

**2005-2006**

**HOUSE  
STATE PERSONNEL**

**COMMITTEE  
MINUTES**

**HOUSE COMMITTEE ON STATE PERSONNEL**

**2005 – 2006 SESSION**

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**Representative Carolyn Justus, Chair**

**Latisha Dumas, Committee Assistant (2005 Session)**  
**Glenda Jones, Committee Assistant**  
**Barbara J. McMillan, Committee Assistant (2006 Session)**

**House Committee on State Personnel**  
**Membership Page**

<b>Members</b>	<b>Assistant</b>	<b>Phone</b>	<b>Office</b>	<b>Seat</b>
Allen Bernard-Chair	Latisha Dumas- Committee Assistant	3- 5772	1325	79
Carolyn Justus-Chair	Glenda Jones Committee Assistant	3- 5956	1023	27
Walter Church-Vice Chair	Joyce Fuller	3- 5805	1311	33
Tracy Walker-Vice-Chair	Barbara Powell	3- 5935	1111	39
Linda Coleman	Teresa Saunders	3- 5934	1013	92
Nelson Dollar	Candace Slate	5- 0795	1421	119
Jean Farmer-Butterfield	Barbara Hocutt	3- 5898	614	53
Wilma Sherrill	Rosa Kelley	5- 3026	305	15
Ron Sutton	Juanita Coley	5- 0875	1321	72
Roger West	Linda Johnson	3- 5859	1004	50
Bill Culpepper Ex-officio	Dot Crocker	5- 3028	404	36
Pete Cunningham Ex-officio	Valerie Rustin	3- 5778	541	7
Rick Eddins Ex-officio	Dorie Monroe	3- 5828	1002	26
Joe Hackney Ex-officio	Emily Reynolds	3- 5752	2207	69
Karen Cochrane-Staff	Research	3- 2578	1423	
Theresa Matula-Staff	Research	3- 2578	1423	

## STATE PERSONNEL

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**NORTH CAROLINA GENERAL ASSEMBLY**

**HOUSE STATE PERSONNEL COMMITTEE**

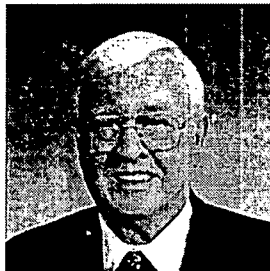
**2005 – 2006 SESSION**



**Rep. B. Allen**  
Chair



**Rep. C. Justus**  
Chair



**Rep. Church**  
Vice chair



**Rep. Walker**  
Vice chair



**Rep. Coleman**



**Rep. Dollar**



**Rep. Farmer-Butterfield**



**Rep. Sherrill**



**Rep. Sutton**



**Rep. West**



**Rep. Culpepper**  
Ex-officio



**Rep. Cunningham**  
Ex-officio



**Rep. Eddins**  
Ex-officio



**Rep. Hackney**  
Ex-officio

North Carolina General Assembly  
Through House Committee on  
State Personnel

Date: 10/04/2005  
Time: 09:16  
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Leg. Day: H-125/S-126

2005-2006 Biennium

Bill	Introducer	Short Title	Latest Action	In Date	Out Date
H0087	Miller	STATE EMPLOYEES/PAY PERIODS.	*H Re-ref Com On Appropriations	02-07-05	04-27-05
H0452	Miller	STATE EMPLOYEE ADVERSE WEATHER LEAVE.	H Ref To Com On State Personnel	03-03-05	
37	Nye	SALARY OF TEACHERS AT RESIDENTIAL SCHOOLS.	*H Ref to Education/ Higher Education. If fav, re-ref to Appropriations/ Base Budget	03-15-05	04-06-05
H0703	Crawford	SEVERANCE PAY CHANGES.	H Ref To Com On State Personnel	03-17-05	
H0714	Coleman	STATE AGENCIES MAY WITHHOLD CERTAIN INFO.	*H Re-ref Com On Judiciary I	03-17-05	05-02-05
H0715	Coleman	PROTECT STATE EMPLOYEE RECORDS.	*H Re-ref Com On Judiciary I	03-17-05	04-27-05
H0716	Coleman	STUDY EMP'EE MEDIATION/OAHTIME FRAME.	*H Ref To Com On Judiciary II	03-17-05	06-01-05
H0717	Coleman	SEIBP CHANGES.	H Ref To Com On State Personnel	03-17-05	
H0730	Crawford	STATE EMPLOYMENT DEMONSTRATION PROJECTS.	H Ref To Com On State Personnel	03-17-05	
H0731	Crawford	PROSPECTIVE ELIMINATION OF SPA LONGEVITY PAY.	H Ref To Com On State Personnel	03-17-05	
H0751	Crawford	CENTRALIZE BENEFITS UNDER OSP.	H Ref To Com On State Personnel	03-17-05	
H0799	Adams	LAPSED SALARIES/EEO.	*H Re-ref Com On Appropriations	03-21-05	05-18-05
<b>\$ H0928=</b>	<b>Ross</b>	<b>STATE GOV'T FAIR WAGE FUNDS/STUDY FAIR PAY.</b>	<b>*H Re-ref Com On Appropriations</b>	<b>03-28-05</b>	<b>05-18-05</b>
22	Ross	FAIR PAY IN STATE GOV'T/MANAGERS ACCOUNTABLE.	*H Re-ref Com On Appropriations	03-31-05	05-02-05

'\$' indicates the bill is an appropriation bill.

A bold line indicates the bill is an appropriation bill.

'\*' indicates that the text of the original bill was changed by some action.

'=' indicates that the original bill is identical to another bill.

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005**

**H**

**1**

**HOUSE BILL 637**

Short Title: Salary of Teachers at Residential Schools. (Public)

Sponsors: Representatives Nye; B. Allen, Pierce, Preston, and Wainwright.

Referred to: State Personnel.

March 15, 2005

1 A BILL TO BE ENTITLED  
2 AN ACT AUTHORIZING THE SECRETARY OF A DEPARTMENT TO SET THE  
3 SALARY SUPPLEMENT FOR TEACHERS WORKING AT SCHOOLS  
4 OPERATED BY THE DEPARTMENT.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 143B-146.21 is amended by adding a new subsection to  
7 read:

8 "(e) The Secretary of Health and Human Services shall set the salary supplement  
9 paid to instructional personnel who are licensed by the State Board of Education at the  
10 programs operated by the Department of Health and Human Services. The salary  
11 supplement shall be at least five percent (5%)."

12 SECTION 2. G.S. 143B-516(b) reads as rewritten:

13 "(b) The Secretary shall have the following powers and duties:

- 14 (1) Give leadership to the implementation as appropriate of State policy  
15 that requires that youth development centers be phased out as  
16 populations diminish.
- 17 (2) Close a State youth development center when its operation is no longer  
18 justified and transfer State funds appropriated for the operation of that  
19 youth development center to fund community-based programs, to  
20 purchase care or services for predelinquents, delinquents, or status  
21 offenders in community-based or other appropriate programs, or to  
22 improve the efficiency of existing youth development centers,  
23 provided the Advisory Budget Commission reviews this action.
- 24 (3) Administer a sound admission or intake program for juvenile facilities,  
25 including the requirement of a careful evaluation of the needs of each  
26 juvenile prior to acceptance and placement.
- 27 (4) Operate juvenile facilities and implement programs that meet the needs  
28 of juveniles receiving services and that assist them to become  
29 productive, responsible citizens.

- (5) Adopt rules to implement this Article and the responsibilities of the Secretary and the Department under Chapter 7B of the General Statutes. The Secretary may adopt rules applicable to local human services agencies providing juvenile court and delinquency prevention services for the purpose of program evaluation, fiscal audits, and collection of third-party payments.
- (6) Ensure a statewide and uniform system of juvenile intake, protective supervision, probation, and post-release supervision services in all district court districts of the State. The system shall provide appropriate, adequate, and uniform services to all juveniles who are alleged or found to be undisciplined or delinquent.
- (7) Establish procedures for substance abuse testing for juveniles adjudicated delinquent for substance abuse offenses.
- (8) Plan, develop, and coordinate comprehensive multidisciplinary services and programs statewide for the prevention of juvenile delinquency, early intervention, and rehabilitation of juveniles.
- (9) Develop standards, approve yearly program evaluations, and make recommendations based on the evaluations to the General Assembly concerning continuation funding.
- (10) Collect expense data for every program operated and contracted by the Department.
- (11) Develop a formula for funding, on a matching basis, juvenile court and delinquency prevention services as provided for in this Article. This formula shall be based upon the county's or counties' relative ability to fund community-based programs for juveniles.

Local governments receiving State matching funds for programs under this Article must maintain the same overall level of effort that existed at the time of the filing of the county assessment of juvenile needs with the Department.
- (12) Assist local governments and private service agencies in the development of juvenile court services and delinquency prevention services and provide information on the availability of potential funding sources and assistance in making application for needed funding.
- (13) Develop and administer a comprehensive juvenile justice information system to collect data and information about delinquent juveniles for the purpose of developing treatment and intervention plans and allowing reliable assessment and evaluation of the effectiveness of rehabilitative and preventive services provided to delinquent juveniles.
- (14) Coordinate State-level services in relation to delinquency prevention and juvenile court services so that any citizen may go to one place in State government to receive information about available juvenile services.

- 1 (15) Appoint the chief court counselor in each district upon the  
2 recommendation of the chief district court judge of that district.
- 3 (16) Develop a statewide plan for training and professional development of  
4 chief court counselors, court counselors, and other personnel  
5 responsible for the care, supervision, and treatment of juveniles. The  
6 plan shall include attendance at appropriate professional meetings and  
7 opportunities for educational leave for academic study.
- 8 (17) Study issues related to qualifications, salary ranges, appointment of  
9 personnel on a merit basis, including chief court counselors, court  
10 counselors, secretaries, and other appropriate personnel, at the State  
11 and district levels in order to adopt appropriate policies and procedures  
12 governing personnel.
- 13 (17a) Set the salary supplement paid to personnel who are employed at  
14 juvenile facilities and are licensed by the State Board of Education.  
15 The salary supplement shall be at least five percent (5%).
- 16 (18) Designate persons, as necessary, as State juvenile justice officers, to  
17 provide for the care and supervision of juveniles placed in the physical  
18 custody of the Department."

19 **SECTION 3.** G.S. 148-22.1 reads as rewritten:

20 **"§ 148-22.1. Educational facilities and programs for selected inmates.**

21 (a) The State Department of Correction is authorized to take advantage of aid  
22 available from any source in establishing facilities and developing programs to provide  
23 inmates of the State prison system with such academic and vocational and technical  
24 education as seems most likely to facilitate the rehabilitation of these inmates and their  
25 return to free society with attitudes, knowledge, and skills that will improve their  
26 prospects of becoming law-abiding and self-supporting citizens. The State Department  
27 of Public Instruction is authorized to cooperate with the State Department of Correction  
28 in planning academic and vocational and technical education of prison system inmates,  
29 but the State Department of Public Instruction is not authorized to expend any funds in  
30 this connection.

31 (b) In expending funds that may be made available for facilities and programs to  
32 provide inmates of the State prison system with academic and vocational and technical  
33 education, the State Department of Correction shall give priority to meeting the needs of  
34 inmates who are less than 21 years of age when received in the prison system with a  
35 sentence or sentences under which they will be held for not less than six months nor  
36 more than five years before becoming eligible to be considered for a parole or  
37 unconditional release. These inmates shall be given appropriate tests to determine their  
38 educational needs and aptitudes. When the necessary arrangements can be made, they  
39 shall receive such instruction as may be deemed practical and advisable for them.

40 (c) The Secretary of Correction shall set the salary supplement paid to personnel  
41 who are Division of Prison employees that serve in youth facilities and are licensed by  
42 the State Board of Education. The salary supplement shall be at least five percent (5%)."

43 **SECTION 4.** This act becomes effective July 1, 2005.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

H

1

HOUSE BILL 717

Short Title: SEIBP Changes.

(Public)

Sponsors: Representatives Coleman; Dollar, Faison, Jones, Parmon, and Wainwright.

Referred to: State Personnel.

March 17, 2005

A BILL TO BE ENTITLED  
AN ACT RELATING TO THE STATE EMPLOYEE INCENTIVE BONUS  
PROGRAM.

The General Assembly of North Carolina enacts:

**SECTION 1.** Article 36A of the General Statutes is repealed.

**SECTION 2.** Article 2 of Chapter 126 of the General Statutes is amended by adding a new section to read:

**"§ 126-7.3. State Employee Incentive Bonus Program.**

(a) It is the policy of the State to promote employee suggestion programs through the State Employee Incentive Bonus Program (SEIBP) so that employees and groups of employees may be recognized and rewarded for adopted ideas, suggestions, innovations, and the achievement of individual or group goals that improve their agencies and State governmental operations. The Office of State Personnel shall administer the State's program and is authorized, with the approval of the State Personnel Commission (Commission), to adopt and implement policies in order to administer a State Employee Incentive Bonus Program.

(b) All State agencies, departments, and institutions and The University of North Carolina shall implement a State Employee Incentive Bonus Program that is not inconsistent with the policy approved by the Commission.

(c) A State Review Committee to evaluate suggestions and innovations shall consist of 11 members as follows:

(1) The State SEIBP Coordinator.

(2) A representative of the Office of State Budget and Management.

(3) A representative of the Department of Administration.

(4) A representative of the Department of Information and Technology Services.

(5) A representative of the Office of State Personnel.

- 1           (6)   A representative of The University of North Carolina appointed by the  
2               Office of the President.  
3           (7)   A representative of the Department of Justice.  
4           (8)   A representative of the Department of Labor.  
5           (9)   One current State employee appointed by the Speaker of the House of  
6               Representatives.  
7           (10)  One current State employee appointed by the President Pro Tempore  
8               of the Senate.  
9           (11)  One current State employee appointed by the Governor.

10       (d)   The State Review Committee shall have the final authority to approve and  
11 recommend any bonus consistent with the State Employee Incentive Bonus Program  
12 policy. First-year suggestion savings from the General Fund appropriations shall be  
13 distributed as follows:

- 14           (1)   Twenty percent (20%) to the suggester or group or both, with an  
15               individual limit of twenty thousand dollars (\$20,000), and an aggregate  
16               team limit of one hundred dollars (\$100.00).  
17           (2)   Thirty percent (30%) to the General Fund.  
18           (3)   Thirty percent (30%) to the implementing agency.  
19           (4)   Ten percent (10%) to the State Employees Incentive Bonus Program  
20               for administrative and operation expenses.  
21           (5)   Ten percent (10%) to the Office of State Personnel to be used for  
22               employee training.

23       (e)   The State Review Committee shall review and approve any alternative  
24 distribution formulas, consistent with SEIBP policy, for suggestions approved in  
25 programs that are not funded in part or whole through the General Fund.

26       (f)   All suggestions or innovations submitted by State employees pursuant to this  
27 section are the property of the State, and all related intellectual property rights shall be  
28 assigned to the State. By January 1, 2006, the Office of State Personnel shall establish a  
29 policy regarding intellectual property rights that arise from the SEIBP.

30       (g)   Decisions regarding the award of bonuses are final and are not subject to  
31 review under the contested case procedures of Chapter 150B of the General Statutes."

32       **SECTION 3.** This act becomes effective July 1, 2005.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

H

1

HOUSE BILL 751

Short Title: Centralize Benefits Under OSP.

(Public)

Sponsors: Representatives Crawford and Holliman (Primary Sponsors).

Referred to: State Personnel.

March 17, 2005

1 A BILL TO BE ENTITLED  
2 AN ACT PROVIDING FOR THE CENTRALIZATION OF STATE EMPLOYEE  
3 BENEFITS UNDER THE OFFICE OF STATE PERSONNEL.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Article 2 of Chapter 126 of the General Statutes is amended by  
6 adding a new section to read:

7 "**§ 126-7.3. Flexible benefits program centralized under Office of State Personnel.**

8 (a) Consistent with G.S. 143-34.1 and G.S. 116-17.2, the Office of State  
9 Personnel shall provide eligible officers and employees of State agencies, departments,  
10 and institutions, and The University of North Carolina, with a program of dependent  
11 care assistance, as available under section 129 and related sections of the Internal  
12 Revenue Code of 1986, as amended. The Office of State Personnel shall coordinate the  
13 annual agreements entered into between State agencies, departments, and institutions,  
14 and The University of North Carolina, and the employees who elect to participate in the  
15 program to provide for a reduction in salary. With the approval of the Director of the  
16 Budget, savings in the employer's share of contributions under the Federal Insurance  
17 Contributions Act on account of the reduction in salary may be used to pay some or all  
18 of the administrative expenses of the program. The Office of State Personnel may  
19 contract with a third party to administer the terms and conditions of a program of  
20 dependent care assistance. If the Office of State Personnel selects a contractor, it may do  
21 so only after a thorough and competitive procurement process.

22 (b) Consistent with G.S. 143-34.1 and G.S. 116-17.2, and notwithstanding any  
23 other provisions of law relating to the salaries of officers and employees of State  
24 agencies, departments, and institutions, and The University of North Carolina, the  
25 Office of State Personnel shall provide a plan of flexible compensation to eligible  
26 officers and employees for benefits available under section 125 and related sections of  
27 the Internal Revenue Code of 1986 as amended. In providing a plan of flexible  
28 compensation, the Office of State Personnel shall coordinate the annual agreements  
29 entered into between employees and State agencies, departments, and institutions, and

1 The University of North Carolina. With the approval of the Director of the Budget,  
2 savings in the employer's share of contributions under the Federal Insurance  
3 Contributions Act on account of the reduction in salary may be used to pay some or all  
4 of the administrative expenses of the program. The Office of State Personnel may  
5 contract with a third party to administer the terms and conditions of a plan of flexible  
6 compensation as provided by this section. If the Office of State Personnel selects a  
7 contractor, it may do so only after a thorough and competitive procurement process.

8 (c) The Office of State Personnel shall coordinate the establishment of a  
9 centralized supplemental benefits committee to offer benefit options on a statewide  
10 basis to State agencies, departments, and institutions, and The University of North  
11 Carolina. The committee shall review plan options, prepare requests for proposals, and  
12 select plan providers only upon a thorough and completely competitive procurement  
13 process. Terms of contracts shall follow Purchase and Contract guidelines in Article 23  
14 of Chapter 143 of the General Statutes. State agencies, departments, and institutions,  
15 and The University of North Carolina may elect to offer certain benefit options as  
16 provided under G.S. 58-31-60.

17 The Centralized Supplemental Benefits Committee shall be composed of  
18 representatives from State agencies, departments, and institutions, and The University  
19 of North Carolina. The Director of the Office of State Personnel shall appoint  
20 committee members. Members shall serve three-year terms on a rotating basis as  
21 established by the initial appointment."

22 **SECTION 2.** G.S. 126-5 is amended by adding a new subsection to read:

23 "(c9) G.S. 126-7.3 shall apply to all State employees, including employees in the  
24 executive, judicial, and legislative branches and employees of The University of North  
25 Carolina and its constituent institutions."

26 **SECTION 3.** This act becomes effective July 1, 2005.

## GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

H

1

## HOUSE BILL 87

Short Title: State Employees/Pay Periods. (Public)

Sponsors: Representatives Miller; B. Allen, Faison, Farmer-Butterfield, Jones, Luebke, and Weiss.

Referred to: State Personnel.

February 7, 2005

## A BILL TO BE ENTITLED

AN ACT PROVIDING THAT STATE EMPLOYEES IN GRADE 64 AND UNDER SHALL HAVE THE OPTION TO BE PAID SEMIMONTHLY.

The General Assembly of North Carolina enacts:

**SECTION 1.** Article 2 of Chapter 126 of the General Statutes is amended by adding a new section to read:

**"§ 126-8.5. Pay periods.**

Notwithstanding any other provision of law, every State employee in Pay Grade 64 and under who is not paid more frequently shall have the option to be paid twice per month."

**SECTION 2.** G.S. 126-5 is amended by adding a new subsection to read:

"(c9) G.S. 126-8.5 shall apply to all State employees, including employees in the executive, judicial, and legislative branches and employees of The University of North Carolina and its constituent institutions."

**SECTION 3.** This act becomes effective July 1, 2005.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

H

1

HOUSE BILL 730

Short Title: State Employment Demonstration Projects. (Public)

Sponsors: Representatives Crawford and Sherrill (Primary Sponsors).

Referred to: State Personnel.

March 17, 2005

1 A BILL TO BE ENTITLED  
2 AN ACT AMENDING THE POWERS OF THE STATE PERSONNEL  
3 COMMISSION REGARDING DEMONSTRATION PROJECTS AND  
4 PROVIDING STATE AGENCIES WITH THE BUDGET FLEXIBILITY TO  
5 IMPLEMENT THE PROJECTS.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 126-4(10) reads as rewritten:

8 "(10) Programs of employee assistance, productivity incentives, equal  
9 opportunity, safety and health as required by Part 1 of Article 63 of  
10 Chapter 143 of the General Statutes, and such other programs and  
11 ~~procedures~~ procedures, including demonstration projects, as may be  
12 necessary to promote efficiency of administration and provide for a  
13 fair and modern system of personnel administration. This subdivision  
14 may not be construed to authorize the establishment of an incentive  
15 pay program."

16 **SECTION 2.** G.S. 126-4 is amended by adding a new subdivision to read:

17 "(19) The Office of State Personnel, subject to the approval of the  
18 Commission, shall adopt policies and procedures concerning the  
19 conduct of demonstration projects."

20 **SECTION 3.** Article 1 of Chapter 126 of the General Statutes is amended by  
21 adding a new section to read:

22 **"§ 126-4.2. Funding for demonstration projects.**

23 State agencies, departments, and institutions, and The University of North Carolina  
24 shall have, with the concurrence of the Office of State Budget and Management, the  
25 flexibility to use any allowable and available funds to operate demonstration projects."

26 **SECTION 4.** This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

H

2

HOUSE BILL 714  
Committee Substitute Favorable 5/2/05

Short Title: State Agencies May Withhold Certain Info.

(Public)

Sponsors:

Referred to:

March 17, 2005

1 A BILL TO BE ENTITLED  
2 AN ACT ALLOWING STATE AGENCIES UNDER CERTAIN CIRCUMSTANCES  
3 TO WITHHOLD INFORMATION THAT WOULD OTHERWISE BE OPEN TO  
4 INSPECTION BY THE PUBLIC.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 126-23 reads as rewritten:

7 "§ 126-23. Certain records to be kept by State agencies open to inspection.

8 (a) Each department, agency, institution, ~~commission~~-commission, university,  
9 and bureau of the State shall maintain a record of each of its employees, showing the  
10 following information with respect to each such employee: name, age, date of original  
11 employment or appointment to the State service, current position, title, current salary,  
12 date and amount of most recent increase or decrease in salary, date of most recent  
13 promotion, demotion, transfer, suspension, separation, or other change in position  
14 classification, and the office or station to which the employee is currently assigned.

15 (b) The head of a State department, agency, institution, commission, university,  
16 or bureau may withhold any information with respect to an employee's individual record  
17 that he or she believes is in the best interests of the health, safety, or security of the  
18 employee. Prior to withholding information under this subsection, the department head  
19 shall prepare a memorandum setting forth the circumstances in which the department  
20 head deems it necessary to withhold such information. The memorandum shall be  
21 retained in the files of said department head and shall be a public record.

22 (c) ~~Subject~~ Except as provided by subsection (b) of this section and subject only  
23 to rules and regulations for the safekeeping of the records, adopted by the State  
24 Personnel Commission, every person having custody of such records shall permit them  
25 to be inspected and examined and copies thereof made by any person during regular  
26 business hours. Any person who is denied access to any such record for the purpose of  
27 inspecting, examining or copying the same shall have a right to compel compliance with  
28 the provisions of this section by application to a court of competent jurisdiction for a  
29 writ of mandamus or other appropriate relief."

1

**SECTION 2.** This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

H

1

HOUSE BILL 715

Short Title: Protect State Employee Records.

(Public)

Sponsors: Representatives Coleman; Parmon and Wainwright.

Referred to: State Personnel.

March 17, 2005

1 A BILL TO BE ENTITLED  
2 AN ACT AMENDING THE STATE PERSONNEL ACT TO PROTECT THE  
3 PRIVACY OF CERTAIN PERSONAL AND EMPLOYMENT-RELATED  
4 INFORMATION PERTAINING TO STATE EMPLOYEES.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 126-22 reads as rewritten:

7 "§ 126-22. Personnel files not subject to inspection under § 132-6.

8 Personnel files of State employees, former State employees, or applicants for State  
9 employment shall not be subject to inspection and examination as authorized by  
10 G.S. 132-6. For purposes of this Article, a personnel file consists of any  
11 employment-related or personal information gathered by the department, division,  
12 bureau, commission, council, or other agency subject to Article 7 of this Chapter which  
13 employs an individual, previously employed an individual, or considered an individual's  
14 application for employment, or by the ~~office~~ Office of State Personnel, and which  
15 information relates to the individual's application, selection or nonselection, promotions,  
16 demotions, transfers, leave, salary, benefits, suspension, performance evaluation forms,  
17 potential or actual disciplinary actions, and termination of employment wherever  
18 located and in whatever form. Personnel files of former State employees who have been  
19 separated from State employment for 10 or more years may be open to inspection and  
20 examination except for papers and documents relating to demotions and to disciplinary  
21 actions resulting in the dismissal of the employee."

22 SECTION 2. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

H

1

HOUSE BILL 1022

Short Title: Fair Pay in State Gov't/Managers Accountable.

(Public)

Sponsors: Representatives Ross, B. Allen, Weiss, Coleman (Primary Sponsors);  
Farmer-Butterfield, Fisher, Glazier, Martin, and Wainwright.

Referred to: State Personnel.

March 31, 2005

1 A BILL TO BE ENTITLED  
2 AN ACT ADDRESSING FAIR PAY IN STATE GOVERNMENT EMPLOYMENT  
3 BY REQUIRING MANAGEMENT ACCOUNTABILITY FOR PAY-RELATED  
4 PERSONNEL DECISIONS.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Article 2 of Chapter 126 of the General Statutes is amended by  
7 adding a new section to read:

8 "**§ 126-7.3. Fair pay; management accountability.**

9 (a) It is the intent of the General Assembly to address any pay disparities in  
10 wages in similar jobs held by State employees. In order to lessen any disparities,  
11 decisions regarding salary administration adjustments shall include consideration of  
12 wage equity between men and women and employees of different races in similar jobs  
13 along with performance, market differences between similar jobs, and availability of  
14 funds. If any salary adjustment decision could potentially create a pay inequity, the  
15 reasons for granting the adjustment shall be justified in writing. Managers shall  
16 document any pay disparities and shall be encouraged to take steps that would lessen  
17 disparities.

18 (b) The head of each State agency, department, and institution and The  
19 University of North Carolina shall act in conformity with fair pay laws and policies  
20 when making personnel decisions relating to the compensation of State employees.  
21 Managers and supervisors shall receive training on fair pay laws and policies and race  
22 and gender-related compensation issues. The human resources office shall ensure that  
23 management is responsible for adhering to fair pay laws and policies. Managers shall be  
24 evaluated based on their compliance with fair pay laws and policies. The failure of  
25 management to abide by fair pay laws and policies may result in the reduction of salary  
26 reserves allocated by the Office of State Budget and Management.

1 (c) For the purposes of this section, "similar jobs" are jobs whose composite  
2 competencies, training, experience, skill, responsibility, market comparisons, and  
3 working conditions are equivalent."

