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REPORT

of the

INTERIM SPECIAL SENATE COMMITTEE  
ON PERSONNEL POLICIES

to the

SENATE

of the

GENERAL ASSEMBLY OF NORTH CAROLINA

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LETTER OF TRANSMITTAL

GENERAL ASSEMBLY OF NORTH CAROLINA

SENATE CHAMBER

STATE LEGISLATIVE BUILDING

RALEIGH, NORTH CAROLINA

JANUARY 16, 1974

Members of the 1973 Senate:

The following pages contain the report of the Interim Special Senate Committee on Personnel Policies. The report reflects on the many hours of hearings and Committee deliberations in nine formal meetings and various informal proceedings during the period October 29, 1973, through January 15, 1974.

This report has reproduced most of the significant information available to the Committee concerning State Personnel matters. The Committee focused mainly on the Department of Transportation, but it also took a look at the personnel operations of the Department of Social Rehabilitation and Control and the Department of Revenue. The body of the Report includes Committee Findings, and Conclusions and Recommendations on major personnel matters. It is hoped that the members of the Senate will find the formal recommendations and the background information useful in considering legislation on the State Personnel System.

Respectfully submitted,

THE INTERIM SPECIAL SENATE COMMITTEE ON PERSONNEL POLICIES

  
\_\_\_\_\_  
Senator Bob L. Barker, Chairman

  
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Senator Wesley D. Webster, Vice Chairman

  
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Senator Dallas L. Alford, Jr.

  
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Senator Willard J. Blanchard

  
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Senator Lamar Gudger

  
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Senator Malcolm W. Butner

  
\_\_\_\_\_  
Senator Lynwood Smith

This Report is the work of an Interim Committee and there were no bills before the Committee; therefore, the signing of this Report does not constitute endorsement of any pending or proposed legislation.



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## I. INTRODUCTION.

A. The public announcement of firings in the North Carolina Department of Transportation and Department of Social Rehabilitation and Control, and the existence of the Governor's Patronage Team.

On October 24, 1973, the Department of Transportation announced "the relieving of approximately 100 employees in the (Highway) Division of their duties." [See APPENDIX A] On October 29, 1973, the Department of Social Rehabilitation and Control announced the termination of 13 employees in Youth Development. [See APPENDIX W] The announced dismissals stirred discussion over the State, and became the basis of concern about the proper treatment of State employees. With talk of politics in personnel matters, the existence of the Governor's patronage team [See APPENDIX H] was again being discussed. The concern grew for many members of the General Assembly and other governmental leaders, and some questioned whether the dismissals were for reasons of efficiency as alleged, or simply for political reasons. Through combination of these factors, State personnel policies became an issue that would face the next General Assembly session.

B. The "Annual Session" format developed by the 1973 General Assembly.

The 1973 Session of the General Assembly of North Carolina convened on January 10, 1973. The State Constitution and statutes set up a biennial session to be convened in January of the odd-numbered years, but there is no limitation on the length of sessions. Recent sessions have been running for some five or six months during the first year of the biennium, but there is no legal impediment to continuation of a session into the second

year. During the early months of 1973, the North Carolina Legislature decided to divide the biennial session into annual segments and meet part of the 1973 biennial session in 1973 and part in 1974. (This parliamentary procedure of achieving annual meetings is not unique for a state legislature. Tennessee has used a similar operation for many years; Ohio is another example.) The 1973 North Carolina General Assembly adjourned its "First Session 1973," on May 24, 1973, to reconvene for its "Second Session 1974," on January 16, 1974. The personnel policy issue arose before the sine die adjournment of the 1973 General Assembly, during the recess period between parts of the biennial session.

C. Appointment of the Interim Special Senate Committee on Personnel Policies by Lieutenant Governor Hunt, and his charge to the Committee.

Early in the personnel policies controversy surrounding the publicly announced dismissals of State employees, the General Assembly became specifically involved. Lieutenant Governor Hunt appointed an Interim Special Senate Committee to look into State personnel matters while the Legislature was in recess, and to report to the Senate when it reconvened. The Lieutenant Governor appointed the Committee on October 26, 1973, and followed with a written charge to the Committee on November 1, 1973, directing the Committee to "secure information regarding the personnel policies of state government in North Carolina" and to "make recommendations to the Senate upon its reconvening in January, 1974." [See APPENDIX L] The Interim Special Senate Committee on Personnel Policies is made up of: Committee Chairman Bob L.



Barker, Vice-Chairman Wesley Webster, and Senators Dallas Alford, Willard Blanchard, Malcolm Butner, Lamar Gudger, and Lynwood Smith.

II. SUMMARY OF PRESENT STATUTORY LAW AND ADMINISTRATIVE REGULATIONS AND POLICIES.

A. Hatch Act Prohibitions.

Political activity of United States Government employees, and to an increasing extent some State employees, is controlled by the Hatch Act. [See APPENDIX M] The federal law has a great deal of relevance to the inquiry of this Committee because it covers many North Carolina employees [See APPENDIX S], and also because it represents an attempt to control employee political activity and it might suggest something useful to be incorporated into North Carolina law concerning personnel policies. Because of the differences between a state and a national government, many of the Hatch Act precedents are inappropriate for State application, but one possibly useful facet of the federal law not now used in North Carolina is the list of specific "thou may's" and "thou shalt not's" promulgated by the United States Civil Service Commission. [See APPENDIX M] North Carolina's law concerning political activity by State employees is very general, and perhaps some consequent misunderstanding of this too general law is the reason for some of the improper political activity brought to the Committee's attention.

B. The State Personnel Act.

1. The State Personnel Board and its policies.

Chapter 126 of the North Carolina General Statutes establishes the State Personnel Department and creates the State Personnel

Board. [See APPENDIX N] The Board has two main functions that relate to the purposes of this Committee, it establishes policies reflecting good personnel management and it acts as a final appeal panel in disciplinary procedures for State employees. G.S. 126-4(6) calls for the Board, subject to the approval of the Governor, to establish policies governing the "...demotion, suspension, and separation of employees." [See APPENDIX O] G.S. 126-4(9) calls for the Board to hear appeals of "...employees, and former employees" and to issue "advisory recommendations in all appeal cases." There is no provision requiring State departments to follow the policies established by the Board, and advisory recommendations are not legally binding in any employee's final appeal (if there is an appeal, since an appeals process is not mandatory). Since these sections are not enforceable there are no statutory provisions for penalizing government workers who violate the policies, and no criminal sanctions.

## 2. Political activity by State employees.

G.S. 126-13 apparently protects some of the individual political rights of State employees, and it prohibits all political activity by State employees while on State time; the section further prohibits use of a State job or position to influence a partisan political contest. G.S. 126-14 forbids political encouragement or coercion through use of State position. [See APPENDIX N] These sections do not define what is a permissible level of political activity by State employees on their own time, and do not describe the specific extent to which such activity is forbidden on State time. Apparently there is

very little allowable political activity while on State time, since the statutes forbid an employee to participate in a campaign "or otherwise engage in political activity while on duty." The only penalty set out for failure to comply with G.S. 126-13 or G.S. 126-14 is the provision for "disciplinary action which, in case of deliberate or repeated violation, may include dismissal or removal from office" in G.S. 126-15. There are no criminal sanctions.

C. Pending personnel legislation before the 1973 General Assembly, Second Session 1974.

Three bills concerning the State Personnel Act that were introduced during the 1973 General Assembly, First Session 1973, will be further considered during the Second Session 1974. [See APPENDIX Q] All of the bills are before the Senate Committee on State Government. HB 1062 would put appointment of the State Personnel Director back under the State Personnel Board (the 1971 Reorganization Act gives the Director of Administration this authority); the bill would also give the Board binding authority on its appeal decisions [See APPENDIX S] and it would give statutory status to what is now policy concerning disciplinary actions and procedures. HB 1083 would give the North Carolina State Employees Association's membership on the Board. SB 251 would specifically prohibit discharge on the basis of party affiliation only and would give binding reinstatement authority to Board appeal decisions.

III. COMMITTEE PROCEEDINGS.

A. General Summary.

The nine meetings and hearings of the Interim Special Senate Committee on Personnel Policies (two meetings covered two days) will be outlined in the paragraphs that follow. [Complete meeting schedule with list of attending witnesses in APPENDIX Z] All meetings were held in the State Legislative Building in Raleigh, except for the hearings in Asheville and Greenville which were thought to be necessary in order to reduce witness inconvenience.

