

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025

S

D

SENATE BILL 1041
PROPOSED COMMITTEE SUBSTITUTE S1041-CSBNf-14 [v.22]
06/01/2026 05:56:08 PM

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.(a)** 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.**

13 **"Goals, Definitions.**

14 **"§ 126A-1. Purpose of Chapter.**

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

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

27 (1) Public service employment should be based on equal opportunity and free of
28 discrimination on any basis prohibited by federal or State law.

29 (2) The value of public service should be bolstered by fair compensation and
30 benefits, stable career paths, employment protections, opportunities for
31 engagement and development, and an ability to make a positive impact for the
32 people of North Carolina.

33 (3) Accountability to the public and within agencies should be maintained by
34 establishing clear roles, measurable goals, and transparent reporting to ensure
35 compliance with law and policy.
36



"§ 126A-2. Definitions.

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

1 that employee is no longer in the designated exempt position, be reassigned
2 as a career employee with no probationary period if the employee remains
3 continuously employed by the State.

4 (e) Except for career and probationary appointments, the appointment types in this
5 section do not apply to local employees.

6 **"§ 126A-10.1 Qualification as career employee.**

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

9 (1) An employee who successfully completes 12 months of employment in a
10 probationary appointment shall be assigned a career appointment except as
11 provided in subdivisions (2) and (3) of this subsection. The employee shall be
12 assigned a career appointment unless there is a supervisory extension of the
13 probationary period or separation based on performance or conduct prior to
14 the completion of the 12 months of employment.

15 (2) If the employee's supervisor determines an additional six-month period is
16 needed to assess whether the employee's performance in the probationary
17 appointment is successful or needs improvement, the employee successfully
18 completes a total of 18 months of probationary appointment shall be assigned
19 a career appointment.

20 (3) An employee hired in a sworn law enforcement position or forensic scientist
21 position who is required to complete a formal training program prior to
22 assuming law enforcement or forensic scientist duties with the employing
23 agency shall be assigned a career appointment only after being employed by
24 the agency for 24 continuous months in a probationary appointment. An
25 employee who has a career appointment retains that appointment if the
26 employee transfers from a position that does not require completion of a
27 formal training program into a position under this subdivision that does
28 require a formal training program, even if the employee has worked for the
29 agency for fewer than 24 continuous months.

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

32 (1) For experiential programs of 12 months or longer, an employee who
33 successfully completes an experiential program in a permanent experiential
34 appointment shall be assigned a career appointment. The employee shall be
35 assigned a career appointment unless there is a separation based on
36 performance or conduct prior to the completion of the experiential program.

37 (2) For experiential programs of less than 12 months, an employee who
38 successfully completes the experiential program shall be assigned a
39 probationary appointment and shall receive a career appointment as provided
40 in subsection (a) of this section.

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

44 (d) Employees of The University of North Carolina who are exempt from the minimum
45 wage and overtime compensation provisions of the Fair Labor Standards Act and who attained
46 career status before September 1, 2023, have the option of either (i) continuing employment with
47 a career employee appointment if the employee remains in the position the employee occupied
48 on August 31, 2023, or (ii) waiving the career employee appointment and continuing employment
49 as a statutorily exempt employee, as defined in Part 3 of this Article. The University shall provide
50 each affected employee with a written explanation of the impact of an election to waive the career
51 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.

4 "Application of the North Carolina Human Resources Act.

5 "§ 126A-15. Definitions.

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

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

- 1 administration of investment programs and compensated pursuant to
2 G.S. 147-65.2(b).
- 3 b. Employees of the Department of State Treasurer possessing
4 specialized skills or knowledge necessary for the proper
5 administration of the Supplemental Retirement Plans and
6 compensated pursuant to G.S. 135-91(c2).
- 7 (7) State employees compensated as teachers. – Teaching and related educational
8 classes of employees of the Division of Juvenile Justice of the Department of
9 Public Safety, the Department of Health and Human Services, and any other
10 agency whose salaries are set in the same manner as for corresponding public
11 school employees in accordance with Chapter 115C of the General Statutes.
- 12 (8) Statutorily exempt employees. – Any of the following:
- 13 a. Constitutional officers of the executive branch of the State.
14 b. Deputy commissioners appointed pursuant to G.S. 97-79.
15 c. Members of executive branch boards, committees, commissions,
16 councils, and advisory councils compensated on a per diem basis.
17 d. Officials or employees whose salaries are fixed by the General
18 Assembly, except for those employees on a legislatively established
19 salary schedule not otherwise exempted by this Chapter, or by the
20 Governor, or by the Governor and Council of State, or by the Governor
21 subject to the approval of the Council of State.
- 22 e. Employees of the Office of the Governor that the Governor, at any
23 time, in the Governor's discretion, exempts from the application of this
24 Chapter by means of a letter to the Director designating these
25 employees.
- 26 f. Employees of the Office of the Lieutenant Governor, that the
27 Lieutenant Governor, at any time, in the Lieutenant Governor's
28 discretion, exempts from the application of this Chapter by means of
29 a letter to the Director designating these employees.
- 30 g. Employees of The University of North Carolina who are exempt from
31 the minimum wage and overtime compensation provisions of the Fair
32 Labor Standards Act, instructional and research staff, student-oriented
33 professionals, finance professionals, business office professionals,
34 auditor professionals, information technology professionals,
35 physicians, dentists, pilots, and the faculty of the North Carolina
36 School of Science and Mathematics, and all temporary employees.
37 The Board of Governors of The University of North Carolina shall
38 have the authority to establish positions under this subdivision to be
39 exempt from this Chapter without further review or approval by any
40 other agency.
- 41 h. Employees of a regional school established pursuant to Part 10 of
42 Article 16 of Chapter 115C of the General Statutes.
- 43 i. Employees of a school for the deaf or blind governed by Article 9C of
44 Chapter 115C of the General Statutes hired on or after July 1, 2024.
- 45 j. Employees whose salaries are fixed under the authority vested in the
46 Board of Governors of The University of North Carolina by the
47 provisions of G.S. 116-11(4), 116-11(5), and 116-14.
- 48 k. Employees of the North Carolina Cooperative Extension Service of
49 North Carolina State University and North Carolina Agricultural and
50 Technical State University who are employed in county operations and

