article 2 of Chapter 126 of the General Statutes, except for G.S. 126-7.1. programs.~~ The salary
45 of the Commissioner shall be fixed by the General Assembly.

46 (d) The Attorney General shall assign an attorney from the Department of Justice to work
47 full time with the Commission. The attorney shall be subject to all provisions of ~~Chapter 126~~
48 Chapter 126A of the General Statutes relating to the State Human Resources system. The
49 Commission shall fully reimburse the Department of Justice for the compensation, secretarial
50 support, equipment, supplies, records, and other property to support the attorney."

51 **SECTION 4.10.** G.S. 62-12 reads as rewritten:

1 **"§ 62-12. Organization of Commission; adoption of rules and regulations therefor.**

2 To facilitate the work of the Commission and for administrative purposes, the chairman of
3 the Commission, with the consent and approval of the Commission, may organize the work of
4 the Commission in several hearing divisions and operating departments and may designate a
5 member of the Commission as the head of any division or divisions and assign to members of
6 the Commission various duties in connection therewith. Subject to the provisions of the North
7 Carolina Human Resources Act (~~Article 2 of Chapter 143 of the General Statutes~~), Act, the
8 Commission shall prepare and adopt rules and regulations governing the personnel, departments
9 or divisions and all internal affairs and business of the Commission."

10 **SECTION 4.11.** G.S. 62-14 reads as rewritten:

11 **"§ 62-14. Commission staff; structure and function.**

12 (a) The Commission is authorized and empowered to employ hearing examiners; court
13 reporters; a chief clerk and deputy clerk; a commission attorney and assistant commission
14 attorney; transportation and pipeline safety inspectors; and such other professional,
15 administrative, technical, and clerical personnel as the Commission may determine to be
16 necessary in the proper discharge of the Commission's duty and responsibility as provided by
17 law. The chairman shall organize and direct the work of the Commission staff.

18 (b) The salaries and compensation of all such personnel shall be fixed in the manner
19 provided by law for fixing and regulating salaries and compensation by other State agencies,
20 except that the Commission and its employees are exempt from ~~the classification and~~
21 ~~compensation rules portions of the North Carolina Human Resources Act as provided in~~
22 G.S. 126A-15.2, including policies established by the State Human Resources Commission
23 pursuant to G.S. 126-4(1) through (4); G.S. 126-4(5) only as it applies to for classification,
24 compensation, hours and days of work, ~~vacation,~~ vacation and sick leave; G.S. 126-4(6) only as
25 it applies to leave, promotion and transfer; G.S. 126-4(10) only as it applies to the transfer, and
26 prohibition of the establishment of incentive pay programs; and Article 2 of Chapter 126 of the
27 General Statutes, except for G.S. 126-7.1.programs.

28 (c) The chairman, within allowed budgetary limits and as allowed by law, shall authorize
29 and approve travel, subsistence and related expenses of such personnel, incurred while traveling
30 on official business."

31 **SECTION 4.12.** G.S. 62-15(c) reads as rewritten:

32 "(c) Except for the executive director, the salaries and compensation of all such personnel
33 shall be fixed in the manner provided by law for fixing and regulating salaries and compensation
34 by other State agencies, except that the Public Staff and its employees are exempt from ~~the~~
35 ~~classification and compensation rules portions of the North Carolina Human Resources Act as~~
36 provided in G.S. 126A-15.2, including policies established by the State Human Resources
37 Commission pursuant to G.S. 126-4(1) through (4); G.S. 126-4(5) only as it applies to for
38 classification, compensation, hours and days of work, ~~vacation,~~ vacation and sick leave;
39 G.S. 126-4(6) only as it applies to leave, promotion and transfer; G.S. 126-4(10) only as it applies
40 to the transfer, and prohibition of the establishment of incentive pay programs; and Article 2 of
41 Chapter 126 of the General Statutes, except for G.S. 126-7.1.programs."

42 **SECTION 4.13.** G.S. 63A-24(b) reads as rewritten:

43 "(b) Notwithstanding ~~G.S. 126-5(e1)(15),~~ G.S. 126A-15.2, the Secretary of
44 Transportation may designate employees of the Authority as subject to ~~Chapter 126~~ Chapter
45 126A of the General Statutes."

46 **SECTION 4.14.** G.S. 74-24.19(a) reads as rewritten:

47 "(a) The Commissioner shall appoint a Director to assist him or her in administering the
48 provisions of this Article and, through the Director, shall have authority to appoint, subject to
49 ~~Chapter 126~~ Chapter 126A of the General Statutes of North Carolina, such officers, engineers,
50 inspectors, and employees as he or she deems requisite for the administration of this Article; and

1 to prescribe powers, duties, and responsibilities of all officers, engineers, inspectors, and
2 employees engaged in the administration of this Article."

3 **SECTION 4.15.** G.S. 90-270.51(f) reads as rewritten:

4 "(f) The Board may employ, subject to the provisions of ~~Chapter 126~~ Chapter 126A of the
5 General Statutes, attorneys, experts, and other employees as necessary to perform its duties."

6 **SECTION 4.16.** G.S. 90-333(h) reads as rewritten:

7 "(h) The Board may employ, subject to the provisions of ~~Chapter 126~~ Chapter 126A of the
8 General Statutes, the necessary personnel for the performance of its functions, and fix their
9 compensation within the limits of funds available to the Board."

10 **SECTION 4.17.** G.S. 90B-5(e) reads as rewritten:

11 "(e) The Board may employ, subject to the provisions of ~~Chapter 126~~ Chapter 126A of the
12 General Statutes, the necessary personnel for the performance of its functions, and fix their
13 compensation within the limits of funds available to the Board."

14 **SECTION 4.18.** G.S. 95-127(3) reads as rewritten:

15 "(3) Classified service. – A position included in the State Merit System of
16 ~~Personnel Administration~~ Human Resources subject to the laws, rules and
17 regulations of the ~~State Personnel Board~~ State Human Resources Commission
18 as administered by the ~~State Personnel Director of the Office of State Human~~
19 Resources and as set forth in ~~Chapter 126~~ Chapter 126A of the General
20 Statutes."

21 **SECTION 4.19.** G.S. 97-77(b) reads as rewritten:

22 "(b) One member, to be designated by the Governor, shall act as chairman.

23 The chairman shall be the chief judicial officer and the chief executive officer of the Industrial
24 Commission; such authority shall be exercised pursuant to the provisions of ~~Chapter 126~~ Chapter
25 126A of the General Statutes and the rules and policies of the State Human Resources
26 Commission. Notwithstanding the provisions of this Chapter, the chairman shall have such
27 authority as is necessary to direct and oversee the Commission. The chairman may delegate any
28 duties and responsibilities as may be necessary to ensure the proper management of the Industrial
29 Commission. Notwithstanding the provisions of this Chapter, Chapter 143A, and Chapter 143B
30 of the General Statutes, the chairman may hire or fire personnel and transfer personnel within the
31 Industrial Commission.

32 The Governor may designate one vice-chairman from the remaining commissioners."

33 **SECTION 4.20.** G.S. 99A-2(e) reads as rewritten:

34 "(e) Nothing in this section shall be construed to diminish the protections provided to
35 employees under Article 21 of Chapter 95 or Article 14 of ~~Chapter 126~~ Chapter 126A of the
36 General Statutes, nor may any party who is covered by these Articles be liable under this section."