The Committee experienced considerable difficulty in getting information from the Executive Branch of State Government. In some instances requests made under G.S. 120-19 were ignored or given inadequate responses. [See APPENDICES X and Y] G.S. 120-19 [See APPENDIX J] directs all State officers and employees to give to any requesting member of the General Assembly all information and data within their possession. The North Carolina Department of Transportation declined to provide the Committee an official list of the recent terminations (the "list of 100") until 17 days after the list was released to the newspapers and 30 days after it was originally requested by the Committee. [Outline of Committee's attempt to secure official list in APPENDIX X; names of discharged in APPENDICES B and C] Also, the Committee has not received any of the requested weekly activity reports by Department of Transportation personnel officers. [Outline of Committee's pursuit of activity reports in APPENDIX Y]

Most of the Committee's meetings have concentrated on personnel policies of the Department of Transportation; however, information concerning the Department of Social Rehabilitation

and Control [See APPENDIX W] and the Department of Revenue was also reviewed.

B. Preliminary Matters - organization and staff information requests by Committee Chairman.

Most of the preliminary Committee work before the initial meeting was carried out by the Chairman and by members of the Legislative Services Office staff at the Chairman's direction. During this time a news clipping file was started, information requests were made of the Department of Transportation, legal materials were copied and abstracted, and contacts with prospective witnesses were initiated.

C. November 2, 1973, Committee Meeting - staff reports on Hatch Act, etc.

At its first meeting, the Committee heard from Deputy Attorney General R. Bruce White, Jr. concerning the Hatch Act. [See APPENDIX M] The Chairman distributed copies of materials prepared by Committee staff: The State Personnel Act [see APPENDIX N], statutory (criminal) prohibition of misuse of State automobiles [see APPENDIX T], and statutory authority for reimbursement of expenses in connection with State work [see APPENDIX U]. Future meeting times, subject matter, and potential witnesses were tentatively scheduled.

D. November 8, 1973, Committee Meeting - request appearance of Department of Transportation personnel officers and others.

At its second formal meeting, the Committee looked at the organization of the Personnel Office of the Department of Transportation. The present executive administration has created a new personnel system with 17 personnel officers over the State;

the State is divided into three geographical regions each under the supervision of a Regional Personnel Director, and within the regions each highway division is under a Personnel Officer. [See APPENDIX G] It was an obvious place to start an inquiry into personnel policies of the Department of Transportation. The Committee voted to invite the 17 personnel officers to appear and give testimony at the next meeting. The Committee also decided to press and follow up on requests of the Department of Transportation for copies of weekly activity reports of the personnel officers and for an official list of the 100 employees relieved of their duties. The difficulties that faced the Committee in its attempt to get this information have been commented on in the general summary above. [APPENDICES X and Y catalog events]

E. November 14, 1973, Committee Meeting/Hearing - personnel officers did not appear as requested.

The Committee had anticipated hearing from the Department of Transportation personnel officers at its November 14 meeting. The personnel officers did not appear. (At the December 13 Committee meeting, some of the personnel officers indicated that they had refused to attend the November 14 meeting on orders from the Personnel Director for the Department of Transportation, Al Boyles.)

The November 14, 1973, News and Observer attributed a statement to Governor Holshouser in which he referred to the Interim Special Senate Committee on Personnel Policies by responding to a press conference question about the Special Committee appointed by Lieutenant Governor Hunt with: "You're talking about witch-

Hunt committee?" Republican Party Chairman Bennett, who attended the November 14 Committee meeting as an observer, carried with him a book on Salem witchcraft in an obvious attempt to further publicize the matter. These events appeared to be the beginning of a direct challenge to the authority and integrity of the Committee.

The November 15, 1973, News and Observer quoted Republican Party Chairman Bennett as saying: "As I understand the rules of the House and Senate, it (the Committee) should have been established by a joint resolution." Senate Minority Leader Taylor had already expressed his doubts about the legality of the Committee, and Senator Taylor was joined by Senate Minority Whip Rountree in a threat to bring suit against the Committee on the ground that it must be appointed through a joint resolution of both Houses.

The Committee is certain that it has operated on a sound basis. Contrary to assertions by Committee critics, Senate Rule 37(f) [See APPENDIX K] clearly authorizes the Committee's appointment, setting out that: "not more than two interim special committees may be appointed by the President of the Senate." Also, G.S. 120-19.1(b) [See APPENDIX I] sets out that: "Hearings and examinations of witnesses concerning pending legislation or other appropriate matters may be conducted during sessions of the General Assembly, during recesses, and in the interim period between sessions, at such times as committees are authorized to convene."

F. November 21, 1973, Committee Meeting/Hearing - legal information from personnel authorities and testimony from discharged employees.

At its fourth meeting the Committee heard from Donald Hayman, Assistant Director of the Institute of Government, and from Claude Caldwell, State Personnel Director, concerning personnel statutes of other states [See APPENDIX R] and the North Carolina State Personnel Act [See APPENDICES N and O]. The powers and activities of the North Carolina Personnel Board were discussed earlier in Section II of this Committee report.

During a luncheon meeting at the Governor's Mansion that divided the Committee's morning and afternoon activities on November 21, the Committee reached a mutual understanding with the Governor. The Committee announced its intent to refrain from pure political questioning and to pursue only matters with clear relevance to State personnel; the Governor announced his intent to release Department of Transportation Personnel Officers to testify before the Committee and to direct his administration to waive any technical defects in individual cases and preserve the former employees' right to appeal. (After the meeting with the Governor, the Committee experienced less difficulty in obtaining information from the Executive Branch.)

In the afternoon on November 21, the Committee heard from seven former State employees discharged in the recent dismissals by the Executive Branch. In the Committee's questioning of a former Revenue Department employee, it became apparent that the employee had been soliciting political contributions from other State employees while he was on State time. The other former employees



(five from the Department of Transportation and one from the Department of Social Rehabilitation and Control) all testified that they had never performed any political work on State time, and no evidence to the contrary was uncovered by Committee questions or staff inquiry. All of the former employees of the Department of Transportation testified that they did not know why they were discharged, although some indicated that they suspected that it was for their political affiliation or for some political activity carried on privately while not on State time. All of these five employees asserted that they had been discharged without warning, and that they had not been given any reason for their dismissal - other than "in the best interest of the State" in some instances. The former employee of the Department of Social Rehabilitation and Control testified that in the Department Reorganization his position was eliminated by the Board of Youth Development despite the fact that he had been told he was rendering "outstanding service". These separated employees averaged almost 24 years of State service; one man had 38 years.

G. November 28, 1973, Committee Meeting/Hearing - Department of Transportation witnesses.

On November 28 the Committee heard from Secretary of Transportation Lentz [See APPENDIX E] and Troy Doby, former Personnel Director for the Department of Transportation and now a member of the Board of Transportation. They both confirmed that the Board of Transportation has adopted binding personnel policies effective July 1, 1973. [See APPENDIX P] Mr. Doby indicated that he was responsible for developing the policy while

he was with the Department. He also asserted that he had been charged by the Governor to "gain control" of personnel, and that he had attempted to correct a patronage system that had historically discriminated against blacks, women, and Republicans.

At this Committee meeting the members got their first look at an official response to its request of the Department of Transportation for the "list of 100". [See APPENDIX C] Previous to this date the Committee had only seen news reports and press releases on the names of dismissed employees. [See APPENDICES A, B, and X] Also, at this meeting, the Committee looked at the names of other employees (outside of the "list of 100") dismissed by the Department of Transportation. [See APPENDIX D]

The Committee questioned former Personnel Director David Madigan about his part in the Department dismissals. He testified that he had left the Department by the time of the dismissals, and that he had not initiated any specific investigation by personnel officers that resulted in generating information leading to the dismissals. Madigan was also questioned concerning weekly activity reports from personnel officers to the Personnel Director. He acknowledged the existence of reports, but declined to specifically authenticate a copy of an alleged report in the Committee's possession. He testified that he had not kept copies of the weekly reports and discarded originals after an initial inspection. The alleged report that was the subject of specific questions indicated partisan political activity by Personnel Officer McCall. [See APPENDICES Y and G]

H. December 6 and 7, 1973, Committee Meeting/Hearing - in Asheville, Western Region participation.

In Asheville, Transportation Personnel Officers testified that they had no specific input as to reasons for firings, that weekly activity reports did exist and that they were sent to Madigan, that the reports were not kept or were destroyed, and that the reports have now been discontinued. Personnel Officer McCall testified that partisan political matters were mentioned in some of the reports, but they were incidental matters and he saw nothing wrong with it. McCall, however, did not specifically identify the alleged report in the Committee's possession (the "report" was on Department of Transportation stationery and had McCall's name on it). None of the personnel officers remembered performing any political activity on State time. [See APPENDIX Y]

Discharged State employees testified as to circumstances of their terminations - suddenly and without warning, and without given reasons. Some believed that they had been discharged because of their political affiliation. It became apparent that the Transportation dismissals were concentrated in the 14th Highway Division, 22 of the 52 dismissals. [See APPENDIX B]

I. December 13, 1973, Committee Meeting/Hearing - in Greenville, Eastern Region participation.

The Eastern Region Transportation Personnel Officers testified that they had no participation in giving reasons for dismissals in their divisions and they generally did not know of reasons for the dismissals. These officers remembered preparing some activity reports, but did not keep copies. Firings were from a

"higher level" of the Department of Transportation. Discharged employees presented information that their political activity was done on their own time, and they described their dismissals as being without warning and without the giving of specific reasons.