- 1 who are not exempt pursuant to sub-subdivision g. or j. of this
2 subsection.
- 3 l. Employees of the North Carolina State Ports Authority.
4 m. Employees of the North Carolina Global TransPark Authority.
5 n. The executive director and one associate director of the North Carolina
6 Center for Nursing established under Article 9F of Chapter 90 of the
7 General Statutes.
- 8 o. Employees of the Tobacco Trust Fund Commission established in
9 Article 75 of Chapter 143 of the General Statutes.
- 10 p. Employees of the North Carolina Turnpike Authority.
11 q. The Executive Administrator of the State Health Plan for Teachers and
12 State Employees and employees of the State Health Plan for Teachers
13 and State Employees as designated by law or by the Executive
14 Administrator of the Plan.
- 15 r. The North Carolina State Lottery Director and employees of the North
16 Carolina State Lottery.
- 17 s. The Chief Administrative Law Judge of the Office of Administrative
18 Hearings and five employees of the Office of Administrative Hearings
19 as designated by the Chief Administrative Law Judge.
- 20 t. The Executive Director and the Assistant Director of the U.S.S. North
21 Carolina Battleship Commission.
- 22 u. The Executive Director, Deputy Director, all other directors, assistant
23 and associate directors, and center fellows of the North Carolina
24 Center for the Advancement of Teaching.
- 25 v. Employees of the Department of Commerce employed in the Rural
26 Economic Development Division.
- 27 w. Employees of the North Carolina Health Information Exchange
28 Authority.
- 29 x. Employees of the Division of Health Benefits of the Department of
30 Health and Human Services.
- 31 y. The Associate Superintendent of Early Education of the Department
32 of Public Instruction who serves as chief academic officer of early
33 education.
- 34 z. Employees of the North Carolina Youth Outdoor Engagement
35 Commission.
- 36 aa. Employees of the Division of State Operated Healthcare Facilities of
37 the Department of Health and Human Services who are (i) health care
38 professionals licensed under Chapter 90 or Chapter 90B of the General
39 Statutes or (ii) engineers responsible for maintenance or buildings
40 operations at one of the health care facilities operated by the Secretary
41 of the Department of Health and Human Services under
42 G.S. 122C-181.
- 43 bb. The Executive Director of the North Carolina Boxing and Combat
44 Sports Commission created pursuant to G.S. 143-652.2.
- 45 cc. No more than 10 employees of the State Bureau of Investigation
46 designated by the Director of the State Bureau of Investigation
47 dd. No more than 17 employees of the State Highway Patrol as designated
48 by the Commander of the State Highway Patrol.
- 49 ee. The Chief Investment Officer of the North Carolina Investment
50 Authority and employees of the North Carolina Investment Authority
51 who possess specialized skills or knowledge necessary for the proper

1 administration of investment programs and who are employed in a
2 position designated by the Chief Investment Officer as exempt in
3 accordance with G.S. 147-72.1.

4 ff. Liaisons to the Collaboration for Prosperity Zones set out in
5 G.S. 143B-28.1 for the Departments of Commerce, Environmental
6 Quality, and Transportation.

7 (9) University health employees. – Any of the following:

8 a. Employees of the University of North Carolina Health Care System.

9 b. Employees of the University of North Carolina Hospitals at Chapel
10 Hill.

11 c. Employees of the clinical patient care programs of the School of
12 Medicine of the University of North Carolina at Chapel Hill.

13 d. Employees of the Medical Faculty Practice Plan, a division of the
14 School of Medicine of East Carolina University.

15 e. Employees of UNC-CH Dental School Clinical Operations, a division
16 of the Adams School of Dentistry at the University of North Carolina
17 at Chapel Hill.

18 f. Employees of ECU Dental School Clinical Operations, a division of
19 the School of Dental Medicine at East Carolina University.

20 (10) University police officers. – Commissioned police officer positions of the
21 University of North Carolina. Employees in these positions are eligible for all
22 employment and retirement benefits provided to State law enforcement
23 officers subject to this Chapter.

24 **"§ 126A-15.1 Application of this Chapter.**

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

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

28 (1) Public school superintendents, principals, teachers, and other public school
29 employees, except for G.S. 126A-71 and Article 14.

30 (2) Employees of community colleges whose salaries are fixed in accordance with
31 G.S. 115D-6.1 and G.S. 115D-20 and employees of the Community Colleges
32 System Office whose salaries are fixed by the State Board of Community
33 Colleges in accordance with G.S. 115D-3, except for G.S. 126A-71,
34 G.S. 126A-103, G.S. 126A-104, and Article 14.

35 (3) Employees of the Office of Proprietary Schools whose salaries are fixed by
36 the State Board of Proprietary Schools in accordance with G.S. 115D-89.2.

37 (4) Officers, employees, and members of the governing board of a North Carolina
38 nonprofit corporation with which the Department of Commerce has contracted
39 pursuant to the authority granted in G.S. 143B-431.01

40 (5) Constitutional officers, officials, and employees of the Judicial Department.

41 (6) Constitutional officers, officials, and employees of the General Assembly.

42 **"§ 126A-15.2 Exemptions from this Chapter.**

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

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

45 (2) G.S. 126A-91.

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

47 (1) Article 3 of this Chapter.

48 (2) Article 4 of this Chapter, except for G.S. 126A-43.

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

50 (4) G.S. 126A-91.

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

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

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

35 **"§ 126A-15.3. Additional exemptions for experiential programs.**

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

39 **"§ 126A-15.4. Process for designating exempt managerial and policy positions.**

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

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

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

- 51 (1) Department of Administration.

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

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

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

33 (e) Exempt Policymaking and Exempt Managerial Positions in the Office of the State
34 Controller and the State Board of Elections.

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

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

- 49 (1) If the General Assembly is in session when the list is submitted and does not
50 act within 30 days after the list is submitted, the list is deemed approved by

1 the General Assembly, and the positions shall be designated as exempt
2 positions.

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

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

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

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

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

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

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

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

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

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

44 **"§ 126A-15.6. Agencies to adopt policies for exempt employees.**

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

47 "Article 2.

48 "Oversight of the State Human Resources System.

49 **"§ 126A-20. State Human Resources Commission.**

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

51 (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
13 cost-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 cover
37 the full costs for participation in education, training, or consultation services offered by OSHR.

38 **"§ 126A-22. Commission policies.**

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

- 43 (1) Classification, in accordance with Article 3 of this Chapter.
- 44 (2) Compensation, in accordance with Article 4 of this Chapter.
- 45 (3) Hiring, in accordance with Article 5 of this Chapter.
- 46 (4) Onboarding, in accordance with Article 6 of this Chapter.
- 47 (5) Benefits and terms of employment, in accordance with Article 7 of this
48 Chapter.
- 49 (6) Grievances and just cause, in accordance with Article 8 of this Chapter.
- 50 (7) Separation, in accordance with Article 9 of this Chapter.
- 51 (8) Political activity, in accordance with Article 10 of this Chapter.

1 (9) Temporary employment, in accordance with Article 11 of this Chapter.

2 (10) Local governments, in accordance with Article 12 of this Chapter.