37 **SECTION 4.21.** G.S. 114-4 reads as rewritten:

38 **"§ 114-4. Assistants; compensation; assignments.**

39 The Attorney General shall be allowed to appoint from among his or her staff such number
40 of assistant attorneys general as he or she shall deem advisable, and each of such assistant
41 attorneys general shall be subject to all of the provisions of ~~Chapter 126~~ Chapter 126A of the
42 General Statutes relating to the State Human Resources system. Two assistant attorneys general
43 shall be assigned to the State Department of Revenue. The other assistant attorneys general shall
44 perform such duties as may be assigned by the Attorney General: ~~Provided, however, the~~
45 General. The provisions of this section shall not be construed as preventing the Attorney General
46 from assigning additional duties to the assistant attorneys general assigned to the State
47 Department of Revenue."

48 **SECTION 4.22.** G.S. 114-4.2B reads as rewritten:

49 **"§ 114-4.2B. Employment of attorney for University of North Carolina Hospitals at Chapel
50 Hill.**

1 The Attorney General is hereby authorized to employ an attorney to be assigned by him full
2 time to the University of North Carolina Hospitals at Chapel Hill. Such attorney shall be subject
3 to all the provisions of ~~Chapter 126~~ Chapter 126A of the General Statutes, relating to the State
4 Human Resources system. Such attorney shall also perform additional duties as may be assigned
5 to him by the Attorney General.

6 The attorney employed by the Attorney General under provisions of this section shall be paid
7 from the funds of the University of North Carolina Hospitals at Chapel Hill."

8 **SECTION 4.23.** G.S. 114-4.2C reads as rewritten:

9 **"§ 114-4.2C. Employment of attorney for the Real Estate Commission.**

10 The Attorney General is hereby authorized to employ an attorney and assign him full time to
11 the North Carolina Real Estate Commission. Such attorney shall be subject to all the provisions
12 of ~~Chapter 126~~ Chapter 126A of the General Statutes relating to the State Human Resources
13 system. Such attorney shall also perform such additional duties as may be assigned to him by the
14 Attorney General.

15 The North Carolina Real Estate Commission shall fully reimburse the North Carolina
16 Department of Justice for the compensation of such attorney employed under the provisions of
17 this section."

18 **SECTION 4.24.** G.S. 115C-21(a)(1) reads as rewritten:

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

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

34 **SECTION 4.25.** G.S. 115C-64.28(b) reads as rewritten:

35 "(b) The Associate Superintendent shall be appointed by the Superintendent of Public
36 Instruction at a salary established by the Superintendent of Public Instruction within the funds
37 appropriated for that purpose. The Associate Superintendent may be removed from the position
38 by the Superintendent of Public Instruction. The Associate Superintendent shall be exempt from
39 the provisions of ~~Chapter 126~~ Chapter 126A of the General Statutes, except for ~~Articles 6 and 7~~
40 ~~of Chapter 126~~ Articles 15 and 16 of Chapter 126A of the General Statutes.

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

46 **SECTION 4.26.** G.S. 115C-218.90(a)(6) reads as rewritten:

- 47 "(6) A board of directors may (i) provide paid parental leave consistent with the
48 requirements of ~~G.S. 126-8-6~~ G.S. 126A-71 or (ii) require, as a condition of a
49 contract with an education management organization or charter management
50 organization to employ and provide teachers, that paid parental leave be
51 provided to those teachers consistent with the requirements of ~~G.S. 126-8-6~~.

1 G.S. 126A-71. If the board provides paid parental leave to its employees or
 2 requires paid parental leave be provided by contract, it shall be eligible to
 3 receive funds as provided in G.S. 115C-336.1(b). If the board does not provide
 4 paid parental leave, it shall provide written notice to individuals upon offering
 5 employment. The notice shall state that employment with the charter school
 6 will not count toward any minimum period of service established pursuant to
 7 ~~G.S. 126-8.6(e1)~~G.S. 126A-71."

8 **SECTION 4.27.** G.S. 115C-238.68 reads as rewritten:

9 "**§ 115C-238.68. Employees.**

10 The board of directors shall appoint all certified and noncertified staff.

11 ...

12 (7) Exemptions. – Employees of the board of directors shall be exempt from
 13 ~~Chapter 126~~ Chapter 126A of the General Statutes, except ~~Articles 6 and~~
 14 ~~7~~ Articles 15 and 16.

15 (8) Paid parental leave. – Teachers employed by the board of directors shall be
 16 eligible for paid parental leave as provided in ~~G.S. 126-8.6~~ G.S. 126A-71.
 17 The board of directors shall be eligible to receive funds as provided in
 18 G.S. 115C-336.1(b)."

19 **SECTION 4.28.** G.S. 115C-268.1(g) reads as rewritten:

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

23 **SECTION 4.29.** G.S. 115C-302.1(j) reads as rewritten:

24 "(j) Parental Leave. – In addition to paid parental leave authorized by ~~G.S. 126-8.6,~~
 25 G.S. 126A-71, a teacher may use annual leave, personal leave, or leave without pay to care for a
 26 newborn child or for a child placed with the teacher for adoption or foster care. A teacher may
 27 also use up to 30 days of sick leave to care for a child placed with the teacher for adoption. The
 28 leave may be for consecutive workdays during the first 12 months after the date of birth or
 29 placement of the child, unless the teacher and local board of education agree otherwise."

30 **SECTION 4.30.** G.S. 115C-336.1 reads as rewritten:

31 "**§ 115C-336.1. Parental leave.**

32 (a) In addition to paid parental leave authorized by ~~G.S. 126-8.6,~~ G.S. 126A-71, a school
 33 employee may use annual leave or leave without pay to care for a newborn child or for a child
 34 placed with the employee for adoption or foster care. A school employee may also use up to 30
 35 days of sick leave to care for a child placed with the employee for adoption. The leave may be
 36 for consecutive workdays during the first 12 months after the date of birth or placement of the
 37 child, unless the school employee and the local board of education agree otherwise.

38 (b) To the extent funds are made available for this purpose, the Department of Public
 39 Instruction shall administer funds to public school units for the payment of substitute teachers
 40 for any public school unit teacher using paid parental leave as provided in
 41 ~~G.S. 126-8.6~~ G.S. 126A-71."

42 **SECTION 4.31.** G.S. 115C-407.61(a)(6) reads as rewritten:

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

48 **SECTION 4.32.** G.S. 115D-3(a3) reads as rewritten:

49 "(a3) The President shall be assisted by such professional staff members as may be deemed
 50 necessary to carry out the provisions of this Chapter, who shall be elected by the State Board on
 51 nomination of the President. The compensation of the staff members elected by the Board shall

1 be fixed by the State Board of Community Colleges, upon recommendation of the President of
2 the Community Colleges System, from funds provided in the Current Operations Appropriations
3 Act. These staff members shall include such officers as may be deemed desirable by the President
4 and State Board. Provision shall be made for persons of high competence and strong professional
5 experience in such areas as academic affairs, public service programs, business and financial
6 affairs, institutional studies and long-range planning, student affairs, research, legal affairs,
7 health affairs and institutional development, and for State and federal programs administered by
8 the State Board. In addition, the President shall be assisted by such other employees as may be
9 needed to carry out the provisions of this Chapter, who shall be subject to the provisions of
10 ~~Chapter 126~~ Chapter 126A of the General Statutes. The staff complement shall be established by
11 the State Board on recommendation of the President to insure that there are persons on the staff
12 who have the professional competence and experience to carry out the duties assigned and to
13 insure that there are persons on the staff who are familiar with the problems and capabilities of
14 all of the principal types of institutions represented in the system."