J. January 8 and 9, 1974, Committee Meeting/Hearing - Central Region participation.

Central Region Personnel Officers confirmed that they had not given the Department any information to support the firings, and that the decisions were made by Secretary Lentz. The activity reports were remembered but copies were not retained or they were destroyed.

Secretary Lentz testified that dismissals were carried out without warning and that in most instances the reason given was "in the best interest of the Department". Many of the employees were dismissed by helicopter visits. It was indicated that some appeals had been heard at the beginning appeal level, but that the personnel officers still did not know reasons for dismissal and they could only refer the appeals to the higher offices in Raleigh. Most of the appeals that have gone through these higher levels have resulted in reinstatements; ten final appeals - six reinstatements, and four cases pending. [See APPENDIX V]

Secretary Lentz indicated that information supporting the dismissals came from letters and telephone reports by citizens, from the Governor's Office, and from Transportation Administrative employees and Personnel Officers in the field. He denied that his indication of field information was contradicting his personnel officers' testimony. He indicated that perhaps the personnel officers did not understand the Committee's questions.

Secretary Lentz asserted that it was necessary to rely on outside sources of information because the employees' personnel files did not contain useful materials, that there was nothing in the files to be used in evaluating an employee's performance of his duties. When the Secretary was questioned as to the reliability of his information, he indicated that some information came from the Governor's Office. Governor Holshouser's Special Assistant Gene Anderson indicated that he passed information to the Transportation Department, but that he assumed the Department would investigate the sources of the reports. [See APPENDIX F] Anderson denied that the Governor's Office ordered dismissals, but he did recall some instances of writing suggestions on the complaint information passed on to the Department.

Commissioner of Revenue Howard Coble and Secretary of Rehabilitation and Control David Jones testified on matters concerning dismissals in their departments. Commissioner Coble generally confirmed matters concerning political party contribution solicitations, and Secretary Jones gave information on dismissals in his Department. [See APPENDIX W]

K. January 15, 1974, Committee Meeting - further testimony from dismissed employees and adoption of final report.

At its last meeting, the Committee unanimously adopted this report to be presented to the Senate of the 1973 General Assembly, Second Session 1974, as soon as final editing was completed.

#### IV. COMMITTEE FINDINGS.

##### A. Prohibited Political Activity.

Current North Carolina General Statutes §26-13 attempts to protect the rights of State employees to engage in some political activity on their own time, and attempts to prohibit almost all political activity while State employees are on the job. G.S. §26-15 provides for dismissal as a penalty for violation of G.S. §26-13; there are no criminal sanctions.

A great majority of the former State employees who testified before the Committee had not participated in any political activity while on the job.

A former employee of the Department of Revenue was involved in soliciting political party contributions on State time. This activity was not practiced by a large number of State employees; not in the Department of Revenue, and not in general State employment. Specifically, the activity was not practiced by a large number of the recently terminated employees from the Department of Transportation or the Department of Social Rehabilitation and Control.

Weekly activity reports were prepared by the Department of Transportation Personnel Officers and sent to the Personnel Director. All of these reports have been lost, or they were destroyed, or they were discarded after their initial inspection. One of the reports contained information of a purely political nature, as well as business related to the Department of Transportation.

#### B. Policies and Practices.

Under current G.S. §26-4, the State Personnel Board does not have the authority to promulgate binding personnel policies for State government agencies and the Board does not have the power

to force reinstatements in appropriate final appeal cases. There is no penalty provision in G.S. Chapter 126 relating to this section.

The Department of Social Rehabilitation and Control has adopted binding personnel policies. The "13 firings" in the Department's Youth Development Program were carried out not only in contravention of personnel policies, but also in violation of statutory authority of the Teacher Tenure Act and the Board of Youth Development.

The Board of Transportation adopted binding personnel policies for the Department of Transportation, and these policies were in effect for the Department at the time of the terminations of the former State employees in the "list of 100". These policies closely paralleled those recommended by the State Personnel Board, providing for notice, hearing, right of appeal, etc.

Although the Secretary of Transportation and the Transportation Personnel Director and Officers endorsed the Department's personnel policies as being sound, many of the policies were ignored in the handling of the dismissals in the "list of 100". Department terminations, demotions, and transfers were carried out in the main without notice and without giving any reason; they were accomplished in a dramatic manner, in many instances after a news release concerning the specific dismissed personnel.

The approximate average age of the 52 employee dismissals in the "list of 100" from the Department of Transportation was 48-1/2 years, and the approximate average term of State service was 18-1/2 years.

The State Personnel Act, current G.S. 126-4(8), deals with evaluation of employee performance. In the case of the majority of dismissed employees, the Department of Transportation personnel files did not contain evaluation information. The Department is not now operating any personnel evaluation program, except with respect to engineering employees.

Department of Transportation Regional and Divisional Personnel Officers did not participate in generating information supporting the terminations; the firing decisions were made from "above" on the basis of some information gathered by the Secretary of Transportation. Testimony on the sources of this information is in conflict. The Secretary indicates that he received the information from: citizens' letters and phone calls, from the Governor's Office, and from Department of Transportation Personnel Officers. Transportation Personnel Officers denied generating the information. The Secretary suggests that the Personnel Officers did not understand Committee questions.

The information from the Governor's Office supporting dismissals in the Department of Transportation probably did not contain specific orders for dismissal; however, some of the information contained suggestions by the Governor's staff for action by the Department of Transportation. The Governor's Office did not investigate or authenticate the information, but assumed that this would be done by Transportation.

During the early period of the Committee's investigation of State personnel policies, the Governor and Department of Transportation officials announced that the right to appeal would be preserved for the dismissed employees, and that dismissals



would not be sustained without good cause appearing in the record of the hearings. Although some dismissed employees have not yet been given official notice of the reason for their discharge, and despite a continuing lack of documentation for the firings in the personnel files of former employees, some appeals have been completed. Of the 10 appeals that had been heard as of January 9, 1974, six of the appealing former employees have been reinstated and the remaining cases are pending.

#### V. CONCLUSIONS AND RECOMMENDATIONS.

##### A. Prohibited and Permissible Political Activity.

In all probability, some of the dismissals viewed by the Committee were improper, because they were based on legitimate political activities by the former employee and such activity should be protected. The present statute, G.S. 126-13, is weak and too general to provide adequate protection or to provide direction for a sincere employee seeking to comply. The Committee recommends revision of the present political activity Article of the State Personnel Act, with the goal of making the area of protected political activity more specific. In the revision the Legislature might be well advised to consider the development of some list of permissible and impermissible activities; it would probably be better to include only a skeletal list in statutory form, with authority for binding recommendations to be promulgated explaining or expanding the statutory base.

A few of the discharges that came under Committee scrutiny were undeniably proper. Solicitation of political funds from State employees by their supervisors where they are on State time is

certainly reprehensible, and it is a violation of the current prohibitions in G.S. 126-13. There were probably other instances of dismissal because of political activity that could be justified under an interpretation of the current statute, but the general language of the statute does not clearly compel such a conclusion. The Committee recommends further revision of the political activity Article of G.S. Chapter 126 to allow identification of specific prohibited acts that are now only alluded to in a most general manner. A skeletal statutory listing, with regulations to follow, might be a good procedure here also.

The present penalty provision in G.S. 126-15 has not significantly deterred improper political activity that is clearly identified in the present statute, and there is no reason to suppose that any additional specific prohibitions would be more successfully deterred by the threat of dismissal. The Committee recommends enactment of a criminal penalty section to apply to intentional and flagrant violations; punishment should run to individual employees who engage in prohibited political activity, and to supervisory personnel who violate the rights of subordinates through political discrimination.