3 (11) Workers' compensation, in accordance with Article 13 of this Chapter.

4 (12) Whistleblower protections, in accordance with Article 14 of this Chapter.

5 (13) Equal employment opportunity, in accordance with Article 15 of this Chapter.

6 (14) Privacy of personnel records, in accordance with Article 16 of this Chapter.

7 (b) Policies established by the Commission shall not limit the power of any Council of
8 State or Cabinet agency head, in the agency head's discretion when he or she has determined it
9 is in the agency's best interests, to transfer, demote, or separate an employee who is not a career
10 employee.

11 (c) The Director may in his or her discretion grant exceptions or variances from
12 Commission policies.

13 **"§ 126A-23. Decentralization agreements.**

14 (a) Decentralization agreements with executive branch agencies shall require a person
15 designated by the agency to be accountable to the Director for the compliance of all personnel
16 actions taken pursuant to the delegated authority of the agency. The agreement shall specify the
17 required policies for agency personnel administration.

18 (b) The Director shall take appropriate corrective actions, including adjusting employee
19 salaries and changing classification that are not in compliance with policy, and suspend
20 decentralization agreements when agencies are not in compliance with personnel administration
21 policies.

22 **"§ 126A-24. State of the State workforce report and survey.**

23 (a) OSHR shall annually report by January 15 on the state of the State employee
24 workforce and Statewide human resources programs to the Joint Legislative Commission on
25 Governmental Operations, the Joint Legislative Oversight Committee on General Government,
26 the Fiscal Research Division, and the Appropriations Committees of the House of
27 Representatives and the Senate. The report shall include the following:

28 (1) A comparison of employee compensation rates and benefits compared to
29 national trends, including at least the following:

30 a. An overview of economic conditions and labor market trends.

31 b. An analysis of the competitiveness of State salaries and benefits.

32 c. A review of recruitment and retention efforts and results.

33 d. The results of the annual compensation surveys conducted pursuant to
34 subsection (b) of this section.

35 (2) The safety, health, and workers' compensation activities of agencies in
36 compliance with Article 13 of this Chapter and the fines levied against
37 agencies pursuant to Article 16 of Chapter 95 of the General Statutes.

38 (3) The costs associated with the defense or settlement of administrative
39 grievances and lawsuits filed by current or former employees and applicants
40 for employment with an agency.

41 (4) Agency compliance with JoinNC policies, including the following:

42 a. The number and type of exceptions made by the Director.

43 b. A list of agencies with invoices more than 60 days overdue.

44 c. A list of agencies with temporary employees who exceeded 11 months
45 of consecutive employment, including the number of employees who
46 exceeded 11 months of consecutive employment and the average
47 number of days employees exceeded this limit.

48 (b) OSHR shall conduct annual compensation surveys to guide the Governor and the
49 General Assembly in making decisions regarding the compensation of employees.

50 "Article 3.

51 "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, experiential, 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 permanent pay adjustments and one-time bonuses, awards, and other compensation.

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

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

7 **"§ 126A-52. Private personnel service.**

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

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

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

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

22 **"§ 126A-53. Increasing efficiency of application process.**

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

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

30 **"§ 126A-54. Hiring from pool of most qualified candidates.**

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

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

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

1 candidates in the applicant pool. An experiential appointment hiring is exempt from the hiring
2 priorities identified in G.S. 126A-57.

3 **"§ 126A-55. Political hiring limited.**

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

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

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

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

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

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

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

15 **"§ 126A-56. Hiring candidate from most qualified pool in previous posting.**

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

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

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

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

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

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

29 **"§ 126A-56.1 Non-permanent to permanent hiring.**

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

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

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

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

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

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

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

44 **"§ 126A-56.2 Lateral transfers.**

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

50 **"§ 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 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 Government 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) may be considered during such participation to
39 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 absences, unless otherwise provided in this section, or in a written
48 agreement 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 (ii) conceals prior employment history
14 or other requested information significantly related to job responsibilities on an application or
15 any document supplementing an application may be subjected to disciplinary action including
16 immediate dismissal from employment. An employing agency shall dismiss an employee who
17 discloses false or misleading information to meet the minimum qualifications for the position
18 classification. Applications and any screen allowing an applicant to attach supplemental
19 materials shall include a statement informing applicants of the consequences of fraudulent
20 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 Onboard 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 (3) Parent. – Includes a parent by adoption, foster care, or another legal
41 placement.

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

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

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

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

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

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

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

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

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

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

11 **"§ 126A-72. Benefits, terms, and conditions of employment.**

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

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

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

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

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

27 (5) Establishing programs of employee assistance, productivity incentives, and
28 equal opportunity.

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

30 (7) Providing financial assistance for employee development and employee
31 discounts for services.

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

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

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

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

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

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

45 The Commission shall establish a graduated scale for the amount of vacation leave granted
46 to each full-time employee subject to this Article. The scale shall allow the equivalent rate of at
47 least 120 hours of vacation leave per calendar year, prorated monthly, cumulative to at least 240
48 hours. On December 31 of each year, any employee who has vacation leave in excess of the
49 allowed accumulation shall have that leave converted to sick leave. The rate of sick leave for
50 employees shall be at least 80 hours per calendar year, cumulative from year to year.

51 "Part 3. Voluntary Shared Leave.

1 **"§ 126A-75. Voluntary shared leave.**

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

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

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

11 "Part 4. Flexible Compensation Plan.

12 **"§ 126A-76. Flexible compensation plan.**

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

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

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

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

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

45 "Article 8.

46 "Just Cause, Disciplinary Actions, and Grievances.

47 **"§ 126A-80. Just cause, disciplinary actions, and grievances.**

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

50 (1) The definition of just cause.

- 1 (2) The investigation of complaints and the issuing of binding corrective orders
2 or other appropriate action concerning employment, promotion, demotion,
3 transfer, discharge, reinstatement, and any other issue defined as a contested
4 case issue under G.S. 126A-84(c).
- 5 (3) The assessment of reasonable attorneys' fees and witnesses' fees against the
6 agency involved in the grievance.
- 7 (4) An alternative dispute resolution procedure.
- 8 (5) The disciplinary demotion, suspension, or dismissal of employees and the
9 disciplinary process.
- 10 (6) The grievance process.
- 11 (7) Review and approval of settlements, including authorization for agencies to
12 enter into settlement agreements for remedies other than back pay, front pay,
13 other omitted benefits, and attorneys' fees.