4 SECTION 2. G.S. 126-4 reads as rewritten:

5 **"§ 126-4. Powers and duties of State Personnel Commission.**

6 Subject to the approval of the Governor, the State Personnel Commission shall  
7 establish policies and rules governing each of the following:

- 8 (1) Position classification plans which shall provide for the classification  
9 and reclassification of all positions subject to this Chapter according to  
10 the duties and responsibilities of the positions.
- 11 (2) Compensation plans which shall provide for minimum, maximum, and  
12 intermediate rates of pay for all employees subject to the provisions of  
13 this Chapter.
- 14 (3) For each class of positions, reasonable qualifications as to education,  
15 experience, specialized training, licenses, certifications, and other  
16 job-related requirements pertinent to the work to be performed.
- 17 (4) Recruitment programs designed to promote public employment,  
18 communicate current hiring activities within State government, and  
19 attract a sufficient flow of internal and external applicants; and  
20 determine the relative fitness of applicants for the respective positions.
- 21 (5) Hours and days of work, holidays, vacation, sick leave, and other  
22 matters pertaining to the conditions of employment. The legal public  
23 holidays established by the Commission as paid holidays for State  
24 employees shall include Martin Luther King, Jr.'s Birthday and  
25 Veterans Day. The Commission shall not provide for more than 11  
26 paid holidays per year except that in those years in which Christmas  
27 Day falls on a Tuesday, Wednesday, or Thursday, the Commission  
28 shall not provide for more than 12 paid holidays.
- 29 (5a) In years in which New Year's Day falls on Saturday, the Commission  
30 may designate December 31 of the previous calendar year as the New  
31 Year's holiday, provided that the number of holidays for the previous  
32 calendar year does not exceed 12 and the number of holidays for the  
33 current year does not exceed 10. When New Year's Day falls on either  
34 Saturday or Sunday, the constituent institutions of The University of  
35 North Carolina that adopt alternative dates to recognize the legal  
36 public holidays set forth in subdivision (5) of this section and  
37 established by the Commission may designate, in accordance with the  
38 rules of the Commission and the requirements of this subdivision,  
39 December 31 of the previous calendar year as the New Year's holiday.
- 40 (6) The appointment, promotion, transfer, demotion and suspension of  
41 employees.
- 42 (7) Cooperation with the State Board of Education, the Department of  
43 Public Instruction, the University of North Carolina, and the  
44 Community Colleges of the State and other appropriate resources in

developing programs in, including but not limited to, management and supervisory skills, performance evaluation, specialized employee skills, accident prevention, equal employment opportunity awareness, including gender and race-related compensation issues, and customer service; and to maintain an accredited Certified Public Manager program.

(7a) The separation of employees.

(8) A program of meritorious service awards.

(9) The investigation of complaints and the issuing of such binding corrective orders or such other appropriate action concerning employment, promotion, demotion, transfer, discharge, reinstatement, and any other issue defined as a contested case issue by this Chapter in all cases as the Commission shall find justified.

(10) Programs of employee assistance, productivity incentives, equal opportunity, safety and health as required by Part 1 of Article 63 of Chapter 143 of the General Statutes, and such other programs and procedures as may be necessary to promote efficiency of administration and provide for a fair and modern system of personnel administration. This subdivision may not be construed to authorize the establishment of an incentive pay program.

(11) In cases where the Commission finds discrimination, harassment, or orders reinstatement or back pay whether (i) heard by the Commission or (ii) appealed for limited review after settlement or (iii) resolved at the agency level, the assessment of reasonable attorneys' fees and witnesses' fees against the State agency involved.

(12) Repealed by Session Laws 1987, c. 320, s. 2.

(13) Repealed by Session Laws 1987, c. 320, s. 3.

(14) The implementation of G.S. 126-5(e).

(15) Recognition of State employees, public personnel management, and management excellence.

(16) The implementation of ~~G.S. 126-7~~ G.S. 126-7 and G.S. 126-7.3.

(17) An alternative dispute resolution procedure.

(18) Delegation of authority for approval of personnel actions through decentralization agreements with the heads of State agencies, departments, and institutions.

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

b. The State Personnel Director shall have the authority to take appropriate corrective actions including adjusting employee

1 salaries and changing employee classifications that are not in  
2 compliance with policy or standards and to suspend  
3 decentralization agreements for agency noncompliance with the  
4 required personnel administration standards.

5 (19) Conduct studies to address any pay disparities for equivalent  
6 jobs in State government, including wage disparities between  
7 men and women, review of the minimum annual salary for State  
8 employees, and review of any other pay disparities in State  
9 government employment resulting from compensation policies,  
10 classification, and job categories.

11 The policies and rules of the Commission shall not limit the power of any elected or  
12 appointed department head, in the department head's discretion and upon the department  
13 head's determination that it is in the best interest of the Department, to transfer, demote,  
14 or separate a State employee who is not a career State employee as defined by this  
15 Chapter."

16 **SECTION 3.** G.S. 126-7 is amended by adding a new subsection to read:

17 "(b2) The annual compensation report shall include any disparities in various  
18 occupational groups and make recommendations to correct those disparities."

19 **SECTION 4.** G.S. 126-16 reads as rewritten:

20 "§ 126-16. **Equal opportunity for employment and compensation by State**  
21 **departments and agencies and local political subdivisions.**

22 (a) All State departments and agencies and all local political subdivisions of  
23 North Carolina shall give equal opportunity for employment and compensation, without  
24 regard to race, religion, color, creed, national origin, sex, age, or handicapping condition  
25 as defined in G.S. 168A-3 to all persons otherwise qualified, except where specific age,  
26 sex or physical requirements constitute bona fide occupational qualifications necessary  
27 to proper and efficient administration. This section with respect to equal opportunity as  
28 to age shall be limited to individuals who are at least 40 years of age.

29 (b) Each State agency, department, and institution and The University of North  
30 Carolina shall strive for diversity in all occupational categories, take positive  
31 approaches, and implement best personnel practices to ensure equal opportunity,  
32 prevent discrimination, promote fairness, and to support an inclusive environment."

33 **SECTION 5.** This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

H

1

HOUSE BILL 452

Short Title: State Employee Adverse Weather Leave.

(Public)

Sponsors: Representatives Miller; Faison and Wray.

Referred to: State Personnel.

March 3, 2005

A BILL TO BE ENTITLED

AN ACT PROVIDING TWO DAYS OF ADVERSE WEATHER LEAVE TO STATE  
EMPLOYEES UNDER CERTAIN CIRCUMSTANCES.

The General Assembly of North Carolina enacts:

**SECTION 1.** Article 2 of Chapter 126 of the General Statutes is amended by  
adding a new section to read:

**"§ 126-8.5. Adverse weather leave.**

The amount of leave granted to each full-time State employee shall include up to  
two days of paid adverse weather leave to be used when inclement weather events  
prevent the employee from traveling to work. Adverse weather leave may only be taken  
when the Governor declares that inclement weather conditions have rendered travel  
within part or all of the State unsafe. Unused adverse weather leave may not be shared  
or transferred nor may the days be paid out when the employee separates from  
employment."

**SECTION 2.** This act becomes effective July 1, 2005.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

H

1

HOUSE BILL 703

Short Title: Severance Pay Changes.

(Public)

Sponsors: Representative Crawford.

Referred to: State Personnel.

March 17, 2005

1 A BILL TO BE ENTITLED  
2 AN ACT AMENDING THE SEVERANCE PAY AND REDUCTION IN FORCE  
3 PROVISIONS OF THE STATE PERSONNEL ACT.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 126-7.1 reads as rewritten:

6 "§ 126-7.1. **Posting requirement; State employees receive priority consideration;**  
7 **reduction-in-force rights; Work First hiring.**

8 (a) All vacancies for which any State agency, department, or institution openly  
9 recruit shall be posted within at least the following:

10 (1) The personnel office of the agency, department, or institution having  
11 the vacancy; and

12 (2) The particular work unit of the agency, department, or institution  
13 having the vacancy

14 in a location readily accessible to employees. If the decision is made, initially or at any  
15 time while the vacancy remains open, to receive applicants from outside the recruiting  
16 agency, department, or institution, the vacancy shall be listed with the Office of State  
17 Personnel for the purpose of informing current State employees of such vacancy. The  
18 State agency, department, or institution may not receive approval from the Office of  
19 State Personnel to fill a job vacancy if the agency, department, or institution cannot  
20 prove to the satisfaction of the Office of State Personnel that it complied with these  
21 posting requirements. The agency, department, or institution which hires any person in  
22 violation of these posting requirements shall pay such person when employment is  
23 discontinued as a result of such violation for the work performed during the period of  
24 time between his initial employment and separation.

25 (a1) State employees to be affected by a reduction in force shall be notified of the  
26 reduction in force as soon as practicable, and in any event, no less than 30 days prior to  
27 the effective date of the reduction in force.

28 ~~(a2) The State Personnel Commission shall adopt rules to provide that priority~~  
29 ~~consideration for State employees separated from State employment as the result of~~

1 ~~reductions in force is to enable a State employee's return to career service at a salary~~  
2 ~~grade and salary rate equal to that held in the most recent position. The State Personnel~~  
3 ~~Commission shall provide that a State employee who:~~

4 (1) ~~Accepts a position at the same salary grade shall be paid at the same~~  
5 ~~salary rate as the employee's previous position.~~

6 (2) ~~Accepts a position at a lower salary grade than the employee's~~  
7 ~~previous position shall be paid at the same rate as the previous position~~  
8 ~~unless the salary rate exceeds the maximum of the new salary grade.~~  
9 ~~When the salary rate exceeds the maximum of the salary grade, the~~  
10 ~~employee's new salary rate shall be reduced to the maximum of the~~  
11 ~~new salary grade.~~

12 (b) Subsection (a) of this section does not apply to vacancies which must be  
13 filled immediately to prevent work stoppage or the protection of the public health,  
14 safety, or security.

15 (c) If a State employee subject to this section:

16 (1) Applies for another position of State employment that would constitute  
17 a promotion and;

18 (2) Has substantially equal qualifications as an applicant who is not a State  
19 employee

20 then the State employee shall receive priority consideration over the applicant who is  
21 not a State employee. This priority consideration shall not apply when the only  
22 applicants considered for the vacancy are current State employees.

23 ~~(c1) If a State employee who has been separated due to reduction in force or who~~  
24 ~~has been given notice of imminent separation due to reduction in force:~~

25 (1) ~~Applies for another position of State employment equal to or lower in~~  
26 ~~salary grade than the position held by the employee at the time of~~  
27 ~~notification or separation; and~~

28 (2) ~~Is determined qualified for that position~~

29 ~~then within all State agencies, the State employee shall receive priority consideration~~  
30 ~~over all other applicants but shall receive equal consideration with other applicants who~~  
31 ~~are current State employees not affected by the reduction in force. This priority shall~~  
32 ~~remain in effect for a period of 12 months from the date the employee receives~~  
33 ~~notification of separation by reduction in force. State employees separated due to~~  
34 ~~reduction in force shall receive higher priority than other applicants with employment or~~  
35 ~~reemployment priorities, except that the reemployment priority created by~~  
36 ~~G.S. 126-5(e)(1) shall be considered as equal. The reduction in force priority created by~~  
37 ~~this subsection shall be administered in accordance with rules promulgated by the State~~  
38 ~~Personnel Commission.~~

39 (c2) If the applicants for reemployment for a position include current State  
40 employees, a State employee with more than 10 years of service shall receive priority  
41 consideration over a State employee having less than 10 years of service in the same or  
42 related position classification. This reemployment priority shall be given by all State  
43 departments, agencies, and institutions with regard to positions subject to this Chapter.

1 (d) "Qualifications" within the meaning of subsection (c) of this section shall  
2 consist of:

- 3 (1) Training or education;
- 4 (2) Years of experience; and
- 5 (3) Other skills, knowledge, and abilities that bear a reasonable functional  
6 relationship to the abilities and skills required in the job vacancy  
7 applied for.

8 (e) Each State agency, department, and institution is encouraged to hire into State  
9 government employment qualified applicants who are current or former Work First  
10 Program participants.

11 (f) Employees with career status as defined by this Chapter who are separated  
12 through a reduction in force shall be eligible for severance pay based on rules adopted  
13 by the State Personnel Commission."

14 **SECTION 2.** This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

H

1

HOUSE BILL 716

Short Title: Mediate State Employee Grievance/Time Frame.

(Public)

Sponsors: Representatives Coleman; Dollar, Parmon, and Wainwright.

Referred to: State Personnel.

March 17, 2005

1 A BILL TO BE ENTITLED  
2 AN ACT PROVIDING FOR THE MEDIATION OF STATE EMPLOYEE  
3 GRIEVANCES UNDER THE STATE PERSONNEL ACT AND RELATING TO  
4 THE TIME FRAME FOR CONTESTED CASES UNDER G.S. 126-34.1.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 126-34 reads as rewritten:

7 "**§ 126-34. Grievance appeal for career State employees.**

8 Unless otherwise provided in this Chapter, any career State employee having a  
9 grievance arising out of or due to the employee's employment and who does not allege  
10 unlawful harassment or discrimination because of the employee's age, sex, race, color,  
11 national origin, religion, creed, handicapping condition as defined by G.S. 168A-3, or  
12 political affiliation shall ~~first discuss the problem or grievance with the employee's~~  
13 ~~supervisor and follow the grievance procedure established by the employee's department~~  
14 or agency. The internal grievance procedure of each State agency, department,  
15 institution, and The University of North Carolina shall include mediation as the first  
16 step of the procedure. Any State employee having a grievance arising out of or due to  
17 the employee's employment who alleges unlawful harassment because of the employee's  
18 age, sex, race, color, national origin, religion, creed, or handicapping condition as  
19 defined by G.S. 168A-3 shall submit a written complaint to the employee's department  
20 or agency. The department or agency shall have 60 days within which to take  
21 appropriate remedial action. If the employee is not satisfied with the department or  
22 agency's response to the complaint, the employee shall have the right to appeal directly  
23 to the State Personnel Commission."

24 SECTION 2. G.S. 126-34.1 is amended by adding a new subsection to read:

25 "(f) The Office of Administrative Hearings must conduct a contested case hearing  
26 and render a decision on cases filed under this section no later than 210 days from the  
27 date the case was filed with the Office of Administrative Hearings. If the Office of  
28 Administrative Hearings fails to complete the contested case hearing process in 210

1 days of the date filed, the petitioner who filed the case may petition the Superior Court  
2 of Wake County for a hearing de novo."

3 **SECTION 3.** This act is effective when it becomes law and applies to State  
4 employee grievances that arise on or after that date.

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2005**

**H**

**1**

**HOUSE BILL 928\***

Short Title: State Gov't Fair Wage Funds/Study Fair Pay. (Public)

Sponsors: Representatives Ross, Earle, Alexander, Weiss (Primary Sponsors); Adams, L. Allen, Bordsen, Carney, Coleman, Cunningham, Dickson, Farmer-Butterfield, Fisher, Glazier, Goforth, Harrison, Insko, Jones, Lucas, Luebke, McAllister, Michaux, Miller, Parmon, Pierce, Rapp, Tucker, Underhill, and Wainwright.

Referred to: State Personnel, if favorable, Appropriations.

March 28, 2005

A BILL TO BE ENTITLED

AN ACT ESTABLISHING A MINIMUM FAIR WAGE FOR STATE EMPLOYEES  
SUBJECT TO THE STATE PERSONNEL ACT; CREATING THE STATE  
GOVERNMENT FAIR PAY STUDY COMMISSION; AND APPROPRIATING  
FUNDS FOR THESE PURPOSES.

Whereas, female employees comprise 48.9% percent of the total State  
workforce subject to the State Personnel Act, but compromise 71.5% of the low wage  
occupations that fall in pay grades 50-59; and

Whereas, it is the intent of the General Assembly that employees receive a  
fair wage and a livable minimum wage for State government employment; and

Whereas, employees earning less than \$20,112 fall into the lowest pay grades  
and are likely to qualify for Food Stamps, NC Health Choice, and possibly other public  
assistance; and

Whereas, the General Assembly provides the incremental increase in this act  
to move these employees closer to a living wage; Now, therefore,  
The General Assembly of North Carolina enacts:

**SECTION 1.(a)** It is the intent of the General Assembly that employees  
receive a fair minimum wage for State government employment.

**SECTION 1.(b)** All permanent, full-time employees subject to the State  
Personnel Act shall be paid a minimum salary of at least twenty thousand one hundred  
twelve dollars (\$20,112) per year. All permanent, full-time employees subject to the  
State Personnel Act working on a schedule requiring less than 12-months service per  
year shall be paid a minimum salary equal to the ratio of the number of months of the  
required work schedule to 12 times twenty thousand one hundred-twelve dollars  
(\$20,112).

1           **SECTION 1.(c)** There is appropriated from the General Fund to the Reserve  
2 for State Employee Minimum Wage the sum of six hundred seventy-five thousand  
3 dollars (\$675,000) for the 2005-2006 fiscal year and the sum of six hundred seventy-  
4 five thousand dollars (\$675,000) for the 2006-2007 fiscal year to provide a fairer  
5 minimum wage to employees subject to the State Personnel Act.

6           **SECTION 1.(d)** In order to lessen salary compression and potential pay  
7 inequities, State agencies, departments, and institutions, and The University of North  
8 Carolina may, when increasing salaries pursuant to this section, make adjustments to the  
9 salaries of supervisors and other employees who have, when considering classification,  
10 significantly more experience and length of service compared to the employees  
11 receiving this pay increase. The Office of State Budget and Management may authorize  
12 funds for this purpose in a total amount not to exceed seven hundred fifty thousand  
13 dollars (\$750,000) for the 2005-2007 fiscal biennium.

14           **SECTION 2.(a)** There is created the State Government Fair Pay Study  
15 Commission ("Commission"). The Commission shall consist of 15 members appointed  
16 as follows:

17           (1) Five members appointed by the Governor, to include:

- 18           a. One person who represents an organization whose primary  
19           purpose is to represent the interests of women.
- 20           b. One representative of an organization whose objectives include  
21           the elimination of pay disparities between men and women who  
22           has undertaken advocacy, educational, or legislative initiatives  
23           in pursuit of that objective.
- 24           c. One representative of a higher education or research institution  
25           who has experience and expertise in the collection and analysis  
26           of data concerning pay disparities and whose research has been  
27           used in efforts to promote the elimination of those disparities.
- 28           d. One person who is an active State employee.
- 29           e. One person who is a retired State employee.

30           (2) Five members appointed by the Speaker of the House of  
31           Representatives, to include:

- 32           a. Four members of the House of Representatives.
- 33           b. One person with human resources background and experience  
34           from a private business or firm employing 200 or more  
35           employees in this State.

36           (3) Five members appointed by the President Pro Tempore of the Senate,  
37           to include:

- 38           a. Four members of the Senate.
- 39           b. One person with human resources background and experience  
40           from a private business or firm employing fewer than 200  
41           employees in this State.

42           **SECTION 2.(b)** The Commission shall study:

- 43           (1) Whether the minimum annual salary for State employees is a livable  
44           salary and the impact of inflationary forces on that salary.

- (2) Whether there is fair pay for equivalent jobs in State government, including the extent of wage disparities in State government employment between men and women.
- (3) The relationship between in-range adjustments and pay disparities and how in-range adjustments could be used to alleviate gender-related pay disparities.
- (4) The factors that cause or tend to increase pay disparities, including segregation between women and men across and within occupations and payment of lower wages for work in female-dominated occupations.
- (5) The extent to which dissimilar State government job categories requiring similar education, training, skills, and responsibilities are being compensated with equal pay.
- (6) The consequences of the disparities on the efficiency of State government, the State's economy, and the families affected.
- (7) Actions, including proposed legislation, that are likely to lead to the elimination and prevention of compensation disparities in State government employment. In particular, the Commission shall propose the initial job classifications that should be targeted for remedial action and recommend the amount of funding required for the remediation efforts targeting those jobs.
- (8) Any other matters relating to pay disparities in State government employment.

The Commission may consider any other matter that the Commission finds relevant to its charge. The Commission may conduct public hearings around the State to solicit firsthand testimony regarding pay equity issues.

**SECTION 2.(c)** The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall each appoint a cochair for the Commission. The Commission may contract for consultant services as provided by G.S. 120-32.02. Upon approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional and clerical staff to assist in the work of the Commission. Clerical staff shall be furnished to the Commission through the offices of the House of Representatives and the Senate Directors of Legislative Assistants. The Commission may meet in the Legislative Building or the Legislative Office Building upon the approval of the Legislative Services Commission. Members of the Commission shall receive per diem, subsistence, and travel allowances at the rate established in G.S. 120-3.1. The appointing authority shall fill vacancies.

The Commission, while in the discharge of its official duties, may exercise all the powers provided under the provisions of G.S. 120-19 through G.S. 120-19.4, including the power to request all officers, agents, agencies, and departments of the State to provide any information, data, or documents within their possession, ascertainable from their records, or otherwise available to them and the power to subpoena witnesses.

1           The State Personnel Director shall designate appropriate staff to serve as  
2 liaison to the Commission.

3           **SECTION 2.(d)** The Commission's interim and final reports shall include  
4 the results of the Commission's study as well as recommendations, legislative and  
5 otherwise, for the elimination and prevention of disparities in State employee  
6 compensation between men and women. The Commission shall submit an interim report  
7 to the 2006 Regular Session of the 2005 General Assembly. The Commission shall  
8 make a final report to the 2007 General Assembly and shall terminate upon filing its  
9 final report.

10           **SECTION 2.(e)** There is appropriated from the General Fund to the General  
11 Assembly the sum of twenty-five thousand dollars (\$25,000) for the 2005-2006 fiscal  
12 year and the sum of twenty-five thousand dollars (\$25,000) for the 2006-2007 fiscal  
13 year to fund the work of the State Government Fair Pay Study Commission.

14           **SECTION 3.** This act becomes effective July 1, 2005.

**NORTH CAROLINA HOUSE OF REPRESENTATIVES  
COMMITTEE MEETING NOTICE  
2005-2006 SESSION**

You are hereby notified that the Committee on **State Personnel** will meet as follows:

**DAY & DATE:**    **Tuesday, March 1, 2005**

**TIME:**            **12:00 pm**

**LOCATION:**        **1425 LB**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):  
**Organizational Meeting**

Respectfully,

Representatives B. Allen and Justus  
Co-chairs

I hereby certify this notice was filed by the committee clerk at the following offices at  
**2:00 on February 28, 2005.**

\_\_\_\_Principal Clerk  
\_\_\_\_Reading Clerk - House Chamber

Latisha Dumas (Committee Assistant)

**AGENDA**  
***State House Personnel Committee***

**Tuesday, March 1, 2005**

**12:00 p.m.**

**Room 1425 LB**

**Chaired by: Rep. Bernard Allen and Rep. Carolyn Justus**

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- 1. Call to Order**
- 2. Welcome**
- 3. Introduction of Committee Members**
- 4. Introduction of Pages and Sergeant at Arms**
- 5. Introduction of Legislative Assistants**
- 6. Introduction of Legal Staff**

**Comments**

**Adjournment**

## VISITOR REGISTRATION SHEET

## STATE PERSONELL

Name of Committee

3/1/05

Date \_\_\_\_\_

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME

FIRM OR AGENCY

Katherine Joyce

NCA-5A

3/1/05

### House Pages

1. Name: Allison Gilliam  
County: Alamance  
Sponsor: Doug Vinson
2. Name: Lynnsy Trotter  
County: Guilford  
Sponsor: Doug Vinson
3. Name: \_\_\_\_\_  
County: \_\_\_\_\_  
Sponsor: \_\_\_\_\_
4. Name: \_\_\_\_\_  
County: \_\_\_\_\_  
Sponsor: \_\_\_\_\_
5. Name: \_\_\_\_\_  
County: \_\_\_\_\_  
Sponsor: \_\_\_\_\_

### Sgt-At-Arms

1. Name: THOMAS WILDER
2. Name: JAMES WORTH
3. Name: \_\_\_\_\_
4. Name: \_\_\_\_\_

State Personnel Committee Meeting  
March 1, 2005  
Minutes

Presiding Co-chair: Rep. B. Allen  
Co-Chair: Rep. Justus

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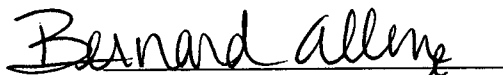
Meeting was called to order at 12 noon in room 1425 of the Legislative Building. This organizational meeting began with introduction of the committee members and chairs, staff, committee assistants and assigned pages and sergeant at arms.


In attendance: Rep. B. Allen, Rep. C. Justus, Rep. W. Church, Rep. L. Coleman, Rep. N. Dollar, Rep. R. Sutton. Serving as Sergeant-At-Arms: Mr. James Worth and Mr. Thomas Wilder. Serving as House Pages: Allison Gilliam, Alamance County and Lynnsey Trotter, Guilford County. Committee staff includes: Mrs. Karen Cochrane-Brown and Mrs. Theresa Matula. Committee Assistants: Latisha Dumas, Rep. B. Allen's office and Glenda Jones, Rep. Justus' office.

Rep. B. Allen began welcoming discussion and overview of the committee:

- Insisting that committee meetings will begin in a punctual matter
- Rep. B. Allen and Rep. Justus will alternate when presiding over the meetings
- State Personnel Committee's role will depend on the bills referred to the committee
- Rep. Allen has plans to meet with Mr. Thom Wright, Director of Office of State Personnel
- Rep. Allen would like to get each committee member a copy of two studies by the Office of State Personnel; African-American Males and Employment in North Carolina State Government and Female Employment in North Carolina State Government
- HB 87 State Employee Pay Periods is the only bill referred to State Personnel Committee

Meeting Adjourned.

  
Representative Bernard Allen

  
Latisha Dumas, Assistant

HOUSE STATE PERSONNEL COMMITTEE  
MINUTES  
Tuesday, April 5, 2005

Chaired by: Rep. Bernard Allen and Rep. Carolyn Justus

The Meeting was called to order by Co-Chair, Rep. Bernard Allen. Chairman Allen recognized the House Pages, Keisha Griffin of Wake County sponsored by Rep. Nye and Dennis Foss of Cumberland County sponsored by Rep. Dickson. Sergeant of Arms, Linda Fuller and Bill Sullivan were also recognized and well as Legislative Assistants, Latisha Dumas, Rep. Allen's office and Glenda Jones, Rep. Justus's office.

Chairman Allen announced that there was only one bill, HB 637 introduced by Rep. Nye, for the Committee to review as the two other bills had been pulled and would be considered at another time. Those were HB 717 and HB 751.

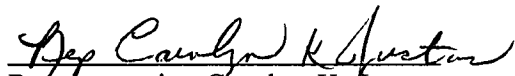
Discussion began on a proposed committee substitute for HB 637. Rep. Nye said this bill is to authorize the Secretaries of the Department of Health and Human Services, the Department of Juvenile Justice and Delinquency Prevention and the Department of Correction to set the salary supplement for certain personnel working at programs operated by their Departments. The personnel affected by the bill are employed as teachers at juvenile facilities and are licensed by the State Board of Education. The bill provides they will be granted a supplement of at least 5%. The legal staff gave a brief analysis of the differences between the original bill and the proposed committee substitute. These changes were 1) short title changed to more accurately reflect the content of the bill and 2) modifying that title to specifically mention the Secretary of each department and 3) changing subsections to require each Secretary to set the salary in consultation with the Office of State Personnel and to require the salary supplement to be at least five percent (5%).

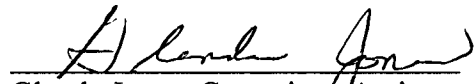
Rep. Sherrill spoke on the eligibility of these employees to receive the supplemental salary adjustment and the source of the funds. A member of the State Personnel Office told the Committee that these positions would not be eligible for the supplement unless this bill passes. Possibly they would initially be paid from lapsed salary monies if the Department had available dollars. The salaries would have to be looked at carefully and compared for inequities with other teachers licensed by the State Board of Education.