15 **SECTION 4.33.** G.S. 116-14(b) reads as rewritten:

16 "(b) The President shall be assisted by such professional staff members as may be deemed
17 necessary to carry out the provisions of this Article, who shall be elected by the Board on
18 nomination of the President. The Board shall fix the compensation of the staff members it elects.
19 These staff members shall include a senior vice-president and such other vice-presidents and
20 officers as may be deemed desirable. Provision shall be made for persons of high competence
21 and strong professional experience in such areas as academic affairs, public service programs,
22 business and financial affairs, institutional studies and long-range planning, student affairs,
23 research, legal affairs, health affairs and institutional development, and for State and federal
24 programs administered by the Board. In addition, the President shall be assisted by such other
25 employees as may be needed to carry out the provisions of this Article, who shall be subject to
26 the provisions of ~~Chapter 126~~ Chapter 126A of the General Statutes. The staff complement shall
27 be established by the Board on recommendation of the President to insure that there are persons
28 on the staff who have the professional competence and experience to carry out the duties assigned
29 and to insure that there are persons on the staff who are familiar with the problems and
30 capabilities of all of the principal types of institutions represented in the system. Subject to
31 approval by the Board, the President may establish and abolish employment positions within the
32 staff complement authorized by this subsection in the manner of and under the conditions
33 prescribed by G.S. 116-30.4 for special responsibility constituent institutions."

34 **SECTION 4.34.** G.S. 116-30.4 reads as rewritten:

35 **"§ 116-30.4. Position management.**

36 The Chancellor of a special responsibility constituent institution, when he finds that to do so
37 would help to maintain and advance the programs and services of the institution, may establish
38 and abolish positions, acting in accordance with:

- 39 (1) State personnel policies and procedures if these positions are subject to the
40 North Carolina Human Resources Act and if the institution is operating under
41 the terms of a Performance Agreement or a Decentralization Agreement
42 authorized under ~~Chapter 126~~ Chapter 126A of the General Statutes; or
- 43 (2) Policies and procedures of the Board of Governors if these positions are
44 exempt from the North Carolina Human Resources Act.

45 The results achieved by establishing and abolishing positions pursuant to the conditions set forth
46 in subdivision (1) of this section shall be subject to postauditing by the Office of State Human
47 Resources. Implementation of personnel actions shall be subject to the availability of funds
48 within the institution's current budget to fund the full annualized costs of these actions."

49 **SECTION 4.35.** G.S. 116-33.2 reads as rewritten:

50 **"§ 116-33.2. Cooperative Extension Service employees.**

1 The Board of Trustees of North Carolina State University shall adopt personnel policies
2 governing the employment of the employees of the North Carolina Cooperative Extension
3 Service who are exempted from certain provisions of ~~Chapter 126~~ Chapter 126A of the General
4 Statutes pursuant to ~~G.S. 126-5(c1)(9a)~~ G.S. 126A-15.2."

5 **SECTION 4.36.** G.S. 116-37.3(b) reads as rewritten:

6 "(b) Personnel. – Employees of UNC-CH Dental School Clinical Operations shall be
7 deemed to be employees of the State and shall be subject to all relevant provisions of State law
8 ~~relevant thereto; provided, however, that except as to the provisions of Articles 5, 6, 7, and 14 of~~
9 ~~Chapter 126 of the General law.~~ Except as provided in Part 3 of Chapter 126A of the General
10 Statutes ~~Statutes~~, the North Carolina Human Resources Act shall not apply to employees of
11 UNC-CH Dental School Clinical Operations, and the policies and procedures governing the
12 terms and conditions of employment of such employees shall be adopted by the Board of Trustees
13 of the University of North Carolina at Chapel Hill; ~~provided, that with Hill.~~ With respect to such
14 employees as may be members of the faculty of the University of North Carolina at Chapel Hill,
15 no such policies and procedures may be inconsistent with policies established by, or adopted
16 pursuant to delegation from, the Board of Governors of The University of North Carolina. ~~Such~~
17 These policies and procedures shall be implemented on behalf of UNC-CH Dental School
18 Clinical Operations by a personnel office maintained by the University of North Carolina at
19 Chapel Hill. The following provisions apply:

- 20 (1) The board of trustees shall fix or approve the schedules of pay, expense
21 allowances, and other compensation, and adopt position classification plans
22 for employees of UNC-CH Dental School Clinical Operations.
- 23 (2) The board of trustees may adopt or provide for rules and regulations
24 concerning, but not limited to, annual leave, sick leave, special leave with full
25 pay, or with partial pay supplementing workers' compensation payments for
26 employees injured in accidents arising out of and in the course of employment,
27 working conditions, service awards, and incentive award programs, grounds
28 for dismissal, demotion, or discipline, other personnel policies, and any other
29 measures that promote the hiring and retention of capable, diligent, and
30 effective career employees. However, an employee who ~~has achieved~~ was
31 appointed as a career State employee status employee, as defined by
32 ~~G.S. 126-1.1~~ G.S. 126A-2, by June 30, 2022, shall not have his or her
33 compensation reduced as a result of this subdivision. Further, an employee
34 who ~~has achieved~~ was appointed as a career State employee status employee,
35 as defined by ~~G.S. 126-1.1~~ G.S. 126A-2, by June 30, 2022, shall be subject to
36 the rules regarding discipline or discharge that were effective on June 30,
37 2022, and shall not be subject to the rules regarding discipline or discharge
38 adopted after June 30, 2022.
- 39 (3) The board of trustees may prescribe the office hours, workdays, and holidays
40 to be observed by the various offices and departments of UNC-CH Dental
41 School Clinical Operations.
- 42 (4) The board of trustees may establish boards, committees, or councils to conduct
43 hearings upon the appeal of employees who have been suspended, demoted,
44 otherwise disciplined, or discharged, to hear employee grievances, or to
45 undertake any other duties relating to personnel administration that the board
46 of trustees may direct.

47 The board of trustees shall submit all initial classification and pay plans, and other rules and
48 regulations adopted pursuant to subdivisions (1) through (4) of this subsection, to the Office of
49 State Human Resources for review upon adoption by the board. Any subsequent changes to these
50 plans, rules, and policies adopted by the board shall be submitted to the Office of State Human
51 Resources for review. Any comments by the Office of State Human Resources shall be submitted

1 to the Chancellor of the University of North Carolina at Chapel Hill and the President of The
2 University of North Carolina."

3 **SECTION 4.37.** G.S. 116-239.10 reads as rewritten:

4 "**§ 116-239.10. Employees.**

5 The chancellor shall appoint all licensed and nonlicensed staff in accordance with the
6 following:

7 ...

8 (8) Exemptions. – Employees of the constituent institution shall be exempt from
9 ~~Chapter 126~~ Chapter 126A of the General Statutes, except ~~Articles 6 and~~
10 ~~7.~~ Articles 15 and 16.

11 (9) Paid parental leave. – Teachers employed by the board of the constituent
12 institution shall be eligible for paid parental leave as provided in ~~G.S. 126-8-6.~~
13 G.S. 126A-71. The constituent institution shall be eligible to receive funds as
14 provided in G.S. 115C-336.1(b)."

15 **SECTION 4.38.** G.S. 116-350.30(a) reads as rewritten:

16 "(a) Employment Authority. – The System may employ a workforce to conduct its
17 operations. Employees who are employed directly by the System, and not by a System affiliate,
18 are State employees whose terms and conditions of employment, including benefit plans and
19 programs, are determined by the Board. ~~Only Articles 5, 6, 7, and 14 of Chapter 126 of the~~
20 ~~General Statutes, Except as provided in Part 3 of Chapter 126A of the General Statutes, the State~~
21 ~~North Carolina Human Resources Act, Act shall not apply to these State employees.~~ The Board
22 of the System may authorize the System to employ the faculty and staff of the University of North
23 Carolina School of Medicine as well as other health affairs schools and components of the
24 University of North Carolina at Chapel Hill subject to the provisions of this subsection, provided
25 that any employees who are faculty members shall remain subject to the faculty policies of the
26 University of North Carolina at Chapel Hill, as established or adopted pursuant to delegation
27 from the Board of Governors of The University of North Carolina. A State employee employed
28 by the System immediately prior to January 1, 2024, has the right to (i) continued State
29 employment if the employee remains in the employee's current role or position, unless terminated
30 in accordance with the terms of employment that existed immediately prior to January 1, 2024,
31 subject to all relevant provisions of State and federal law and (ii) continued participation in the
32 State Teachers' and State Employees' Retirement System if the employee was enrolled in the
33 Retirement System immediately prior to January 1, 2024, and maintains State employee status."