#### B. Policies and Practices.

The personnel policies that have been adopted by the Departments of Transportation and Social Rehabilitation and Control have not been followed. These policies in general reflect sound judgment, but the lack of enforceability by dismissed employees has rendered them ineffective. The Committee recommends enactment of a statutory requirement of binding

personnel policies in every State department. The policies of the State Personnel Board should still be only recommendatory and viewed as a model unless an agency declines to adopt its own policies.

In the formulation of policies by the State Personnel Board and by State agencies, the Committee recommends that the basic procedural rights to notice, hearing, and appeal be specified, and that the policies require institution of a program of personnel evaluation to become part of the information basis for future dismissals or promotions.

The Committee recommends that the State Personnel Board review, condense, and update its current policies, particularly with respect to the changes made and being made in reorganization of State government.

The Committee recommends that legislation be considered to institute a formal State program to handle citizens' complaints, perhaps in the State Personnel Department, to investigate, respond, and sometimes remedy the causes of these complaints.

Except in those State agencies bound by federal requirements, the State Personnel Board is without power to enforce its decisions on final appeals. The Committee recommends amendment to G.S. 126-4 to give the Board authority to order reinstatements or other remedies in proper cases. The policy enforced by the Board should be the policy adopted by the particular agency, these policies should be required to include procedural rights as set out above, and Board decisions should be subject to judicial review.

Since the Board does not now have statutory power over dismissal cases or agency policy, there are presently no penalties for violation of Board directives. The Committee recommends extension of the penalties in present G.S. 126-15 to cover violations of Board directives. The Committee further recommends enactment of criminal penalties for intentional and flagrant disregard of such directives. (These penalties should become effective after the Board is given mandatory authority by the recommended statutory changes above.)



# PUBLIC AFFAIRS OFFICE

## NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

PHONE 919 829-3463

### NEWS

FOR RELEASE After 5:00 p.m.  
Wednesday, Oct. 24, 1973

DATE October 24, 1973

STATEMENT BY BRUCE A. LENTZ  
SECRETARY OF TRANSPORTATION AND HIGHWAY SAFETY  
REGARDING. HIGHWAY DIVISION PERSONNEL REORGANIZATION

Upon taking office in January, one of our first actions was to begin a careful and intensive study of the personnel in the Department of Transportation, particularly in the Division of Highways.

We felt it was our duty and responsibility to take a hard look at all the personnel employed in our highway program. Throughout North Carolina, we had heard complaints from our citizens that our road construction and maintenance program was plagued by politics, favoritism, inefficiencies and incompetence. Much of this criticism obviously was justified.

We did not move in haste. Except in a few rare instances where immediate changes were necessary, we set out on a deliberate course to review the performance and activities of each employe and to carefully measure his continued performance over the next several months.

Now, after some eight months of careful and exhaustive study of the performance of the approximately 12,500 Highway Division employes, we are undertaking a professional reorganization that will involve a number of demotions, and the relieving of approximately 100 employes in the division of their duties.

Before undertaking this personnel reorganization, we wanted to make certain that any changes we made would be justified and in the best interests of North Carolina's transportation program.

In the meantime, we wanted to give first priority attention to the reorganization of our highway program itself, the Highway Reorganization plan adopted by the General Assembly. This reorganization and our seven-year highway construction plan approved recently by the Board of Transportation together offer solid proof that this administration means what it says -- that North Carolina's road program will be concerned with paving and planning rather than politics.

We also wanted to see what the Governor's Efficiency Study Commission would recommend for the Division of Highways before we took major steps in the personnel area.

The employes who are being removed in the current reorganization have been engaged in politics, have been allowed to move into positions for which they are not qualified, or are simply not doing the jobs assigned to them. Many of them could be classified in two or more of these categories.

All the promotions, transfers and other changes being made are consistent with this administration's objective of placing our highway program on the most professional, sound and efficient basis. We will continue to work in every way possible toward the single goal of giving North Carolina's citizens a transportation program in which they can have complete confidence.

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# PUBLIC AFFAIRS OFFICE

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## NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

PHONE 919 829-3463

### NEWS

FOR RELEASE IMMEDIATELY

DATE November 9, 1973

RALEIGH --- The Division of Highways of the State Department of Transportation today released the names of 101 persons who were affected by recent personnel changes within the department.

There were 52 persons who were dismissed, 22 who retired, eight who were demoted and 19 who were transferred to other jobs.

The list follows:

#### Terminations

M. D. Trull  
P. O. Box 354  
Robbinsville, N. C.

R. G. Robinson  
Box 344  
Bryson City, N. C.

R. V. Jenkins  
Bryson City  
North Carolina

Johnnie Becker  
Route 1, Box 405  
Bryson City, N. C.

B. C. Arvey  
Route 1  
Bryson City, N. C.

D. E. Cooper  
Whittier  
North Carolina

C. G. Burrell  
Box 1191  
Sylva, N. C.

F. W. Deitz  
Route 3, Box 80  
Sylva, N. C.

Maintenance Yard Foreman

District Engineer

Inspector

Maintenance Foreman II

Inspector

Road Maintenance Supervisor

Auto Parts Clerk II

Traffic Sign Erector

(Terminations Con't)

-2-

F. L. Bishop Box 2545 Cullowhee, N. C.	Highway Inspector II
A. R. Bishop Route 67, Box 23 Cullowhee, N. C.	Maintenance Foreman IV
G. W. Owen Route 1 Sylva, N. C.	Engineering Technician II
D. F. Bishop Route 3 Sylva, N. C.	Traffic Services
M. W. Holcombe Sylva North Carolina	Secretary III
R. B. Long Route 1 Hayesville, N. C.	Maintenance Foreman IV
D. C. McTaggart Route 2 Hayesville, N. C.	Machine Operator IV
J. A. Cabe Route 1 Hayesville, N. C.	Machine Operator IV
W. F. Ray Route 2 Sylva, N. C.	Division Engineer
J. D. Plott Route 5, Box 494 Waynesville, N. C.	Maintenance Supervisor
R. A. Gilbert Route 4 Hendersonville, N. C.	Machine Operator V
C. S. Amos Andrews North Carolina	Machine Operator IV



(Terminations Con't)

-3-

H. H. Hembree Box 238 Andrews, N. C.	Maintenance Foreman I
T. M. George Route 3 Robbinsville, N. C.	Maintenance Foreman II
George R. Fuller, Jr. Buxton North Carolina	Ferry Superintendent
J. G. Brown Box 635 Tarboro, N. C.	Road Maintenance Supervisor
M. W. Bass Box 87 Newton Grove, N. C.	Highway Inspector
J. C. Massengill Route 1 Four Oaks, N. C.	Road Maintenance Supervisor
W. J. Byrd Route 1 Erwin, N. C.	Machine Operator III
J. W. Greeson 1808 Woodcrest Drive Asheboro, N. C.	Traffic Recorder
W. M. Cherkas, Jr. 1000 Kenmore Drive Asheboro, N. C.	Resident Engineer
W. C. Huff	Road Oil Foreman
R. E. Thomas Route 7 Sanford, N. C.	Maintenance Supervisor
N. W. Singletary 114 Campbell Street Aberdeen, N. C.	Road Oil Supervisor
F. H. Beck Box 1951 Asheville, N. C.	District Engineer

(Termination Con't)

-4-

D. R. Neal Box 165 Belew Creek, N. C.	Equipment Inspector
J. P. Hollingsworth Box 226 Mount Airy, N. C.	Highway Inspector
D. W. Hodge Route 1 Dobson, N. C.	Road Maintenance Supervisor
S. N. Swanson 131 Swan Drive Lenoir, N. C.	Area Maintenance Foreman
W. E. Greene RFD 1 Deep Gap, N. C.	Mechanic Foreman II
F. Owens Warrensville North Carolina	Maintenance Foreman II
H. O. Hartsoe Route 1 Crumpler, N. C.	Maintenance Foreman II
S. C. Cuppett Box 6952 Asheville, N. C.	Typist II
P. L. Wilson Route 5 Marion, N. C.	Mechanic Foreman II
L. R. Westall Spring Street Marion, N. C.	Maintenance Supervisor
E. W. Proffitt Bakersville North Carolina	Maintenance Foreman
J. G. Haynes P. O. Box 303 Spindale, N. C.	Assistant District Engineer
A. S. Jones Route 3 Forest City, N. C.	Maintenance Supervisor

C. D. Dillingham Box 5 Barnardsville, N. C.	Right of Way Agent
J. Rymer Route 1 Alexander, N. C.	Maintenance Supervisor
J. Baldwin Box 195 Marshall, N. C.	Maintenance Supervisor
R. B. Deyton Route 2 Green Mountain, N. C.	Maintenance Supervisor
J. A. Holmes 307 Loop Road Garner, N. C.	Right of Way Assistant Director
R. G. Thomas 108 Crestview Drive Lincolnton, N. C.	Driver License Examiner I