14 **"§ 126A-81. Disciplinary actions.**

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

17 (b) In determining whether just cause exists for dismissal, suspension, or demotion for
18 unacceptable personal conduct, an employing agency shall consider all of the following factors:

- 19 (1) The severity of the conduct.
- 20 (2) The subject matter of the conduct and whether it was job-related.
- 21 (3) The actual harm or risk of potential harm resulting from the conduct, including
22 harm to the agency's operations, efficiency, mission, reputation, or public
23 trust.
- 24 (4) The employee's work history.
- 25 (5) Discipline imposed in past cases of similar violations. An agency may modify
26 its disciplinary standard when it determines that past precedent is no longer
27 appropriate and the modification is grounded in articulable reasoning and
28 applied fairly and consistently to current and prospective cases.

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

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

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

44 (e) In cases where an employing agency has decided to take disciplinary action, the
45 employee shall be given written notice before the action is taken that explains the specific acts
46 or omissions that are the reasons for the disciplinary action. The written notice shall also explain
47 the employee's appeal rights. The employee may appeal to the agency head through the agency
48 grievance procedure for a final agency decision within 15 days of receiving the notice. If the
49 employee appeal involves an allegation of discrimination, retaliation, or harassment, the
50 employee shall file an equal employment opportunity inquiry within 15 days of receiving the
51 notice before appealing through the agency grievance procedure. The employee will have 15

1 days following the closure of the equal employment opportunity inquiry to appeal through the
2 agency grievance procedure for a final agency decision.

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

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

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

15 **"§ 126A-82. Temporary redeployment of employees after criminal charges filed.**

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

22 **"§ 126A-83. Grievance; resolution.**

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

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

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

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

38 **"§ 126A-84. Grievance appeal process.**

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

- 47 (1) Reinstatement of the employee to the position from which the employee has
48 been removed.
- 49 (2) Ordering the employment, promotion, transfer, or salary adjustment of any
50 individual to whom it has been wrongfully denied.

1 (3) Directing other suitable action to correct the abuse which may include the
2 requirement of payment for any loss of salary that has resulted from the
3 improper action of the agency.

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

9 (c) The following issues may be heard as contested cases after completion of the agency
10 grievance procedure and the OSHR review:

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

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

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

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

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

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

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

47 (e) In contested cases conducted pursuant to this section, the burden of showing that a
48 career employee was discharged, demoted, or suspended for just cause rests with the employing
49 agency. In all other contested cases, the burden of proof rests with the employee or applicant.

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

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

3 (g) The Office of Administrative Hearings shall report to OSHR and the Joint Legislative
4 Administrative Procedure Oversight Committee on the number of cases filed under this section
5 and on the number of days between filing and closing of each case. The report shall be filed on
6 May 1 and November 1 of each year.

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

8 (a) The Commission may adopt policies on alternative dispute resolution procedures for
9 the resolution of matters constituting grounds for a grievance under this Article.

10 (b) The Commission may adopt policies on alternative dispute resolution procedures for
11 matters not constituting grounds for a grievance under this Article that cannot be heard by the
12 Office of Administrative Hearings as a contested case.

13 **"§ 126A-86. Judicial review of fee awards.**

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

21 "Article 9.

22 "Separation, Offboarding, and Reductions in Force.

23 **"§ 126A-90. Separation of employees.**

24 The Commission shall establish policies on separation for positions subject to this Article,
25 including the following:

26 (1) The separation of employees.

27 (2) Voluntary separation incentives.

28 (3) Furloughs of employees by placing them on temporary leave without pay in
29 response to a loss of funding.

30 (4) Reductions in force.

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

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

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

36 (a) Usage. – Agencies may use a reduction in force to reorganize its positions to better
37 accomplish its functions or respond to a lack of work or shortage of funds. Agencies may use a
38 reduction in force without a loss of funds and without eliminating any of the positions affected
39 by the reduction in force.

40 (b) Notification. – Agencies shall notify employees to be affected by a reduction in force
41 as soon as practicable and at least 30 days before the effective date of the reduction in force.

42 **"§ 126A-93. Reductions in force priority policy.**

43 The Commission shall adopt policies governing the priority and salary rights of employees
44 separated as a result of reduction in force. The policies shall provide that a separated employee
45 who accepts a position in an agency shall not be paid a salary higher than the maximum of the
46 salary range of the position accepted, except as provided in G.S. 126A-41.

47 **"§ 126A-94. Discontinued service retirement allowance and severance wages for certain**
48 **employees.**

49 (a) When the closing of an agency or a reduction in force will accomplish economies in
50 the State Budget, the employees who were separated from employment as a result of the closure
51 or reduction in force shall receive from the last employing agency either a discontinued service

1 retirement allowance or severance wages if reemployment is not available. As used in this
2 section, "economies in the State Budget" means economies resulting from elimination of a job
3 and its responsibilities or from a lack of funds to support the job. The agency head shall determine
4 whether to pay a discontinued service retirement allowance or severance wages, after the
5 opportunity for consultation with the Director of the Office of State Budget and Management and
6 OSHR. Severance wages shall not be paid to an employee who chooses a discontinued service
7 retirement. Severance wages shall not be subject to employer or employee retirement
8 contributions. Severance wages shall be paid according to the policies established by the
9 Commission.

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

33 (c) The salary used to determine severance wages under this section is the last annual
34 salary except that if the employee was promoted within the previous 12 months, the last annual
35 salary is the annual salary prior to the promotion. If the annual salary prior to the promotion is
36 used, it shall be adjusted to account for any across-the-board legislative salary increases.
37 Excluded from any calculation are any benefits such as overtime pay, shift pay, holiday premium,
38 or longevity pay. The salary used to determine the discontinued retirement allowance under this
39 section is the same as the average final compensation under G.S. 135-1(5).

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

45 "Article 10.

46 "Inappropriate Political Activity.

47 "**§ 126A-100. Appropriate political activity of employees.**

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

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

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

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

17 **"§ 126A-101. Promise or threat to obtain political contribution or support.**