34 **SECTION 4.39.** G.S. 116-360.5(2) is repealed.

35 **SECTION 4.40.** G.S. 116-360.15(b) reads as rewritten:

36 "(b) Certain Career State Employees. – Notwithstanding subsection (a) of this section, all
37 of the following applies:

38 (1) For employees of the Medical Faculty Practice Plan. – The compensation of a
39 State employee who ~~achieved~~ was appointed as a career State employee status
40 employee, as defined by G.S. 126A-2, by October 31, 1998, shall not be
41 reduced as a result of this section and that employee shall (i) remain subject
42 to the rules regarding discipline or discharge that were effective on October
43 31, 1998, and (ii) not be subject to the rules regarding discipline or discharge
44 adopted after that date.

45 (2) For employees of the ECU Dental School Clinical Operations. – The
46 compensation of a State employee who ~~achieved~~ was appointed as a career
47 State employee status employee, as defined by G.S. 126A-2, by June 30, 2022,
48 shall not be reduced as a result of this section and that employee shall (i)
49 remain subject to the rules regarding discipline or discharge that were
50 effective on June 30, 2022, and (ii) not be subject to the rules regarding
51 discipline or discharge adopted after that date."

1 **SECTION 4.41.** G.S. 120-86.1 reads as rewritten:

2 "**§ 120-86.1. Personnel-related action unethical.**

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

7 **SECTION 4.42.** G.S. 122C-112.1(b)(6) reads as rewritten:

8 "(6) Notwithstanding ~~G.S. 126-18~~, G.S. 126A-52, authorize funds for contracting
9 with a person, firm, or corporation for aid or assistance in locating, recruiting,
10 or arranging employment of health care professionals in any facility listed in
11 G.S. 122C-181."

12 **SECTION 4.43.** G.S. 122C-121(a1) reads as rewritten:

13 "(a1) The area board shall establish the area director's salary under ~~Article 3 of Chapter 126~~
14 Article 12 of Chapter 126A of the General Statutes. Notwithstanding ~~G.S. 126-9(b)~~,
15 G.S. 126A-120, an area director may be paid a salary that is in excess of the salary ranges
16 established by the State Human Resources Commission. Any salary that is higher than the
17 maximum of the applicable salary range shall be supported by documentation of comparable
18 salaries in comparable operations within the region and shall also include the specific amount the
19 board proposes to pay the director. The area board shall not authorize any salary adjustment that
20 is above the normal allowable salary range without obtaining prior approval from the Director of
21 the Office of State Human Resources."

22 **SECTION 4.44.** G.S. 122C-154 reads as rewritten:

23 "**§ 122C-154. Personnel.**

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

34 **SECTION 4.45.** G.S. 122C-156(a) reads as rewritten:

35 "(a) The area authority shall establish a salary plan which shall set the salaries for
36 employees of the area authority. The salary plan shall be in compliance with ~~Chapter 126~~ Chapter
37 126A of the General Statutes. In a multi-county area, the salary plan shall not exceed the highest
38 paying salary plan of any county in that area. In a single-county area, the salary plan shall not
39 exceed the county's salary plan. The salary plan limitations set forth in this section may be
40 exceeded only if the area authority and the board or boards of county commissioners, as the case
41 may be, jointly agree to exceed these limitations."

42 **SECTION 4.46.** G.S. 122C-191(b) reads as rewritten:

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

47 **SECTION 4.47.** G.S. 122C-270(f) reads as rewritten:

48 "(f) The Attorney General may employ four attorneys, one to be assigned by him full-time
49 to each of the State facilities for the mentally ill, to represent the State's interest at commitment
50 hearings, rehearings and supplemental hearings held under this Article at the State facilities for
51 respondents admitted to those facilities pursuant to Part 3, 4, 7, or 8 of this Article or

1 G.S. 15A-1321 and to provide liaison and consultation services concerning these matters. These
 2 attorneys are subject to ~~Chapter 126~~ Chapter 126A of the General Statutes and shall also perform
 3 additional duties as may be assigned by the Attorney General. The attorney employed by the
 4 Attorney General in accordance with G.S. 114-4.2B shall represent the State's interest at
 5 commitment hearings, rehearings and supplemental hearings held for respondents admitted to
 6 the University of North Carolina Hospitals at Chapel Hill pursuant to Part 3, 4, 7, or 8 of this
 7 Article or G.S. 15A-1321."

8 **SECTION 4.48.** G.S. 128-15(d) reads as rewritten:

9 "(d) The provisions of this section shall be subject to the provisions of Article 1 of Chapter
 10 165 of the General Statutes, ~~G.S. 126-83, Statutes and Parts 13 and 19 of Article 9 of Chapter~~
 11 143B of the General Statutes. Exempt policymaking employees and designated employees of
 12 policymakers, statutorily exempt employees, State employees compensated as teachers, as
 13 defined in Chapter 126A of the General Statutes, employees of the legislative and judicial
 14 branches, and employees covered by G.S. 126A-15.1(b) are subject to this statute."

15 **SECTION 4.49.** G.S. 128-24(6) reads as rewritten:

16 "(6) Employees of a sending agency participating in an intergovernmental
 17 exchange of personnel under the provisions of ~~Article 10 of Chapter 126 Part~~
 18 2 of Article 5 of Chapter 126A of the General Statutes shall remain members
 19 entitled to all benefits of the Retirement System provided that the
 20 requirements of ~~Article 10 of Chapter 126 Part 2 of Article 5 of Chapter 126A~~
 21 of the General Statutes are met. A member may retain membership status
 22 while serving as an assigned employee or employee on leave under the
 23 provisions of ~~Article 10 of Chapter 126 Part 2 of Article 5 of Chapter 126A~~
 24 of the General Statutes for purposes of receiving the death benefit and, if
 25 applicable, benefits under the Death Benefit Plan regardless of whether the
 26 member and the member's employer are contributing to the member's account
 27 during the exchange period, except that no duplicate benefits shall be paid."

28 **SECTION 4.50.** G.S. 128-33.1(a) reads as rewritten:

29 "(a) The following definitions apply in this section:

- 30 (1) Employment-related information. – As defined in
 31 ~~G.S. 126-22(b)(3).~~ G.S. 126A-161.
 32 (2) Personal information. – As defined in ~~G.S. 126-22(b)(3).~~ G.S. 126A-161.
 33 (3) Retirement file. – Any employment-related, retirement-related, or personal
 34 information of members in a State-administered retirement plan gathered by
 35 the Retirement Systems Division of the Department of State Treasurer.
 36 (4) Retirement-related information. – Information including membership and
 37 service details, benefit payment information, and other information the
 38 Retirement Systems Division of the Department of State Treasurer deems
 39 necessary to administer a retirement plan."

40 **SECTION 4.51.** G.S. 130A-41(b)(12) reads as rewritten:

41 "(12) To employ and dismiss employees of the local health department in
 42 accordance with ~~Chapter 126~~ Chapter 126A of the General Statutes; and"

43 **SECTION 4.52.** G.S. 130A-45.12 reads as rewritten:

44 "**§ 130A-45.12. Personnel.**

45 Employees under the supervision of the public health authority director are employees of the
 46 public health authority and shall be exempt from ~~Chapter 126~~ Chapter 126A of the General
 47 Statutes, unless otherwise provided in this Part."