Demotions

C. Sutton	Auto Parts Supervisor, Division 3 Demoted to Auto Parts Clerk II
D. Wells	Maintenance Foreman III, Division 3 Demoted to Maintenance Foreman II
J. L. Massengill	Maintenance Foreman IV, Division 4 Demoted to Maintenance Foreman II
W. S. King	District Engineer, Robeson County Demoted to Assistant District Engineer in Columbus County
N. S. Day	Division Engineer, Division 6 Demoted to Assistant Division Engineer, Division 3
D. Patrick	Division Landscape Supervisor, Division 8 Demoted to Landscape Specialist II
J. E. Hayes	Division Equipment Superintendent, Division 11 Demoted to Mechanic Foreman II, Division 11
B. G. Sizemore	Maintenance Foreman IV, Division 11 Demoted to Maintenance Foreman II, Division 11

Transfers

C. J. Beck from Road Oil Supervisor in Division 14 to Division 12.

H. Jernigan from Assistant Locating Engineer, Raleigh, to Assistant Division Engineer, Division 12.

C. B. Alford from Assistant Personnel Director, Raleigh, to Title VI Coordinator, Raleigh.

Bruce Everhardt from Road Maintenance Supervisor, Division 9, to Road Maintenance Supervisor, Division 5.

D. Waters from Assistant Division Engineer, Division 13, to Division 9.

F. W. Johnson from Area Foreman IV, Alexander county, to Iredell county, District 2.

K. E. Cline from Road Maintenance Supervisor, District 2, to Cleveland County.

J. W. Alexander from Assistant District Engineer in Alexander, Catawba, and Iredell counties in District 2 to Construction, Division 12, division wide.

R. M. Bradshaw from District Engineer in Division 11, to District Engineer in Division 3.

O. J. Campbell from Road Maintenance Supervisor in Ashe county to Wilkes county.

W. J. Brookshire from District Engineer, Division 11 to District Engineer, Division 12.

O. Willis from Ferry Operations Supervisor (Southport) to Ferry Engineer.

F. Barnhill from Ferry Engineer to Ferry Operations Supervisor (Southport).

J. H. Medlin from Division Engineer, Division 3 (Wilmington) to Assistant to Chief Engineer, Raleigh.

J. Lee from Mechanic II, Division 3 (Wilmington) to Mechanic II, Division 4 (Wilson).

M. W. Moore from Assistant Division Engineer, Division 4 (Wilson) to Assistant Division Engineer, Asheville.

B. E. Dees from Assistant Division Engineer, Division 6 (Fayetteville) to Assistant Division Engineer, Division 11.

D. W. Patrick from Division Engineer, Division 1 (Ahoskie) to Division Engineer, Division 6 (Fayetteville).

R. L. Siler from District Engineer, Randolph county to Resident Engineer, Chatham county.

Retirements

G. C. Carter Maintenance Supervisor  
Pender county

R. W. Dawson Division Engineer  
Division 4

L. C. Dean Machine Operator III  
Division 6

C. R. Williams Maintenance Supervisor  
Division 6

J. B. Taylor Assistant District Engineer  
Division 7

B. Brewer Maintenance Supervisor  
Division 7

A. R. Webster Maintenance Supervisor  
Division 8

G. Southern Maintenance Foreman IV  
Division 9

H. E. Koontz Assistant Division Engineer  
Division 11

J. P. Higgins Maintenance Supervisor  
Division 11

C. W. Wallace Maintenance Foreman II  
Division 11

C. H. Taylor Road Maintenance Supervisor  
Division 11

(Retirements Con't)

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C. A. Jones Division 11	Road Maintenance Supervisor
C. E. Noggle Division 12	Road Maintenance Supervisor
L. D. Gaither Division 12	District Engineer
J. W. Patillo Division 14	Maintenance Supervisor
C. Hooper Division 14	Maintenance Supervisor
W. McClung Division 14	Maintenance Supervisor
C. W. Townsend Division 11	Bridge Foreman
G. C. Whitner Division 11	Bridge Foreman
G. J. Roberts Ahseville	Law Enforcement Officer I
C. H. Moore Division 11	Machine Operator IV.

OFFICIAL LIST OF 52 TERMINATIONS FROM THE NORTH  
CAROLINA DEPARTMENT OF TRANSPORTATION, SUPPLIED  
TO THE COMMITTEE BY SECRETARY LENTZ ON NOVEMBER  
28, 1973.

52

<u>TERMINATIONS</u>		<u>Age</u>	<u>Service</u>
		Years, months	Years, months
M. D. Trull P. O. Box 354 Robbinsville, N. C.,	Maintenance Yard Foreman	34 7	4 9
R. C. Robinson Box 344 Bryson City, N. C.	District Engineer	37	17
R. V. Jenkins Bryson City North Carolina	Inspector	64 9 3/4	11 5
Johnnie Becker Route 1, Box 405 Bryson City, N. C.	Maintenance Foreman II	54 8 3/4	20 1
B. C. Arvey Route 1 Bryson City, N. C.	Inspector	39	7 11
D. E. Cooper Whittier North Carolina	Road Maintenance Supervisor	44 3	14 7
C. G. Burrell Box 1191 Sylva, N. C.	Auto Parts Clerk II	38 5	10 8
F. W. Deitz Route 3, Box 80 Sylva, N. C.	Traffic Sign Erector	41 2	10 11 1/2
F. L. Bishop Box 2545 Cullowhee, N. C.	Highway Inspector II	47 2 1/2	25 9
A. R. Bishop Route 67, Box 23 Cullowhee, N. C.	Maintenance Foreman IV	45 4	20 1
G. W. Owen Route 1 Sylva, N. C.	Engineering Technician II	37 7 1/2	10 10 3/4

D. F. Bishop Route 3 Sylva, N. C.	Traffic Services Supervision	51	2½	26	7 or 27 2
Route 1 Four Oaks, N. C.	Retired 10/1/73	59	2	36	
W. J. Byrd Route 1 Erwin, N. C.	Machine Operator III	42	8	23	10
J. W. Greeson 1503 Woodcrest Drive Asheboro, N. C.	Traffic Recorder	48	1	2	10
W. M. Cherkas, Jr. 1000 Kenmore Drive Asheboro, N. C.	Resident Engineer	49	5	15	6
W. C. Huff Hough P. O. Box 504 Goldston	Road Oil Foreman	49	10	14	9
R. E. Thomas Route 7 Sanford, N. C.	Maintenance Supervisor	46	8	26	2
N. W. Singletary 114 Campbell Street Aberdeen, N. C.	Road Oil Supervisor	45	7	21	7
F. H. Beck Box 1951 Asheville, N. C.	District Engineer	54	11	28	0
D. R. Neal Box 165 Bellevue Creek, N. C.	Equipment Inspector	43	4	25	3
J. P. Hollingsworth Box 226 Mount Airy, N. C.	Highway Inspector	41	0	17	3
D. W. Hodge Route 1 Dobson, N. C.	Road Maintenance Supervisor	61	1	33	6
S. N. Swanson 131 Swan Drive Lenoir, N. C.	Area Maintenance Foreman Disability Retirement requested effective 1-1-74	47	8	24	8
W. E. Greene RFD 1 Deep Gap, N. C.	Mechanic Foreman II	40	3	11	11



		<u>Age</u>		<u>Service</u>	
M. W. Holcombe Sylva North Carolina	Secretary III	41	103/4	3 yrs.	
R. B. Long Route 1 Hayesville, N. C.	Maintenance Foreman IV	54	10	28	1
D. C. McTaggart Route 2 Hayesville, N. C.	Machine Operator IV Has applied for Retirement effective 1/1/74	61	4	12	1
J. A. Cabe Route 1 Hayesville, N. C.	Machine Operator IV	49	2	1	12/3
W. F. Ray Route 2 Sylva, N. C.	Division Engineer	50	9	26	5
J. D. Plott Route 5, Box 494 Waynesville, N. C.	Maintenance Supervisor	44	8	26	0
R. A. Gilbert Route 4 Hendersonville, N. C.	Machine Operator V	46	11	22	
C. S. Amos Andrews North Carolina	Machine Operator IV	51	23/4	13	3½
H. H. Hembree Box 238 Andrews, N. C.	Maintenance Foreman I	55		27	7
T. M. <del>Credge</del> GEORGE Route 3 Robbinsville, N. C.	Maintenance Foreman II	50	11	20	1
George R. Fuller, Jr. Buxton North Carolina	Ferry Superintendent	52	11	9	7
J. G. Brown Box 635 Tarboro, N. C.	Road Maintenance Supervisor Has applied for Retirement effective 1/1/74	59	102/3	36	9
M. W. Bass Box 87 Newton Grove, N. C.	Highway Inspector				