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

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

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

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

36 **"§ 126A-102. Threat to obtain political contribution or support.**

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

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

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

48 **"§ 126A-103. Compelled speech prohibited.**

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

- 1 (1) Endorse or opine about beliefs, affiliations, ideals, or principles regarding
2 matters of contemporary political debate or social action as a condition of
3 employment.
- 4 (2) Describe the applicant's actions in support of, or in opposition to, the beliefs,
5 affiliations, ideals, or principles regarding matters of contemporary political
6 debate or social action as a condition of employment.
- 7 (b) Nothing in subsection (a) of this section shall infringe on the ability of an applicant
8 for employment to voluntarily opine or speak regarding any matter, including matters of
9 contemporary political debate or social action.
- 10 (c) No application for employment shall inquire into matters prohibited as compelled
11 speech under subsection (a) of this section.
- 12 (d) Nothing in this section shall be construed to:
- 13 (1) Prohibit discussion with or questions to an applicant regarding the content of
14 the applicant's resume, curriculum vitae, or other written work or oral remarks.
- 15 (2) Affect the ability of the employing agency to comply with applicable federal
16 or State law, including employment oaths, appointment affidavits, and
17 licensure and certification requirements.
- 18 (3) Apply to speech protected by the First Amendment of the U.S. Constitution.
- 19 **§ 126A-104. Ensuring dignity and nondiscrimination in State government workplaces.**
- 20 (a) The General Assembly finds that Article I, Section 1 of the Constitution of this State
21 recognizes the equality and rights of all persons. Therefore, it is the intent of the General
22 Assembly that employees respect the dignity of others, acknowledge the right of others to express
23 differing opinions and the right to freedom of speech and association, and that agencies employ
24 training methods and procedures to further that intent.
- 25 (b) Agencies shall not compel employees to affirm or profess belief in any of the
26 following concepts in the workplace or as part of any employee training program:
- 27 (1) One race or sex is inherently superior to another race or sex.
- 28 (2) An individual, solely by virtue of his or her race or sex, is inherently racist,
29 sexist, or oppressive.
- 30 (3) An individual should be discriminated against or receive adverse treatment
31 solely or partly because of his or her race or sex.
- 32 (4) An individual's moral character is necessarily determined by his or her race or
33 sex.
- 34 (5) An individual, solely by virtue of his or her race or sex, bears responsibility
35 for actions committed in the past by other members of the same race or sex.
- 36 (6) Any individual, solely by virtue of his or her race or sex, should feel
37 discomfort, guilt, anguish, or any other form of psychological distress.
- 38 (7) A meritocracy is inherently racist or sexist.
- 39 (8) The United States was created by members of a particular race or sex for the
40 purpose of oppressing members of another race or sex.
- 41 (9) The United States government should be violently overthrown.
- 42 (10) Particular character traits, values, moral or ethical codes, privileges, or beliefs
43 should be ascribed to a race or sex or to an individual because of the
44 individual's race or sex.
- 45 (11) The rule of law does not exist, but instead is a series of power relationships
46 and struggles among racial or other groups.
- 47 (12) All Americans are not created equal and are not endowed by their Creator with
48 certain unalienable rights, including life, liberty, and the pursuit of happiness.
- 49 (13) Governments should deny to any person within the government's jurisdiction
50 the equal protection of the law.

1 (f) Notwithstanding the limitations of subsection (c) of this section, a temporary
2 employee may be employed for longer than 11 consecutive months in the following
3 circumstances:

4 (1) The temporary employee is a full-time student, a retired employee, an
5 offender, an intern, or an extern. The following definitions apply to this
6 subdivision:

7 a. Extern. – A student who, regardless of the number of credit hours
8 enrolled, is employed as part of a written agreement between the
9 agency and an academic institution through which the student is paid
10 and earns course credit.

11 b. Full-time student. – A student considered to be a full-time student by
12 his or her institution of higher education.

13 c. Intern. – A student who, regardless of the number of credit hours
14 enrolled, works to gain occupational experience for a period of at least
15 one academic semester.

16 d. Offender. – An individual in the custody of the Department of Adult
17 Correction participating in a work release program.

18 e. Retired employee. – An individual drawing retirement benefits who
19 has signed a statement that he or she is not available for or seeking
20 permanent employment with an agency.

21 (2) The Director in his or her discretion creates an exception when all of the
22 following conditions are met:

23 a. The exception is in the best interests of the State because removing the
24 temporary employee from the assignment will cause severe harm to
25 the agency's ability to provide vital services to the public.

26 b. The exception will not result in extending the length of temporary
27 employment beyond 22 months from the employee's initial hire date.

28 (g) The North Carolina National Guard may request exceptions as provided in subsection
29 (f) of this section by the Director who shall not deny the exception. Requests for exceptions shall
30 be in writing, contain a justification of why the exception is necessary, and be kept on file in the
31 JoinNC Program office.

32 (h) To the extent practicable, the Director or his or her designee shall advise agencies of
33 alternative position classification options prior to approving any exceptions under subsections
34 (e) or (f) of this section.

35 (i) OSHR shall monitor the employment of all temporary employees placed through
36 JoinNC and directly employed by Cabinet agencies and Council of State agencies. When an
37 employee has exceeded 11 consecutive months of employment, OSHR shall initiate separation
38 from any applicable human resources and payroll systems no more than two weeks past the
39 11-month limit, unless an exception under subsection (f) of this section applies. OSHR shall
40 provide written notice to employing agencies at intervals of 90, 60, and 30 days prior to a
41 temporary employee reaching 11 consecutive months of employment.

42 **"§ 126A-112. JoinNC Program assistance with recruiting.**

43 The JoinNC Program may assist with recruiting employees for agencies, including for
44 permanent positions, using funds generated from the Program.

45 "Article 12

46 "Local Discretion over Local Government Employees.

47 **"§ 126A-120. Local government policies.**

48 (a) When a local government adopts policies governing annual leave, sick leave, hours
49 of work, holidays, and the administration of the pay plan for county local government employees
50 generally and the county local government rules and regulations are filed with the Director, those

1 county rules will supersede the rules adopted by the Commission as to the county employees
2 otherwise subject to the provisions of this Chapter.

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

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

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

17 **"§ 126A-121. Human resources services to local governmental units.**

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

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

21 (2) Providing customized training programs.

22 (3) Responding to questions regarding personnel laws.

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

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

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

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

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

42 **"§ 126A-122. Local human resources system.**

43 (a) The board of county commissioners of any county may establish and maintain a
44 human resources system for all employees of the county subject to its jurisdiction. This system
45 and any substantial changes to the system are subject to the approval of the Commission. The
46 Commission shall approve a system that is substantially equivalent to the human resources
47 system established under this Chapter for employees of local departments of social services, local
48 health departments, and area mental health programs, local emergency management programs.
49 If approved by the Commission, the employees covered by the county system shall be exempt
50 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 (a) above. Upon such
11 determination, county employees shall be exempt from the provisions of this Chapter relating to
12 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) above. Upon such determination, area mental health authority
17 employees shall be exempt from the provisions of this Chapter relating to the approved portions
18 of the area mental health authority human resources system except as provided in G.S. 122C-121.

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

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

24 **"§ 126A-123. Bonuses for local government.**

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

28 **"Article 13.**

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

30 **"§ 126A-131. Program goals.**

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

39 **"§ 126A-132. Program requirements.**

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

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

"§ 126A-141. Protection from retaliation.

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

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

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

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

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

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

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

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

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

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

"§ 126A-143. Remedies.

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

(1) An injunction, damages.

(2) Reinstatement of the employee.