48 **SECTION 4.53.** G.S. 132-1.4A(b) reads as rewritten:

49 "(b) Public Record and Personnel Record Classification. – Recordings are not public
 50 records as defined by G.S. 132-1. Recordings are not personnel records as defined in ~~Part 7 of~~
 51 Chapter 126 Part 16 of Chapter 126A of the General Statutes, G.S. 160A-168, or G.S. 153A-98."

1 **SECTION 4.54.** G.S. 135-3(c) reads as rewritten:

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

13 **SECTION 4.55.** G.S. 135-5.1(a)(3) reads as rewritten:

14 "(3) Nonfaculty instructional and research staff who are exempt from the North
15 Carolina Human Resources Act, as defined by the provisions of
16 ~~G.S. 126-5(e1)(8)~~, Part 3 of Article 1 of Chapter 126A of the General Statutes,
17 and the faculty of the North Carolina School of Science and Mathematics."

18 **SECTION 4.56.** G.S. 135-6.1(a) reads as rewritten:

19 "(a) The following definitions apply in this section:

- 20 (1) Employment-related information. – As defined in
21 ~~G.S. 126-22(b)(3)~~.G.S. 126A-161.
22 (2) Personal information. – As defined in ~~G.S. 126-22(b)(3)~~.G.S. 126A-161.
23 (3) Retirement file. – Any employment-related, retirement-related, or personal
24 information of members in a State-administered retirement plan gathered by
25 the Retirement Systems Division of the Department of State Treasurer.
26 (4) Retirement-related information. – Information including membership and
27 service details, benefit payment information, and other information the
28 Retirement Systems Division of the Department of State Treasurer deems
29 necessary to administer a retirement plan."

30 **SECTION 4.57.** G.S. 135-48.23 reads as rewritten:

31 "**§ 135-48.23. Executive Administrator.**

32 (a) The Plan shall have an Executive Administrator. The Executive Administrator
33 position is exempt from the provisions of ~~Chapter 126~~ Chapter 126A of the General Statutes as
34 provided in ~~G.S. 126-5(e1)~~.G.S. 126A-15.2.
35 "

36 **SECTION 4.58.** G.S. 136-4 reads as rewritten:

37 "**§ 136-4. Chief Engineer.**

38 There shall be a Chief Engineer, who shall be a career official and who shall be the
39 administrative officer of the Department of Transportation for highway matters. For purposes of
40 this section, the term "highway matters" includes planning, design, construction, maintenance,
41 operations, procurements, agreements, delivery methods, standards, and specifications for
42 current and future State-maintained roads. The Chief Engineer shall be appointed by the
43 Secretary of Transportation and he or she may be removed at any time by the Secretary of
44 Transportation. He or she shall be paid a salary to be set in accordance with ~~Chapter 126~~ Chapter
45 126A of the General Statutes, the North Carolina Human Resources Act. The Chief Engineer
46 shall have such powers and perform such duties as the Secretary of Transportation shall
47 prescribe."

48 **SECTION 4.59.** G.S. 138A-3(70) reads as rewritten:

49 "(70) Public servants. – All of the following:

50 ...

- 1 e. Confidential assistants and secretaries as defined in ~~G.S. 126-5(e)(2),~~
 2 G.S. 126A-15, to individuals designated under sub-subdivision a., c.,
 3 or d. of this subdivision.
 4 f. Employees in exempt positions designated in accordance with
 5 ~~G.S. 126-5(d)(1), (2), or (2a)~~ G.S. 126A-15.4 and confidential
 6 secretaries to these individuals.
 7"

8 **SECTION 4.60.** G.S. 138A-12 reads as rewritten:

9 **"§ 138A-12. Inquiries by the Commission.**

10 ...

11 (c) Institution of Proceedings. – On its own motion, in response to a signed and sworn,
 12 under oath or affirmation, complaint of any registered voter filed with the Commission, or upon
 13 the written request of any public servant or those responsible for the hiring, appointing, or
 14 supervising of a public servant, the Commission shall conduct an inquiry into any of the
 15 following:

- 16 (1) The application or alleged violation of this Chapter.
 17 (2) For legislators, the application or alleged violations of Part 1 of Article 14 of
 18 Chapter 120 of the General Statutes.
 19 (3) An alleged violation of the criminal law by a covered person in the
 20 performance of that individual's official duties.
 21 (4) An alleged violation of ~~G.S. 126-14~~ G.S. 126A-101.

22 Upon receipt of a referral under G.S. 147-64.6B or a report under G.S. 147-64.6(c)(19), the
 23 Commission may conduct an inquiry under this section on its own motion. Allegations of
 24 violations of the Code of Judicial Conduct shall be referred to the Judicial Standards Commission
 25 without investigation.

26 ...

27 (e) Complaint. –

- 28 (1) A sworn complaint filed under this Chapter shall state the name, address, and
 29 telephone number of the individual filing the complaint, the name and job title
 30 or appointive position of the covered person or legislative employee against
 31 whom the complaint is filed, and a concise statement of the nature of the
 32 complaint and specific facts indicating that a violation of this Chapter or
 33 Chapter 120 of the General Statutes or ~~G.S. 126-14~~ G.S. 126A-101 or the
 34 criminal law in the performance of that individual's official duties has
 35 occurred, the date the alleged violation occurred, and either (i) that the
 36 contents of the complaint are within the knowledge of the individual verifying
 37 the complaint, or (ii) the basis upon which the individual verifying the
 38 complaint believes the allegations to be true.

39"

40 **SECTION 4.61.** G.S. 143-202.4 reads as rewritten:

41 **"§ 143-202.4. Roanoke Island Festival Park staff.**

42 The Association shall serve as a search committee to seek out, interview, and recommend to
 43 the Secretary of Natural and Cultural Resources an Executive Director of Roanoke Island Festival
 44 Park. All Festival Park staff shall be considered employees of the Department of Natural and
 45 Cultural Resources and shall be paid from the Historic Roanoke Island Fund as provided in
 46 G.S. 143-202.3. Except as otherwise provided in this section, or ~~G.S. 126-5, Part 3 of Article 1~~
 47 of Chapter 126A of the General Statutes, these employees shall retain the same designations
 48 under the North Carolina Human Resources Act, ~~Chapter 126~~ Chapter 126A of the General
 49 Statutes, as they had prior to the transfer."

50 **SECTION 4.62.** G.S. 143-300.35(a) reads as rewritten:

1 "(a) The sovereign immunity of the State is waived for the limited purpose of allowing
2 State employees, except for those in exempt policy-making positions designated pursuant to ~~G.S.~~
3 ~~126-5(d)~~, G.S. 126A-15.4, to maintain lawsuits in State and federal courts and obtain and satisfy
4 judgments against the State or any of its departments, institutions, or agencies under:

- 5 (1) The Fair Labor Standards Act, 29 U.S.C. § 201, et seq.
- 6 (2) The Age Discrimination in Employment Act, 29 U.S.C. § 621, et seq.
- 7 (3) The Family and Medical Leave Act, 29 U.S.C. § 2601, et seq.
- 8 (4) The Americans with Disabilities Act, 42 U.S.C. § 12101, et seq."

9 **SECTION 4.63.** G.S. 143-554(a) reads as rewritten:

10 "(a) Any employee or former employee of an employing entity within the meaning of
11 G.S. 143-552(1)a whose employment is terminated pursuant to the provisions of this Part shall
12 be given the opportunity to appeal the employment termination to the State Human Resources
13 Commission according to the normal appeal and hearing procedures provided by ~~Chapter 126~~
14 Chapter 126A of the General Statutes and the State Human Resources Commission rules adopted
15 pursuant to the authority of that Chapter; however, nothing herein shall be construed to give the
16 right to termination reviews to anyone exempt from that right under ~~G.S. 126-5~~, Part 3 of Article
17 1 of Chapter 126A of the General Statutes."