		<u>Age</u>		<u>Service</u>	
F. Owens Warrensville North Carolina	Maintenance Foreman II	64	2	25	10
H. O. Hartsoe Route 1 Asheville, N. C.	Maintenance Foreman II	53	10	24	7 2/3
S. C. Cuppett Box 6952 Asheville, N. C.	Typist II	40	9 3/4	1	7 2/3
P. L. Wilson Route 5 Marion, N. C.	Mechanic Foreman II	55	1	23	1
L. R. Westall Spring Street Marion, N. C.	Maintenance Supervisor	60	5	9	4
E. W. Proffitt Bakersville North Carolina	Maintenance Foreman	58	2	38	7
J. G. Haynes P. O. Box 303 Spindale, N. C.	Assistant District Engineer	51	6	27	8
S. Jones Route 3 Forest City, N. C.	Maintenance Supervisor	44	9	22	10
C. D. Dillingham Box 5 Barnardsville, N. C.	Right of Way Agent	49	8 1/2	9	93/4
J. Rhmer <del>Rhymer</del> Rhymer Route 1 Alexander, N. C.	Maintenance Supervisor	53	8	24	1
J. Baldwin Box 195 Marshall, N. C.	Maintenance Supervisor Has applied for early Retirement effective 1-1-74	56	3 1/3	20	103/4
R. B. Deyton Route 2 Green Mountain, N. C.	Maintenance Supervisor	51	10 1/2	2	8
J. A. Holmes 307 Loop Road Garner, N. C.	Right of Way Assistant Director	48	0	22	1
R. C. Thomas 106 Crestview Drive Lincolnton, N. C.	Driver License Examiner I	46	6	20	4

LIST OF ADDITIONAL EMPLOYEES DISCHARGED BY THE NORTH  
CAROLINA DEPARTMENT OF TRANSPORTATION AND HIGHWAY  
SAFETY; FROM INDEPENDENT STAFF SOURCES.

Dismissed - Effective in October, 1973 - from log book

<u>Name</u>	<u>Classification</u>	<u>Subhead</u>	<u>Salary</u>	<u>Reason</u>
Hugh Salter 10-10-73	Ferry Operations Manager	2160	\$ 21,156	
John W. Heggie 10-8-73	General Utility Man	4150	5,484	Absence from job
Jack E. Moore 10-8-73	Law Enforcement Officer II	501	14,388	Unsatisfactory performance of duties
Deborah H. Jackson 10-12-73	Typist II	1601	6,000	No reason given
Leroy J. Chapman 10-12-73	Driver License Ex. I	1601	8,628	Habitual failure to report for work at assigned time and place, and maintain satisfactory working relationship with public, etc.
Kenneth C. Wright 10-11-73	Truck Driver	3072	5,244	Due to conduct unbecoming a state employee
Jack N. Garner 10-12-73	Law Enforcement Off. I	2001	13,068	Unsatisfactory performance of duties
Robert T. Swink 10-4-73	General Utility Man	3132	5,244	On leave without pay - failed to report to work or call for several days.
Dewey L. Yarbrough 10-18-73	Highway Patrolman I	803	8,244	Did not report for duty after weekend leave. Not recommended for re-employment because of lack of qualities required for performance of duties.
Eula F. Moore 10-19-73	Machine Operator III	3072	6,276	Due to absence from work
Edward Jessup 10-9-73	Truck Driver	3092	5,736	Intoxicated while on duty
June D. Hubbard 10-1-73	Maintenance Mech. I	3062	7,200	Did not report to work after expiration of leave without pay
Wilbur T. Massengill 10-27-73	Computer Op. III	222	10,860	Inadequate performance of duties

EMPLOYEES DISMISSED AS OF JANUARY 1973

<u>Name</u>	<u>Effective Date</u>	<u>County</u>
Grady C. Shook	7-20-73	Jackson
Joe Green	6-29-73	Jackson
William Johnson, Jr.	6-12-73	Wake
Tom H. Dycus	5-22-73	Henderson
Thomas W. Craig	6-28-73	Lincoln
Mary S. Allen	5- 7-73	Wake
R. W. Ayscue	7-16-73	Wake
Lonnie W. Powell	7-19-73	
Ronald E. Huggins	6-25-73	Wake
Francis L. King	6- 6-73	Forsyth
Howard F. Smith	1-26-73	Wake
James D. Jordan	5-16-73	Wake
Mae J. Beasley	6-14-73	Wake
Rhonda E. Carroll	6-14-73	Wake
Nancy A. Honeycutt	6-14-73	Wake
Cleveland C. Newbern	1- 5-73	Perquimans
Dewey A. Edwards	2- 7-73	Cumberland
Robert D. Warren	2- 7-73	Wake
James H. Stamey	2-12-73	Wake
Oscar E. Anderson	2-13-73	
Cornelius W. McIntosh	2-13-73	Buncombe
William T. Lemly	2-13-73	Guilford

Harry W. Locklear	2-13-73	Cumberland
L. H. Higdon	2-13-73	Jackson
Ben J. Robinson	2-13-73	Wake
Charlie T. McCullen, Jr.	2-13-73	New Hanover
Worley F. Minton	2-13-73	Hertford
George T. Burnette, Jr.	2-13-73	Pitt
James A. Laney	2-19-73	Wake
Billy Ray Webb	2-19-73	Johnston
Mac Almon DeLancy	2-28-73	Guilford
Cainey R. Woodlan	3- 8-73	
Bruce M. Poole Jr.	3- 8-73	Wake
Willis Macon Tilly	3-26-73	Wake
Paul Edwin Walters	4- 2-73	Wake
William J. Gregory	4-25-73	
W. F. Minton	2-9-73	Hertford
G. T. Burnette, Jr.	2-9-73	Pitt
<del>G. T. McCullen</del>	2-9-73	New Hanover
A. C. Lockamy	2-9-73	New Hanover
<del>Ben J. Robinson</del>	2-9-73	Wake
<del>H. W. Locklear</del>	2-9-73	Cumberland
W. T. Lemly	2-9-73	Guilford
M. A. DeLancy	3-9-73	Guilford
C. W. McIntosh	2-9-73	Duncombe
O. E. Anderson	2-9-73	Buncombe
<del>L. H. Higdon</del>	2-9-73	Jackson



STATEMENTS BY SECRETARY OF TRANSPORTATION LENTZ  
CONCERNING THE "LIST OF 100"; NOVEMBER 28, 1973  
AND JANUARY 9, 1974.

NOVEMBER 28, 1973 STATEMENT

Mr. Chairman, Members of the Committee:

When I came to Raleigh in January as Secretary of Transportation I was, of course, very much aware of the mandate that had been given Governor Holshouser for significant changes in the operations and policies in the Division of Highways.

There was, I found, a department with some 12,000 employees who were stationed all over the state, but with all administrative functions based in Raleigh. And I found that it had the reputation of being and probably was the most politically oriented agency in state government.

We set out to change two things we felt needed action.

One, we started to formulate a program which would spend tax money to improve roads where the needs were greatest.

Two, we started to try to get the type of personnel who would be capable of carrying out such a program.

In short, we felt we had to take measures that would restore public confidence in the policies and personnel of the Division of Highways.

Since personnel is the subject you are dealing with here today, I will confine my remarks to that one aspect.

Now I know it's popular to say that you can't operate government as you do a private business, but I believe that some of the basic principles can work for both.

For instance, I have never known of an industry which has several branch operations to have a single personnel office based at the central plant.

Yet that is what we had in the Division of Highways and many of our professional engineers in the field were having to serve as their own personnel officers.

Any attempt that we made to apply a careful, systematic method of improvement could not apply to personnel policies as long as the whole thing was centered in Raleigh.

Troy Doby, who served for a time as head of personnel in the Transportation Department earlier this year is here, and he will explain to you the problems that we found and the steps we took to correct them.

There were some top management changes that were made rather quickly, because I was working with these people personally and closely enough to see what needed to be done.

But in the field, out in the divisions, we had to develop a system.

The job of helping to develop that system went to David Madigan, who followed Mr. Doby in the personnel post.

Mr. Madigan is here to tell you how we went about that and to answer your questions.

The system we developed to expand and spread out our personnel functions is now in the hands of our present head of personnel, Al Boyles. Mr. Boyles will be glad to explain to you what we are doing and to answer your questions.