(3) Payment of back wages.

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

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

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

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

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

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

"§ 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 work force 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, G.S. 126A-162.1, and G.S. 126A-163,
34 personnel files of employees shall not be subject to inspection and examination under G.S. 132-6.

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

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

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

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

48 (c) Personnel files of former employees who have been separated from agency
49 employment for 10 or more years may be open to inspection and examination, except for papers
50 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 17E-7.1.

25 (9) A grievant, 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~~

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

...."

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

SECTION 2.(c) Chapter 120 of the General Statutes is amended to add a new Article

to read:

"Article 7E.

"Legislative Human Resources System.

"Part 1.

"Legislative Services Commission Policies.

"§ 120-36.30. Policies and equal employment opportunity.

(a) The Legislative Service Commission is authorized to:

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

a. Legislative Services Officer and personnel.

b. Electronic document writing system.

c. Proofreaders.

d. Legislative printing.

e. Enrolling clerk and personnel.

f. Library.

g. Research and bill drafting.

h. Printed bills.

i. Disbursing and supply.

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

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

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

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

(5) Provide for parental leave benefits for employees.

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

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

"§ 120-36.32. Leave for temporary employees.

Temporary part-time or full-time employees of the General Assembly who have four years of aggregate employment with the General Assembly (temporary or permanent) shall receive the 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.

9 "Protection for Reporting Improper Government Activities.

10 **"§ 120-36.35. Duty to report improper government activities.**

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

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

15 (2) Fraud.

16 (3) Misappropriation of State resources.

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

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

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

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

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

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

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

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

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

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

48 (f) Any employee injured by a violation of this section may maintain an action in superior
49 court against the person or agency who committed the alleged violation within one year after the
50 occurrence. Any claim arising under Article 21 of Chapter 95 of the General Statutes may be

1 maintained pursuant to the provisions of that Article only and may be redressed only by the
2 remedies and relief available under that Article.

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

5 (1) An injunction, damages.

6 (2) Reinstatement of the employee.

7 (3) Payment of back wages.

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

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

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

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

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

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

22 "Part 3.

23 "Employee Personnel Records.

24 **"§ 120-36.40. Privacy of employee personnel records.**

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

26 (1) Personnel. – A current employee, former employee, or applicant for
27 employment.

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

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

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

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

45 **"§ 120-36.41. Certain records to be kept by agencies open to inspection.**

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

48 (1) Name.

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

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

1 until the court has ruled on that party's motion for protective order regarding
2 those documents.

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

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

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

11 (9) A grievant, during a grievance hearing held by the legislature, personnel file
12 information may be provided to the grievant to the extent necessary to
13 adjudicate the grievance. If the legislature provides confidential personnel file
14 information of a person other than the grievant, the grievant shall keep that
15 information confidential.

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

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

34 **"§ 120-36.42. Remedies of employee objecting to material in file.**

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

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

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

43 **"§ 120-36.43. Penalty for permitting access to confidential file by unauthorized person.**

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

49 **"§ 120-36.44. Penalty for accessing confidential file without authority.**

50 Any person not specifically authorized by this Part to have access to a personnel file
51 designated as confidential by this Part who shall knowingly and willfully examine in its official

1 filing place, or remove or copy any portion of a confidential personnel file shall be guilty of a
2 Class 3 misdemeanor and upon conviction shall only be fined in the discretion of the court but
3 not in excess of five hundred dollars (\$500.00).

4
5 **PART III: JUDICIAL HUMAN RESOURCES SYSTEM**

6 **SECTION 3.** Chapter 7A of the General Statutes is amended to add a new Article to
7 read:

8 "Article 28E.

9 "Judicial Human Resources System.

10 "Part 1.

11 "Policies and Equal Employment Opportunity.

12 **"§ 120-36.30. Judicial Human Resources System.**

13 (a) The Director of the Administrative Officer of the Courts is authorized to establish
14 policies to:

- 15 (1) Confirm an individual's legal status or authorization to work in the United
16 States after hiring the individual as an employee, in accordance with the
17 E-Verify Program administered by the United States Department of
18 Homeland Security pursuant to 8 U.S.C. § 1101, et seq., each.
19 (2) Provide for parental leave benefits for judicial employees.
20 (3) Coordinate with the Director of the Office of State Human Resources to offer
21 flexible compensation benefits for judicial employees as provided in
22 G.S. 126A-76.
23 (4) Establish safety, health, and workers' compensation programs for judicial
24 employees.

25 (b) The judicial branch shall give equal opportunity for employment and compensation,
26 without regard to race, religion, color, national origin, sex, age, disability, or genetic information
27 to all persons otherwise qualified, and shall not retaliate against an employee for protesting
28 alleged violations of this section.

29 "Part 2.

30 "Protection for Reporting Improper Government Activities.

31 **"§ 120-36.35. Duty to report improper government activities.**

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

- 35 (1) A violation of State or federal law, rule, or regulation.
36 (2) Fraud.
37 (3) Misappropriation of State resources.
38 (4) Substantial and specific danger to the public health and safety.
39 (5) Gross mismanagement, a gross waste of monies, or gross abuse of authority.

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

46 (c) Officers of the judicial branch and employees exercising supervisory authority shall
47 not discharge, threaten, or otherwise discriminate against an employee regarding the employee's
48 compensation, terms, conditions, location, or privileges of employment because of any of the
49 following:

- 50 (1) The employee, or a person acting on behalf of the employee, reports or is
51 about to report, verbally or in writing, any activity described in subsection (a)

- 1 of this section, unless the employee knows or has reason to believe that the
2 report is inaccurate.
- 3 (2) The employee has refused to carry out a directive that in fact constitutes a
4 violation of State or federal law, rule, or regulation or poses a substantial and
5 specific danger to the public health and safety.
- 6 (d) Employees shall not retaliate against another employee 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 subsection (a)
10 of this section.
- 11 (2) The employee has refused to carry out a directive that may constitute a
12 violation of State or federal law, rule, or regulation, or poses a substantial and
13 specific danger to the public health and safety.
- 14 (e) The protections of this Article apply to employees who report any activity described
15 in subsection (a) of this section to the State Auditor as authorized by G.S. 147-64.6B, to the Joint
16 Legislative Commission on Governmental Operations as authorized by G.S. 120-75.1, or to a
17 legislative committee as required by G.S. 120-19.
- 18 (f) Any employee injured by a violation of this section may maintain an action in superior
19 court against the person or agency who committed the alleged violation within one year after the
20 occurrence. Any claim arising under Article 21 of Chapter 95 of the General Statutes may be
21 maintained pursuant to the provisions of that Article only and may be redressed only by the
22 remedies and relief available under that Article.
- 23 (g) A court, in rendering a judgment in an action brought pursuant to this section, may
24 order any one or more of the following:
- 25 (1) An injunction, damages.
- 26 (2) Reinstatement of the employee.
- 27 (3) Payment of back wages.
- 28 (4) Full reinstatement of fringe benefits and seniority rights.
- 29 (5) Payment of costs, reasonable attorney's fees or any combination of these.
- 30 (h) If an application for a permanent injunction is granted, the employee shall be awarded
31 costs and reasonable attorney's fees.
- 32 (i) If in an action for damages the court finds that the employee was injured by a willful
33 violation of this section, the court shall award as damages three times the amount of actual
34 damages plus costs and reasonable attorney's fees against the individual or individuals found to
35 be in violation of this section.
- 36 (j) The judicial branch shall post notice in accordance with G.S. 95-9 or use other
37 appropriate means to keep employees informed of their protections and obligations under this
38 Article.
- 39 (k) An employee's right to speak to a member of the General Assembly at the member's
40 request shall not be directly or indirectly limited by the employee's supervisor or by any policy
41 of the judicial branch.