18 **SECTION 4.64.** Article 63 of Chapter 143 of the General Statutes is repealed.

19 **SECTION 4.65.** G.S. 143-652.2(f) reads as rewritten:

20 "(f) Staff Assistance. – The Commission shall hire a person to serve as Executive Director
21 of the Commission. If necessary, the Executive Director may train and contract with independent
22 contractors for the purpose of regulating and monitoring events, issuing licenses, collecting fees,
23 and enforcing rules of the Commission. The Executive Director may initiate and review criminal
24 background checks on persons requesting to work as independent contractors for the Commission
25 or persons applying to be licensed by the Commission. The Commission may also hire additional
26 staff. The Executive Director is exempt from provisions of the North Carolina Human Resources
27 Act as provided by ~~G.S. 126-5~~, G.S. 126A-15.2. All other staff of the Commission are subject to
28 the North Carolina Human Resources Act."

29 **SECTION 4.66.** G.S. 143-728(e) reads as rewritten:

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

35 **SECTION 4.67.** G.S. 143-747(a1) reads as rewritten:

36 "(a1) The Council shall hire an Executive Director as selected by a majority of the Council.
37 The Executive Director shall serve at the will of the Council and be exempt from the provisions
38 of the North Carolina Human Resources Act under ~~Chapter 126~~ Chapter 126A of the General
39 Statutes."

40 **SECTION 4.68.** G.S. 143B-53.2(c) reads as rewritten:

41 "(c) The exemptions to ~~Chapter 126~~ Chapter 126A of the General Statutes authorized by
42 ~~G.S. 126-5(e11)~~ G.S. 126A-15.2 for the employees of the Department of Natural and Cultural
43 Resources listed in that ~~subsection~~ section shall be used to develop organizational classification
44 and compensation innovations that will result in the enhanced efficiency of operations. The
45 Office of State Human Resources shall assist the Secretary of Natural and Cultural Resources in
46 the development and implementation of an organizational structure and human resources
47 programs that make the most appropriate use of the exemptions, including (i) a system of job
48 categories or descriptions tailored to the agency's needs; (ii) policies regarding paid time off for
49 agency personnel and the voluntary sharing of such time off; and (iii) a system of uniform
50 performance assessments for agency personnel tailored to the agency's needs. The Secretary of
51 Natural and Cultural Resources may, under the supervision of the Office of State Human

1 Resources, develop and implement organizational classification and compensation innovations
2 having the potential to benefit all State agencies."

3 **SECTION 4.69.** G.S. 143B-168.12(a)(2) reads as rewritten:

4 "(2) The North Carolina Partnership and the local partnerships shall agree to adopt
5 procedures for its operations that are comparable to those of Article 33C of
6 Chapter 143 of the General Statutes, the Open Meetings Law, and Chapter
7 132 of the General Statutes, the Public Records Law, and provide for
8 enforcement by the Department. The procedures may provide for the
9 confidentiality of personnel files comparable to ~~Article 7~~ Article 16 of Chapter
10 126-Chapter 126A of the General Statutes."

11 **SECTION 4.70.** G.S. 143B-168.14(a)(2) reads as rewritten:

12 "(2) The North Carolina Partnership and the local partnerships shall agree to adopt
13 procedures for its operations that are comparable to those of Article 33C of
14 Chapter 143 of the General Statutes, the Open Meetings Law, and Chapter
15 132 of the General Statutes, the Public Records Law, and provide for
16 enforcement by the Department. The procedures may provide for the
17 confidentiality of personnel files comparable to ~~Article 7~~ Article 16 of Chapter
18 126-Chapter 126A of the General Statutes."

19 **SECTION 4.71.** G.S. 143B-216.70(b) reads as rewritten:

20 "(b) Under the direction of the Secretary of Health and Human Services, the Director of
21 the Office of Policy and Planning shall have the authority to direct Divisions, offices, and
22 programs within the Department to conduct periodic reviews of policies, plans, and rules and
23 shall advise the Secretary when it is determined to be appropriate or necessary to modify, amend,
24 and repeal departmental policies, plans, and rules. All policy and management positions within
25 the Office of Policy and Planning are exempt positions ~~as that term is defined in G.S. 126-5~~ as
26 provided in Part 3 of Article 1 of Chapter 126A of the General Statutes."

27 **SECTION 4.72.** G.S. 143B-216.80(b)(1) reads as rewritten:

28 "(1) Employees of the Division of Health Benefits shall not be subject to the North
29 Carolina Human Resources Act, except as provided in
30 ~~G.S. 126-5(e1)(33)~~ G.S. 126A-15.2."

31 **SECTION 4.73.** G.S. 143B-394.2(a) reads as rewritten:

32 "(a) The office of Coordinator of Services for Victims of Sexual Assault is hereby created
33 in the Department of Administration. The office shall be under the direction and supervision of
34 a full-time salaried State employee who shall be designated as the State Coordinator. The State
35 Coordinator shall be appointed by the Secretary of the Department of Administration and shall
36 receive a salary commensurate with State government pay schedules for the duties of this office,
37 or such salary to be set by the State Human Resources Commission pursuant to ~~G.S. 126-4-~~
38 Article 4 of Chapter 126A of the General Statutes. Necessary travel allowance or reimbursement
39 for expenses shall be authorized for the State Coordinator in accordance with G.S. 138-6.
40 Sufficient clerical staff shall be provided under the direction of the Secretary of the Department
41 of Administration."

42 **SECTION 4.74.** G.S. 143B-431.01(j) reads as rewritten:

43 "(j) Benefits. – An officer, employee, or member of a governing board of a North Carolina
44 nonprofit corporation with which the Department contracts pursuant to this section is not a State
45 employee, is not covered by ~~Chapter 126~~ Chapter 126A of the General Statutes, and is not entitled
46 to State-funded employee benefits, including membership in the Teachers' and State Employees'
47 Retirement System and the State Health Plan for Teachers and State Employees."

48 **SECTION 4.75.** G.S. 143B-1209.11(f) reads as rewritten:

49 "(f) The Bureau may provide a criminal record check to the schools within the Department
50 of Health and Human Services of a person who is employed, applies for employment, or applies
51 to be selected as a volunteer, if the employee or applicant consents to the record check. The

1 Department of Health and Human Services shall keep all information pursuant to this subsection
2 confidential, as provided in ~~Article 7~~ Article 16 of ~~Chapter 126~~ Chapter 126A of the General
3 Statutes."

4 **SECTION 4.76.** G.S. 143B-1212 reads as rewritten:

5 **"§ 143B-1212. Personnel of the Department of Military and Veterans Affairs.**

6 Notwithstanding G.S. 114-2.3, the Secretary of Military and Veterans Affairs shall have the
7 power to appoint all employees, including consultants and legal counsel, necessary to carry out
8 the powers and duties of the office. These employees shall be subject to the North Carolina
9 Human Resources Act, except that employees in positions designated as exempt under ~~G.S.~~
10 ~~126-5(d)(1)~~ G.S. 126A-15.4 are not subject to the Act, in accordance with the provisions of that
11 section."

12 **SECTION 4.77.** G.S. 143B-1322(b) reads as rewritten:

13 "(b) Departmental Personnel. – The State CIO may appoint one or more deputy State
14 CIOs, each of whom shall be under the direct supervision of the State CIO. The salaries of the
15 deputy State CIOs shall be set by the State CIO. The State CIO and the Deputy State CIOs are
16 exempt from the North Carolina Human Resources Act. Subject to the approval of the Governor
17 and limitations of ~~the G.S. 126-5~~, Part 3 of Article 1 of Chapter 126A of the General Statutes,
18 the State CIO may appoint or designate additional managerial and policy making positions,
19 including, but not limited to, the Department's chief financial officer and general counsel, each
20 of whom shall be exempt from the North Carolina Human Resources Act."