For the Department of Health and Services alone, the cost of an additional 5% would be \$290,194. Present salaries amount to approximately \$892,000. It was noted this would be over a million dollars for DHHS salaries for current 521 staff. Discussion followed on possible study and comparison to area teacher salaries, years of teaching experience, and teaching locations. Rep. Justus raised the question of availability of money for the supplement in one department and not in another department. Would both departments receive the supplement for that year? State Personnel Office spokeswoman said this bill

requested only a change of wording to allow the Department Secretaries to make a 5% supplemental payment to teachers in the three departments after consulting with the State Department of Personnel.

Chairman Allen then requested a vote. The Committee substitute for HB 637 received a favorable report and the Committee adjourned.

  
Representative Carolyn K. Justus

  
Glenda Jones, Committee Assistant

**CORRECTED NOTICE: HB 715 HAS BEEN REMOVED  
FROM THE AGENDA AND REPLACED WITH HB 751**

**NORTH CAROLINA HOUSE OF REPRESENTATIVES  
COMMITTEE MEETING NOTICE  
2005-2006 SESSION**

You are hereby notified that the Committee on **STATE PERSONNEL** will meet as follows:

**DAY & DATE:** Tuesday, April 5, 2005

**TIME:** 12:00 pm

**LOCATION:** 1425 LB

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

**HB 637 Salary of Teachers at Residential Schools**  
Rep. Nye; Rep. B. Allen, Rep. Pierce, Rep. Preston, Rep. Wainwright

**HB 717 State Employees Incentive Bonus Program Changes**  
Rep. Coleman; Rep. Dollar, Rep. Faison, Rep. Jones, Rep. Parmon  
Rep. Wainwright

**HB 751 Centralize Benefits Under OSP**  
Rep. Crawford, Rep. Holliman

Respectfully,

Representatives B. Allen and Justus  
Co-chairs

I hereby certify this notice was filed by the committee clerk at the following offices at  
2:35 on **March 31, 2005**.

\_\_\_\_ Principal Clerk  
\_\_\_\_ Reading Clerk - House Chamber

Latisha Dumas (Committee Assistant)

**AGENDA**  
***House State Personnel Committee***

**Tuesday, April 5, 2005**

**12:00 pm**

**Room 1425 LB**

**Chaired by: Rep. Bernard Allen and Rep. Carolyn Justus**

---

- 1. Call to Order**
- 2. Introduction of Pages**
- 3. Introduction of Sergeant at Arms**

**Bills:**

- |               |   |
|---------------|---|
| <b>HB 637</b> | <b>Salary of Teachers at Residential Schools</b><br><b>Rep. Nye</b>           |
| <b>HB 717</b> | <b>State Employees Incentive Bonus Program Changes</b><br><b>Rep. Coleman</b> |
| <b>HB 751</b> | <b>Centralize Benefits Under OSP</b><br><b>Rep. Crawford, Rep. Holliman</b>   |

**Adjournment**

State Personnel

4/05/05

Date \_\_\_\_\_

NAME

Erin Schuettpeitz

VNC

Wm. Benson

Capitol Group

Lisa Bateman

DTSD

John Mabbitt

Germany

Patrick Buffin

NCGA

Mildred Spearman

NCDO

Cinder Burt

025/DT#3

Call Goodwin

CSA

Starla mckennay

NC DNHS

Jana Peters

JP Assoc

Lina Hsu

SAE/DPE

Amy F. Albright

H<sup>3</sup>✓

House Pages

Name Of Committee: State Personnel Date: 4/05/05

1. Name: Le-Keisha Griffin

County: Wake

Sponsor: Ed Nye

2. Name: Dennis Foos

County: Cumberland

Sponsor: Margaret Highsmith Dickson

3. Name: \_\_\_\_\_

County: \_\_\_\_\_

Sponsor: \_\_\_\_\_

4. Name: \_\_\_\_\_

County: \_\_\_\_\_

Sponsor: \_\_\_\_\_

5. Name: \_\_\_\_\_

County: \_\_\_\_\_

Sponsor: \_\_\_\_\_

Sgt-At-Arms

1. Name: Linda Fuller

2. Name: Bill Sullivan

3. Name: \_\_\_\_\_

4. Name: \_\_\_\_\_

5. Name: \_\_\_\_\_

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

H

D

HOUSE BILL 637

PROPOSED COMMITTEE SUBSTITUTE H637-CSSH-9 [v.3]

4/4/2005 3:27:36 PM

Short Title: Salary Supplement/Certain Ed. Programs.

(Public)

Sponsors:

Referred to:

March 15, 2005

1 A BILL TO BE ENTITLED  
2 AN ACT AUTHORIZING THE SECRETARY OF THE DEPARTMENT OF  
3 HEALTH AND HUMAN SERVICES, THE SECRETARY OF THE  
4 DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION,  
5 AND THE SECRETARY OF THE DEPARTMENT OF CORRECTION TO SET  
6 THE SALARY SUPPLEMENT FOR CERTAIN PERSONNEL WORKING AT  
7 PROGRAMS OPERATED BY THEIR DEPARTMENTS.

8 The General Assembly of North Carolina enacts:

9 **SECTION 1.** G.S. 143B-146.21 is amended by adding a new subsection to  
10 read:

11 "(e) The Secretary of Health and Human Services, in consultation with the Office  
12 of State Personnel, shall set the salary supplement paid to personnel who are employed  
13 in the programs operated by the Department of Health and Human Services and are  
14 licensed by the State Board of Education. The salary supplement shall be at least five  
15 percent (5%)."

16 **SECTION 2.** G.S. 143B-516(b) reads as rewritten:

17 "(b) The Secretary shall have the following powers and duties:

- 18 (1) Give leadership to the implementation as appropriate of State policy  
19 that requires that youth development centers be phased out as  
20 populations diminish.  
21 (2) Close a State youth development center when its operation is no longer  
22 justified and transfer State funds appropriated for the operation of that  
23 youth development center to fund community-based programs, to  
24 purchase care or services for predelinquents, delinquents, or status  
25 offenders in community-based or other appropriate programs, or to  
26 improve the efficiency of existing youth development centers,  
27 provided the Advisory Budget Commission reviews this action.

- (3) Administer a sound admission or intake program for juvenile facilities, including the requirement of a careful evaluation of the needs of each juvenile prior to acceptance and placement.
- (4) Operate juvenile facilities and implement programs that meet the needs of juveniles receiving services and that assist them to become productive, responsible citizens.
- (5) Adopt rules to implement this Article and the responsibilities of the Secretary and the Department under Chapter 7B of the General Statutes. The Secretary may adopt rules applicable to local human services agencies providing juvenile court and delinquency prevention services for the purpose of program evaluation, fiscal audits, and collection of third-party payments.
- (6) Ensure a statewide and uniform system of juvenile intake, protective supervision, probation, and post-release supervision services in all district court districts of the State. The system shall provide appropriate, adequate, and uniform services to all juveniles who are alleged or found to be undisciplined or delinquent.
- (7) Establish procedures for substance abuse testing for juveniles adjudicated delinquent for substance abuse offenses.
- (8) Plan, develop, and coordinate comprehensive multidisciplinary services and programs statewide for the prevention of juvenile delinquency, early intervention, and rehabilitation of juveniles.
- (9) Develop standards, approve yearly program evaluations, and make recommendations based on the evaluations to the General Assembly concerning continuation funding.
- (10) Collect expense data for every program operated and contracted by the Department.
- (11) Develop a formula for funding, on a matching basis, juvenile court and delinquency prevention services as provided for in this Article. This formula shall be based upon the county's or counties' relative ability to fund community-based programs for juveniles.

Local governments receiving State matching funds for programs under this Article must maintain the same overall level of effort that existed at the time of the filing of the county assessment of juvenile needs with the Department.
- (12) Assist local governments and private service agencies in the development of juvenile court services and delinquency prevention services and provide information on the availability of potential funding sources and assistance in making application for needed funding.
- (13) Develop and administer a comprehensive juvenile justice information system to collect data and information about delinquent juveniles for the purpose of developing treatment and intervention plans and

- 1 allowing reliable assessment and evaluation of the effectiveness of  
2 rehabilitative and preventive services provided to delinquent juveniles.
- 3 (14) Coordinate State-level services in relation to delinquency prevention  
4 and juvenile court services so that any citizen may go to one place in  
5 State government to receive information about available juvenile  
6 services.
- 7 (15) Appoint the chief court counselor in each district upon the  
8 recommendation of the chief district court judge of that district.
- 9 (16) Develop a statewide plan for training and professional development of  
10 chief court counselors, court counselors, and other personnel  
11 responsible for the care, supervision, and treatment of juveniles. The  
12 plan shall include attendance at appropriate professional meetings and  
13 opportunities for educational leave for academic study.
- 14 (17) Study issues related to qualifications, salary ranges, appointment of  
15 personnel on a merit basis, including chief court counselors, court  
16 counselors, secretaries, and other appropriate personnel, at the State  
17 and district levels in order to adopt appropriate policies and procedures  
18 governing personnel.
- 19 (17a) Set, in consultation with the Office of State Personnel, the salary  
20 supplement paid to personnel who are employed at juvenile facilities  
21 and are licensed by the State Board of Education. The salary  
22 supplement shall be at least five percent (5%).
- 23 (18) Designate persons, as necessary, as State juvenile justice officers, to  
24 provide for the care and supervision of juveniles placed in the physical  
25 custody of the Department."

26 **SECTION 3. G.S. 148-22.1 reads as rewritten:**

27 **"§ 148-22.1. Educational facilities and programs for selected inmates.**

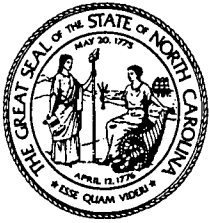
28 (a) The State Department of Correction is authorized to take advantage of aid  
29 available from any source in establishing facilities and developing programs to provide  
30 inmates of the State prison system with such academic and vocational and technical  
31 education as seems most likely to facilitate the rehabilitation of these inmates and their  
32 return to free society with attitudes, knowledge, and skills that will improve their  
33 prospects of becoming law-abiding and self-supporting citizens. The State Department  
34 of Public Instruction is authorized to cooperate with the State Department of Correction  
35 in planning academic and vocational and technical education of prison system inmates,  
36 but the State Department of Public Instruction is not authorized to expend any funds in  
37 this connection.

38 (b) In expending funds that may be made available for facilities and programs to  
39 provide inmates of the State prison system with academic and vocational and technical  
40 education, the State Department of Correction shall give priority to meeting the needs of  
41 inmates who are less than 21 years of age when received in the prison system with a  
42 sentence or sentences under which they will be held for not less than six months nor  
43 more than five years before becoming eligible to be considered for a parole or  
44 unconditional release. These inmates shall be given appropriate tests to determine their

1 educational needs and aptitudes. When the necessary arrangements can be made, they  
2 shall receive such instruction as may be deemed practical and advisable for them.

3 (c) The Secretary of Correction, in consultation with the Office of State  
4 Personnel, shall set the salary supplement paid to personnel who are Division of Prison  
5 employees that serve in youth facilities and are licensed by the State Board of  
6 Education. The salary supplement shall be at least five percent (5%)."

7 **SECTION 4.** This act becomes effective July 1, 2005.  
8



# HOUSE BILL 637: Salary Supplement/Certain Ed. Programs.

## BILL ANALYSIS

**Committee:** House State Personnel  
**Date:** April 6, 2005  
**Version:** PCS (H637-CSSH-9)

**Introduced by:** Representative Nye  
**Summary by:** Theresa Matula  
Committee Staff

**SUMMARY:** *The Proposed Committee Substitute for House Bill 637 authorizes the Secretaries of the Department of Health and Human Services, the Department of Juvenile Justice and Delinquency Prevention, and the Department of Correction to set the salary supplement for personnel licensed by the State Board of Education and employed in programs operated by the Department of Health and Human Services, in juvenile facilities, and in youth facilities.*

### CURRENT LAW:

Teachers in these programs are paid on the State Teacher Salary Schedules. In the 1998 budget, funds were provided for the 1998-99 fiscal year to give statewide teacher supplements for State agency teachers who were paid on the teacher salary schedule based on 5% of their salaries (S.L. 1998-212, Section 28.16). This 5% salary supplement has not increased since 1998.

Local boards of education may authorize the superintendent to supplement the salaries of all teachers from local funds (G.S. 115C-302.1(h)). There is no such authority for the Secretaries of these agencies. Any salary supplement for personnel in these agency programs comes from a General Assembly appropriation.

### BILL ANALYSIS:

The Proposed Committee Substitute (PCS) for House Bill 637 does the following:

- Section 1 adds a new subsection to G.S. 143B-146.21 to establish that the **Secretary of Health and Human Services** shall set the salary supplement paid to personnel who are employed in the programs operated by the Department and are licensed by the State Board of Education.
- Section 2 amends G.S. 143B-516(b) to grant the **Secretary of the Department of Juvenile Justice and Delinquency Prevention** the power and duty to set the salary supplement paid to personnel who are employed at juvenile facilities and are licensed by the State Board of Education.
- Section 3 amends G.S. 148-22.1 to establish that the **Secretary of Correction** shall set the salary supplement paid to personnel who are Division of Prison employees that serve in youth facilities and are licensed by the State Board of Education.

The bill requires each Secretary to set the salary in consultation with the Office of State Personnel and requires that the salary supplement be at least five percent (5%).

*The Proposed Committee Substitute makes the following changes:*

- *The short title has changed in order to more accurately reflect the content of the bill.*
- *The long title has been modified to specifically mention the Secretary of each Department.*
- *Each Secretary is required to set the supplement in consultation with the Office of State Personnel.*

*The Proposed Committee Substitute is similar to SB 709, which was the companion upon introduction, but was amended in Senate Education/Higher Education.*

This act would become effective July 1, 2005.

*Shirley Iorio contributed to this summary.  
H637-SMSH-PCS*

HOUSE STATE PERSONNEL COMMITTEE  
MINUTES

Tuesday, April 5, 2005

Chaired by: Rep. Bernard Allen and Rep. Carolyn Justus

The Meeting was called to order by Co-Chair, Rep. Bernard Allen. Chairman Allen recognized the House Pages, Keisha Griffin of Wake County sponsored by Rep. Nye and Dennis Foss of Cumberland County sponsored by Rep. Dickson. Sergeant of Arms, Linda Fuller and Bill Sullivan were also recognized and well as Legislative Assistants, Latisha Dumas, Rep. Allen's office and Glenda Jones, Rep. Justus's office.

Chairman Allen announced that there was only one bill, HB 637 introduced by Rep. Nye, for the Committee to review as the two other bills had been pulled and would be considered at another time. Those were HB 717 and HB 751.

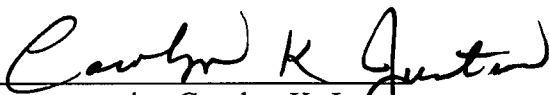
Discussion began on a proposed committee substitute for HB 637. Rep. Nye said this bill is to authorize the Secretaries of the Department of Health and Human Services, the Department of Juvenile Justice and Delinquency Prevention and the Department of Correction to set the salary supplement for certain personnel working at programs operated by their Departments. The personnel affected by the bill are employed as teachers at juvenile facilities and are licensed by the State Board of Education. The bill provides they will be granted a supplement of at least 5%. The legal staff gave a brief analysis of the differences between the original bill and the proposed committee substitute. These changes were 1) short title changed to more accurately reflect the content of the bill and 2) modifying that title to specifically mention the Secretary of each department and 3) changing subsections to require each Secretary to set the salary in consultation with the Office of State Personnel and to require the salary supplement to be at least five percent (5%).

Rep. Sherrill spoke on the eligibility of these employees to receive the supplemental salary adjustment and the source of the funds. A member of the State Personnel Office told the Committee that these positions would not be eligible for the supplement unless this bill passes. Possibly they would initially be paid from lapsed salary monies if the Department had available dollars. The salaries would have to be looked at carefully and compared for inequities with other teachers licensed by the State Board of Education.

For the Department of Health and Services alone, the cost of an additional 5% would be \$290,194. Present salaries amount to approximately \$892,000. It was noted this would be over a million dollars for DHHS salaries for current 521 staff. Discussion followed on possible study and comparison to area teacher salaries, years of teaching experience, and teaching locations. Rep. Justus raised the question of availability of money for the supplement in one department and not in another department. Would both departments receive the supplement for that year? State Personnel Office spokeswoman said this bill

requested only a change of wording to allow the Department Secretaries to make a 5% supplemental payment to teachers in the three departments after consulting with the State Department of Personnel.

Chairman Allen then requested a vote. The Committee substitute for HB 637 received a favorable report and the Committee adjourned.

  
Representative Carolyn K. Justus

\_\_\_\_\_  
Representative Bernard Allen

**NORTH CAROLINA HOUSE OF REPRESENTATIVES  
COMMITTEE MEETING NOTICE  
2005-2006 SESSION**

You are hereby notified that the Committee on **STATE PERSONNEL** will meet as follows:

**DAY & DATE:** Tuesday, April 19, 2005

**TIME:** 12:00 pm

**LOCATION:** 1425 LB

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

**HB 87 State Employees/ Pay Periods.  
Rep. Miller**

**HB 730 State Employment Demonstration Periods.  
Rep. Crawford, Rep. Sherrill**

**HB 799 Lapsed Salaries/ EEO.  
Rep. Adams**

Respectfully,

Representatives B. Allen and Justus  
Co-chairs

I hereby certify this notice was filed by the committee clerk at the following offices at  
**2:45 on April 13, 2005.**

\_\_\_\_Principal Clerk  
\_\_\_\_Reading Clerk - House Chamber

Latisha Dumas (Committee Assistant)

**AGENDA**  
**House State Personnel Committee**

**Tuesday, April 19, 2005**

**12:00 pm**

**Room 1425 LB**

**Chaired by: Rep. Bernard Allen and Rep. Carolyn Justus**

---

- 1. Call to Order**
- 2. Introduction of Pages**
- 3. Introduction of Sergeant at Arms**

**Bills:**

**HB 87     State Employees/Pay Periods**  
**Rep. Miller**

**HB 730    State Employment Demonstration Periods**  
**Rep. Crawford, Rep. Sherrill**

**HB 799    Lapsed Salaries/EEO**  
**Rep. Adams**

**Adjournment**

# VISITOR REGISTRATION SHEET

State Personnel

Name of Committee

4/19/05  
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Bill Stockard	STATE BUDGET
Carl Goodwin	OSP
Gary Wiggins	OSP
Thom Wright	OSP
Nelli Riley	OSP
McKinley Wooten, Jr.	DOA
Bridget Swan	DOA
Jessica Sage	NCFPC
Gwen Canady	OSC
Robert Bowen	OSC
JAMES L. FORTE	OSA

# VISITOR REGISTRATION SHEET

State Personnel

Name of Committee

4/19/05

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Hilary Arthur

NCASA

Suzanne Beasley

SEANC

Ardis Watkins

SEANC

Kevin LeCount

SEANC

John Rustin

NC Family Policy Council

House Pages

Name Of Committee: state personnel Da: 4/19/05

1. Name: Brandon Broome

County: Mecklenburg

Sponsor: Speaker Black

2. Name: Dale Riley

County: Mecklenburg

Sponsor: Speaker Black

3. Name: \_\_\_\_\_

County: \_\_\_\_\_

Sponsor: \_\_\_\_\_

4. Name: \_\_\_\_\_

County: \_\_\_\_\_

Sponsor: \_\_\_\_\_

5. Name: \_\_\_\_\_

County: \_\_\_\_\_

Sponsor: \_\_\_\_\_

Sgt-At-Arms

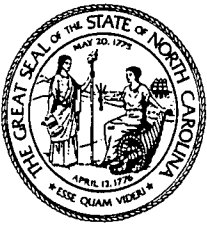
1. Name: Martha Madison

2. Name: Toussaint L. Arant

3. Name: \_\_\_\_\_

4. Name: \_\_\_\_\_

5. Name: \_\_\_\_\_



# PCS FOR HOUSE BILL 730: State Employment Demonstration Projects.

## BILL ANALYSIS

**Committee:** House State Personnel  
**Date:** April 20, 2005  
**Version:** PCS (H730-CSSH-15)

**Introduced by:** Reps. Crawford and Sherrill  
**Summary by:** Theresa Matula  
Committee Staff

**SUMMARY:** *House Bill 730 authorizes the State Personnel Commission to establish policies and rules for demonstration projects, delegates to the Office of State Personnel the authority to adopt policies and procedures for the demonstration projects, and grants to agencies, departments, institutions and UNC, with concurrence of the Office of State Budget and Management, the flexibility to use any allowable and available funds to operate demonstration projects.*

*The Proposed Committee Substitute makes a technical drafting change to correct the statutory reference in Section 2.*

## CURRENT LAW

G.S. 126-4 outlines the powers and duties of the State Personnel Commission and provides that subject the approval of the Governor, the State Personnel Commission shall establish policies and rules for the items contained in the section.

G.S. 126-3 establishes the Office of State Personnel and outlines responsibilities.

## BILL ANALYSIS:

**Section 1** of House Bill 730 amends G.S. 126-4(10) to provide that subject to the approval of the Governor, the State Personnel Commission shall establish policies and rules governing demonstration projects.

**Section 2** outlines the responsibilities of the Office of State Personnel regarding demonstration projects, however the original bill places this content under G.S 126-4 regarding the duties of the Commission.

*The Proposed Committee Substitute (PCS) makes technical changes to correct the statutory placement of the content in Section 2 of the bill. G.S. 126-3(b) outlines the responsibilities of the Office of State Personnel (OSP) and the content contained in this section of the bill pertains to responsibilities of OSP. As such, Section 2 of the PCS adds a new subdivision to G.S. 126-3(b) to provide that the Office of State Personnel shall be responsible for: "Adopting policies and procedures concerning the conduct of demonstration projects, subject to the approval of the State Personnel Commission."*

**Section 3** adds a new section to Article 1 of Chapter 126 granting to State agencies, departments, institutions, and The University of North Carolina, the flexibility to use any allowable and available funds to operate demonstration projects. The Office of State Budget and Management must concur with the use of funds.

The bill does not define "demonstration projects."

House Bill 730 becomes effective when it becomes law.

H730-SMSH-001

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. PCS

H. B. No. 87

DATE 4-19-05

S. B. No. \_\_\_\_\_

Amendment No. \_\_\_\_\_

COMMITTEE SUBSTITUTE \_\_\_\_\_

(to be filled in by  
Principal Clerk)

Rep. ) Sutton  
Sen. ) \_\_\_\_\_

1 moves to amend the bill on page 1, line 8-9

2 ( ) WHICH CHANGES THE TITLE

3 by deleting the words, "in Pay Grade 64 and under"

4 \_\_\_\_\_

5 \_\_\_\_\_

6 \_\_\_\_\_

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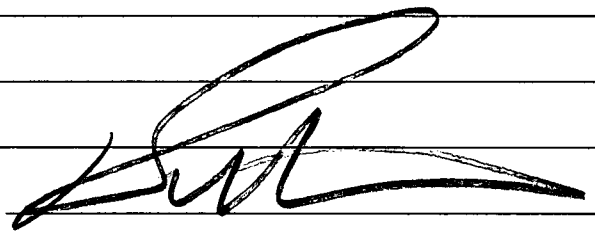
16 \_\_\_\_\_

17 \_\_\_\_\_

18 \_\_\_\_\_

19 \_\_\_\_\_

SIGNED



ADOPTED \_\_\_\_\_ FAILED \_\_\_\_\_ TABLED \_\_\_\_\_

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

H

D

HOUSE BILL 87

PROPOSED COMMITTEE SUBSTITUTE H87-PCS60372-SH-16

Short Title: State Employees/Pay Periods.

(Public)

Sponsors:

Referred to:

February 7, 2005

A BILL TO BE ENTITLED

AN ACT PROVIDING THAT STATE EMPLOYEES IN GRADE SIXTY-FOUR  
AND UNDER SHALL HAVE THE OPTION TO BE PAID SEMIMONTHLY.

The General Assembly of North Carolina enacts:

**SECTION 1.** Article 2 of Chapter 126 of the General Statutes is amended by  
adding a new section to read:

**"§ 126-8.5. Pay periods.**

Notwithstanding any other provision of law, every State employee who is not paid  
more frequently shall have the option to be paid twice per month."

**SECTION 2.** G.S. 126-5 is amended by adding a new subsection to read:

"(c9) G.S. 126-8.5 shall apply to all State employees, including employees in the  
executive, judicial, and legislative branches and employees of The University of North  
Carolina and its constituent institutions."

**SECTION 3.** This act becomes effective July 1, 2009.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

H

1

HOUSE BILL 799

Short Title: Lapsed Salaries/EEO. (Public)

Sponsors: Representatives Adams; B. Allen, Faison, Farmer-Butterfield, Jones, McAllister, Parmon, Wainwright, and Womble.

Referred to: State Personnel.

March 21, 2005

A BILL TO BE ENTITLED  
AN ACT AUTHORIZING THE USE OF LAPSED SALARY FUNDS TO ACHIEVE  
EQUAL EMPLOYMENT OPPORTUNITY AND ENCOURAGE SOUND  
MANAGEMENT PRACTICES.

The General Assembly of North Carolina enacts:

**SECTION 1.** Article 6 of Chapter 126 of the General Statutes is amended by adding a new section to read:

**"§ 126-16.2. Use of certain State funds for equal employment opportunity.**

(a) Notwithstanding G.S. 143-23(a2) or any other provision of law, State agencies, departments, and institutions, and The University of North Carolina may allocate up to ten percent (10%) of lapsed salary funds for bonuses and other career development needs to encourage sound management practices and equal opportunity employment. The Office of State Budget and Management shall authorize use of these funds from the allocation of salaries.

(b) The bonuses authorized by this section shall be used for salary adjustments to reward managers and supervisors who support and exhibit positive government strategic outcomes, including:

- (1) Achieving equal employment opportunity goals.
- (2) Practicing fair and equitable salary administration for all demographic groups.
- (3) Attending annual equal employment opportunity and human resources annual continuing education programs.
- (4) Participating in departmental mentoring programs.
- (5) Implementing career development plans for all employees."

**SECTION 2.** Article 6 of Chapter 126 of the General Statutes is amended by adding a new section to read:

**"§ 126-16.3. Reporting.**

1     State agencies, departments, and institutions and The University of North Carolina  
2     shall report on the utilization of lapsed salary funds in accordance with the provisions of  
3     G.S. 126-16.2 in their respective equal employment opportunity reports to the Office of  
4     State Personnel. The Office of State Personnel shall incorporate the respective reports  
5     into its semiannual report to the Joint Legislative Commission on Governmental  
6     Operations."

7             **SECTION 3.** G.S. 143-23(a2) reads as rewritten:

8             "(a2) Funds appropriated for salaries and wages are also subject to the limitation  
9     that they may only be used for:

- 10            (1) Salaries and wages or for premium pay, overtime pay, longevity,  
11               unemployment compensation, workers' compensation, temporary  
12               wages, moving expenses of employees, payment of accumulated  
13               annual leave, certain awards to employees, tort claims, and employer's  
14               social security, retirement, and hospitalization payments;  
15            (2) Contracted personal services if (i) the contract is for temporary  
16               services or special project services, (ii) the term of the contract does  
17               not extend beyond the fiscal year, (iii) the contract does not impose  
18               obligations on the State after the end of the fiscal year; and (iv) the  
19               total of all overexpenditures for contracted personal services approved  
20               in a program for a fiscal year does not exceed the greater of five  
21               hundred thousand dollars (\$500,000) or ten percent (10%) of the  
22               lapsed salary funds in the program for the fiscal year; and  
23            (3) Uses for which overexpenditures are permitted by subdivision (2) of  
24               subsection (a1) of this section but the Director of the Budget shall  
25               include such use and the reason for it in his quarterly report to the Joint  
26               Legislative Commission on Governmental Operations.