Let me just say briefly that after carefully studying the situation, we have instituted a system that will seek to place qualified, professional people in the places where they are needed.

Personnel actions, I feel, must be based on the good of the whole organization and not just be taken piecemeal, by whittling a little here and a little there.

We are trying to implement the mandate that the people gave Governor Holshouser in 1972, and I would add that a mandate means little unless it is followed by action.

It is a little unusual to take personnel actions involving 100 people at one time; however, for the first time we have a system within our personnel organization that enables us to make a study of personnel throughout the state.

As the result of our new departmental policies and program, I can report the following to you today.

There have been:	<u>October</u>	<u>January to October</u>
terminations	52	56
retirements	22	--
demotions	8	--
transfers	18	--
promotions	--	1014
new hires	--	1502
	<u>100</u>	



And I would add that almost all of the promotions have been given to people who were employed when this administration took office.

As to the method we used to inform these people, I wanted to do it in person insofar as I could.

I felt it only fair that persons being discharged should be informed by a responsible official, face to face, rather than by a form letter. That is why I took the time to travel all over the state and why we delayed making public the names of persons affected until after they could be informed.

We want to be as fair as possible.

The Governor has shown his concern by extending the period that persons could be heard by the State Personnel Board. Every consideration will be given to the findings at these appeal hearings.

Let me say again that our principal interest as far as personnel is concerned is in finding qualified people who are able and willing to do their jobs.

If we could find Republicans to fill these posts, it would suit me just fine, because I am told for 72 years Republicans had little chance at state jobs.

But ability and dedication must come before partisan considerations, and this has been and will be our practice and policy.

STATEMENT FROM BRUCE LENTZ

SECRETARY, NORTH CAROLINA DEPARTMENT OF TRANSPORTATION  
JANUARY 9, 1974

I'D LIKE TO BEGIN BY CLARIFYING TWO POINTS. FIRST, SENATOR BARKER, I BELIEVE YOU HAVE REFERRED TO 101 EMPLOYEES BEING FIRED. ACTUALLY THERE WERE ACTIONS INVOLVING 101 EMPLOYEES. OF THAT NUMBER 52 WERE ACTUALLY DISMISSED OR FIRED. SECONDLY, I HAVE SEEN REPORTS, SENATOR, WHICH INDICATED THAT YOU FELT YOU DID NOT KNOW EXACTLY WHO WAS RESPONSIBLE FOR THE DISMISSAL OF THESE 52 EMPLOYEES. I THOUGHT FROM YOUR QUESTIONS THE LAST TIME I WAS HERE THAT YOU UNDERSTOOD THAT I TOOK THE ACTION. DURING THE QUESTIONS YOU REFERRED TO "MY ACTION" AND "MY DECISION" AND THIS INDICATED TO ME THAT YOU REALIZED THE DISMISSALS WERE MY DECISION, AND THAT THE ACTION WAS MY ACTION. IN FACT I WAS ASKED AT ONE POINT DURING MY LAST APPEARANCE BY ANOTHER MEMBER OF THE COMMITTEE, AND I QUOTE, "DO YOU ACCEPT THE FACT THAT HAS ALREADY BEEN INDICATED THAT YOU TAKE THE FINAL RESPONSIBILITY YOURSELF ON THE 52 PEOPLE WHO HAVE BEEN ELIMINATED--THAT YOU--THAT IS YOUR DECISION PROCESS?" TO THAT I ANSWERED, "THAT'S PART OF THIS JOB."

WITH THAT IN THE RECORD, LET ME MOVE NOW TO PROVIDE YOU WITH SOME EXAMPLES OF WHY I TOOK THE ACTION IN DISMISSING THESE PEOPLE.

FOR INSTANCE, I DON'T THINK YOU WOULD WANT TO RETAIN A MAN WHO MADE EMPLOYEES UNDER HIS SUPERVISION HELP HIM HARVEST HIS TOBACCO.

OR, WHAT WOULD YOU DO WITH A MAN WHO ORDERED EMPLOYEES UNDER HIS SUPERVISION TO PUT SHINGLES ON THE ROOF OF A PRIVATE RESIDENCE DURING STATE WORKING HOURS?

DO YOU THINK THAT WE SHOULD KEEP A MAN ON THE TAXPAYER'S PAYROLL WHO WOULD THREATEN TWO SCHOOL TEACHERS BY TELLING THEM THEY'D LOSE THEIR JOBS BECAUSE THEY CHOSE TO SUPPORT A CANDIDATE OF A DIFFERENT POLITICAL PARTY THAN THAT OF THE EMPLOYEE?

I DON'T THINK THAT YOU'D WANT US TO KEEP A MAN IN STATE EMPLOYMENT WHO PULLED A GUN ON A POLL WORKER.

I DON'T THINK YOU'D WANT US TO KEEP A STATE EMPLOYEE ON THE PAYROLL WHEN HE DRINKS ON THE JOB.

WE DISMISSED AN EMPLOYEE BECAUSE HE DROVE A STATE-OWNED VEHICLE WHILE DRUNK AND WRECK THE VEHICLE. THIS WAS THE SECOND TIME AROUND FOR THIS MAN. THE INCIDENT OCCURRED BEFORE I BECAME SECRETARY OF TRANSPORTATION. THE MAN WAS FIRED WHEN THE INCIDENT TOOK PLACE. THEN HE WAS RE-INSTATED THROUGH THE EFFORTS OF A LOCAL POLITICAL FIGURE. I FELT THE DISMISSAL WAS THE PROPER COURSE OF ACTION.

WOULD YOU WANT A MAN ON THE TAXPAYER'S PAYROLL WHO SOLICITED CAMPAIGN FUNDS WHILE ON THE JOB FOR A PARTISAN CANDIDATE? THIS SAME MAN ADMITS GIVING THE CONTRIBUTIONS COLLECTED TO A DEMOCRAT COUNTY CHAIRMAN.

SHOULD WE RETAIN A MAN ON THE PAYROLL WHO USED HIS STATE TIME TO SERVE AS A COLLECTION AGENT OR "BAG MAN" FOR POLITICAL CONTRIBUTIONS COLLECTED FROM EMPLOYEES IN THE FIELD? I DON'T THINK YOU'D WANT TO KEEP A MAN ON THE PAYROLL WHO THREATENED TO SHOOT ANOTHER DEPARTMENT OF TRANSPORTATION EMPLOYEE.

I DON'T THINK THESE ARE PEOPLE THE TAXPAYERS WOULD WANT TO KEEP ON THE JOB. I DON'T THINK THEIR ACTIONS ARE EXAMPLES OF GIVING THE TAXPAYER A DOLLAR'S WORTH OF WORK FOR A DOLLAR'S WORTH OF PAY.

I DON'T THINK THIS IS THE TYPE OF GOVERNMENT YOU MEN IN THE GENERAL ASSEMBLY WANT TO HAVE. IT'S BECAUSE OF THINGS SUCH AS THESE EXAMPLES THAT I TOOK THE ACTIONS I DID. I WANT YOU TO NOTE THAT I HAVE GIVEN YOU EXAMPLES, BUT NOT NAMES. THIS IS TO PRESERVE THE APPEAL PROCESS.

ON THE SUBJECT OF THE APPEAL PROCESS, LET ME GIVE YOU THE STATUS ON THAT PROCESS. I ORIGINALLY DISMISSED 52 EMPLOYEES. TO DATE, 10 CASES HAVE BEEN BROUGHT TO REVIEW. THAT REVIEW PROCEDURE MOVES DELIBERATELY, BUT QUICKLY, I THINK. IN ANY EVENT, 6 EMPLOYEES HAVE BEEN RE-INSTATED--WITH BACK PAY. THERE ARE 4 CASES STILL PENDING IN THE REVIEW PROCEDURE.

OF THE NET 46 POSITIONS, ONLY 15 HAVE BEEN FILLED BY REPUBLICANS. DON'T GET ME WRONG, I DON'T HAVE ANYTHING AGAINST HIRING REPUBLICANS. JUST AS I DON'T THINK THE DEMOCRATS HAVE HAD ANYTHING AGAINST HIRING DEMOCRATS IN THE PAST. THAT'S WHY MOST OF THE 1000 PROMOTIONS WE'VE MADE DURING 1973 HAVE BEEN PROMOTIONS OF DEMOCRATS.