21 **SECTION 4.78.** G.S. 143C-6-10 reads as rewritten:

22 **"§ 143C-6-10. Flexible compensation plan.**

23 Notwithstanding any other provision of law, the Director may establish a program of
24 dependent care assistance and a flexible compensation plan for eligible officers and employees
25 of State agencies as provided in ~~G.S. 126-95~~ G.S. 126A-76. With the approval of the Director,
26 savings in the employer's share of contributions under the Federal Insurance Contributions Act
27 on account of the reduction in salary may also be used as provided by ~~G.S.~~
28 ~~126-95~~ G.S. 126A-76."

29 **SECTION 4.79.** G.S. 147-64.6(d) reads as rewritten:

30 "(d) Reports and Work Papers. – The Auditor shall maintain for 10 years a complete file
31 of all audit reports and reports of other examinations, investigations, surveys, and reviews issued
32 under the Auditor's authority. Audit work papers and other evidence and related supportive
33 material directly pertaining to the work of the Auditor's office shall be retained according to an
34 agreement between the Auditor and State Archives. To promote intergovernmental cooperation
35 and avoid unnecessary duplication of audit effort, and notwithstanding the provisions of
36 ~~G.S. 126-24~~, G.S. 126A-163, pertinent work papers and other supportive material related to an
37 audit or investigation made pursuant to this section may be, at the discretion of the Auditor and
38 unless otherwise prohibited by law, made available for inspection by duly authorized
39 representatives of the State and federal government who desire access to and inspection of the
40 records in connection with some matter officially before them, including criminal investigations.

41 Except as provided in this section, or upon an order issued in Wake County Superior Court
42 upon 10 days' notice and hearing finding that access is necessary to a proper administration of
43 justice, audit work papers and related supportive material are confidential, including any
44 interpretations, advisory opinions, or other information or materials furnished to or by the State
45 Ethics Commission under this section."

46 **SECTION 4.80.** G.S. 147-65.2 reads as rewritten:

47 **"§ 147-65.2. Salary of State Treasurer and certain Department employees.**

48 (a) State Treasurer. – The salary of the State Treasurer shall be as established in the
49 Current Operations Appropriations Act. In addition to the salary set by the General Assembly in
50 the Current Operations Appropriations Act, longevity pay shall be paid on the same basis as is
51 provided to employees of the State who are subject to the North Carolina Human Resources Act.

1 (b) Certain Departmental Employees. – The State Treasurer is authorized to establish,
2 consistent with the duties of the State Treasurer as prescribed by law, market-oriented
3 compensation plans, including salaries and performance-related bonuses, for employees
4 possessing specialized skills or knowledge necessary for the proper administration of investment
5 programs. In accordance with ~~G.S. 126-5(e12)~~, G.S. 126A-15.2, these employees are exempt
6 from the classification and compensation rules established by the Office of State Human
7 Resources. The design and administration of those compensation plans shall be based on
8 compensation studies conducted by a nationally recognized firm specializing in public fund
9 investment compensation. The compensation and other associated employee benefits shall be
10 apportioned and paid equitably among the funds and programs utilizing the services of these
11 employees in a manner prescribed by the State Treasurer. The Treasurer shall report the salaries
12 and bonuses paid to the Joint Legislative Oversight Committee on General Government
13 annually."

14 **SECTION 4.81.** G.S. 147-72.1(c) reads as rewritten:

15 "(c) Employment of Staff. – The Chief Investment Officer shall employ staff necessary to
16 assist the CIO and the Board of Directors in carrying out duties and responsibilities under this
17 Article or as prescribed in any other law. Unless otherwise provided by law, Investment Authority
18 employees shall serve at the pleasure of the CIO and any vacancies in these positions may be
19 filled by the CIO. The CIO may designate managerial, professional, and policy-making positions
20 as exempt from the North Carolina Human Resources Act, in accordance with ~~G.S. 126-5(e1)~~.
21 G.S. 126A-15.2. Compensation of employees is set by the CIO within the limits set by the
22 compensation plan approved by the Board of Directors under G.S. 147-71.2."

23 **SECTION 4.82.** G.S. 142-118.8(a) reads as rewritten:

24 "(a) The Grievance Resolution Board, in consultation with the Secretary of the
25 Department of Adult Correction, shall provide the Governor with at least three nominees, and
26 the Governor shall appoint an Executive Director from those nominees. The Grievance
27 Resolution Board shall appoint grievance examiners. The Executive Director shall manage the
28 staff and perform such other functions as are assigned to the Director by the Grievance Resolution
29 Board. The Executive Director shall serve at the pleasure of the Governor. The grievance
30 examiners shall serve at the pleasure of the Grievance Resolution Board. The grievance
31 examiners shall be subject to ~~Article 2 of Chapter 126~~ Articles 4 and 7 of Chapter 126A of the
32 North Carolina General Statutes for purposes of salary and leave. Support staff, equipment, and
33 facilities for the Board shall be provided by the Department of Adult Correction."

34 **SECTION 4.83.** G.S. 150B-23(a) reads as rewritten:

35 "(a) A contested case shall be commenced by paying a fee in an amount established in
36 G.S. 150B-23.2 and by filing a petition with the Office of Administrative Hearings and, except
37 as provided in Article 3A of this Chapter, shall be conducted by that Office. The party that files
38 the petition shall serve a copy of the petition on all other parties and, if the dispute concerns a
39 license, the person that holds the license. A party that files a petition shall file a certificate of
40 service together with the petition. A petition shall be signed by a party, an attorney representing
41 a party, or other representative of the party as may specifically be authorized by law, and, if filed
42 by a party other than an agency, shall state facts tending to establish that the agency named as
43 the respondent has deprived the petitioner of property, has ordered the petitioner to pay a fine or
44 civil penalty, or has otherwise substantially prejudiced the petitioner's rights and that the agency
45 did any of the following:

- 46 (1) Exceeded its authority or jurisdiction.
- 47 (2) Acted erroneously.
- 48 (3) Failed to use proper procedure.
- 49 (4) Acted arbitrarily or capriciously.
- 50 (5) Failed to act as required by law or rule.

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

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

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

15 **SECTION 4.84.** G.S. 150B-25.1(c) reads as rewritten:

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

19 **SECTION 4.85.** G.S. 150B-33(b)(11) reads as rewritten:

20 "(11) Order the assessment of reasonable attorneys' fees and witnesses' fees against
21 the State agency involved in contested cases decided under this Article where
22 the administrative law judge finds that the State agency named as respondent
23 has substantially prejudiced the petitioner's rights and has acted arbitrarily or
24 capriciously or under ~~Chapter 126~~ Chapter 126A of the General Statutes
25 where the administrative law judge finds discrimination, harassment, or orders
26 reinstatement or back pay."

27 **SECTION 4.86.** G.S. 153A-92(b)(5) reads as rewritten:

28 "(5) The board of commissioners shall fix the salaries, allowances and other
29 compensation of county employees subject to the North Carolina Human
30 Resources Act according to the procedures set forth in ~~Chapter 126~~ Chapter
31 126A of the General Statutes. The board may make these employees subject
32 to a county position classification plan only as provided in ~~Chapter~~
33 126 Chapter 126A of the General Statutes."