27            Lapsed salary funds shall not be used for new permanent employee positions or to  
28            raise the salary of existing ~~employees-employees~~, except that the funds may be used for  
29            equal employment opportunity purposes as provided by G.S. 126-16.2."

30            **SECTION 4.** This act becomes effective June 30, 2005.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. \_\_\_\_\_

H. B. No. 799

DATE \_\_\_\_\_

S. B. No. \_\_\_\_\_

Amendment No. \_\_\_\_\_

(to be filled in by  
Principal Clerk)

COMMITTEE SUBSTITUTE \_\_\_\_\_

Rep. ) Coleman  
Sen. ) \_\_\_\_\_

1 moves to amend the bill on page 1, line 12

2 ( ) WHICH CHANGES THE TITLE

3 by inserting the following after the word "needs":

4  
5 " as related to achieving the goal of equal employ-  
6 ment opportunity as stated in this section, and "

7 \_\_\_\_\_

8 \_\_\_\_\_

9 \_\_\_\_\_

10 \_\_\_\_\_

11 \_\_\_\_\_

12 \_\_\_\_\_

13 \_\_\_\_\_

14 \_\_\_\_\_

15 \_\_\_\_\_

16 \_\_\_\_\_

17 \_\_\_\_\_

18 \_\_\_\_\_

19 \_\_\_\_\_

SIGNED Linda Coleman

ADOPTED \_\_\_\_\_ FAILED \_\_\_\_\_ TABLED \_\_\_\_\_

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

**2005 COMMITTEE REPORT  
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative B. Allen, Justus (Chairs) for the Committee on STATE PERSONNEL.

---

☐ Committee Substitute for

**HB 87** A BILL TO BE ENTITLED AN ACT PROVIDING THAT STATE EMPLOYEES IN GRADE 64 AND UNDER SHALL HAVE THE OPTION TO BE PAID SEMIMONTHLY.

☒ With a favorable report as to the committee substitute bill, which changes the title, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on APPROPRIATIONS.

**(FOR JOURNAL USE ONLY)**

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\_\_\_\_\_ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on \_\_\_\_\_.

\_\_\_\_\_ Pursuant to Rule 36(b), the (House) committee substitute bill/(joint) resolution (No. \_\_\_\_\_) is placed on the Calendar of \_\_\_\_\_. (The original bill resolution No. \_\_\_\_\_) is placed on the Unfavorable Calendar.

\_\_\_\_\_ The (House) committee substitute bill/(joint) resolution (No. \_\_\_\_\_) is re-referred to the Committee on \_\_\_\_\_. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. \_\_\_\_\_) is placed on the Unfavorable Calendar.

# State Personnel Committee Meeting

April 19, 2005

Minutes

Presiding Co-Chair: Rep. B. Allen

Co-Chair: Rep. Justus

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Meeting was called to order at 12Noon in room 1425 of the Legislative Building.  
Members in attendance: Rep. B. Allen, Rep. Justus, Rep. Walker, Rep. Coleman,  
Rep. Dollar, Rep. Sutton and Rep. West.

Serving as Sergeant-At-Arms: Mrs. Martha Gadison and Mr. Toussaint Avent  
Serving as House Pages: Brandon Broome of Mecklenburg County and Dale Riley of  
Mecklenburg County.

House Bill 730, State Employment Demonstration Projects, sponsored by Rep.  
Crawford was heard first. Motion to view Proposed Committee Substitute.  
The bill authorizes the State Personnel Commission to establish policies and rules for  
demonstration projects, delegates to the Office of State Personnel the authority to  
adopt policies and procedures for the demonstration projects, and grants t agencies,  
departments, institutions and UNC.

Rep. Allen asked for an example of what a demonstration project is like. Gary  
Wiggins of the Office of State Personnel provided an example of test performance for  
pay in which employees who were exceeded expectations were rewarded resulting in  
improve performance.

Susan Beasley of SEAN added that the language of the bill was very broad and  
needed to be made more specific.

HB 730 was put into subcommittee.

Rep. Allen mentioned that HB 751 will also go to subcommittee.

House Bill 87, State Employees/Pay Periods, sponsored by Rep. Miller was discussed  
next. This bill would allow state employees to have the option to be paid twice a  
month if there job was classified in the pay grade 64 or below.

Rep. Coleman asked if this new method of payment would be more expensive.  
Rep. Miller answered yes, the state should wait until the new Human Resource  
system is in place.

Rep. Dollar asked if the pay grade makes a difference.


Rep. Sutton proposed an amendment to make the bi-monthly payday optional for all state employees. The amendment was adopted.

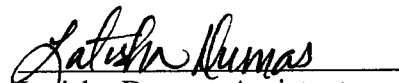
HB 87 received a favorable report as to the committee substitute, unfavorable to the original bill and was re-referred to Appropriations.

House Bill 799, Lapsed Salaries/EEO, sponsored by Rep. Adams was last on the agenda. This bill was requested by the Office of State Personnel, agencies would use 10% of their lapsed salary funds for bonuses-awarding managers for reaching goals. Nelly Riley of OSP explained this would be a helpful incentive for managers to do well, they would attend training annually to receive continued education.

Rep. Sutton had a question and concern about Lines 11&12 “ other career development needs, this is very broad and could entail.

Rep. Dollar motioned to amend the PSC lines 11&12. The amendment was adopted. A vote on HB 799 did not occur. Members will hear this bill at a later date when a fiscal note is available.  
Meeting adjourned.

  
Representative Bernard Allen

  
Latisha Dumas, Assistant

**NORTH CAROLINA HOUSE OF REPRESENTATIVES  
COMMITTEE MEETING NOTICE  
2005-2006 SESSION**

You are hereby notified that the Committee on **STATE PERSONNEL** will meet as follows:

**DAY & DATE:**    **Tuesday, April 26, 2005**

**TIME:**            **12:00 pm**

**LOCATION:**        **1425 LB**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

**HB 714      State Agencies May Withhold Certain Info.  
Rep. Coleman**

**HB 715      Protect State Employees Records.  
Rep. Coleman**

**HB 1022    Fair Pay in State Gov't/Managers Accountable.  
Rep. Ross**

Respectfully,

Representatives B. Allen and Justus  
Co-chairs

I hereby certify this notice was filed by the committee clerk at the following offices at  
**3:00 on April 25, 2005.**

\_\_\_\_Principal Clerk  
\_\_\_\_Reading Clerk - House Chamber

Latisha Dumas (Committee Assistant)

**AGENDA**  
**House State Personnel Committee**

**Tuesday, April 26, 2005**

**12:00 pm**

**Room 1425 LB**

**Chaired by: Rep. Bernard Allen and Rep. Carolyn Justus**

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- 1. Call to Order**
- 2. Introduction of Pages**
- 3. Introduction of Sergeant at Arms**

**Bills:**

- HB 714 State Agencies May Withhold Certain Info.  
Rep. Coleman**
- HB 715 Protect State Employees Records.  
Rep. Coleman**
- HB 1022 Fair Pay in State Gov't/Managers Accountable.  
Rep. Ross**

**Adjournment**

# VISITOR REGISTRATION SHEET

State Personnel  
Name of Committee

4/26/05  
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Artis Watkins	SEANC
Suzanne Beasley	SEANC
Sgt. E. F. F.	SGA Paris
Khaner Walker	Insider
Carl Moden	OSP
Soren Schmidt	NC Justice Center
Gary Wiggins	OSP
Bill Rowe	NC Justice Ctr.
Katherine Joyce	NCASA
John Rusk	NC Family Policy Council
Paige Johnson	Planned Parenthood

House Pages

Name Of Committee: State Personnel Date: 4/24/05

1. Name: Holly Dickens

County: Franklin

Sponsor: Jim Crawford

2. Name: Caithlin Sexton

County: Johnston

Sponsor: Linda Coleman

3. Name: Rooney Wynn

County: Wake

Sponsor: Russell Capps

4. Name: Jackson Blackburn

County: Vance

Sponsor: Jim Crawford

5. Name: \_\_\_\_\_

County: \_\_\_\_\_

Sponsor: \_\_\_\_\_

Sgt-At-Arms

1. Name: JIM WOMACK

2. Name: BILL SULLIVAN

3. Name: \_\_\_\_\_

4. Name: \_\_\_\_\_

5. Name: \_\_\_\_\_

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

H

D

HOUSE BILL 714  
PROPOSED COMMITTEE SUBSTITUTE H714-CSSH-18 [v.1]

4/25/2005 6:43:48 PM

Short Title: State Agencies May Withhold Certain Info.

(Public)

Sponsors:

Referred to:

March 17, 2005

1 A BILL TO BE ENTITLED  
2 AN ACT ALLOWING STATE AGENCIES UNDER CERTAIN CIRCUMSTANCES  
3 TO WITHHOLD INFORMATION THAT WOULD OTHERWISE BE OPEN TO  
4 INSPECTION BY THE PUBLIC.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 126-23 reads as rewritten:

7 "§ 126-23. Certain records to be kept by State agencies open to inspection.

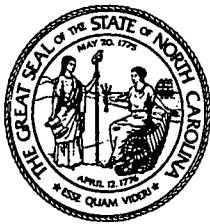
8 (a) Each department, agency, institution, ~~commission~~-commission, university,  
9 and bureau of the State shall maintain a record of each of its employees, showing the  
10 following information with respect to each such employee: name, age, date of original  
11 employment or appointment to the State service, current position, title, current salary,  
12 date and amount of most recent increase or decrease in salary, date of most recent  
13 promotion, demotion, transfer, suspension, separation, or other change in position  
14 classification, and the office or station to which the employee is currently assigned.

15 (b) The head of a State department, agency, institution, commission, university,  
16 or bureau may withhold any information with respect to an employee's individual record  
17 that he or she believes is in the best interests of the health, safety, or security of the  
18 employee or the department. Prior to withholding information under this subsection, the  
19 department head shall prepare a memorandum setting forth the circumstances in which  
20 the department head deems it necessary to withhold such information. The  
21 memorandum shall be retained in the files of said department head and shall be a public  
22 record.

23 (c) ~~Subject-Except as provided by subsection (b) of this section and subject only~~  
24 ~~to rules and regulations for the safekeeping of the records, adopted by the State~~  
25 ~~Personnel Commission, every person having custody of such records shall permit them~~  
26 ~~to be inspected and examined and copies thereof made by any person during regular~~  
27 ~~business hours. Any person who is denied access to any such record for the purpose of~~  
28 ~~inspecting, examining or copying the same shall have a right to compel compliance with~~

1 the provisions of this section by application to a court of competent jurisdiction for a  
2 writ of mandamus or other appropriate relief."

3 **SECTION 2.** This act is effective when it becomes law.



# HOUSE BILL 714: State Agencies May Withhold Certain Info

## BILL ANALYSIS

**Committee:** House State Personnel  
**Introduced by:** Rep. Coleman  
**Version:** First Edition  
H714-CSSH-18

**Date:** April 26, 2005  
**Summary by:** Theresa Matula  
Committee Staff

**SUMMARY:** *The Proposed Committee Substitute (PCS) for House Bill 714 amends G.S. 126-23 to allow the head of a State department, agency, institution, commission, university, and bureau to withhold any information with respect to an employee's individual record that he or she believes is in the best interests of the health, safety, or security of the employee or the department. The PCS also requires the department head to prepare a memorandum setting forth the circumstances in which it is necessary to withhold information and to retain the memorandum, which is a public record, in his or her files.*

## CURRENT LAW:

### Records Open to Inspection

Currently, G.S. 126-23 requires each department, agency, institution, commission and bureau of the State to maintain a record of each of its employees, showing the following information for each employee:

- Name,
- Age,
- Date of original employment/appointment,
- Current position,
- Title,
- Current salary,
- Date and amount of most recent increase/decrease in salary,
- Date of most recent promotion, demotion, transfer, suspension, separation, or other change in position classification, and
- Office or station to which the employee is currently assigned.

These records may be inspected and examined and copies may be made by any person during regular business hours.

### Confidential Information, Access, and Release By Department Head

G.S. 126-24 specifies that all other information contained in a personnel file is confidential and shall not be open for inspection and examination except to the employee, applicant for employment, former employee, or his properly authorized agent; the supervisor of the employee; members of the General Assembly; a party by authority of a proper court order; and an official of an agency of the federal government, State government or any political subdivision.

Additionally, G.S. 126-24 allows a department head to release information or to allow the inspection or examination of files when it is essential to maintaining the integrity of the department or to maintaining the level or quality of services provided. The law provides that the department head may in his discretion, inform any person or corporation of any promotion, demotion, suspension, reinstatement, transfer, separation, dismissal, employment or nonemployment of any applicant, employee or former employee employed by or assigned to his department or whose personnel file is maintained in his department and the reasons therefor and may allow the personnel file of such person or any portion thereof to be inspected and examined by any person or corporation.

# House Bill 714

Page 2

Prior to releasing such information or making a file available, the department head must prepare a memorandum setting forth the circumstances that he/she deems to require such disclosure and the information to be disclosed. The memorandum must be retained in the files of said department head and shall be a public record.

## BILL ANALYSIS:

House Bill 714 amends G.S. 126-23 by adding a new subsection to provide that, "The head of a State department, agency, institution, commission, university, or bureau may withhold any information that he or she believes is in the best interests of the health, safety, or security of the employee or the department."

*The Proposed Committee Substitute (PCS) clarifies the language "any information" in the original bill by specifying on line 16 that the agency head may withhold "any information with respect to an employee's individual record".*

*The PCS also establishes a procedure for withholding information similar to that required under G.S. 126-24 allowing a department head to release information. On lines 18-21, the PCS requires the department head to prepare a memorandum setting forth the circumstances in which the department head deems it necessary to withhold such information and requires the memorandum to be retained in the department head's files and to be a public record.*

G.S. 126-05 specifies employees covered under Article 7, as such, this bill would apply to most officers and employees of the State. This bill would not apply to public school and community college employees.

## EFFECTIVE DATE:

This act is effective when it becomes law.

H0714e1-SMSH-CSSH-18

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

H

D

HOUSE BILL 715

PROPOSED COMMITTEE SUBSTITUTE H715-PCS30271-SH-20

Short Title: Protect State Employee Records.

(Public)

Sponsors:

Referred to:

March 17, 2005

A BILL TO BE ENTITLED

AN ACT AMENDING THE STATE PERSONNEL ACT TO PROTECT THE  
PRIVACY OF CERTAIN PERSONAL AND EMPLOYMENT-RELATED  
INFORMATION PERTAINING TO STATE EMPLOYEES.

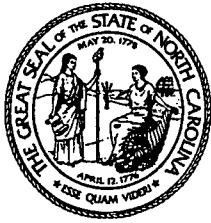
The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 126-22 reads as rewritten:

**"§ 126-22. Personnel files not subject to inspection under § 132-6.**

Personnel files of State employees, former State employees, or applicants for State employment shall not be subject to inspection and examination as authorized by G.S. 132-6. This does not include records open to inspection pursuant to G.S. 126-23 or information released pursuant to G.S. 126-24. For purposes of this Article, a personnel file consists of any employment-related or personal information gathered by the ~~department,~~ department, university, division, bureau, commission, council, or other agency subject to Article 7 of this Chapter which employs an individual, previously employed an individual, or considered an individual's application for employment, or by the ~~office~~ Office of State Personnel, and which information relates to the individual's application, selection or nonselection, promotions, demotions, transfers, leave, salary, benefits, suspension, performance evaluation forms, potential or actual disciplinary actions, and termination of employment wherever located and in whatever form. Personnel files of former State employees who have been separated from State employment for 10 or more years may be open to inspection and examination except for papers and documents relating to demotions and to disciplinary actions resulting in the dismissal of the employee."

**SECTION 2.** This act is effective when it becomes law.



# HOUSE BILL 715: Protect State Employee Records

## BILL ANALYSIS

**Committee:** House State Personnel  
**Introduced by:** Rep. Coleman  
**Version:** First Edition  
H715-CSSH-20

**Date:** April 26, 2005  
**Summary by:** Theresa Matula  
Committee Staff

**SUMMARY:** *House Bill 715 amends G.S. 126-22 pertaining to State employee personnel file information that is not open to inspection under the public records law.*

*The Proposed Committee Substitute adds clarifying language.*

## CURRENT LAW:

### Public Records

G.S. 132-1 defines a public record as all documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data-processing records, artifacts, or other documentary material, regardless of physical form or characteristics, made or received pursuant to law or ordinance in connection with the transaction of public business by any agency of North Carolina government or its subdivisions.

G.S. 132-6 allows any person to inspect and examine public records at reasonable times and under reasonable supervision. Copies shall be furnished as promptly as possible upon the payment of any fees as may be prescribed by law. No person requesting to inspect and examine public records, or obtain copies shall be required to disclose the purpose or motive for the request. Additionally, no request to inspect, examine or obtain copies of public records shall be denied on the grounds that confidential information is commingled with the requested nonconfidential information.

### State Employee Personnel Files

Currently, G.S. 126-22 provides that the personnel files of current and former\* State employees, and applicants for State employment are not subject to inspection and examination under G.S. 132-6. For purposes of Article 7, a personnel file consists of any information gathered by the department, division, bureau, commission, council or other agency that employs, previously employed, or considered an application for an individual and relates to the individual's:

- Application
- Demotions
- Salary
- Disciplinary actions
- Selection or nonselection
- Transfers
- Suspension
- Termination of employment
- Promotions
- Leave
- Performance evaluation forms

\* Personnel files of former State employees who have been separated from State employment for 10 or more years may be open to inspection and examination except for papers and documents relating to demotions and to disciplinary actions resulting in the dismissal of the employee.

Currently, G.S. 126-23 requires each department, agency, institution, commission and bureau of the State to maintain a record of each of its employees, showing the following information for each employee:

- Name,
- Age,
- Date of original employment/appointment,
- Current position,
- Title,
- Current salary,
- Date and amount of most recent increase/decrease in salary,

# House Bill 715

Page 2

- Date of most recent promotion, demotion, transfer, suspension, separation, or other change in position classification, and
- Office or station to which the employee is currently assigned.

These records may be inspected and examined and copies may be made by any person during regular business hours.

## **BILL ANALYSIS:**

G.S. 126-22 defines a personnel file and provides that personnel files of State employees, former State employees, or applicants for State employment are not subject to inspection under the public records law (G.S. 132-6). House Bill 715 amends the definition of a personnel file in Article 7 of Chapter 126, the contents of which are not subject to inspection under the public records law. The bill makes the following changes:

- Specifies that a personnel file consists of any employment-related or personal information;
- Provides that a personnel file includes information that relates to the individual's benefits; and
- Clarifies that disciplinary actions include both potential actions and actual actions.

As such, the bill specifies that a personnel file consists of any "employment-related or personal" information as it relates to an individual's application, selection or nonselection, promotions, demotions, transfers, leave, salary, "benefits," suspension, performance evaluation forms, "potential or actual" disciplinary actions, and termination of employment and is not subject to inspection and examination under G.S. 132-6. Information contained in the file may be gathered by the Office of State Personnel, a department, division, bureau, commission, council, or other agency subject to Article 7 of Chapter 126.

*The Proposed Committee Substitute (PCS) adds the following sentence on page 1, lines 10-11, "This does not include records open to inspection pursuant to G.S. 126-23 or information release pursuant to G.S. 126-24." This new sentence clarifies that employment-related or personal information contained in a personnel file and not subject to inspection under G.S. 132-6, does not include the items that are currently available under G.S. 126-23 or G.S. 126-24. The PCS also adds "university" to the list of State entities on page 1, line 13.*

Since this bill amends the definition of "personnel file" for purposes of Article 7 of Chapter 126, the amended definition will apply to the following sections in Article 7: G.S. 126-22 Personnel files not subject to inspection under G.S. 132-6, G.S. 126-24 Confidential information in personnel files; access to such information, G.S. 126-25 Remedies of employee objecting to material in file, G.S. 126-27 Penalty for permitting access to confidential file by unauthorized person, G.S. 126-28 Penalty for examining, copying, etc., confidential file without authority, and G.S. 126-29 Access to material in file for agency hearing.

G.S. 126-05 outlines those employees that are covered under Article 7, of Chapter 126. As such, this bill would apply to most officers and employees of the State. This bill would not apply to public school and community college employees.

## **EFFECTIVE DATE:**

This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

H

D

HOUSE BILL 1022  
PROPOSED COMMITTEE SUBSTITUTE H1022-CSRO-10 [v.1]

4/26/2005 12:25:18 AM

Short Title: Fair Pay in State Gov't/Managers Accountable.

(Public)

Sponsors:

Referred to:

March 31, 2005

A BILL TO BE ENTITLED  
AN ACT ADDRESSING FAIR PAY IN STATE GOVERNMENT EMPLOYMENT  
BY REQUIRING MANAGEMENT ACCOUNTABILITY FOR PAY-RELATED  
PERSONNEL DECISIONS.

The General Assembly of North Carolina enacts:

**SECTION 1.** Article 2 of Chapter 126 of the General Statutes is amended by  
adding a new section to read:

**"§ 126-7.3. Fair pay; management accountability.**

(a) It is the intent of the General Assembly to address any pay disparities in wages in similar jobs held by State employees. In order to lessen any disparities, decisions regarding salary administration adjustments shall include consideration of wage equity between men and women and employees of different races in similar jobs along with performance, market differences between similar jobs, and availability of funds. If any salary adjustment decision could potentially create a pay inequity, the reasons for granting the adjustment shall be justified in writing. Managers shall document any pay disparities and shall be encouraged to take steps that would lessen disparities.

(b) The head of each State agency, department, and institution and The University of North Carolina shall act in conformity with fair pay laws and policies when making personnel decisions relating to the compensation of State employees. Managers and supervisors shall receive training on fair pay laws and policies and race and gender-related compensation issues. The human resources office shall ensure that management is responsible for adhering to fair pay laws and policies. Managers shall be evaluated based on their compliance with fair pay laws and policies. The failure of management to abide by fair pay laws and policies may result in the reduction of salary reserves allocated by the Office of State Budget and Management.

(c) For the purposes of this section, "similar jobs" are jobs whose composite competencies, training, experience, skill, responsibility, market comparisons, and working conditions are equivalent.

**SECTION 2.** G.S. 126-4 reads as rewritten:

**"§ 126-4. Powers and duties of State Personnel Commission.**

Subject to the approval of the Governor, the State Personnel Commission shall establish policies and rules governing each of the following:

- (1) Position classification plans which shall provide for the classification and reclassification of all positions subject to this Chapter according to the duties and responsibilities of the positions.
- (2) Compensation plans which shall provide for minimum, maximum, and intermediate rates of pay for all employees subject to the provisions of this Chapter.
- (3) For each class of positions, reasonable qualifications as to education, experience, specialized training, licenses, certifications, and other job-related requirements pertinent to the work to be performed.
- (4) Recruitment programs designed to promote public employment, communicate current hiring activities within State government, and attract a sufficient flow of internal and external applicants; and determine the relative fitness of applicants for the respective positions.
- (5) Hours and days of work, holidays, vacation, sick leave, and other matters pertaining to the conditions of employment. The legal public holidays established by the Commission as paid holidays for State employees shall include Martin Luther King, Jr.'s Birthday and Veterans Day. The Commission shall not provide for more than 11 paid holidays per year except that in those years in which Christmas Day falls on a Tuesday, Wednesday, or Thursday, the Commission shall not provide for more than 12 paid holidays.
- (5a) In years in which New Year's Day falls on Saturday, the Commission may designate December 31 of the previous calendar year as the New Year's holiday, provided that the number of holidays for the previous calendar year does not exceed 12 and the number of holidays for the current year does not exceed 10. When New Year's Day falls on either Saturday or Sunday, the constituent institutions of The University of North Carolina that adopt alternative dates to recognize the legal public holidays set forth in subdivision (5) of this section and established by the Commission may designate, in accordance with the rules of the Commission and the requirements of this subdivision, December 31 of the previous calendar year as the New Year's holiday.
- (6) The appointment, promotion, transfer, demotion and suspension of employees.
- (7) Cooperation with the State Board of Education, the Department of Public Instruction, the University of North Carolina, and the Community Colleges of the State and other appropriate resources in

developing programs in, including but not limited to, management and supervisory skills, performance evaluation, specialized employee skills, accident prevention, equal employment opportunity awareness, including gender and race-related compensation issues, and customer service; and to maintain an accredited Certified Public Manager program.

(7a) The separation of employees.

(8) A program of meritorious service awards.

(9) The investigation of complaints and the issuing of such binding corrective orders or such other appropriate action concerning employment, promotion, demotion, transfer, discharge, reinstatement, and any other issue defined as a contested case issue by this Chapter in all cases as the Commission shall find justified.

(10) Programs of employee assistance, productivity incentives, equal opportunity, safety and health as required by Part 1 of Article 63 of Chapter 143 of the General Statutes, and such other programs and procedures as may be necessary to promote efficiency of administration and provide for a fair and modern system of personnel administration. This subdivision may not be construed to authorize the establishment of an incentive pay program.

(11) In cases where the Commission finds discrimination, harassment, or orders reinstatement or back pay whether (i) heard by the Commission or (ii) appealed for limited review after settlement or (iii) resolved at the agency level, the assessment of reasonable attorneys' fees and witnesses' fees against the State agency involved.

(12) Repealed by Session Laws 1987, c. 320, s. 2.

(13) Repealed by Session Laws 1987, c. 320, s. 3.

(14) The implementation of G.S. 126-5(e).

(15) Recognition of State employees, public personnel management, and management excellence.

(16) ~~The implementation of G.S. 126-7.~~ G.S. 126-7 and G.S. 126-7.3.

(17) An alternative dispute resolution procedure.

(18) Delegation of authority for approval of personnel actions through decentralization agreements with the heads of State agencies, departments, and institutions.

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

b. The State Personnel Director shall have the authority to take appropriate corrective actions including adjusting employee

1 salaries and changing employee classifications that are not in  
2 compliance with policy or standards and to suspend  
3 decentralization agreements for agency noncompliance with the  
4 required personnel administration standards.

5 (19) Conduct studies to address any pay disparities for equivalent  
6 jobs in State government, including wage disparities between  
7 men and women, review of the minimum annual salary for State  
8 employees, and review of any other pay disparities in State  
9 government employment resulting from compensation policies,  
10 classification, and job categories.

11 The policies and rules of the Commission shall not limit the power of any elected or  
12 appointed department head, in the department head's discretion and upon the department  
13 head's determination that it is in the best interest of the Department, to transfer, demote,  
14 or separate a State employee who is not a career State employee as defined by this  
15 Chapter."

16 **SECTION 3.** G.S. 126-7(b) reads as rewritten:

17 "(b) To guide the Governor and the General Assembly in making appropriations  
18 to fund the Comprehensive Compensation System, the State Personnel Commission  
19 shall conduct annual compensation surveys. The annual compensation survey shall  
20 include any disparities in various occupational groups and make recommendations to  
21 correct those disparities. The Commission shall present the results of the compensation  
22 survey to the Appropriations Committees of the House and Senate no later than two  
23 weeks after the convening of the legislature in odd years and May 1st of even years."

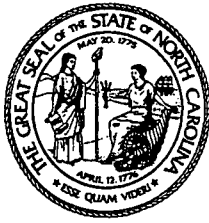
24 **SECTION 4.** G.S. 126-16 reads as rewritten:

25 "**§ 126-16. Equal opportunity for employment and compensation by State**  
26 **departments and agencies and local political subdivisions.**

27 (a) All State departments and agencies and all local political subdivisions of  
28 North Carolina shall give equal opportunity for employment and compensation, without  
29 regard to race, religion, color, creed, national origin, sex, age, or handicapping condition  
30 as defined in G.S. 168A-3 to all persons otherwise qualified, except where specific age,  
31 sex or physical requirements constitute bona fide occupational qualifications necessary  
32 to proper and efficient administration. This section with respect to equal opportunity as  
33 to age shall be limited to individuals who are at least 40 years of age.