42 "Part 3.

43 "Employee Personnel Records.

44 "**§ 120-36.40. Privacy of employee personnel records.**

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

- 46 (1) Personnel. – A current employee, former employee, or applicant for
47 employment.
- 48 (2) Personnel file. – Any employment-related or personal information gathered
49 by the judicial branch. Employment-related information contained in a
50 personnel file includes information related to an individual's application,
51 selection, promotion, demotion, transfer, leave, salary, contract for

1 employment, benefits, suspension, performance evaluation, disciplinary
2 actions, and termination. Personal information contained in a personnel file
3 includes an individual's home address, social security number, medical
4 history, personal financial data, marital status, dependents, and beneficiaries.

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

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

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

14 **"§ 120-36.41. Certain records to be kept by agencies open to inspection.**

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

17 (1) Name.

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

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

22 (4) Current position.

23 (5) Title.

24 (6) Current salary.

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

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

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

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

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

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

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

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

49 **"§ 120-36.41. Confidential information in personnel files.**

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

4 (1) The employee or his or her properly authorized agent, who may examine his
5 or her own personnel file in its entirety except for (i) letter of references
6 solicited prior to employment or (ii) information concerning a medical
7 disability, mental or physical, that a prudent physician would not divulge to a
8 patient. An employee's medical record may be disclosed to a licensed
9 physician designated in writing by the employee.

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

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

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

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

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

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

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

31 (9) A grievant, during a grievance hearing held by the judicial branch, personnel
32 file information may be provided to the grievant to the extent necessary to
33 adjudicate the grievance. If the judicial branch provides confidential personnel
34 file information of a person other than the grievant, the grievant shall keep
35 that information confidential.

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

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

1 be disclosed. The memorandum shall be retained in the employer's files and shall be a public
2 record.

3 **"§ 120-36.42. Remedies of employee objecting to material in file.**

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

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

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

12 **"§ 120-36.43. Penalty for permitting access to confidential file by unauthorized person.**

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

18 **"§ 120-36.44. Penalty for accessing confidential file without authority.**

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

24
25 **PART IV: CONFORMING CHANGES**

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

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

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

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

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

39 "(13) Investigating written complaints against magistrates. The chief district judge may, in
40 writing, delegate authority to an appointed chief magistrate to make preliminary investigations
41 into written complaints against magistrates and to make a written report of their preliminary
42 findings to the chief district judge. However, the delegation shall not authorize the chief
43 magistrate to make written findings of misconduct or take any disciplinary action. Upon
44 investigation and written findings of misconduct in violation of the Rules of Conduct for
45 Magistrates, a chief district court judge may discipline a magistrate in accordance with the Rules
46 of Conduct for Magistrates. Written complaints received by the chief district court judge and
47 records of investigations into those complaints are to be treated as personnel records under ~~Article~~
48 ~~7 of Chapter 126~~Article 16 of Chapter 126A of the General Statutes. Notwithstanding ~~Article 7~~
49 ~~of Chapter 126~~Article 16 of Chapter 126A of the General Statutes, once a letter of caution, written
50 reprimand, or suspension has been issued by the chief district court judge, the written complaint,

1 and the record of the chief district court judge's action on that complaint, including any
2 investigatory records, are no longer confidential personnel records."

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

4 **"§ 7A-754. Qualifications; standards of conduct; removal.**

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

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

24 **"§ 7A-759. Role as deferral agency.**

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

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

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

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

49"

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

51 **"§ 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
8 ~~G.S. 126-5(e1)(27)~~.G.S. 126A-15. All other employees of the Office of Administrative Hearings
9 are subject to the North Carolina Human Resources Act.

10 (b) The Chief Administrative Law Judge shall appoint a Codifier of Rules to serve in
11 the Office of Administrative Hearings. No person shall be appointed or designated the Codifier
12 of 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 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~~
30 ~~126~~Articles 15 and 16 of Chapter 126A of the General Statutes, all employees
31 of the Commission shall be exempt from the North Carolina Human
32 Resources 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~~
48 ~~126~~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 portions of the North Carolina
21 Human Resources Act as provided in G.S. 126A-15.2, including the classification and
22 compensation rules policies established by the State Human Resources Commission pursuant to
23 G.S. 126-4(1) through (4); G.S. 126-4(5) only as it applies to for classification, compensation,
24 hours and days of work, vacation, vacation and sick leave; G.S. 126-4(6) only as it applies to leave,
25 promotion and transfer; G.S. 126-4(10) only as it applies to the transfer, and prohibition of the
26 establishment of incentive pay programs; and Article 2 of Chapter 126 of the General Statutes,
27 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 portions
35 of the North Carolina Human Resources Act as provided in G.S. 126A-15.2, including the
36 classification and compensation rules 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 Transportation
44 may designate employees of the Authority as subject to ~~Chapter 126~~ Chapter 126A of the General
45 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 Officer 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~~The
45 provisions of this section shall not be construed as preventing the Attorney General from
46 assigning additional duties to the assistant attorneys general assigned to the State Department of
47 Revenue."