34 **SECTION 4.87.** G.S. 153A-439(b) reads as rewritten:

35 "(b) The policies adopted by the Board of Trustees of North Carolina State University and
36 North Carolina Agricultural and Technical State University, respectively, for the employees of
37 the North Carolina Cooperative Extension Service shall govern the employment of employees
38 exempted from certain provisions of ~~Chapter 126~~ Chapter 126A of the General Statutes pursuant
39 to ~~G.S. 126-5(e1)(9a)~~ Part 3 of Article 1 of Chapter 126A of the General Statutes. The policies
40 adopted by the University of North Carolina Board of Governors and the employing constituent
41 institution shall govern the employment of employees of the North Carolina Cooperative
42 Extension Service exempted from certain provisions of ~~Chapter 126~~ Chapter 126A of the General
43 Statutes pursuant to ~~G.S. 126-5(e1)(8)~~ Part 3 of Article 1 of Chapter 126A of the General
44 Statutes."

45 **SECTION 4.88.** G.S. 168A-10.1 reads as rewritten:

46 **"§ 168A-10.1. Dispute resolution in public services discrimination cases.**

47 The North Carolina Office on the Americans with Disabilities Act shall adopt rules to provide
48 a consistent and comprehensive mechanism for accommodating requests regarding accessibility
49 to public services, and shall adopt dispute resolution procedures to govern responsiveness to
50 those requests. This section does not authorize the North Carolina Office on the Americans with

1 Disabilities Act to adopt rules or procedures that apply to the resolution of matters constituting
2 grounds for a contested case under ~~Chapter 126~~ Chapter 126A of the General Statutes."

3 **SECTION 4.89.** G.S. 169-13(b) reads as rewritten:

4 "(b) The Executive Director shall serve at the pleasure of the Council, with the position
5 being exempt from ~~Chapter 126~~ Chapter 126A of the General Statutes, the State Human
6 Resources Act."
7

8 **PART V. CLARIFYING AND TRANSITION PROVISIONS**

9

10 **CLARIFICATIONS REGARDING GRIEVANCES/STATUS OF CERTAIN** 11 **EMPLOYEES/OTHER MATTERS**

12 **SECTION 5.1.(a)** The provisions of Chapter 126 of the General Statutes that exist
13 on September 30, 2026, shall continue to govern all of the following:

- 14 (1) Any contested case pending before the State Human Resources Commission
15 or the Office of Administrative Hearings on the effective date of this act,
16 including any judicial review of such a case pending in the General Court of
17 Justice.
- 18 (2) Any grievance, disciplinary action, or appeal initiated under Chapter 126 of
19 the General Statutes prior to the effective date of this act that is not finally
20 resolved as of that date.
- 21 (3) Any claim for back pay, reinstatement, or other relief arising from
22 employment actions that occurred prior to the effective date of this act.
- 23 (4) Any right to career State employee status vested under G.S. 126-1.1 prior to
24 the effective date of this act.
- 25 (5) Any cause of action arising under Chapter 126 of the General Statutes that
26 accrued prior to the effective date of this act regardless of when the suit or
27 administrative action is initiated.

28 **SECTION 5.1.(b)** The following provisions apply only to employees hired on or
29 after October 1, 2026:

- 30 (1) G.S. 126A-310.1(a)(2), as enacted by this act.
- 31 (2) G.S. 126A-15.2(e), as enacted by this act.

32 **SECTION 5.1.(c)** Employees designated under G.S. 126-5 on or before September
33 30, 2026, shall be designated as the following under Part 3 of Article 1 of Chapter 126A of the
34 General Statutes, as enacted by this act, effective October 1, 2026:

- 35 (1) Employees designated as confidential assistants or confidential secretaries are
36 automatically redesignated as designated employees of policymakers.
 - 37 (2) Employees designated as exempt wardens are automatically redesignated as
38 exempt wardens.
 - 39 (3) Employees designated as exempt policymaking employees are automatically
40 redesignated as exempt policymaking employees.
 - 41 (4) Employees designated as exempt managerial employees are automatically
42 redesignated as exempt managerial employees.
- 43

44 **SYSTEMATIC REVIEW OF RULES**

45 **SECTION 5.2.(a)** If a provision of Chapter 126A of the General Statutes conflicts
46 with an existing rule in Title 25, Chapter 01 of the North Carolina Administrative Code, the
47 provisions of Chapter 126A of the General Statutes, as enacted by this act, shall control. This
48 subsection does not repeal any rule by operation of this act.

49 **SECTION 5.2.(b)** The State Human Resources Commission shall review rules in
50 Title 25, Chapter 01 of the North Carolina Administrative Code pursuant to G.S. 150B-21.5 and
51 repeal any rules it determines to be unnecessary after enactment of this act.

EFFECT ON AGREEMENTS AND PENDING LITIGATION

SECTION 5.3.(a) All decentralization agreements, delegation agreements, and memoranda of understanding between the Office of State Human Resources and any agency, department, or institution in effect on September 30, 2026, shall remain in effect until modified or terminated in accordance with the terms of those agreements of memoranda or superseded by agreements executed under the authority of Chapter 126A of the General Statutes, as enacted by this act.

SECTION 5.3.(b) No action or proceeding brought by or against the State Human Resources Commission or the Office of State Human Resources, or against the State of North Carolina concerning either the State Human Resources Commission or the Office of State Human Resources, that is pending on October 1, 2026, shall be abated, suspended, or otherwise affected by the enactment of this act. Any such action or proceeding shall be prosecuted or defended under the law applicable at the time the action or proceeding was initiated, provided that nothing in this subsection shall preclude any party from citing provisions for persuasive guidance where the language of Chapter 126A of the General Statutes, as enacted by this act, and Chapter 126 of the General Statutes as it exists on September 30, 2026, is identical or substantially identical.

CLASSIFICATION AND COMPENSATION ASSESSMENT

SECTION 5.4.(a) The Office of State Human Resources shall assess the State's classification and compensation system and identify opportunities for improvement, consulting with agencies and outside experts, as needed. By October 1, 2027, the Office of State Human Resources shall report its findings and recommendations to the chairs of the Senate Appropriations/Base Budget Committee, the chairs of the House Appropriations Committee, the Joint Legislative Commission on Governmental Operations pursuant to G.S. 120-36.7, and the Fiscal Research Division.

SECTION 5.4.(b) By March 1, 2027, and annually thereafter, each executive branch agency shall report the following information to the Office of State Human Resources, upon request:

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

SECTION 5.4.(c) The Office of State Human Resources shall incorporate trends and recommended legislative actions from this assessment into the annual State of the State workforce report required by G.S. 126A-24.

SECTION 5.4.(d) Following the initial assessment and review of agency data, the Office of State Human Resources shall contemplate executing a pilot on classification and compensation recommendations in one or more executive branch agencies that volunteer to participate. The purpose of the pilot is to test modifications to classification and compensation practices, including alternative job titling, revised qualification standards, or adjusted pay-setting flexibility, that the Office of State Human Resources determines are likely to improve recruitment, retention, or time-to-hire outcomes.

DEVELOP IMPROVED WORKFORCE ACCOUNTABILITY SYSTEM

SECTION 5.5. By December 1, 2026, the Office of State Human Resources shall submit to the State Human Resources Commission and the Governor a revised disciplinary policy containing an improved process for managing State employee performance and conduct. The

1 State Human Resources Commission, subject to the approval of the Governor, shall adopt a
2 revised Disciplinary Action Policy by April 1, 2027.

3

4 **STATE OF THE STATE WORKFORCE REPORT**

5 **SECTION 5.6.** The Office of State Human Resources shall submit the first State of
6 the State workforce report required by G.S. 126A-24 by January 15, 2027.

7

8 **PART VI. EFFECTIVE DATE**

9 **SECTION 6.1.** This act becomes effective October 1, 2026.