34 (b) Each State agency, department, and institution and The University of North  
35 Carolina shall strive for diversity in all occupational categories, take positive  
36 approaches, and implement best personnel practices to ensure equal opportunity,  
37 prevent discrimination, promote fairness, and to support an inclusive environment."

38 **SECTION 5.** This act is effective when it becomes law.



# HOUSE BILL 1022: Fair Pay in State Gov't/Managers Accountable

## BILL ANALYSIS

<b>Committee:</b>	House State Personnel	<b>Date:</b>	April 26, 2005
<b>Introduced by:</b>	Reps. Ross, B.°Allen, Weiss, Coleman	<b>Summary by:</b>	Karen Cochrane-Brown
<b>Version:</b>	First Edition		Committee Counsel

**SUMMARY:** *House Bill 1022 adds a new section to the State Personnel Act which seeks to address pay disparities based on gender and race by making management more accountable for complying with fair pay laws and policies. The bill also authorizes the State Personnel Commission to conduct studies to address any pay disparities for equivalent jobs in State government.*

### CURRENT LAW:

Article 6 of the State Personnel Act sets forth the State's policy with regard to Equal Employment and Compensation Opportunity for public employees. Specifically, G.S. 126-16 provides:

**§ 126-16. Equal opportunity for employment and compensation by State departments and agencies and local political subdivisions.**

All State departments and agencies and all local political subdivisions of North Carolina shall give equal opportunity for employment and compensation, without regard to race, religion, color, creed, national origin, sex, age, or handicapping condition as defined in G.S. 168A-3 to all persons otherwise qualified, except where specific age, sex or physical requirements constitute bona fide occupational qualifications necessary to proper and efficient administration. This section with respect to equal opportunity as to age shall be limited to individuals who are at least 40 years of age.

In addition, G.S. 126-16.1 requires that all agencies of State government provide newly appointed supervisors and managers with training by the Equal Employment Opportunity Institute.

### BILL ANALYSIS:

This bill declares the intent of the General Assembly to address any pay disparities among State employees in similar jobs. The bill directs managers to justify in writing their salary adjustment decisions that could potentially create pay inequity. Managers are also directed to document any pay disparities and are encouraged to take steps to lessen disparities. Agencies are directed to provide managers with training on fair pay laws and policies and gender-related compensation issues. Managers are to be evaluated based on their compliance with the law and policies. The failure of management to abide by the law and policies could result in a reduction of salary reserves allocated by the Office of State Budget and Management.

The State Personnel Commission is given authority to conduct studies to address any pay disparities for equivalent jobs in State government.

### EFFECTIVE DATE:

This act would become effective when it becomes law.

H1022e1-SMRO

**2005 COMMITTEE REPORT  
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative B. Allen, Justus (Chairs) for the Committee on STATE PERSONNEL.

☐ Committee Substitute for

**HB 1022**

A BILL TO BE ENTITLED AN ACT ADDRESSING FAIR PAY IN  
STATE GOVERNMENT EMPLOYMENT BY REQUIRING MANAGEMENT  
ACCOUNTABILITY FOR PAY-RELATED PERSONNEL DECISIONS.

☒ With a favorable report as to the committee substitute bill, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on APPROPRIATIONS.

**(FOR JOURNAL USE ONLY)**

\_\_\_\_\_ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on \_\_\_\_\_.

\_\_\_\_\_ Pursuant to Rule 36(b), the (House) committee substitute bill/(joint) resolution (No. \_\_\_\_\_) is placed on the Calendar of \_\_\_\_\_. (The original bill resolution No. \_\_\_\_\_) is placed on the Unfavorable Calendar.

\_\_\_\_\_ The (House) committee substitute bill/(joint) resolution (No. \_\_\_\_\_) is re-referred to the Committee on \_\_\_\_\_. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. \_\_\_\_\_) is placed on the Unfavorable Calendar.

**2005 COMMITTEE REPORT  
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative B. Allen, Justus (Chairs) for the Committee on STATE PERSONNEL.

☐ Committee Substitute for

**HB 715** A BILL TO BE ENTITLED AN ACT AMENDING THE STATE PERSONNEL ACT TO PROTECT THE PRIVACY OF CERTAIN PERSONAL AND EMPLOYMENT-RELATED INFORMATION PERTAINING TO STATE EMPLOYEES.

☒ With a favorable report as to the committee substitute bill, unfavorable as to the original bill.

**(FOR JOURNAL USE ONLY)**

---

\_\_\_\_\_ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on \_\_\_\_\_.

\_\_\_\_\_ Pursuant to Rule 36(b), the (House) committee substitute bill/(joint) resolution (No. \_\_\_\_\_) is placed on the Calendar of \_\_\_\_\_. (The original bill resolution No. \_\_\_\_\_) is placed on the Unfavorable Calendar.

\_\_\_\_\_ The (House) committee substitute bill/(joint) resolution (No. \_\_\_\_\_) is re-referred to the Committee on \_\_\_\_\_. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. \_\_\_\_\_) is placed on the Unfavorable Calendar.

**2005 COMMITTEE REPORT  
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative B. Allen, Justus (Chairs) for the Committee on STATE PERSONNEL.

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☐ Committee Substitute for

**HB 714** A BILL TO BE ENTITLED AN ACT ALLOWING STATE AGENCIES  
UNDER CERTAIN CIRCUMSTANCES TO WITHHOLD INFORMATION THAT WOULD  
OTHERWISE BE OPEN TO INSPECTION BY THE PUBLIC.

☒ With a favorable report as to the committee substitute bill, unfavorable as to the original bill.

**(FOR JOURNAL USE ONLY)**

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\_\_\_\_\_ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on  
\_\_\_\_\_.

\_\_\_\_\_ Pursuant to Rule 36(b), the (House) committee substitute bill/(joint) resolution  
(No. \_\_\_\_\_) is placed on the Calendar of \_\_\_\_\_. (The original bill resolution No. \_\_\_\_\_) is placed  
on the Unfavorable Calendar.

\_\_\_\_\_ The (House) committee substitute bill/(joint) resolution (No. \_\_\_\_\_) is re-referred to the  
Committee on \_\_\_\_\_. (The original bill/resolution) (House/Senate Committee Substitute  
Bill/(Joint) resolution No. \_\_\_\_\_) is placed on the Unfavorable Calendar.

# STATE PERSONNEL COMMITTEE MEETING

April 26, 2005

## Minutes

Presiding Co-Chair: Rep. B. Allen

Co-Chair: Rep. Justus

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Meeting called to order at 12 Noon in Room 1425 of the Legislative Building.  
Members in attendance for the meeting: Rep. B. Allen, Rep. Church, Rep. Walker, Rep. Coleman, Rep. Dollar, Rep. Farmer-Butterfield, Rep. Sutton, Rep. West.

Serving as Sergeant-At-Arms for the meeting: Mr. Jim Womack and Mr. Bill Sullivan  
Serving as staff: Mrs. Theresa Matula and Mrs. Karen Cochrane-Brown.

Serving as House Pages for the meeting: Ms. Holly Dickens of Franklin County, Ms. Caitlin Sexton of Johnston County, Ms. Rooney Wynn of Wake County and Mr. Jackson Blackburn of Vance County.

House Bill 714, Sponsored by Rep. Linda Coleman, Short Title: State Agencies May Withhold Certain Info. was heard first. Rep. Coleman motioned that the Proposed Committee Substitute be used.

Staff member Theresa Matula gave a brief overview and analysis of the HB 714, which allows the head of a State department, agency, institution, commission, university and bureau to withhold any information with respect to an employee's individual record that he or she believes is in the best interests of the health, safety, or security of the employee of the department.

Rep. Sutton raised the concern that line 18 ... "or the department" is too broad gives State departments the right to withhold information as well. Rep. Sutton moved that the PCS be amended to remove the words, "of the department." The amendment was adopted.

Rep. Dollar raised the question that line 17 should also include the word, "physical" as it regards to health.

Rep. Sutton motioned that the bill receive a favorable report as to the committee substitute, unfavorable to the original bill. Motion was carried.

House Bill 715, sponsored by Rep. Linda Coleman, Short Titled: Protect State Employees Records was second on the agenda. Rep. Coleman moved that the Proposed Committee Substitute be brought before the committee.

Theresa Matula explained the HB 715. This bill amends G.S. 126-22 pertaining to state employee personnel file information that is not open to inspection under the public records law.

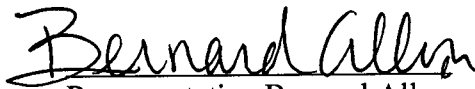
With no amendments or opposition from the public HB 715 was given a favorable report to the committee substitute, unfavorable to the original bill.

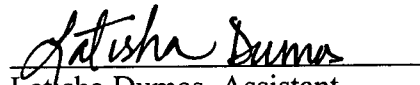
House Bill 1022, Sponsored and explained by Rep. Ross. This bill adds a new section to the State Personnel Act which seeks to address pay disparities based on gender and race by making management more accountable for complying with fair pay laws and policies. The bill also authorizes State Personnel Commission to conduct studies to address any pay disparities for equivalent jobs in State government.

Rep. Ross explained the bill derived from two Office of State Personnel Studies, one on Race the other on Gender. Rep. Ross introduced an amendment for page 2, subsection c, that was adopted.

Rep. Farmer-Butterfield motioned to give HB 1022 a favorable report to the committee substitute bill, unfavorable to the original and re-referred the bill to Appropriations-the motioned carried.

Meeting was adjourned.

  
Representative Bernard Allen

  
Latisha Dumas, Assistant

# NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. PCS

H. B. No. 452

DATE May 3, 2005

S. B. No. \_\_\_\_\_

Amendment No. \_\_\_\_\_

(to be filled in by  
Principal Clerk)

COMMITTEE SUBSTITUTE ☒

Rep. ) Dollar  
Sen. ) \_\_\_\_\_

1 moves to amend the <sup>PCS</sup> ~~bill~~ on page 1, line 13

2 ( ) WHICH CHANGES THE TITLE

3 by adding the following ~~text~~ at the end of the line:  
4 ~~text~~ "The implementation of this section  
5 ~~provision~~ shall not adversely impact  
6 mandatory and essential operations of  
7 the State."

8 \_\_\_\_\_

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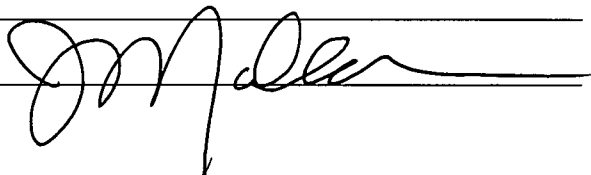
15 \_\_\_\_\_

16 \_\_\_\_\_

17 \_\_\_\_\_

18 \_\_\_\_\_

19 \_\_\_\_\_

SIGNED 

ADOPTED \_\_\_\_\_ FAILED \_\_\_\_\_ TABLED \_\_\_\_\_

HOUSE STATE PERSONNEL COMMITTEE  
MINUTES

Tuesday, May 03, 2005

Chaired by: Rep. Bernard Allen and Rep. Carolyn Justus

Representative Carolyn Justus, Co-Chair, called the meeting to order and introduced the pages: Brother and sister, Lynette Tilgo Stockman and Bernard Junco Stockman, of Mecklenburg County, sponsored by Speaker Black. The Sergeants at Arms for today's meeting were James Womack and James Morgan. Chairman Justus thanked them for being present.

Since Representative Ross was not present to speak on her bill, HB 928 – State Government Fair Wage Funds/Study Fair Pay, the committee passed on to the next agenda item – HB 452 – State Employees Adverse Weather Leave, sponsored by Rep. Miller. PCS adopted.

Representative Miller explained the origin of his adverse weather bill – a constituent's problem with make-up days. The allowance of two inclement days each year - only if the Governor declares an emergency in your area – would provide coverage for an employee instead of having to use his sick or vacation day entitlement. Questions were requested. Rep. Linda Coleman asked about employees working in one area and living in another. This could become an expanded problem. Rep. Miller explained again that the only time that this bill would be in effect is when the Governor declared an emergency in the area. A member of the State Personnel Office gave a briefing on the State's emergency procedure – in general, all offices are open unless the Governor declares the emergency. Warnings from the State Police or County Managers to stay off the roads do not allow the use of adverse weather days. Employees have the leeway to make up their time so they will get paid – or to use either sick or vacation days.

A member of the State Police spoke of the effects on people's safety if they were to keep off the roads as requested. He felt it was a good bill for the Department and would aid them in public safety during emergency conditions. Rep. Allen said he felt this was a good bill also. State employees have not had much in the way of raises in late years and this was one small way in which they could be rewarded –another way to say we do care about them. He mentioned the absolute gridlock that occurred in Raleigh last winter and gave his strong support to the bill.

Discussion was held on the legislation's possible effects on personnel working in prisons, 911 staffing, and other continuous shift jobs. If these employees decided to use the two days provided in the bill, serious consequences could result. Suggestions were received for an amendment to cover this possibility. The bill was given an unfavorable report until an amendment could be authored and approved.

House bill 703 on the agenda for today has been dropped from the calendar.

The next agenda item, House Bill 716 – Mediate State Employees Grievance/Time Frame – sponsored by Representative Coleman. A representative of State Personnel Office explained that the Grievance Procedure available to state employees is a very costly and time-consuming procedure in State Government. The procedure uses a very large amount of the employee's time and the time of the examiners and others involved in the procedure. It also uses a huge amount of time in the Office of Administrative Hearings where the contested cases go and many times there is a huge backlog. This bill addresses both the time and the backlog situation by setting time limits on hearings and rendering of decisions for contested cases. The present laws required the aggrieved employee to go directly to the supervisor where the problem existed in the first place. This bill's proposed legislation of appointing a mediator at the beginning should allow a win/win opportunity and allow a more amicable solution to contested grievances. The Office of Administrative Hearings would be comfortable with this legislation.

Discussion was held on the location of mediation meetings in Raleigh versus hearings in the employees' county of residence and also the misgivings expressed by Rep. Allen on allowing the mediator to be a person who also is employed by the State. In his experience, this could cause some concerns on future lawsuits and the mediator should also have training in this type of process. Representative Coleman explained that she realized employment in the same agency would cause problems and had put in the independent third party clause. She also said there were over 100 trained mediators in the State's service. The concern over using independent mediators was that there would be a substantial charge (\$100 day). The concern also extended to the fact that the independent mediators would not have the background to understand and therefore would make the mediation a more lengthy and costly experience. Rep. Allen again reiterated his concern about using mediators in the employ of the State. He cited an example in Durham in the latest newspaper in which the courts had awarded a large settlement in a dispute by an employee of the Durham Housing Authority. This case had been mediated and settled some time ago and was again brought to the court system.

Discussion followed on the process of mediation versus arbitration. Mediators do not make decisions. Their job is to just keep the aggrieved parties talking to get to an amicable agreement. The mediator makes no legal decisions, in fact, no decisions and takes no sides in the mediation process. If agreement is not reached, the next step is arbitration.

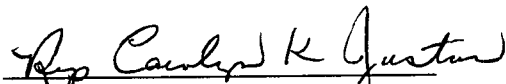
Rep. Sutton submitted an amendment to the bill, Page 2, Line 3, to read "in the county where the petitioner resides". This amendment passed. Another amendment was suggested to clarify appointment of a mediator "who is not employed by the State of North Carolina". Both parties would need to agree on a person from the database listing of trained mediators. It was felt there was still no guarantee of impartiality in performing the arbitration as an outside person might still have a personal interest in the outcome.

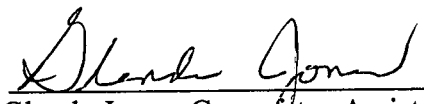
Discussion was held on the source of funds to pay outside trained mediators. Rep. Allen felt it would come from the department where the grievance began. He reiterated his previous stance on use of State employed trained mediators and a suggestion was made to

appoint a sub-committee to study the problem. The Chairman agreed with this suggestion.

Chairman Justus announced the committee would get back to Rep. Miller's bill, HB 452 – State Employees Adverse Weather Leave. Rep. Dollar had presented an amendment on Page 1, Line 13 by adding the following – “The implementation of this section shall not adversely impact mandatory and essential operations of the State”. After much further discussion, consensus could not be obtained and the bill was carried forward to another committee meeting with an unfavorable report.

The meeting adjourned at 1:00 p.m.

  
Representative Carolyn K. Justus

  
Glenda Jones, Committee Assistant

**NORTH CAROLINA HOUSE OF REPRESENTATIVES  
COMMITTEE MEETING NOTICE  
2005-2006 SESSION**

You are hereby notified that the Committee on **STATE PERSONNEL** will meet as follows:

**DAY & DATE:**    **Tuesday, May 3, 2005**

**TIME:**            **12:00 pm**

**LOCATION:**       **1425 LB**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

**HB 452      State Employees Adverse Weather Leave.  
Rep. Miller**

**HB 703      Severance Pay Changes.  
Rep. Crawford**

**HB 716      Mediate State Employees Grievance/Time Frame.  
Rep. Coleman**

**HB 928      State Gov't Fair Wage Funds/Study Fair Pay.  
Rep. Ross; Rep. Earle; Rep. Alexander; Rep. Weiss**

Respectfully,

Representatives B. Allen and Justus  
Co-chairs

I hereby certify this notice was filed by the committee clerk at the following offices at  
**12:00 on April 28, 2005.**

\_\_\_\_Principal Clerk  
\_\_\_\_Reading Clerk - House Chamber

Latisha Dumas (Committee Assistant)

**AGENDA**  
***House State Personnel Committee***

**Tuesday, May 3, 2005**

**12:00 pm**

**Room 1425 LB**

**Chaired by: Rep. Bernard Allen and Rep. Carolyn Justus**

---

- 1. Call to Order**
- 2. Introduction of Pages**
- 3. Introduction of Sergeant at Arms**

**Bills:**

- HB 452    State Employees Adverse Weather Leave.  
Rep. Miller**
- HB 703    Severance Pay Changes.  
Rep. Crawford**
- HB 716    Mediate State Employees Grievance/Time Frame.  
Rep. Coleman**
- HB 928    State Gov't Fair Wage Funds/Study Fair Pay.  
Rep. Ross, Rep. Earle, Rep. Alexander, Rep. Weiss**

**Adjournment**

# VISITOR REGISTRATION SHEET

STATE PERSONNEL

Name of Committee

5/03/05

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Jessica Sage	NCFPC
Arlene McKay	BPW/NC
Nellie Riley	OSP
Carl Goodwin	OSP
Thom Wright	OSP
Suzanne Beasley	SEANK
Ardis Watkins	SEANK
Jan F. J.	
Paula A. Wolf	
Bill Rothe	NC Justice Center
Hilary Ashur	NCASA

House Pages

STATE

Name Of Committee: PERSONNEL Date: 5/3/05

1. Name: Leonette King - Stockton  
County: Mecklenburg  
Sponsor: Speaker Black
2. Name: Leonard King - Stockton  
County: Mecklenburg  
Sponsor: Speaker Black
3. Name: \_\_\_\_\_  
County: \_\_\_\_\_  
Sponsor: \_\_\_\_\_
4. Name: \_\_\_\_\_  
County: \_\_\_\_\_  
Sponsor: \_\_\_\_\_
5. Name: \_\_\_\_\_  
County: \_\_\_\_\_  
Sponsor: \_\_\_\_\_

Sgt-At-Arms

1. Name: JAMES WOMACK
2. Name: JAMES WORTH
3. Name: \_\_\_\_\_
4. Name: \_\_\_\_\_
5. Name: \_\_\_\_\_

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

H

D

HOUSE BILL 452

PROPOSED COMMITTEE SUBSTITUTE H452-CSSH-21 [v.4]

5/2/2005 7:22:31 PM

Short Title: State Employee Adverse Weather Leave.

(Public)

Sponsors:

Referred to:

March 3, 2005

1 A BILL TO BE ENTITLED  
2 AN ACT PROVIDING TWO DAYS OF ADVERSE WEATHER LEAVE TO STATE  
3 EMPLOYEES UNDER CERTAIN CIRCUMSTANCES.

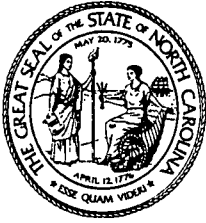
4 The General Assembly of North Carolina enacts:

5 SECTION 1. Article 2 of Chapter 126 of the General Statutes is amended by  
6 adding a new section to read:

7 "§ 126-8.5. Adverse weather leave.

8 Each full-time State employee may be granted up to two days of paid adverse  
9 weather leave, per calendar year, which may be used when the Governor declares that  
10 an emergency weather condition, in the part of the State where the employee lives or  
11 works, has rendered travel unsafe. Unused leave will expire at the end of the calendar  
12 year. Adverse weather leave does not accrue and may not be shared or transferred, nor  
13 may the days be paid out when the employee separates from employment."

14 SECTION 2. This act becomes effective July 1, 2005.



# HOUSE BILL 452: State Employee Adverse Weather Leave

## BILL ANALYSIS

**Committee:** House State Personnel  
**Introduced by:** Rep. Miller  
**Version:** PCS to First Edition  
H452-CSSH-21

**Date:** May 3, 2005  
**Summary by:** Theresa Matula  
Committee Staff

**SUMMARY:** *House Bill 452 amends the State Personnel Act to grant State employees two days of adverse weather leave.*

*The Proposed Committee Substitute makes clarifying changes.*

### CURRENT LAW/POLICY:

G.S. 126-4(5) grants the State Personnel Commission the authority to determine hours and days of work, holidays, vacation, sick leave, and other matters pertaining to the conditions of employment. The State Personnel Commission has adopted a policy on Adverse Weather and Emergency Closings. The stated purpose of the policy is to establish guidelines for accounting for time or releasing employees from work when: adverse weather or other conditions of a serious nature prohibit some employees from reporting to work but do not necessitate the closing of state office or facilities, or emergency conditions necessitate the closing of state offices or curtailing of operations.

**Offices Open During Adverse Weather or Other Conditions of a Serious Nature** – Under the policy, adverse weather or other conditions may prohibit some employees from reporting to work but do not necessitate the closing of facilities or curtailing of operations. The policy specifies that it is the responsibility of employees to make a good faith effort to come to work during times that adverse weather or other conditions of a serious nature exist. However, employees not working in mandatory/essential operations and who anticipate problems in transportation are allowed to avail themselves of leave privileges when encountering difficulty in reporting for work or when leaving early. To cover such absences, employees who have not been designated as emergency, may elect to:

- Use vacation leave
- Use compensatory leave
- Make up the time in accordance with make-up provisions provided in the policy
- Use bonus leave
- Take leave without pay, or

Time taken under the make-up provisions of the policy must be made up within 12 months from the occurrence of the absence. The policy outlines the provisions for making up time taken under this policy for employees that are not exempt from the Fair Labor Standards Act (FLSA) and those that are exempt.

**Emergency Closings** – The policy provides that State government offices/universities and facilities are OPEN, unless a specific decision has been made by the appropriate official to close such offices because of emergency conditions.

**Mandatory/Essential Operations** – The policy states that agency heads shall predetermine and designate the mandatory/essential operations that will remain open and designate the emergency employees to staff these operations. Agencies are required to develop written procedures consistent with the policy. An emergency employee's failure to report to work can result in disciplinary action and/or requiring the hours missed to be charged to leave with or without pay. When a state facility is closed or operations curtailed, those employees required to work during the emergency must be granted time off on an hour for hour basis for all hours worked which must be used within 12 months of its being awarded. The policy also specifies conditions for overtime pay.

# **House Bill 452**

*Page 2*

## **BILL ANALYSIS:**

The Proposed Committee Substitute (PCS) for House Bill 452 grants each full-time State employee up to two (2) days of paid adverse weather leave to be used when the Governor declares that an emergency weather condition, in the part of the State where the employee lives or works, has rendered travel unsafe. The leave is granted per calendar year and will expire at the end of the calendar year. Under this bill, adverse weather leave does not accrue and may not be shared or transferred, nor may the days be paid out when the employee separates from employment

## **EFFECTIVE DATE:**

This act becomes effective July 1, 2005.

*H0452e1-SMSH-CSSH-21*

# GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2005

## Legislative Fiscal Note

**BILL NUMBER:** House Bill 452 (First Edition)

**SHORT TITLE:** State Employee Adverse Weather Leave.

**SPONSOR(S):** Representative Miller

### FISCAL IMPACT

	Yes ( )	No ( )	No Estimate Available (X)		
	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>
<b>REVENUES:</b>	n/a	n/a	n/a	n/a	n/a

**EXPENDITURES:** No Estimate Available

**POSITIONS**  
(cumulative):

**PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:** State departments, agencies, institutions, and Universities who employ individuals subject to the State Personnel Act.

**EFFECTIVE DATE:** July 1, 2005

### BILL SUMMARY:

Provides each full-time State employee up to two days of paid adverse weather leave to be used only when the Governor declares inclement weather conditions have rendered travel within part or all of the State unsafe. Unused adverse weather leave may not be shared or transferred nor paid out upon a termination of employment.

### ASSUMPTIONS AND METHODOLOGY:

No fiscal estimate is available because there is no data available regarding past State declared adverse weather events. The Governor's Office does not maintain records of instances where the Governor has declared travel within part or all of the State unsafe. Likewise, the Office of State Personnel does not maintain records of when the Adverse Weather and Emergency Closings Policy has been in effect. We, thus, have no basis to determine a fiscal impact.

The State's current Adverse Weather and Emergency Closings Policy permits an employee to use vacation leave, bonus leave, compensatory leave, take leave without pay, or to make up time whenever adverse weather or other conditions of a serious nature causes an employee absence. Given current policy, the fiscal impact may be limited only to situations whereby an employee would choose to take a leave without pay as opposed to signing leave or electing to make up the lost time.

The most probable impact of this legislation could be lost productivity as employees would have up to two additional leave days to use for an adverse weather event. Employees, who would otherwise have exhausted leave under the current Adverse Weather and Emergency Closings Policy, would have up to two additional leave days to use at a later time (by not having to exhaust their vacation, bonus, or compensatory leave). Likewise, employees, who would have otherwise made up time under current policy, would choose to use the adverse weather days instead.

**SOURCES OF DATA:** The Office of State Personnel, The Governor's Office, The State Personnel Manual, and Crime Control and Public Safety's web site

**TECHNICAL CONSIDERATIONS:**

The language of the Bill is unclear as to whether the adverse weather leave is a one-time grant of two days or a grant of two days each year. Likewise, the language does not specify whether the adverse weather leave may be carried over from year to year or whether the adverse weather leave expires at the end of each year, if unused.

The Bill does specify that "...adverse weather leave may only be taken when the Governor declares that inclement weather conditions have rendered travel within part or all of the State unsafe..." This language, however, does not clearly state whether the use of adverse weather leave is limited to the declaration of unsafe travel within the specific geographic areas in which an employee resides and/or works.

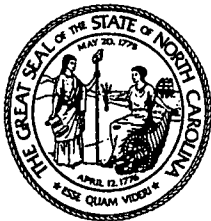
Lastly, the Bill makes no provisions as to how the adverse weather leave may apply to essential State personnel.