48 **SECTION 4.22.** G.S. 114-4.26 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. Except
43 for the Associate Superintendent, salaries and compensation of all staff personnel shall be fixed
44 in the manner provided by law for fixing and regulating salaries and compensation by other State
45 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

1 ~~G.S. 126-8.6.~~G.S. 126A-71. If the board provides paid parental leave to its
 2 employees or requires paid parental leave be provided by contract, it shall be
 3 eligible to receive funds as provided in G.S. 115C-336.1(b). If the board does
 4 not provide paid parental leave, it shall provide written notice to individuals
 5 upon offering employment. The notice shall state that employment with the
 6 charter school will not count toward any minimum period of service
 7 established pursuant to ~~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. The
 17 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; law. provided, however, that except as to the provisions of Articles 5, 6, 7, and~~
9 ~~14 of Chapter 126 of the General Statutes, the North Carolina Human Resources Act shall not apply to employees of~~
10 ~~UNC-CH Dental School Clinical Operations, and the policies and procedures governing the~~
11 ~~terms and conditions of employment of such employees shall be adopted by the Board of Trustees~~
12 ~~of the University of North Carolina at Chapel Hill; Hill. provided, that with~~ With respect to such
13 employees as may be members of the faculty of the University of North Carolina at Chapel Hill,
14 no such policies and procedures may be inconsistent with policies established by, or adopted
15 pursuant to delegation from, the Board of Governors of The University of North Carolina. ~~Such~~
16 ~~These~~ policies and procedures shall be implemented on behalf of UNC-CH Dental School
17 Clinical Operations by a personnel office maintained by the University of North Carolina at
18 Chapel Hill. The following provisions apply:

- 19
- 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. 126-1.4~~ 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. 126-1.4~~ 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
13 ~~G.S. 126-8-6.~~G.S. 126A.71. The constituent institution shall be eligible to
14 receive funds as 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~~Statutes,
21 ~~the State North Carolina Human Resources Act.~~Act shall not apply to these State employees. The
22 Board of the System may authorize the System to employ the faculty and staff of the University
23 of North Carolina School of Medicine as well as other health affairs schools and components of
24 the University of North Carolina at Chapel Hill subject to the provisions of this subsection,
25 provided that any employees who are faculty members shall remain subject to the faculty policies
26 of the University of North Carolina at Chapel Hill, as established or adopted pursuant to
27 delegation from the Board of Governors of The University of North Carolina. A State employee
28 employed 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
40 ~~status~~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~~
14 ~~126~~Article 12 of Chapter 126A of the General Statutes. Notwithstanding
15 ~~G.S. 126-9(b)~~,G.S. 126A-120, an area director may be paid a salary that is in excess of the salary
16 ranges 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.** 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
27 ~~G.S. 126-9(b)~~,G.S. 126A-120, an employee of an area authority may be paid a salary that is in
28 excess of the salary ranges established by the State Human Resources Commission. Any salary
29 that is higher than the maximum of the applicable salary range shall be supported by
30 documentation of comparable salaries in comparable operations within the region and shall also
31 include the specific amount the board proposes to pay the employee. The area board shall not
32 authorize any salary adjustment that is above the normal allowable salary range without obtaining
33 prior approval from 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~~, and Parts 13 and 19 of Article 9 of Chapter 143B of
 11 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, employees of the legislative and judicial branches, and employees
 14 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 shall remain members entitled to all benefits
 19 of the Retirement System provided that the requirements of ~~Article 10 of~~
 20 ~~Chapter 126~~ Part 2 of Article 5 of Chapter 126A are met. A member may
 21 retain membership status while serving as an assigned employee or employee
 22 on leave under the provisions of ~~Article 10 of Chapter 126~~ Part 2 of Article 5
 23 of Chapter 126A for purposes of receiving the death benefit and, if applicable,
 24 benefits under the Death Benefit Plan regardless of whether the member and
 25 the member's employer are contributing to the member's account during the
 26 exchange period, except that no duplicate benefits shall be paid."

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

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

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

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

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

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

43 **"§ 130A-45.12. Personnel.**

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

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

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

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

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

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

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

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

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

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

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

"§ 135-48.23. Executive Administrator.

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

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

"§ 136-4. Chief Engineer.

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

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

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

...

- e. Confidential assistants and secretaries as defined in ~~G.S. 126-5(e)(2)~~.G.S. 126A-15, to individuals designated under sub-subdivision a., c., or d. of this subdivision.

f. Employees in exempt positions designated in accordance with ~~G.S. 126-5(d)(1), (2), or (2a)~~ G.S. 126A-15.4 and confidential secretaries to these individuals.

...."

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

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

...

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

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

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

...

(e) Complaint. –

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

...

...."

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

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

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

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

"(a) The sovereign immunity of the State is waived for the limited purpose of allowing State employees, except for those in exempt policy-making positions designated pursuant to ~~G.S.~~

1 ~~126-5(d)~~, G.S. 126A-15.4, to maintain lawsuits in State and federal courts and obtain and satisfy
2 judgments against the State or any of its departments, institutions, or agencies under:

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

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

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

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

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

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

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

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

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

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

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

39 "(c) The exemptions to ~~Chapter 126~~ Chapter 126A of the General Statutes authorized by
40 ~~G.S. 126-5(c11)~~ G.S. 126A-15.2 for the employees of the Department of Natural and Cultural
41 Resources listed in that ~~subsection~~ section shall be used to develop organizational classification
42 and compensation innovations that will result in the enhanced efficiency of operations. The
43 Office of State Human Resources shall assist the Secretary of Natural and Cultural Resources in
44 the development and implementation of an organizational structure and human resources
45 programs that make the most appropriate use of the exemptions, including (i) a system of job
46 categories or descriptions tailored to the agency's needs; (ii) policies regarding paid time off for
47 agency personnel and the voluntary sharing of such time off; and (iii) a system of uniform
48 performance assessments for agency personnel tailored to the agency's needs. The Secretary of
49 Natural and Cultural Resources may, under the supervision of the Office of State Human
50 Resources, develop and implement organizational classification and compensation innovations
51 having the potential to benefit all State agencies."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 confidential, as provided in ~~Article 7~~ Article 16 of Chapter 126 ~~Chapter 126~~ Chapter 126A of the General
2 Statutes."

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

4 **"§ 143B-1212. Personnel of the Department of Military and Veterans Affairs.**

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

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

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

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

21 **"§ 143C-6-10. Flexible compensation plan.**

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

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

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

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

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

46 **"§ 147-65.2. Salary of State Treasurer and certain Department employees.**

47 (a) State Treasurer. – The salary of the State Treasurer shall be as established in the
48 Current Operations Appropriations Act. In addition to the salary set by the General Assembly in
49 the Current Operations Appropriations Act, longevity pay shall be paid on the same basis as is
50 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 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
21 ~~G.S. 126-5(e1)~~, G.S. 126A-15.2. Compensation of employees is set by the CIO within the limits
22 set by the 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 where
25 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 of the General Statutes
33 on or before September 30, 2026 shall be designated as the following under Part 3 of Article 1
34 of Chapter 126A of the General Statutes, as enacted by this act, effective October 1, 2026:

- 35 (1) Employees designated as a confidential assistant or confidential secretary are
36 automatically redesignated as a 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.