**FISCAL RESEARCH DIVISION: (919) 733-4910**

**PREPARED BY:** Marshall Barnes

**APPROVED BY:** James D. Johnson, Director  
Fiscal Research Division

**DATE:** May 2, 2005



## BILL ANALYSIS

# HOUSE BILL 703: Severance Pay Changes

# DRAFT

**Committee:** House State Personnel  
**Introduced by:** Rep. Crawford  
**Version:** First Edition

**Date:** May 3, 2005  
**Summary by:** Theresa Matula  
Committee Staff

**SUMMARY:** *House Bill 703 amends reduction in force priority consideration provisions for State employees.*

### CURRENT LAW:

**Reduction in Force Notification** - G.S. 126-7.1 (a1) requires that State employees to be affected by a reduction in force shall be notified of the reduction in force as soon as practicable, and in any event, no less than 30 days prior to the effective date of the reduction in force. This subsection was added by S.L. 1995-507, Section 7.20.

**Discontinued Service Retirement/Severance/Reemployment** - G.S. 143-27.2(a) provides that when the Director of the Budget determines that the closing of a State institution or a reduction in force will accomplish economies in the State budget, he shall pay either a discontinued service retirement allowance or severance wages to any affected State employee, provided reemployment is not available. This provision also specifies severance wages are paid according to the policies adopted by the State Personnel Commission.

**Salary Rates for State Employees Reduced in Force** - G.S. 126-7.1(a2) requires the State Personnel Commission to adopt rules providing priority consideration for State employees separated from State employment as a result of reduction in force enabling a State employee to return to career service at a salary rate equal to that held in the most recent position. The law requires the Commission's policy to provide that a State employee who (1) accepts a position at the same salary grade shall be paid at the same salary rate as the employee's previous position; (2) accepts a position at a lower salary grade than the employee's previous position shall be paid at the same rate as the previous position unless the salary rate exceeds the maximum of the new salary grade, in which case the new salary rate would be reduced to the maximum of the new salary grade. This subsection was added to G.S. 126-7.1 by S.L. 1995-507, Section 7.20.

**Degree/Length of Priority Consideration** - G.S. 126-7.1(c1) gives State employees priority consideration for a period of 12 months when the individual applies for another position of State employment equal to or lower in salary grade than the position held by the employee at the time of notification or separation; and is qualified for that position. Under the provision, the employee will receive equal consideration with other applicants who are current State employees not affected by the reduction in force, but priority consideration over all other applicants. The priority consideration is in effect when the employee has been separated or given notice of imminent separation due to reduction in force. This subsection was added by S.L. 1991-474 (HB 942), which provided priority consideration to State employees who receive reduction in force notification. S.L. 1995-507, Section 7.20, expanded the reduction-in-force priority to "all State agencies" and over "all" other applicants.

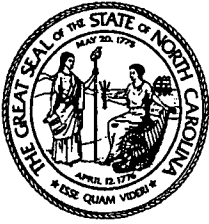
### BILL ANALYSIS:

House Bill 703 removes G.S. 126-7.1(a2), regarding the salary rate for State employees separated as a result of reduction in force (see above for more complete description of subsection). The bill also removes G.S. 126-7.1(c1) regarding the degree and length of priority consideration (see above for more complete description).

The bill adds a new subsection providing that employees with career status who are separated through reduction in force shall be eligible for severance pay based on rules adopted by the State Personnel Commission.

This act is effective when it becomes law.

H0703e1-SMSH



## BILL ANALYSIS

# HOUSE BILL 716: Mediate State Employee Grievance/Time Frame

**Committee:** House State Personnel  
**Introduced by:** Rep. Coleman  
**Version:** PCS to First Edition  
H716-CSRO-16

**Date:** May 2, 2005  
**Summary by:** Karen Cochrane-Brown  
Committee Counsel

**SUMMARY:** *House Bill 716 amends the State Personnel Act relating to the grievance process for state employees. The bill provides that the internal grievance procedure must include mediation as the first step of the process. The Proposed Committee Substitute adds a provision that an independent third party who is not employed by the same agency as the grieving employee must conduct the mediation.*

*The bill also adds a requirement that the Office of Administrative Hearings must decide employee grievance cases within 210 days or the employee will be authorized to take the case to Wake County Superior Court for a hearing.*

## CURRENT LAW:

Under current law, a career State employee who is subject to the State Personnel Act and who has a grievance involving his/her employment must first discuss the matter with his/her supervisor and then follow the agency's internal procedures. If the grievance alleges discrimination based on age, sex, race, color, national origin, religion, creed, handicapping condition, or political affiliation, the employee must submit a complaint to the employee's agency. The agency must respond within 60 days. If the employee is still not satisfied, the employee may appeal directly to the State Personnel Commission.

If the grievance involves any of the personnel actions set forth in G.S. 126-34.1, (copy attached) the employee may file a contested case with the Office of Administrative Hearings. In a contested case, an Administrative Law Judge (ALJ) hears the case and makes a decision based on the record. The case then goes to the State Personnel Commission for a final decision. The State Personnel Commission may only change the ALJ's decision if it finds a preponderance of evidence in the record to support the change.

## BILL ANALYSIS:

This bill amends the law to require agencies to include mediation as the first step of the internal process for responding to an employee grievance. It also requires that the mediation be conducted by an independent third-party who is not employed by the same agency as the grieving employee.

The bill also adds a requirement that employee grievance contested cases must be decided by the Office of Administrative Hearings within 210 days from the date the case is filed. If the case is not decided within 210 days the employee will have the right to file a petition in Wake County Superior Court for a new hearing.

**EFFECTIVE DATE:** This act would become effective when it becomes law and applies to grievances filed on or after that date

# House Bill 716

Page 2

## § 126-34.1. Grounds for contested case under the State Personnel Act defined.

(a) A State employee or former State employee may file in the Office of Administrative Hearings a contested case under Article 3 of Chapter 150B of the General Statutes only as to the following personnel actions or issues:

- (1) Dismissal, demotion, or suspension without pay based upon an alleged violation of G.S. 126-35, if the employee is a career State employee.
- (2) An alleged unlawful State employment practice constituting discrimination, as proscribed by G.S. 126-36, including:
  - a. Denial of promotion, transfer, or training, on account of the employee's age, sex, race, color, national origin, religion, creed, political affiliation, or handicapping condition as defined by Chapter 168A of the General Statutes.
  - b. Demotion, reduction in force, or termination of an employee in retaliation for the employee's opposition to alleged discrimination on account of the employee's age, sex, race, color, national origin, religion, creed, political affiliation, or handicapping condition as defined by Chapter 168A of the General Statutes.
- (3) Retaliation against an employee, as proscribed by G.S. 126-17, for protesting an alleged violation of G.S. 126-16.
- (4) Denial of the veteran's preference granted in accordance with Article 13 of this Chapter in initial State employment or in connection with a reduction in force, for an eligible veteran as defined by G.S. 126-81.
- (5) Denial of promotion for failure to post or failure to give priority consideration for promotion or reemployment, to a career State employee as required by G.S. 126-7.1 and G.S. 126-36.2.
- (6) Denial of an employee's request for removal of allegedly inaccurate or misleading information from the employee's personnel file as provided by G.S. 126-25.
- (7) Any retaliatory personnel action that violates G.S. 126-85.
- (8) Denial of promotion in violation of G.S. 126-14.2, where an initial determination found probable cause to believe there has been a violation of G.S. 126-14.2.
- (9) Denial of employment in violation of G.S. 126-14.2, where an initial determination found probable cause to believe that there has been a violation of G.S. 126-14.2.
- (10) Harassment in the workplace based upon age, sex, race, color, national origin, religion, creed, or handicapping condition, whether the harassment is based upon the creation of a hostile work environment or upon a quid pro quo.
- (11) Violation of any of the following federal statutes as applied to the employee:
  - a. The Fair Labor Standards Act, 29 U.S.C. § 201, et seq.
  - b. The Age Discrimination in Employment Act, 29 U.S.C. § 621, et seq.
  - c. The Family Medical Leave Act, 29 U.S.C. § 2601, et seq.
  - d. The Americans with Disabilities Act, 42 U.S.C. § 12101, et seq.

# House Bill 716

Page 3

(b) An applicant for initial State employment may file in the Office of Administrative Hearings a contested case under Article 3 of Chapter 150B of the General Statutes based upon:

- (1) Alleged denial of employment in violation of G.S. 126-16.
- (2) Denial of the applicant's request for removal of allegedly inaccurate or misleading information from the personnel file as provided by G.S. 126-25.
- (3) Denial of equal opportunity for employment and compensation on account of the employee's age, sex, race, color, national origin, religion, creed, political affiliation, or handicapping condition as defined by Chapter 168A of the General Statutes. This subsection with respect to equal opportunity as to age shall be limited to persons who are at least 40 years of age. An applicant may not, however, file a contested case where political affiliation was the reason for the person's nonselection for (i) an exempt policymaking position as defined in G.S. 126-5(b)(3), (ii) a chief deputy or chief administrative assistant position under G.S. 126-5(c)(4), or (iii) a confidential assistant or confidential secretary position under G.S. 126-5(c)(2).
- (4) Denial of the veteran's preference in initial State employment provided by Article 13 of this Chapter, for an eligible veteran as defined by G.S. 126-81.
- (5) Denial of employment in violation of G.S. 126-14.2, where an initial determination found probable cause to believe that there has been a violation of G.S. 126-14.2.

(c) In the case of a dispute as to whether a State employee's position is properly exempted from the State Personnel Act under G.S. 126-5, the employee may file in the Office of Administrative Hearings a contested case under Article 3 of Chapter 150B of the General Statutes.

(d) A State employee or applicant for State employment may file in the Office of Administrative Hearings a contested case under Article 3 of Chapter 150B of the General Statutes based upon a false accusation regarding, or disciplinary action relating to, the employee's alleged violation of G.S. 126-14 or G.S. 126-14.1.

(e) Any issue for which appeal to the State Personnel Commission through the filing of a contested case under Article 3 of Chapter 150B of the General Statutes has not been specifically authorized by this section shall not be grounds for a contested case under Chapter 126.

H0716e1-SMRO-CSRO-16

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. \_\_\_\_\_

H. B. No. 716

DATE \_\_\_\_\_

S. B. No. \_\_\_\_\_

Amendment No. \_\_\_\_\_

COMMITTEE SUBSTITUTE ☒

(to be filled in by  
Principal Clerk)

Rep. ) Colman Sutton  
Sen. ) \_\_\_\_\_

1 moves to amend the bill on page 2, line 3

2 ( ) WHICH CHANGES THE TITLE

3 by rewriting the line to read

4 \_\_\_\_\_

5 "in the county where the petitioner resides for

6 a hearing de novo."

7 \_\_\_\_\_

8 \_\_\_\_\_

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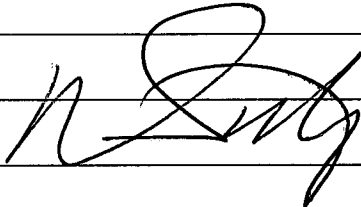
15 \_\_\_\_\_

16 \_\_\_\_\_

17 \_\_\_\_\_

18 \_\_\_\_\_

19 \_\_\_\_\_

SIGNED 

ADOPTED \_\_\_\_\_ FAILED \_\_\_\_\_ TABLED \_\_\_\_\_

# HOUSE STATE PERSONNEL COMMITTEE

## MINUTES

Tuesday, May 03, 2005

Chaired by: Rep. Bernard Allen and Rep. Carolyn Justus

Representative Carolyn Justus, Co-Chair, called the meeting to order and introduced the pages: Brother and sister, Lynette Tilgo Stockman and Bernard Junco Stockman, of Mecklenburg County, sponsored by Speaker Black. The Sergeants at Arms for today's meeting were James Womack and James Morgan. Chairman Justus thanked them for being present.

Since Representative Ross was not present to speak on her bill, HB 928 – State Government Fair Wage Funds/Study Fair Pay, the committee passed on to the next agenda item – HB 452 – State Employees Adverse Weather Leave, sponsored by Rep. Miller. PCS adopted.

Representative Miller explained the origin of his adverse weather bill – a constituent's problem with make-up days. The allowance of two inclement days each year - only if the Governor declares an emergency in your area – would provide coverage for an employee instead of having to use his sick or vacation day entitlement. Questions were requested. Rep. Linda Coleman asked about employees working in one area and living in another. This could become an expanded problem. Rep. Miller explained again that the only time that this bill would be in effect is when the Governor declared an emergency in the area. A member of the State Personnel Office gave a briefing on the State's emergency procedure – in general, all offices are open unless the Governor declares the emergency. Warnings from the State Police or County Managers to stay off the roads do not allow the use of adverse weather days. Employees have the leeway to make up their time so they will get paid – or to use either sick or vacation days.

A member of the State Police spoke of the effects on people's safety if they were to keep off the roads as requested. He felt it was a good bill for the Department and would aid them in public safety during emergency conditions. Rep. Allen said he felt this was a good bill also. State employees have not had much in the way of raises in late years and this was one small way in which they could be rewarded –another way to say we do care about them. He mentioned the absolute gridlock that occurred in Raleigh last winter and gave his strong support to the bill.

Discussion was held on the legislation's possible effects on personnel working in prisons, 911 staffing, and other continuous shift jobs. If these employees decided to use the two days provided in the bill, serious consequences could result. Suggestions were received for an amendment to cover this possibility. The bill was given an unfavorable report until an amendment could be authored and approved.

House bill 703 on the agenda for today has been dropped from the calendar.

The next agenda item, House Bill 716 – Mediate State Employees Grievance/Time Frame – sponsored by Representative Coleman. A representative of State Personnel Office explained that the Grievance Procedure available to state employees is a very costly and time-consuming procedure in State Government. The procedure uses a very large amount of the employee's time and the time of the examiners and others involved in the procedure. It also uses a huge amount of time in the Office of Administrative Hearings where the contested cases go and many times there is a huge backlog. This bill addresses both the time and the backlog situation by setting time limits on hearings and rendering of decisions for contested cases. The present laws required the aggrieved employee to go directly to the supervisor where the problem existed in the first place. This bill's proposed legislation of appointing a mediator at the beginning should allow a win/win opportunity and allow a more amicable solution to contested grievances. The Office of Administrative Hearings would be comfortable with this legislation.

Discussion was held on the location of mediation meetings in Raleigh versus hearings in the employees' county of residence and also the misgivings expressed by Rep. Allen on allowing the mediator to be a person who also is employed by the State. In his experience, this could cause some concerns on future lawsuits and the mediator should also have training in this type of process. Representative Coleman explained that she realized employment in the same agency would cause problems and had put in the independent third party clause. She also said there were over 100 trained mediators in the State's service. The concern over using independent mediators was that there would be a substantial charge (\$100 day). The concern also extended to the fact that the independent mediators would not have the background to understand and therefore would make the mediation a more lengthy and costly experience. Rep. Allen again reiterated his concern about using mediators in the employ of the State. He cited an example in Durham in the latest newspaper in which the courts had awarded a large settlement in a dispute by an employee of the Durham Housing Authority. This case had been mediated and settled some time ago and was again brought to the court system.

Discussion followed on the process of mediation versus arbitration. Mediators do not make decisions. Their job is to just keep the aggrieved parties talking to get to an amicable agreement. The mediator makes no legal decisions, in fact, no decisions and takes no sides in the mediation process. If agreement is not reached, the next step is arbitration.

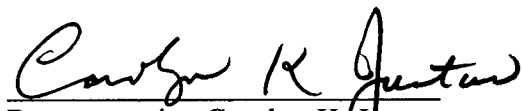
Rep. Sutton submitted an amendment to the bill, Page 2, Line 3, to read "in the county where the petitioner resides". This amendment passed. Another amendment was suggested to clarify appointment of a mediator "who is not employed by the State of North Carolina". Both parties would need to agree on a person from the database listing of trained mediators. It was felt there was still no guarantee of impartiality in performing the arbitration as an outside person might still have a personal interest in the outcome.

Discussion was held on the source of funds to pay outside trained mediators. Rep. Allen felt it would come from the department where the grievance began. He reiterated his previous stance on use of State employed trained mediators and a suggestion was made to

appoint a sub-committee to study the problem. The Chairman agreed with this suggestion.

Chairman Justus announced the committee would get back to Rep. Miller's bill, HB 452 – State Employees Adverse Weather Leave. Rep. Dollar had presented an amendment on Page 1, Line 13 by adding the following – “The implementation of this section shall not adversely impact mandatory and essential operations of the State”. After much further discussion, consensus could not be obtained and the bill was carried forward to another committee meeting with an unfavorable report.

The meeting adjourned at 1:00 p.m.

  
\_\_\_\_\_  
Representative Carolyn K. Justus

\_\_\_\_\_  
Representative Bernard Allen

HOUSE STATE PERSONNEL COMMITTEE  
MINUTES  
Tuesday, May 17, 2005

Chaired by: Rep. Bernard Allen and Rep. Carolyn Justus

Representative Bernard Allen chaired today's meeting first introducing the pages: Ruth Howard and Chelsea King from McDowell County sponsored by Rep. Gillespie. The sergeant at arms, James Worth, was thanked for his service as well as the staff of the Research Division.

The first item on the agenda was House Bill 928, State Government Fair Wages Funds/Study Fair Pay, introduced by Representatives Ross, Earle, Alexander and Weiss. A proposed committee substitute was passed out to members and Chairman Allen requested a staff overview of the bill outlining the committee substitute's technical changes.

Representative Ross gave the members an interpretation of the proposed bill explaining that the funding for the study commission portion in Section 2(a) had already been placed in the Department of Personnel's budget. Therefore, this bill would have to go to the Appropriations Committee. Chairman Allen then asked if members had questions or comments.

Representative Coleman asked about how the Department of Personnel arrived at the minimum salary of \$20, 112 per year. A Department spokesperson said it would roughly be about \$10 per hour figuring in a two weeks vacation. The Department had used several different scenarios and found the \$20,112 most equitable to low-paid employees.

A question was also raised on the funding necessary to accomplish Section 1(d) that addresses salary compression and pay inequities between the affected low-paid employees and their supervisors and other long-term employees. It was felt that this funding would be available from department salary budgets and from the General Fund and it was not to exceed \$750,000 in total.

Representative Sutton asked about the depth of the study and if it would enlarge on other studies which had been made on state employee pay grades and benefits. Representative Ross explained that while other studies had been made, this would examine gender and pay inequities in a more confidential way and also to perhaps adjust pay grades reflecting more current salary trends. This would be an interim study only. There being no further questions, the Chairman requested a motion on the bill. The motion received a favorable response and the bill was sent to the Appropriations Committee.

The next bill on the agenda was HB 799 – Lapsed Salaries/EEO - sponsored by Representative Adams. A proposed committee substitute was available for the members. A staff member gave an analysis of the proposed changes in GS 126.2(b) specified that "promoting the State's historically underutilized business initiatives" is a "positive

strategic outcome" justifying the award of a bonus authorized by the bill. There are a few other clarifying changes in the committee proposal.

Representative Sutton mentioned a fiscal note available for this House Bill 799. Chairman Allen replied that one was available because someone had requested the financial impact information.

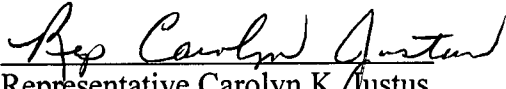
Representative Adams explained the reasons for the bill – to provide incentive for State agencies to reach EEO goals and human resources needs; to promote sound business practices and to require State agencies and universities to report the utilization of lapsed salary funds.

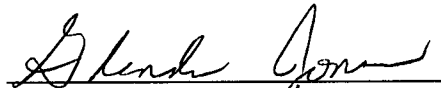
Representative Sutton questioned the amounts of lapsed salaries available for these incentives in various departments. Representative Adams explained that this bill did not require a department to allocate any specific amounts from their lapsed salary funds. A bonus could be as little as 1% and any other needed funding could be as much or as little as a department had available. As noted in the fiscal note, there is not an equitable distribution of lapsed salary funds in State departments. Approximately 80% of lapsed salary position vacancies are within the Health and Human Services and Correction Departments and, of course, in the university system. She felt that on the subject of providing incentive bonuses and career development for employees, not all employees would want to be provided with funding for this purpose; therefore managers could allocate whatever they felt warranted in their department - provided the lapsed monies were available for that purpose.

Discussion followed on the possible unfairness of having funds available in one department to provide bonuses and other career development needs and not in another. Some departments regularly use lapsed funds for temporary salaries, overtime, shift and holiday pay, etc. and also for payments for workers' compensation and disability. Funds are also shifted to fund non-labor related expenditures in the operating budget. This bill would only serve to permit using lapsed funds for the purposes listed in the bill. It also would require State agencies, department, institutions and the University of North Carolina to report on the utilization of lapsed salary funds in equal opportunity reports to the Office of State Personnel and for that department to incorporate that information into the OSP's semiannual report to the Joint Legislative Commission on Governmental Operations.

The proposed committee substitute received a favorable report and was re-referred to the Committee on Appropriations.

With no further agenda, the meeting adjourned.

  
Representative Carolyn K. Justus

  
Glenda Jones, Committee Assistant

**AGENDA**  
***House State Personnel Committee***

**Tuesday, May 17, 2005**

**12:00 pm**

**Room 1425 LB**

**Chaired by: Rep. Bernard Allen and Rep. Carolyn Justus**

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- 1. Call to Order**
- 2. Introduction of Pages**
- 3. Introduction of Sergeant at Arms**

**Bills:**

**Unfinished Business**

**HB 928    State Gov't Fair Wages Funds/Study Fair Pay.**  
**Reps. Ross, Earle, Alexander and Weiss**

**Regular Agenda**

**HB 799    Lapsed Salaries/EEO.**  
**Rep. Adams**

**Adjournment**

**NORTH CAROLINA HOUSE OF REPRESENTATIVES  
COMMITTEE MEETING NOTICE  
2005-2006 SESSION**

You are hereby notified that the Committee on **STATE PERSONNEL** will meet as follows:

**DAY & DATE:**     **Tuesday, May 17, 2005**

**TIME:**             **12:00pm**

**LOCATION:**        **1425 LB**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

**HB 799**        **Lapsed Salaries/EEO.**  
                  **Rep. Adams**

**HB 928**        **State Gov't Fair Wage Funds/Study Fair Pay.**  
                  **Rep. Ross**

Respectfully,

Representatives B. Allen and Justus  
Co-Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at  
**10:45 on May 13, 2005.**

\_\_\_\_Principal Clerk  
\_\_\_\_Reading Clerk - House Chamber

Latisha Dumas (Committee Assistant)

## House Pages

Name Of Committee: State Personnel Date: 05/16/05

1. Name: Jenna Halford  
County: McDowell  
Sponsor: Representative Mitch Gillespie
2. Name: Chelsea King  
County: McDowell  
Sponsor: Rep. Gillespie
3. Name: \_\_\_\_\_  
County: \_\_\_\_\_  
Sponsor: \_\_\_\_\_
4. Name: \_\_\_\_\_  
County: \_\_\_\_\_  
Sponsor: \_\_\_\_\_
5. Name: \_\_\_\_\_  
County: \_\_\_\_\_  
Sponsor: \_\_\_\_\_

### Sgt-At-Arms

1. Name: James Worth
2. Name: Jim Womack
3. Name: \_\_\_\_\_
4. Name: \_\_\_\_\_
5. Name: \_\_\_\_\_

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

H

D

HOUSE BILL 928\*

PROPOSED COMMITTEE SUBSTITUTE H928-CSRO-15 [v.1]

5/2/2005 7:32:23 PM

Short Title: State Gov't Fair Wage Funds/Study Fair Pay.

(Public)

Sponsors:

Referred to:

March 28, 2005

A BILL TO BE ENTITLED

AN ACT ESTABLISHING A MINIMUM FAIR WAGE FOR STATE EMPLOYEES  
SUBJECT TO THE STATE PERSONNEL ACT; CREATING THE STATE  
GOVERNMENT FAIR PAY STUDY COMMISSION; AND APPROPRIATING  
FUNDS FOR THESE PURPOSES.

Whereas, female employees comprise 48.9% percent of the total State  
workforce subject to the State Personnel Act, but compromise 71.5% of the low wage  
occupations that fall in pay grades 50-59; and

Whereas, it is the intent of the General Assembly that employees receive a  
fair wage and a livable minimum wage for State government employment; and

Whereas, employees earning less than \$20,112 fall into the lowest pay grades  
and are likely to qualify for Food Stamps, NC Health Choice, and possibly other public  
assistance; and

Whereas, the General Assembly provides the incremental increase in this act  
to move these employees closer to a living wage; Now, therefore,  
The General Assembly of North Carolina enacts:

**SECTION 1.(a)** It is the intent of the General Assembly that employees  
receive a fair minimum wage for State government employment.

**SECTION 1.(b)** All permanent, full-time employees subject to the State  
Personnel Act shall be paid a minimum salary of at least twenty thousand one hundred  
twelve dollars (\$20,112) per year. All permanent, full-time employees subject to the  
State Personnel Act working on a schedule requiring less than 12-months service per  
year shall be paid a minimum salary equal to the ratio of the number of months of the  
required work schedule to 12 times twenty thousand one hundred-twelve dollars  
(\$20,112).

**SECTION 1.(c)** There is appropriated from the General Fund to the Reserve  
for State Employee Minimum Wage the sum of six hundred seventy-five thousand  
dollars (\$675,000) for the 2005-2006 fiscal year and the sum of six hundred seventy-

five thousand dollars (\$675,000) for the 2006-2007 fiscal year to provide a fairer minimum wage to employees subject to the State Personnel Act.

**SECTION 1.(d)** In order to lessen salary compression and potential pay inequities, State agencies, departments, and institutions, and The University of North Carolina may, when increasing salaries pursuant to this section, make adjustments to the salaries of supervisors and other employees who have, when considering classification, significantly more experience and length of service compared to the employees receiving this pay increase. The Office of State Budget and Management may authorize funds for this purpose in a total amount not to exceed seven hundred fifty thousand dollars (\$750,000) for the 2005-2007 fiscal biennium.

**SECTION 2.(a)** There is created the State Government Fair Pay Study Commission ("Commission"). The Commission shall consist of 15 members appointed as follows:

- (1) Five members appointed by the Governor, to include:
  - a. One person who represents an organization whose primary purpose is to represent the interests of women.
  - b. One representative of an organization whose objectives include the elimination of pay disparities between men and women who has undertaken advocacy, educational, or legislative initiatives in pursuit of that objective.
  - c. One representative of a higher education or research institution who has experience and expertise in the collection and analysis of data concerning pay disparities and whose research has been used in efforts to promote the elimination of those disparities.
  - d. One person who is an active State employee.
  - e. One person who is a retired State employee.
- (2) Five members appointed by the Speaker of the House of Representatives, to include:
  - a. Four members of the House of Representatives.
  - b. One person with human resources background and experience from a private business or firm employing 200 or more employees in this State.
- (3) Five members appointed by the President Pro Tempore of the Senate, to include:
  - a. Four members of the Senate.
  - b. One person with human resources background and experience from a private business or firm employing fewer than 200 employees in this State.

**SECTION 2.(b)** The Commission shall study:

- (1) Whether the minimum annual salary for State employees is a livable salary and the impact of inflationary forces on that salary.
- (2) Whether there is fair pay for equivalent jobs in State government, including the extent of wage disparities in State government employment between men and women.

- (3) The relationship between in-range adjustments and pay disparities and how in-range adjustments could be used to alleviate gender-related pay disparities.
- (4) The factors that cause or tend to increase pay disparities, including segregation between women and men across and within occupations and payment of lower wages for work in female-dominated occupations.
- (5) The extent to which dissimilar State government job categories requiring similar education, training, skills, and responsibilities are being compensated with equal pay.
- (6) The consequences of the disparities on the efficiency of State government, the State's economy, and the families affected.
- (7) Actions, including proposed legislation, that are likely to lead to the elimination and prevention of compensation disparities in State government employment. In particular, the Commission shall propose the initial job classifications that should be targeted for remedial action and recommend the amount of funding required for the remediation efforts targeting those jobs.
- (8) Any other matters relating to pay disparities in State government employment.

The Commission may consider any other matter that the Commission finds relevant to its charge. The Commission may conduct public hearings around the State to solicit firsthand testimony regarding pay equity issues.

**SECTION 2.(c)** The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall each appoint a cochair for the Commission. The Commission may contract for consultant services as provided by G.S. 120-32.02. Upon approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional and clerical staff to assist in the work of the Commission. Clerical staff shall be furnished to the Commission through the offices of the House of Representatives and the Senate Directors of Legislative Assistants. The Commission may meet in the Legislative Building or the Legislative Office Building upon the approval of the Legislative Services Commission. Members of the Commission shall receive per diem, subsistence, and travel allowances at the rate established in G.S. 120-3.1. The appointing authority shall fill vacancies.

The Commission, while in the discharge of its official duties, may exercise all the powers provided under the provisions of G.S. 120-19 through G.S. 120-19.4, including the power to request all officers, agents, agencies, and departments of the State to provide any information, data, or documents within their possession, ascertainable from their records, or otherwise available to them and the power to subpoena witnesses.

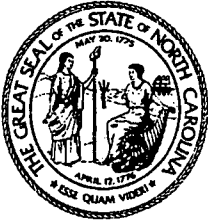
The State Personnel Director shall designate appropriate staff to serve as liaison to the Commission.

**SECTION 2.(d)** The Commission's interim and final reports shall include the results of the Commission's study as well as recommendations, legislative and

1 otherwise, for the elimination and prevention of disparities in State employee  
2 compensation between men and women. The Commission shall submit an interim report  
3 to the 2006 Regular Session of the 2005 General Assembly. The Commission shall  
4 make a final report to the 2007 General Assembly and shall terminate upon filing its  
5 final report.

6 **SECTION 2.(e)** There is appropriated from the General Fund to the General  
7 Assembly the sum of twenty-five thousand dollars (\$25,000) for the 2005-2006 fiscal  
8 year and the sum of twenty-five thousand dollars (\$25,000) for the 2006-2007 fiscal  
9 year to fund the work of the State Government Fair Pay Study Commission.

10 **SECTION 3.** This act becomes effective July 1, 2005.



# HOUSE BILL 928: State Gov't Fair Wage Funds/Study Fair Pay

## BILL ANALYSIS

<b>Committee:</b>	House State Personnel	<b>Date:</b>	May 17, 2005
<b>Introduced by:</b>	Reps. Ross, Earle, Alexander, Weiss	<b>Summary by:</b>	Karen Cochrane-Brown
<b>Version:</b>	PCS to First Edition		Committee Counsel
	H928-CSRO-15		

**SUMMARY:** *House Bill 928 proposes the establishment of a minimum fair wage of \$20,112 for state employees subject to the State Personnel Act. It also proposes the creation of a State Government Fair Pay Study Committee and appropriates funds for these purposes.*

*The Proposed Committee Substitute deletes the unnecessary redlining contained in the First Edition of the bill.*

[Section 29.18 of Senate Bill 622, the Appropriations Bill, provides that all State employees subject to the State Personnel Act shall be paid a minimum wage of at least \$20,112 and makes appropriations to fund the provision.]

## BILL ANALYSIS:

This bill sets the minimum salary of a permanent full-time employee subject to the State Personnel Act at \$20,112 per year. It also authorizes a proportional increase for permanent full-time employees who work less than 12 months per year. To accomplish this end, the bill appropriates \$675,000 for each of the next two fiscal years.

The bill also authorizes the Office of State Budget and Management to approve the use of funds to lessen salary compression and potential pay inequities caused by the establishment of the minimum salary. The bill appropriates \$750,000 over the 2005-2007 biennium for this purpose.

Section 2 of the bill creates the State Government Fair Pay Study Commission. The Commission consists of 15 members appointed by the Governor, the Speaker of the House, and the President Pro Tempore of the Senate. The Commission is directed to study:

1. Whether the minimum salary is a livable salary and the impact of inflation on that salary.
2. Whether there is fair pay for equivalent jobs in State government, including wage disparities between men and women.
3. The relationship between in-range adjustments and pay disparities and how in-range adjustments could be used to alleviate gender pay disparities.
4. The factors that cause or increase pay disparities.
5. The extent to which dissimilar job categories requiring education, training skills and responsibilities are equally compensated.
6. The consequences of the disparities on the efficiency of State government.
7. Actions that are likely to lead to the elimination and prevention of compensation disparities.
8. Any other matters relating to pay disparities in State government.

# House Bill 928

*Page 2*

The bill authorizes the Commission to make and interim report to the 2006 Session of the General Assembly and a final report to the 2007 General Assembly, at which point the Commission shall terminate.

Finally, the bill appropriates \$25,000 in each of the next two fiscal years to fund the work of the Commission.

**EFFECTIVE DATE:** This act would become effective July 1, 2005.

*H0928e1-SMRO-CSRO-15*



**North Carolina General Assembly  
Legislative Services Office**

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April 27, 2005

**MEMORANDUM**

**To:** Senator Katie G. Dorsett and Representative Deborah K. Ross

**From:** J. Marshall Barnes  
Fiscal Research Division

**Subject:** Summary of Senate Bill 908/House Bill 928, State Government Fair Wage Funds/Study Fair Pay

**Senate Bill 908/House Bill 928 are entitled "An Act Establishing a Minimum Fair Wage for State Employees Subject to the State Personnel Act; Creating the State Government Fair Pay Study Commission; and Appropriating Funds for these Purposes."**

**Brief Summary:**

Senate Bill 908/House Bill 928 basically do three things as follows:

1. Establish a minimum salary of \$20,112 for all permanent full-time employees subject to the State Personnel Act and appropriate \$675,000 for this purpose. Authorize a prorated increase to permanent full-time employees subject to the State Personnel Act working on a schedule requiring less than 12 months service per year. \$20,112 is 125% of the 2005 poverty guideline for a family of three as issued by the U.S. Department of Health and Human Services.
2. Authorize the Office of State Budget and Management to approve funds not to exceed \$750,000 during the 2005-2007 fiscal biennium to address salary compression and pay inequities created by increasing the salaries of employees to the \$20,112 minimum. Allow adjustments to the salaries of supervisors and other employees who have, when considering classification, significantly more experience and length of service compared to employees receiving an increase in pay to the \$20,112 minimum.
3. Create a 15-member State Government Fair Pay Study Commission and appropriate \$25,000 to fund the work of the Commission. The Commission is to study:
  - a. Whether the minimum annual salary is a livable salary and the impact of inflation,
  - b. Whether there is fair pay for equivalent state jobs including wage disparities between men and women,
  - c. How in-range adjustments could be used to alleviate gender-related pay disparities,

- d. The factors that cause or increase pay disparities,
- e. The extent to which dissimilar State jobs requiring similar training, education, and skills receive equal pay,
- f. The consequences of the disparities on the efficiency of State government, the economy and affected families,
- g. Actions that will lead to elimination and prevention of compensation disparities, and
- h. Any other matters relating to pay disparities in State government employment.

### **Fiscal Impact:**

In determining the fiscal impact of this legislation, we identified 1,813 permanent full-time employees of agencies, departments, and universities who currently earn less than \$20,112 annually. The average per employee cost to bring permanent full-time 12-month employees of agencies and departments up to the \$20,112 minimum is \$65.20 including benefits. The average per employee cost to bring permanent full-time 12-month university employees up to the \$20,112 minimum is \$764.34 including benefits. The total estimated recurring impact to the General Fund due to increasing salaries to \$20,112 is \$675,000.

In addition, we identified another 137 permanent full-time employees working on schedules requiring less than 12-months service per year. In evaluating the 137 less than 12-month employees, we assumed each worked a schedule requiring 10-months service per year. The adjusted minimum salary for this group is \$16,760 (10/12 of \$20,112). The average salaries of these employees exceeded \$16,760; thus, no additional cost is attributable to this group.

This legislation authorizes The Office of State Budget and Management to approve funds not to exceed \$750,000 to address salary compression and salary inequities created by raising employee salaries to \$20,112. The legislation, however, does not identify a fund source for these salary adjustments. Funding for these adjustments can either be secured by an appropriation or possibly by creating a special reserve funded by an remaining appropriations in the Reserve for Compensation Increases authorized for salary increases but not required for that purpose.

This legislation also appropriates \$25,000 for the 2005-2006 fiscal year and \$25,000 for the 2006-2007 fiscal year to fund the work of the State Government Fair Pay Study Commission.

The total recurring appropriation as stated in the Bill is \$700,000 for raising salaries to the minimum \$20,112 and for funding the Commission. The Bill also authorizes up to \$750,000 in additional expenditures to address salary compression and salary inequities for which no fund source is identified. The total maximum cost is, thus, \$1,450,000.

Please let me know if you need any additional information.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

H

D

HOUSE BILL 799  
PROPOSED COMMITTEE SUBSTITUTE H799-PCS60469-RO-4

Short Title: Lapsed Salaries/EEO.

(Public)

Sponsors:

Referred to:

March 21, 2005

1 A BILL TO BE ENTITLED  
2 AN ACT AUTHORIZING THE USE OF LAPSED SALARY FUNDS TO ACHIEVE  
3 EQUAL EMPLOYMENT OPPORTUNITY AND ENCOURAGE SOUND  
4 MANAGEMENT PRACTICES.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Article 6 of Chapter 126 of the General Statutes is amended by  
7 adding a new section to read:

8 "**§ 126-16.2. Use of certain State funds for equal employment opportunity.**

9 (a) Notwithstanding G.S. 143-23(a2) or any other provision of law, State  
10 agencies, departments, institutions, and The University of North Carolina may allocate  
11 up to ten percent (10%) of lapsed salary funds for bonuses and other career development  
12 needs related to achieving the goal of equal employment opportunity as stated in this  
13 section and to encourage sound management practices and equal opportunity  
14 employment. The Office of State Budget and Management shall authorize use of these  
15 funds from the allocation of salaries.

16 (b) The bonuses authorized by this section shall be used for salary adjustments to  
17 reward managers and supervisors who support and exhibit positive government strategic  
18 outcomes, including:

- 19 (1) Achieving equal employment opportunity goals.  
20 (2) Practicing fair and equitable salary administration for all demographic  
21 groups.  
22 (3) Attending annual equal employment opportunity and human resources  
23 annual continuing education programs.  
24 (4) Participating in departmental mentoring programs.  
25 (5) Implementing career development plans for all employees.  
26 (6) Promoting the State's historically underutilized business initiatives."

27 SECTION 2. Article 6 of Chapter 126 of the General Statutes is amended by  
28 adding a new section to read:

**"§ 126-16.3. Reporting.**

State agencies, departments, institutions, and The University of North Carolina shall report on the utilization of lapsed salary funds in accordance with the provisions of G.S. 126-16.2 in their respective equal employment opportunity reports to the Office of State Personnel. The Office of State Personnel shall incorporate the respective reports into its semiannual report to the Joint Legislative Commission on Governmental Operations."

**SECTION 3.** G.S. 143-23(a2) reads as rewritten:

"(a2) Funds appropriated for salaries and wages are also subject to the limitation that they may only be used for:

- (1) Salaries and wages or for premium pay, overtime pay, longevity, unemployment compensation, workers' compensation, temporary wages, moving expenses of employees, payment of accumulated annual leave, certain awards to employees, tort claims, and employer's social security, retirement, and hospitalization payments;
- (2) Contracted personal services if (i) the contract is for temporary services or special project services, (ii) the term of the contract does not extend beyond the fiscal year, (iii) the contract does not impose obligations on the State after the end of the fiscal year; and (iv) the total of all overexpenditures for contracted personal services approved in a program for a fiscal year does not exceed the greater of five hundred thousand dollars (\$500,000) or ten percent (10%) of the lapsed salary funds in the program for the fiscal year; and
- (3) Uses for which overexpenditures are permitted by subdivision (2) of subsection (a1) of this section but the Director of the Budget shall include such use and the reason for it in his quarterly report to the Joint Legislative Commission on Governmental Operations.

Lapsed salary funds shall not be used for new permanent employee positions or to raise the salary of existing ~~employees-employees~~, except that the funds may be used for equal employment opportunity purposes as provided by G.S. 126-16.2."

**SECTION 4.** This act becomes effective June 30, 2005.

# GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2005

## Legislative Fiscal Note

**BILL NUMBER:** House Bill 799 (First Edition)

**SHORT TITLE:** Lapsed Salaries/EEO.

**SPONSOR(S):** Representative Adams

*Salary file*

### FISCAL IMPACT

	Yes (X)	No ( )	No Estimate Available ( )		
	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>
<b>REVENUES:</b>	n/a	n/a	n/a	n/a	n/a
<b>EXPENDITURES:</b>					
General Fund	Zero to \$18,984,874	Zero to \$18,984,874	Zero to \$18,984,874	Zero to \$18,984,874	Zero to \$18,984,874
Highway Fund	No estimate available				
<b>POSITIONS (cumulative):</b>	n/a	n/a	n/a	n/a	n/a

**PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:** State departments, agencies, institutions, and Universities who employ individuals subject to the State Personnel Act.

**EFFECTIVE DATE:** June 30, 2005

### BILL SUMMARY:

Enacts new G.S. 126-16.2 to permit State agencies, departments, institutions and the University of North Carolina to allocate up to 10% of lapsed salary funds for bonuses and other career development needs to encourage sound management practices and equal opportunity employment. Authorizes bonuses for managers and supervisors who support and exhibit positive government strategic outcomes, including: (1) achieving equal opportunity goals, (2) practicing fair and equitable salary administration for all demographic groups, (3) attending annual equal employment opportunity and human resources continuing education programs, (4) participating in departmental mentoring programs, and (5) implementing career development plans for all employees. Enacts

new G.S. 126-16.3 to require State agencies, departments, institutions and the University of North Carolina to report on the utilization of lapsed salary funds in equal opportunity reports to the Office of State Personnel (OSP) and requires OSP to incorporate the respective reports into its semiannual report to the Joint Legislative Commission on Governmental Operations. Lastly, amends G.S. 143-23(a2) to permit the use of lapsed salary funds for purposes indicated.

#### **ASSUMPTIONS AND METHODOLOGY:**

Lapsed salaries are generated when a budgeted position becomes vacant for some period of time. The Office of State Budget and Management does not track lapsed salaries as they are generated. The Fiscal Research Division does, however, track position vacancies and the budgeted salary of those vacant positions in State agencies, departments, institutions and the Universities. Total position vacancies and budgeted salaries for the last three years are as follows:

<b>Date</b>	<b>Vacant Positions</b>	<b>Budgeted Salary</b>	<b>Vacancies 6 months or older</b>	<b>Budgeted Salary</b>
December 31, 2002	5,391.29	\$194,819,482	1,990.40	\$76,876,577
December 31, 2003	5,105.10	\$180,591,534	1,786.61	\$72,288,959
December 31, 2004	5,129.90	\$194,135,191	1,742.00	\$73,253,469

The average number of vacant positions over the last three years is 5,208.76, full-time equivalents (FTE's), with total average budgeted salaries of \$189,848,736. Likewise, positions vacant six months or more average 1,839.67 FTE's with total average budgeted salaries of \$74,139,668. Thus, ten percent of the total average budgeted salaries of vacant positions over the last three years ranges from \$7,413,967 to \$18,984,874 depending upon whether you are considering only positions vacant six or more months or are considering all position vacancies. The potential General Fund fiscal impact of this legislation could, thus, range from zero to \$18,984,874. These estimates do not include any potential impact to the Highway Fund. Vacant positions funded by the Highway Fund are not currently tracked and information concerning such vacancies is not readily available.

The provisions of G.S. 143-23(a2) specify how funds appropriated for salaries and wages may be used. It is not uncommon for the Executive Branch to use lapsed salaries to fund under-budgeted expenditures for temporary salaries (contractual labor, student wages, etc.), supplements to regular wages (overtime, shift pay, holiday pay, longevity, leave payouts, etc.) and other personnel services payments (workers' compensation, short-term disability, etc.). Lapsed salaries are also being shifted to fund non-labor related expenditures in the operating budget.

For example, information obtained from the Department of Correction indicates they expect to generate \$60.0 million in lapsed salary funds during the 2004-2005 fiscal year and expect to have needs to reallocate those funds for other under-budgeted expenditures of approximately \$66.3 million. Some of the significant expenditures include medical fees and services, workers' compensation medical claims, shift premium pay for correctional officers, contractual medical labor, etc.

The Department of Health and Human Services generated \$35.8 million in lapsed salary funds during the 2003-2004 fiscal year and reallocated \$24.5 million for other under-budgeted expenditures. Some of the significant expenditures included medical services, workers' compensation medical claims, shift premium and overtime pay, temporary wages, etc.

Likewise, the University system expects to generate \$81.9 million in lapsed salary funds during the 2004-2005 fiscal year and expects to have needs to reallocate those funds for other expenditures equaling the same amount. Some of the significant expected expenditures include equipment purchases for classrooms and labs, overtime pay, temporary and contract wages, supplements to the Academic Program and library budgets, information technology, etc.

It is, thus, unclear how much lapsed salary availability exists given the significant lapsed salary expenditures in the Executive Branch and the Universities. Furthermore, a State agency may not be able to determine lapsed salary availability until the end of a fiscal year (given unknown other needs) when the funds revert.

The potential General Fund fiscal impact of this legislation could, thus, range from zero to \$18,984,874.

**SOURCES OF DATA:** Personnel Management Information System (PMIS), Office of State Personnel, UNC System, Office of State Budget and Management, the Department of Correction, the Department of Health and Human Services, and the Fiscal Research Division, NCGA.

**TECHNICAL CONSIDERATIONS:** There is not an equitable distribution of lapsed salary funds in State departments, agencies, institutions, and universities. Approximately 80% of the position vacancies as of December 31, 2004 were located within the departments of Health and Human Services, Corrections, and the universities. Thus, many State agencies, departments, and institutions may not have lapsed salary availability to award bonuses as authorized by this legislation.

**FISCAL RESEARCH DIVISION: (919) 733-4910**

**PREPARED BY:** Marshall Barnes

**APPROVED BY:** James D. Johnson, Director  
Fiscal Research Division



**DATE:** May 11, 2005

**Signed Copy Located in the NCGA Principal Clerk's Offices**

**2005 COMMITTEE REPORT  
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative B. Allen, Justus (Chairs) for the Committee on STATE PERSONNEL.

☐ Committee Substitute for

**HB 799** A BILL TO BE ENTITLED AN ACT AUTHORIZING THE USE OF LAPSED SALARY FUNDS TO ACHIEVE EQUAL EMPLOYMENT OPPORTUNITY AND ENCOURAGE SOUND MANAGEMENT PRACTICES.

☒ With a favorable report as to the committee substitute bill, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on APPROPRIATIONS.

**(FOR JOURNAL USE ONLY)**

\_\_\_\_\_ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on \_\_\_\_\_.

\_\_\_\_\_ Pursuant to Rule 36(b), the (House) committee substitute bill/(joint) resolution (No. \_\_\_\_\_) is placed on the Calendar of \_\_\_\_\_. (The original bill resolution No. \_\_\_\_\_) is placed on the Unfavorable Calendar.

\_\_\_\_\_ The (House) committee substitute bill/(joint) resolution (No. \_\_\_\_\_) is re-referred to the Committee on \_\_\_\_\_. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. \_\_\_\_\_) is placed on the Unfavorable Calendar.

**2005 COMMITTEE REPORT  
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative B. Allen, Justus (Chairs) for the Committee on STATE PERSONNEL.

---

☐ Committee Substitute for

**HB 928** A BILL TO BE ENTITLED AN ACT ESTABLISHING A MINIMUM FAIR WAGE FOR STATE EMPLOYEES SUBJECT TO THE STATE PERSONNEL ACT; CREATING THE STATE GOVERNMENT FAIR PAY STUDY COMMISSION; AND APPROPRIATING FUNDS FOR THESE PURPOSES.

☒ With a favorable report as to the committee substitute bill, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on APPROPRIATIONS.

**(FOR JOURNAL USE ONLY)**

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\_\_\_\_\_ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on \_\_\_\_\_.

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\_\_\_\_\_ The (House) committee substitute bill/(joint) resolution (No. \_\_\_\_\_) is re-referred to the Committee on \_\_\_\_\_. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. \_\_\_\_\_) is placed on the Unfavorable Calendar.

# HOUSE STATE PERSONNEL COMMITTEE

## MINUTES

Tuesday, May 17, 2005

Chaired by: Rep. Bernard Allen and Rep. Carolyn Justus

Representative Bernard Allen chaired today's meeting first introducing the pages: Ruth Howard and Chelsea King from McDowell County sponsored by Rep. Gillespie. The sergeant at arms, James Worth, was thanked for his service as well as the staff of the Research Division.

The first item on the agenda was House Bill 928, State Government Fair Wages Funds/Study Fair Pay, introduced by Representatives Ross, Earle, Alexander and Weiss. A proposed committee substitute was passed out to members and Chairman Allen requested a staff overview of the bill outlining the committee substitute's technical changes.

Representative Ross gave the members an interpretation of the proposed bill explaining that the funding for the study commission portion in Section 2(a) had already been placed in the Department of Personnel's budget. Therefore, this bill would have to go to the Appropriations Committee. Chairman Allen then asked if members had questions or comments.

Representative Coleman asked about how the Department of Personnel arrived at the minimum salary of \$20, 112 per year. A Department spokesperson said it would roughly be about \$10 per hour figuring in a two weeks vacation. The Department had used several different scenarios and found the \$20,112 most equitable to low-paid employees.

A question was also raised on the funding necessary to accomplish Section 1(d) that addresses salary compression and pay inequities between the affected low-paid employees and their supervisors and other long-term employees. It was felt that this funding would be available from department salary budgets and from the General Fund and it was not to exceed \$750,000 in total.

Representative Sutton asked about the depth of the study and if it would enlarge on other studies which had been made on state employee pay grades and benefits. Representative Ross explained that while other studies had been made, this would examine gender and pay inequities in a more confidential way and also to perhaps adjust pay grades reflecting more current salary trends. This would be an interim study only. There being no further questions, the Chairman requested a motion on the bill. The motion received a favorable response and the bill was sent to the Appropriations Committee.

The next bill on the agenda was HB 799 – Lapsed Salaries/EEO - sponsored by Representative Adams. A proposed committee substitute was available for the members. A staff member gave an analysis of the proposed changes in GS 126.2(b) specified that "promoting the State's historically underutilized business initiatives" is a "positive

strategic outcome" justifying the award of a bonus authorized by the bill. There are a few other clarifying changes in the committee proposal.

Representative Sutton mentioned a fiscal note available for this House Bill 799. Chairman Allen replied that one was available because someone had requested the financial impact information.

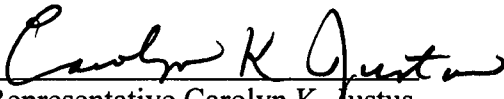
Representative Adams explained the reasons for the bill – to provide incentive for State agencies to reach EEO goals and human resources needs; to promote sound business practices and to require State agencies and universities to report the utilization of lapsed salary funds.

Representative Sutton questioned the amounts of lapsed salaries available for these incentives in various departments. Representative Adams explained that this bill did not require a department to allocate any specific amounts from their lapsed salary funds. A bonus could be as little as 1% and any other needed funding could be as much or as little as a department had available. As noted in the fiscal note, there is not an equitable distribution of lapsed salary funds in State departments. Approximately 80% of lapsed salary position vacancies are within the Health and Human Services and Correction Departments and, of course, in the university system. She felt that on the subject of providing incentive bonuses and career development for employees, not all employees would want to be provided with funding for this purpose; therefore managers could allocate whatever they felt warranted in their department - provided the lapsed monies were available for that purpose.

Discussion followed on the possible unfairness of having funds available in one department to provide bonuses and other career development needs and not in another. Some departments regularly use lapsed funds for temporary salaries, overtime, shift and holiday pay, etc. and also for payments for workers' compensation and disability. Funds are also shifted to fund non-labor related expenditures in the operating budget. This bill would only serve to permit using lapsed funds for the purposes listed in the bill. It also would require State agencies, department, institutions and the University of North Carolina to report on the utilization of lapsed salary funds in equal opportunity reports to the Office of State Personnel and for that department to incorporate that information into the OSP's semiannual report to the Joint Legislative Commission on Governmental Operations.

The proposed committee substitute received a favorable report and was re-referred to the Committee on Appropriations.

With no further agenda, the meeting adjourned.

  
Representative Carolyn K. Justus

\_\_\_\_\_  
Representative Bernard Allen

## **DATE CORRECTION**

### **NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE 2005-2006 SESSION**

You are hereby notified that the Committee on **STATE PERSONNEL** will meet as follows:

**DAY & DATE:** **Tuesday, May 31, 2005**

**TIME:** **12:00pm**

**LOCATION:** **1425 LB**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

**HB 716**      **Mediate State Employees Grievance/Time Frame.**  
**Rep. Coleman**

The following bills are not on the agenda, however an ~~X~~ overview will be given.

**HB 703**      **Severance Pay.**  
**Rep. Coleman**

**HB 717**      **State Employees Incentive Bonus Program.**  
**Rep. Coleman**

**HB 730**      **State Employment Demonstration Periods.**  
**Reps. Crawford and Sherrill**

**HB 731**      **Prospective Elimination of SPA Longevity Pay.**  
**Rep. Crawford**

**HB 751**      **Centralize Benefits Under OSP.**  
**Reps. Crawford and Holliman**

**SB 888**      **Various State Personnel Law Changes.**  
**Sen. Rand**

Respectfully,

Representatives B. Allen and Justus  
Co-Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at  
filed this notice **9:00** on **May 31, 2005**.

\_\_\_\_ Principal Clerk  
\_\_\_\_ Reading Clerk - House Chamber

Latisha Dumas (Committee Assistant)

**NORTH CAROLINA HOUSE OF REPRESENTATIVES  
COMMITTEE MEETING NOTICE  
2005-2006 SESSION**

You are hereby notified that the Committee on **STATE PERSONNEL** will meet as follows:

**DAY & DATE:**     **Tuesday, June 2, 2005**

**TIME:**             **12:00pm**

**LOCATION:**        **1425 LB**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

**HB 716        Mediate State Employees Grievance/Time Frame.  
Rep. Coleman**

The following bills are not on the agenda, however an overview will be given:

**HB 703        Severance Pay Changes  
Rep. Coleman**

**HB 717        State Employees Incentive Bonus Program  
Rep. Coleman**

**HB 730        State Employment Demonstration Periods  
Rep. Coleman**

**HB 731        Prospective Elimination of SPA Longevity Pay  
Rep. Crawford**

**HB 751        Centralize Benefits Under OSP  
Reps. Crawford and Holliman**

**SB 888        Various State Personnel Law Changes  
Sen. Rand**

Respectfully,

Representatives B. Allen and Justus

Co-Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at  
**11:00 on May 27, 2005.**

\_\_\_ Principal Clerk  
\_\_\_ Reading Clerk - House Chamber

Latisha Dumas (Committee Assistant)

**AGENDA**  
**House State Personnel Committee**

Tuesday, May 31, 2005

12:00 pm

Room 1425 LB

Chaired by: Rep. Bernard Allen and Rep. Carolyn Justus

---

1. Call to Order
2. Introduction of Pages
3. Introduction of Sergeant at Arms

**Bills:**

**HB 716    Mediate State Employees Grievance/Time Frame.**  
**Rep. Coleman**

The following bills are not on the agenda, however a review will be given:

<b>HB 703</b>	<b>Severance Pay.</b> <b>Rep. Crawford</b>
<b>HB 717</b>	<b>State Employees Incentive Bonus Program.</b> <b>Rep. Coleman</b>
<b>HB 730</b>	<b>State Employment Demonstration Periods.</b> <b>Reps. Crawford and Sherrill</b>
<b>HB 731</b>	<b>Prospective Elimination of SPA Longevity Pay.</b> <b>Rep. Crawford</b>
<b>HB 751</b>	<b>Centralize Benefits Under OSP.</b> <b>Rep. Crawford</b>
<b>SB 888</b>	<b>Various State Personnel Law Changes.</b> <b>Sen. Rand</b>

**djournalment**

# VISITOR REGISTRATION SHEET

STATE PERSONNEL

Name of Committee

5 - 31 - 05

Date \_\_\_\_\_

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

NAME

FIRM OR AGENCY AND ADDRESS

Suzanne Beasley

SEANC

Ardis Watkins

SEAN C

Carl Goodwin

~~SEAVE~~ 05A

Pearla M. Alston

DHHS-HR

Teresa Saunders

Rep Linda Coleman

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

H

1

HOUSE BILL 716

Short Title: Mediate State Employee Grievance/Time Frame. (Public)

Sponsors: Representatives Coleman; Dollar, Parmon, and Wainwright.

Referred to: State Personnel.

March 17, 2005

A BILL TO BE ENTITLED

AN ACT PROVIDING FOR THE MEDIATION OF STATE EMPLOYEE  
GRIEVANCES UNDER THE STATE PERSONNEL ACT AND RELATING TO  
THE TIME FRAME FOR CONTESTED CASES UNDER G.S. 126-34.1.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 126-34 reads as rewritten:

**"§ 126-34. Grievance appeal for career State employees.**

Unless otherwise provided in this Chapter, any career State employee having a grievance arising out of or due to the employee's employment and who does not allege unlawful harassment or discrimination because of the employee's age, sex, race, color, national origin, religion, creed, handicapping condition as defined by G.S. 168A-3, or political affiliation shall ~~first discuss the problem or grievance with the employee's supervisor and~~ follow the grievance procedure established by the employee's department or agency. The internal grievance procedure of each State agency, department, institution, and The University of North Carolina shall include mediation as the first step of the procedure. Any State employee having a grievance arising out of or due to the employee's employment who alleges unlawful harassment because of the employee's age, sex, race, color, national origin, religion, creed, or handicapping condition as defined by G.S. 168A-3 shall submit a written complaint to the employee's department or agency. The department or agency shall have 60 days within which to take appropriate remedial action. If the employee is not satisfied with the department or agency's response to the complaint, the employee shall have the right to appeal directly to the State Personnel Commission."

**SECTION 2.** G.S. 126-34.1 is amended by adding a new subsection to read:

"(f) The Office of Administrative Hearings must conduct a contested case hearing and render a decision on cases filed under this section no later than 210 days from the date the case was filed with the Office of Administrative Hearings. If the Office of Administrative Hearings fails to complete the contested case hearing process in 210

1 days of the date filed, the petitioner who filed the case may petition the Superior Court  
2 of Wake County for a hearing de novo."

3       **SECTION 3.** This act is effective when it becomes law and applies to State  
4 employee grievances that arise on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

H

D

HOUSE BILL 716  
PROPOSED COMMITTEE SUBSTITUTE H716-PCS50456-RO-27

Short Title: Mediate State Employee Grievance/Time Frame.

(Public)

Sponsors:

Referred to:

March 17, 2005

1 A BILL TO BE ENTITLED  
2 AN ACT PROVIDING FOR THE MEDIATION OF STATE EMPLOYEE  
3 GRIEVANCES UNDER THE STATE PERSONNEL ACT AND RELATING TO  
4 THE TIME FRAME FOR CONTESTED CASES UNDER G.S. 126-34.1.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 126-34 reads as rewritten:

7 "§ 126-34. Grievance appeal for career State employees.

8 Unless otherwise provided in this Chapter, any career State employee having a  
9 grievance arising out of or due to the employee's employment and who does not allege  
10 unlawful harassment or discrimination because of the employee's age, sex, race, color,  
11 national origin, religion, creed, handicapping condition as defined by G.S. 168A-3, or  
12 political affiliation shall ~~first discuss the problem or grievance with the employee's~~  
13 ~~supervisor and follow the grievance procedure established by the employee's department~~  
14 or agency. The internal grievance procedure of each State agency, department,  
15 institution, and The University of North Carolina shall include mediation as the first  
16 step of the procedure. An independent third party who is not employed by the same  
17 agency as the employee having the grievance shall conduct the mediation. Any State  
18 employee having a grievance arising out of or due to the employee's employment who  
19 alleges unlawful harassment because of the employee's age, sex, race, color, national  
20 origin, religion, creed, or handicapping condition as defined by G.S. 168A-3 shall  
21 submit a written complaint to the employee's department or agency. The department or  
22 agency shall have 60 days within which to take appropriate remedial action. If the  
23 employee is not satisfied with the department or agency's response to the complaint, the  
24 employee shall have the right to appeal directly to the State Personnel Commission."

25 SECTION 2. G.S. 126-34.1 is amended by adding a new subsection to read:

26 "(f) The Office of Administrative Hearings must conduct a contested case hearing  
27 and render a decision on cases filed under this section no later than 210 days from the  
28 date the case was filed with the Office of Administrative Hearings. If the Office of

1 Administrative Hearings fails to complete the contested case hearing process in 210  
2 days of the date filed, then a party may petition the State Personnel Commission Chair  
3 to appoint an experienced personnel law attorney to complete the administrative hearing  
4 decision-making process and certify an official record within 60 days at the expense of  
5 the Office of Administrative Hearings."

6         **SECTION 3.** This act is effective when it becomes law and applies to State  
7 employee grievances that arise on or after that date.

**2005 COMMITTEE REPORT  
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative B. Allen, Justus (Chairs) for the Committee on STATE PERSONNEL.

---

☐ Committee Substitute for

**HB 716**      A BILL TO BE ENTITLED AN ACT PROVIDING FOR THE MEDIATION  
OF STATE EMPLOYEE GRIEVANCES UNDER THE STATE PERSONNEL ACT AND  
RELATING TO THE TIME FRAME FOR CONTESTED CASES UNDER G.S. 126-34.1.

☒ With a favorable report as to the committee substitute bill, unfavorable as to the original bill.

**(FOR JOURNAL USE ONLY)**

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\_\_\_\_\_ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on  
\_\_\_\_\_.

\_\_\_\_\_ Pursuant to Rule 36(b), the (House) committee substitute bill/(joint) resolution  
(No. \_\_\_\_\_) is placed on the Calendar of \_\_\_\_\_. (The original bill resolution No. \_\_\_\_\_) is placed  
on the Unfavorable Calendar.

\_\_\_\_\_ The (House) committee substitute bill/(joint) resolution (No. \_\_\_\_\_) is re-referred to the  
Committee on \_\_\_\_\_. (The original bill/resolution) (House/Senate Committee Substitute  
Bill/(Joint) resolution No. \_\_\_\_\_) is placed on the Unfavorable Calendar.

State Personnel Committee  
Minutes  
May 31, 2005

---

Members in Attendance: Rep. B. Allen, Chair, Reps. Coleman, Dollar, Farmer-Butterfield, Sutton, and West.

Sergeant-At-Arms: Mr. James Worth and Mr. Jim Womack.

There were no pages for the meeting

Staff in Attendance: Mrs. Karen Cochran-Brown, Counsel and Ms. Latisha Dumas, Committee Assistant.

The meeting was called to order by the presiding chair, Rep. B. Allen.

HB 716, Mediate State Employees Grievance/Time Frame, sponsored by Rep. Linda Coleman was the only bill on the agenda, however all bills still remaining in State Personnel were listed for a brief overview.


Rep. Crawford has bills on this list, HB 703, Severance Pay, and also HB 731, Prospective Elimination of SPA Longevity Pay. Rep. Allen previously spoke with Rep. Crawford about his bills and is waiting on a reply.

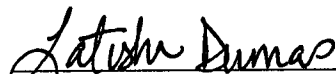
HB 730, State Employees Incentive Bonus Program, sponsored by Reps. Crawford and Sherrill, a meeting was held w/ Rep. B. Allen, various members of SEANC and Commissioner of Banking, Joe Smith w/ no avail.

HB 751, Centralize Benefits Under OSP is sponsored by Rep. Crawford.

Rep. Allen has asked Speaker Black about appointing an Interim State Personnel Study Committee so these bills (some or all) can be studied further.

SB 888, Various State Personnel Law Changes, sponsored by Sen. Rand was shown to the committee, it includes several of the bills in State Personnel.

  
Representative Bernard Allen

  
Latisha Dumas, Assistant

**NORTH CAROLINA HOUSE OF REPRESENTATIVES  
COMMITTEE MEETING NOTICE  
2005-2006 SESSION**

You are hereby notified that the Committee on **STATE PERSONNEL** will meet as follows:

**DAY & DATE:** Tuesday, June 20, 2006

**TIME:** 12:00pm

**LOCATION:** 1425 LB

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

**1942 Verify Public Employee Legal Status /Funds Rep. Cleveland**

Respectfully,

Representatives B. Allen and C. Justus  
Co-Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at 2:30 p.m. on June 15, 2006.

\_\_\_\_Principal Clerk  
\_\_\_\_Reading Clerk - House Chamber

Barbara J. McMillan (Committee Assistant) 733-5772  
Glenda Jones (Committee Assistant) 733-5956

**AGENDA**  
**House State Personnel Committee**

Tuesday, June 20, 2006

12:00 pm

Room 1425 LB

Chaired by: Rep. Bernard Allen and Rep. Carolyn Justus

---

Call to Order Rep. Bernard Allen

- Opening Remarks by Co-Chairs

**Introductions: Committee Members**

**\*Rep. Walter Church, Vice Chair**

**\*Rep. Tracy Walker, Vice Chair**

**\*Rep. Linda Coleman**

**\*Rep. Nelson Dollar**

**\*Rep. Jean Farmer-Butterfield**

**\*Rep. Wilma Sherrill**

**\*Rep. Ron Sutton**

**\*Rep. Roger West**

- **Staff**

**\*Theresa Matula**

**\*Karen-Cochrane Brown**

- **Sergeant at Arms**

**\*Martha Parrish**

**\*Frank Prevo**

- **Pages**

- **Committee Assistants**

**\*B.J. McMillan (Rep. Allen)**

**\*Glenda Jones (Rep. Justus)**

**Overview:**

**Lynn Floyd - (Office of State Personnel) - Current Employment  
Eligibility Verification Process**

- **HB 1942 Rep. Cleveland Verify Public Employee Legal  
Status/Funds**

**Adjournment**

# VISITOR REGISTRATION SHEET

## STATE PERSONNEL

Name of Committee

6-20-06

Date \_\_\_\_\_

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME \_\_\_\_\_

FIRM OR AGENCY AND ADDRESS

Lynn Floyd

OSP

Carl Goodwin

05P

Carl DeGn

DSP

Chad Hinton

Civitas Institute

Mike Baker

Asso. Press

Andre Allen

J. Apple

House PagesName Of Committee: STATE PERSONNEL 6-20-06

1. Name: Grant Marine  
County: New Hanover  
Sponsor: Danny McCormick
2. Name: Elizabeth Locklear  
County: Robeson  
Sponsor: Rep. Ronnie Sutton
3. Name: Willie Joseph  
County: Scotland  
Sponsor: Rep. Black
4. Name: Elizabeth Priest  
County: Bladen  
Sponsor: Rep. Edd Nye
5. Name: Matthew Locklear  
County: Robeson  
Sponsor: Rep. Bonnie Sutton

Sgt.-At-Arms

1. Name: MARTHA PARRISH
2. Name: FRANK PROVO
3. Name: \_\_\_\_\_
4. Name: \_\_\_\_\_
5. Name: -

# Minutes

## State Personnel Committee Meeting

June 20, 2006

Presiding Co-Chair: Representative. Bernard Allen

Co-Chair: Representative Carolyn Justus

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The House State Personnel Committee met on Wednesday, June 20, 2006, in Room 1425 of the Legislative Building at 12 noon

The meeting was called to order by Co-Chairs Representative Bernard Allen and Representative Carolyn Justus. Members in attendance: Representatives Walter Church-Vice Chair, Tracy Walker-Vice Chair, Linda Coleman, Nelson Dollar, and Ronnie Sutton.

Staff Members present: Theresa Matuala, Counsel

Committee Assistants: Barbara McMillan and Glenda Jones

Serving as Sergeant-At-Arms: Mr. Frank Prevo

Serving as House Pages: Millie Joseph (Scotland County), Elizabeth Locklear & Matthew Locklear (Robeson County), Grant Morene (New Hanover County); Elizabeth Priest (Bladen County).

House Bill 1942, Verify Public Employee Legal Status/Funds. sponsored by Representative. Cleveland was the only bill on the agenda. Chair Allen entertained a motion from Representative Church to substitute the Proposed Committee Substitute (PCS) for the original bill, it was accepted.

House Bill 1942 – A bill to be entitled an act providing for the use of the basic pilot program for verification of the legal status of newly hired employees of the state; local education agencies; and community colleges.

Rep. Bernard Allen asked Lynn Floyd (Office of State Personnel) to provide the committee with an overview of the Office of State Personnel's position on HB 1942 and other experiences that have occurred to verify legal status of public employee. Mrs. Floyd presented the background of the Federal Guidelines for verifying legal status and the appropriate forms used, timelines and other requirements. Mrs. Floyd's presentation was very in-depth.

Chair Allen had to attend another committee meeting and Chair Justus presided.

There was a question and answer session between the committee members and Mrs. Floyd. Representative Cleveland made his overview of HB 1942 and his concern that the State of North Carolina should have in place the means to verify the legal status of employees before they are offered a job. Representative Cleveland referenced other states such as California which had a similar program but he had not contacted anyone to verify how well the program was working..

Representative Cleveland indicated this program would allow North Carolina to be able to tie into a national database.

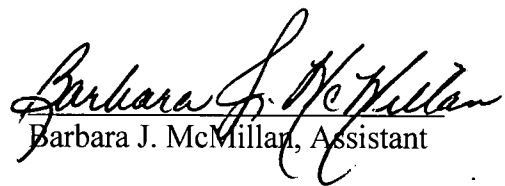
There was general discussion on the bill between the committee members and Office State Personnel members present on costs and training of personnel.

A motion was made by Representative Sutton to make a favorable report to the committee substitute bill, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on Appropriations.

The meeting was adjourned at 1:10 p.m.

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Representative Bernard Allen

  
Barbara J. McMillan, Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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HOUSE BILL 1942  
PROPOSED COMMITTEE SUBSTITUTE H1942-CSSH-66 [v.3]

6/12/2006 5:17:13 PM

Short Title: Verify Public Employee Legal Status/Funds.

(Public)

Sponsors:

Referred to:

May 15, 2006

1 A BILL TO BE ENTITLED  
2 AN ACT PROVIDING FOR THE USE OF THE BASIC PILOT PROGRAM FOR  
3 VERIFICATION OF THE LEGAL STATUS OF NEWLY HIRED EMPLOYEES  
4 OF THE STATE; LOCAL EDUCATION AGENCIES; AND COMMUNITY  
5 COLLEGES; AND APPROPRIATING FUNDS FOR THAT PURPOSE.

6 The General Assembly of North Carolina enacts:

7 SECTION 1. Chapter 126 of the General Statutes is amended by adding a  
8 new Article to read:

9 "Article 16.

10 "Verification of Employee Legal Status.

11 "**§ 126-95. Verification of employee legal status.**

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

13 (1) Basic Pilot Program. – The electronic verification of work  
14 authorization program authorized under 8 U.S.C. § 1101, et seq.

15 (2) Employee. – Any person employed by a State agency, department,  
16 institution, university, and local subdivision under G.S. 126-5(a)(2)  
17 and (3); a local education agency; and a community college. The term  
18 shall not include a person under contract or subcontract.

19 (b) Verification Required. – Each State agency, department, institution,  
20 university, and local subdivision under G.S. 126-5(a)(2)and (3); local education agency;  
21 and community college; shall verify, in accordance with the Basic Pilot Program  
22 administered by the United States Department of Homeland Security, each individual's  
23 legal status or authorization to work in the United States prior to hiring the individual as  
24 an employee.

25 (c) Application. – The provisions of this section apply to all newly-hired  
26 employees as defined by subsection (a) of this section."

27 SECTION 2. G. S. 126-5 is amended by adding a new subsection to read:

1       "(c9) Article 16 of this Chapter shall apply to all State employees, including all  
2 employees of The University of North Carolina, public school employees, and  
3 community college employees."

4       **SECTION 3.** By August 1, 2006, the State Personnel Commission, The  
5 University of North Carolina, the State Board of Education, and the Community  
6 Colleges System Office, shall take all steps necessary to participate in the Basic Pilot  
7 Program operated by the United States Department of Homeland Security for the  
8 verification of the legal status of newly hired employees.

9       **SECTION 4.** There is appropriated from the General Fund to the  
10 Department of Administration, Office of State Personnel, the sum of fifty thousand  
11 dollars (\$50,000) for the 2006-2007 fiscal year to provide technical assistance and  
12 training to State agencies, departments, institutions, universities, local subdivisions  
13 under G.S. 126-5(a)(2) and (3); local education agencies or the Department of Public  
14 Instruction; and community colleges; in carrying out and monitoring compliance with  
15 the provisions of this act.

16       **SECTION 5.** This act becomes effective July 1, 2006, and applies to  
17 employees hired on or after August 1, 2006.

**2006 COMMITTEE REPORT  
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative B. Allen, Justus (Chairs) for the Committee on STATE PERSONNEL.

☐ Committee Substitute for

**HB 1942** A BILL TO BE ENTITLED AN ACT PROVIDING FOR THE USE OF BASIC PILOT PROGRAM FOR VERIFICATION OF THE LEGAL STATUS OF NEWLY HIRED EMPLOYEES OF THE STATE; LOCAL EDUCATION AGENCIES; AND COMMUNITY COLLEGES.

☒ With a favorable report as to the committee substitute bill, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on APPROPRIATIONS.

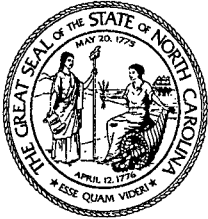
**(FOR JOURNAL USE ONLY)**

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\_\_\_\_\_ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on \_\_\_\_\_.

\_\_\_\_\_ Pursuant to Rule 36(b), the (House) committee substitute bill/(joint) resolution (No. \_\_\_\_\_) is placed on the Calendar of \_\_\_\_\_. (The original bill resolution No. \_\_\_\_\_) is placed on the Unfavorable Calendar.

\_\_\_\_\_ The (House) committee substitute bill/(joint) resolution (No. \_\_\_\_\_) is re-referred to the Committee on \_\_\_\_\_. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. \_\_\_\_\_) is placed on the Unfavorable Calendar.



# HOUSE BILL 1942: Verify Public Employee Legal Status/Funds

## BILL ANALYSIS

**Committee:** House State Personnel  
**Introduced by:** Rep. Cleveland  
**Version:** PCS to First Edition  
H1942-CSSH-66

**Date:** June 19, 2006  
**Summary by:** Theresa Matula  
Committee Staff

**SUMMARY:** *The Proposed Committee Substitute for House Bill 1942 requires all State agencies, departments, institutions, universities, local subdivisions under G.S. 126-5 (a)(2) and (3); local education agencies; and community colleges to use the Basic Pilot Program to verify a newly-hired employee's legal status or authorization to work in the United States. The bill also appropriates \$50,000 to the Office of State Personnel for technical assistance and training and has a serial referral to Appropriations.*

## BILL ANALYSIS:

**Section 1** of the Proposed Committee Substitute (PCS) for House Bill 1942 establishes a new Article 16 in Chapter 126 pertaining to the verification of employee legal status.

- G.S. 126-95(a) provides definitions of the Basic Pilot Program and employee.
- G.S. 126-95(b) requires that each State agency, department, institution, university, and local subdivision under G.S. 126-5(a)(2) and (3); local education agency; and community college shall verify in accordance with the Basic Pilot Program, each individual's legal status or authorization to work in the United States prior to hiring the individual as an employee.
- G.S. 126-95 (c) provides that this section applies to all newly-hired employees.

**Section 2** of the PCS amends G.S. 126-5 to add a new subsection providing that Article 16 applies to all State employees, including all employees of The University of North Carolina, public school employees, and community college employees.

**Section 3** requires the State Personnel Commission, The University of North Carolina, the State Board of Education, and the Community Colleges System office to take all steps necessary to participate in the Basic Pilot Program by August 1, 2006.

**Section 4** appropriates \$50,000 for technical assistance and training to the Department of Administration, Office of State Personnel, for the 2006-2007 fiscal year.

The act becomes effective July 1, 2006, and applies to employees hired on or after August 1, 2006.

## BACKGROUND:

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 required the Immigration and Naturalization Service (INS), now the Department of Homeland Security (DHS), and the Social Security Administration to conduct three employment verification pilot programs, one of these was the Basic Pilot program. Initially, the Basic Pilot program operated in California, Florida, Illinois, New York, and Texas. Nebraska was later added.

The Basic Pilot Program Extension and Expansion Act of 2003 (P.L. 108-156) extended the pilot to 2008, expanded the program to all 50 states by December 1, 2004, and required the Secretary of Homeland Security to submit a report by June 1, 2004. The report was to be submitted to the Committees on the Judiciary of the House of Representatives and the Senate evaluating previously identified problems (from a June 2002 evaluation of the program) and describing actions to be taken prior to expansion to all 50 states. The 2004 report was submitted

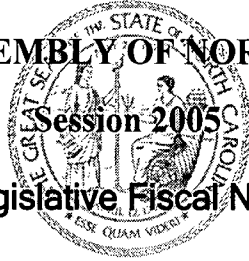
# House Bill 1942

*Page 2*

and stated that, "Available information shows that CIS [US Citizenship and Immigration Services] and SSA [Social Security Administration] have made considerable progress toward ameliorating the problems identified in the Basic Pilot evaluation. SSA and CIS have made large strides in addressing the data accuracy problems noted by the pilot evaluations." Additionally, the report stated, "no problems are currently anticipated that would prevent CIS from opening the Basic Pilot program to all U.S. employers by December 1."

*H1942e1-SMSH-CSSH-66*

# GENERAL ASSEMBLY OF NORTH CAROLINA



## Legislative Fiscal Note

**BILL NUMBER:** House Bill 1942 (Third Edition)

**SHORT TITLE:** Verify Public Employee Legal Status/Funds.

**SPONSOR(S):**

FISCAL IMPACT					
	Yes ( )	No ( )	No Estimate Available ( )		
	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>	<u>FY 2010-11</u>
<b>REVENUES:</b>					
<b>EXPENDITURES:</b>	No Estimate Available				
<b>POSITIONS</b> (cumulative):					
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b>					
<b>EFFECTIVE DATE:</b>					

**BILL SUMMARY:** Creates Article 16 of Chapter 126 requiring all State agencies, departments, institutions, universities, local subdivisions under G.S. 126-5(a)(2) and (3), local education agencies, and the community colleges to use the Federally authorized Basic Pilot Program to verify a newly hired employee's legal status and authorization to work in the United States. The Basic Pilot Program is a web-based electronic verification of work authorization program administered jointly by the Social Security Administration and the U.S. Department of Homeland Security and is authorized under 8 U.S.C. § 1101, et seq. Requires the Office of State Personnel to provide technical assistance and training to various governmental entities in complying with act and to provide this assistance from funds appropriated.

**ASSUMPTIONS AND METHODOLOGY:** The Basic Pilot Program permits employers to electronically verify whether their new employees are authorized to work in the United States. Employers are already required to complete Forms I-9 for all newly hired employees in accordance with the Immigration Reform and Control Act of 1986. Upon completion of the forms, an employer may query the Basic Pilot Program's automated system by entering employee information from the Form I-9 into the Basic Pilot Program web site. The pilot program

electronically matches the entered information against information in the Social Security Administration's (SSA) and, if necessary, the Department of Homeland Security's (DHS) databases to determine whether the employee is eligible to work. The Basic Pilot Program notifies the employer electronically whether the employee's work authorization was confirmed. Queries that the DHS automated verification cannot confirm are referred to DHS immigration status verifiers who check employee information against other DHS information. In cases where the Basic Pilot Program cannot confirm an employee's work authorization status either through the automatic check or the check by an immigration status verifier, the system issues the employer a tentative nonconfirmation of the employee's work authorization status. In these cases, the employer must notify affected employees of the finding, and the employee has the right to contest their tentative nonconfirmation by contacting the SSA or the U.S. Citizenship and Immigration Services (CIS) to resolve any inaccuracies within 8 days. Employers are required to either immediately terminate the employee or notify DHS of the continued employment of workers who do not successfully contest the tentative nonconfirmation and those who the Basic Pilot Program finds are not work-authorized.

The Basic Pilot Program is currently available on a voluntary basis to all employers in the United States. As of June 2006, 8,600 of approximately 5.6 million employer firms nationwide have registered to use the program. Of those registered, approximately 4,300 are active users. In North Carolina, 266 employers have registered to use the program.

The Basic Pilot Program was created by Congress in 1996 and initially had a number of weaknesses. The weaknesses generally related to high rates of nonconfirmations. At one point, DHS had estimated it would be unable to electronically verify employment eligibility in 35 percent of all cases due to delays in updating computer records, name-matching problems, and errors in the databases. A report to Congress on the Basic Pilot Program dated June 2004 submitted by the Secretary of the Department of Homeland Security indicates that both the SSA and the DHS have substantially increased the reliability of the data contained in their databases resulting in significantly higher rates of electronic confirmations.

Testimony by Richard M. Stana, Director of Homeland Security and Justice, to the Subcommittee on Immigration, Border Security, and Citizenship, Committee on the Judiciary, US Senate on June 19, 2006 indicates that the Basic Pilot Program is still not without significant weaknesses. Specifically, the current Basic Pilot Program cannot help employers detect identity fraud. For example, if an employee presents valid documentation that belongs to another person authorized to work or if the employee presents counterfeit documentation that contains valid information, the Basic Pilot Program will likely find the employee to be work-authorized. Delays in the entry of information into the DHS databases on arrivals and employment authorization continue to compromise DHS databases and lengthen the verification process. Mr. Stana stated "...although the majority of pilot program queries entered by employers are confirmed via the automated SSA and DHS verification checks, about 15 percent of queries authorized by DHS required secondary verifications by immigration status verifiers in fiscal year 2004..." According to CIS officials, current staff may not be able to complete timely secondary verifications if the number of employers using the program significantly increase.

The Fiscal Research Division attempted unsuccessfully to contact employers in North Carolina who are currently using the Basic Pilot Program to obtain data regarding rates of nonconfirmations and the costs of efforts required by employers to resolve any such nonconfirmations. Costs associated with an employer using the Basic Pilot Program when the employer receives an immediate confirmation of work authorization would be negligible. We, however, have been unable to obtain any data from an employer using the Basic Pilot Program in order to determine current expected rates of nonconfirmations and any costs that may be associated with the resolution of those nonconfirmations.

**SOURCES OF DATA:** U.S. Government Accountability Office; the Social Security Administration, Office of the Inspector General, Administrative Challenges Facing the Social Security Administration presented to the U.S. Senate Committee on Finance, March 14, 2006; U.S. Department of Homeland Security Report to Congress on the Basic Pilot Program, June 2004; N.C. Department of Public Instruction; U.S. Office of Congressional Relations

**TECHNICAL CONSIDERATIONS:** The Basic Pilot Program was authorized by Congress in 1996, has been extended several times, and currently expires in November 2008. House Bill 1942, third edition, creates a new article in Chapter 126 permanently requiring State agencies, departments, institutions, universities, local subdivisions under G.S. 126-5(a)(2) and (3), local education agencies, and community colleges to verify an employee's work-authorization using a pilot program that is scheduled to expire in November 2008.

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**DATE:** July 12, 2006

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