GENTLEMEN, WE ARE WORKING HARD TO IMPROVE THIS DEPARTMENT AND WITH THE HELP OF THE GENERAL ASSEMBLY WE'RE MOVING TO A WHOLE NEW CONCEPT TO HIGHWAY PLANNING. I FEEL THAT WE ARE MAKING A DEPARTMENT IN WHICH EXPERIENCE IS A TRUE MEASURE OF PERFORMANCE. SO THAT WE CAN SAY THAT A MAN HAS 15 YEARS EXPERIENCE AND THE STATE AND THE EMPLOYEE GAINED FROM IT... AND NOT 1 YEAR OF EXPERIENCE 15 TIMES SO THAT THE STATE AND THE EMPLOYEE BOTH LOSE.

MEMBERS OF THE COMMITTEE, I WAS ENTRUSTED TO ADMINISTER A DEPARTMENT BY A MAN WHO WON THE CONFIDENCE OF THE PEOPLE OF NORTH CAROLINA. I AM WORKING EACH DAY TO UPHOLD HIS TRUST AND THAT CONFIDENCE.

From: Gene Anderson  
Special Assistant to Governor Jim Holshouser  
Administration Building  
Raleigh, North Carolina 27611  
919/829-5811

LEGISLATIVE

STATEMENT BY GENE ANDERSON  
SPECIAL ASSISTANT TO GOVERNOR JIM HOLSHOUSER  
Senate Special Committee on Personnel Practices  
State Legislative Building  
Wednesday, January 9, 1974

It is my understanding that you are interested this morning in determining what knowledge I have and what role I performed, in my capacity as special assistant to Governor Holshouser, in connection with the recent employee dismissals in the Division of Highways.

The Governor believes that it is essential that this committee, the General Assembly and the people of North Carolina have a clear and accurate understanding of this administration's personnel policies and practices. It is my hope today that I can add my little bit toward that understanding.

To discuss the recent firings in the Division of Highways, it is necessary that I back track in time. During his years in the General Assembly, Governor Holshouser became aware of a general dissatisfaction with our State's Highway Department. I am sure that as legislators, all of you have heard similar complaints in recent years.

This dissatisfaction became more apparent to the Governor as he traveled throughout the State during his 1972 campaign. Indeed, from his own public statements, it was clear that the Democratic candidate for Governor also was aware of this general sentiment and that some changes -- including personnel changes -- would have to be made.

This dissatisfaction took two forms -- dissatisfaction with the Highway Commission system and dissatisfaction with some of the employees who worked within that system.

Like the Governor, a large majority of the 1973 General Assembly recognized that the system itself needed restructuring and enacted the Highway Reorganization Act.

Meanwhile, from the first week he took office, the Governor received dozens of complaints from people throughout the State concerning the performance and activities of specific employees in the Highway Division.

These complaints fell into one or more of three categories. The employees were described as: (1) generally incompetent; (2) political hacks; or (3) had abused the position they held with the State government in either a dishonest or unethical manner.

Gentlemen, I am sure that each of you, during your service as a legislator, has received complaints from constituents about State employees. I would imagine that when you do, you refer these complaints to the proper department so that you can, at the least, get an answer back to the person who made the complaint.

The Governor, responsible for an agency under his direction, did the same thing. However, it was his feeling that the volume of complaints involving Highway Division personnel was of such size and scope that they should be handled as quickly, systematically and carefully as possible.

In addition to the complaints we had already received, we also made requests of our own in every county concerning possible complaints. In some cases, these inquiries were directed to people with whom we had worked in the campaign. In other cases, we went to people who had complained about one or more employees to get whatever information they had in writing.

The result was approximately 400 serious complaints, more than half of which fell into the "political hacks" category. These 400 complaints were reduced to approximately 175 which seemed to have the most validity or merit.

These 175 cases were then referred to the Department of Transportation, which had established a system for carefully checking each case and obtaining the necessary documentation.

Out of these 175 employees, 52 were discharged. Of these 52, six have been reinstated after the Department of Transportation appeals process determined that there was not sufficient cause for their dismissal.

This means that 46 employees have been fired, and not reinstated, out of a total Highway Division work force of 12,500 men and women. Gentlemen, your arithmetic probably is better than mine. But according to my calculations, the recent dismissals represent less than <sup>four tenths</sup> ~~one fourth~~ of one per cent of the Highway Division employees.

I might interject here that at no point in this process, was I familiar with any individual case. At no time did I, the Governor or anyone in the Governor's Office make any recommendation to the Department of Transportation as to the disposition of any case. Our only interest was that a system be established and followed that would assure that each personnel case was handled carefully and dealt with on its own merits.

I believe that this experience shows that the Transportation Department now had a good and workable personnel system. It contains the three essential ingredients for any good personnel system -- Number one, a method or methods to assure that citizens' complaints about government employees can be received and will be given attention; Number Two, a systematic approach to investigating and acting on such matters; Number Three, the means and machinery for appeals to assure that no employee is treated unfairly.

In closing, gentlemen, I would like to make a few general comments concerning this administration's philosophy and practices regarding State personnel.

A Cabinet Secretary, in a speech sometime ago, pointed out that since 1960, in North Carolina statewide political contests, the Republican Party has been able to count on a solid vote running anywhere from 43 to 48 per cent of the total. And yet, despite this significant segment of North Carolina's population professing Republican Party preference, upon taking office in January a year ago, we found less than 1 per cent registered Republicans among the some 70,000 State employees. As the Secretary put it, "that is hardly an example of representative democracy."

The Secretary continued, and I quote:

"I can personally witness to the deliberate, systematic exclusion of Republicans from State government over more than 20 years, and it is certainly obvious that these policies were pursued long before my time.

"Needless to say," he added, "we are deliberately and systematically including Republicans in State government employment, and will continue to do so, and this policy is not solely for the purpose of rewarding party workers, not solely for the purpose of building the Republican Party, although these are important purposes. The principal thrust of the policy is to change the management attitude in State government."

This, as the Governor promised, we have tried to do. But, as he also promised, there have been no mass firings of State employes -- nor will there be during this administration.

Finally, let me quote another distinguished official, Secretary of State Thad Eure. After 40 years in his present office, he has boasted that he has never hired a Republican -- and never will.



Our record is not nearly as good as Mr. Eure's. Obviously, in the past year, more Republicans have been hired by State government than in the preceding 72 years. But I can also say without fear of contradiction that more Democrats have been employed by agencies under the Governor's office since January, 1973 than the total number of Republicans who worked for the State in the previous 72 years of Democratic governors.

Thank you again for inviting me to appear.

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NORTH CAROLINA DEPARTMENT OF TRANSPORTATION PERSONNEL ORGANIZATION,  
November, 1973

SECRETARY OF TRANSPORTATION: Bruce A. Lentz

ASSISTANT SECRETARY: Thomas R. Cross

DIRECTOR OF PERSONNEL: Alfred B. Boyles\*

ASSISTANT DIRECTOR FOR FIELD SERVICES: Hugh W. Barnes\*\*

EASTERN REGIONAL PERSONNEL DIRECTOR: (Personnel Officer II)  
 Walter W. Bridges, Kinston

DIVISION PERSONNEL OFFICERS: (Personnel Officers I)

Div. 1 - Palmer Donald McDaris, Ahsokie

Div. 2 - Julis Bishop, Greenville

Div. 3 - James Malcom Knox, Wilmington

Div. 4 - George Rufus Thomas, Wilson

Div. 6 - Elson Hardin Stevens, Fayetteville

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 \*DIRECTOR OF PERSONNEL:

(1) Before February, 1973 -- CLOYCE B. ALFORD

(2) February through March 19, 1973 -- TROY DOBY

[DOBY was later appointed to the Board of Transportation]

(3) March 19 through September 28, 1973 -- DAVID R. MADIGAN

[MADIGAN worked for successful Republican Party Chairmanship

Candidate BENNETT September 29 - November 30, and

on December 1 was appointed Director of the North Carolina

Department of Revenue's 64 field offices]

(4) September 29, 1973, through present -- ALFRED B. BOYLES

\*\*ASSISTANT DIRECTOR FOR FIELD SERVICES:

(1) February through September, 1973 -- ALFRED B. BOYLES

(2) November 19, 1973, through present -- HUGH W. BARNES

CENTRAL REGIONAL PERSONNEL DIRECTOR: (Personnel Officer II)

James Jarvis Stephens, Asheboro

DIVISION PERSONNEL OFFICERS: (Personnel Officers I)

Div. 5 - Robert Hunter Mathes, Durham

Div. 7 - Robert Bruce Miller, Greensboro

Div. 8 - William Anthony Bachelor, Aberdeen

Div. 9 - Otis Elbert Chilton, Winston-Salem

Div. 10 - James Fredrick Peterman, Albemarle

WESTERN REGIONAL PERSONNEL DIRECTOR: (Personnel Officer II)

William Dean Allman, Asheville

DIVISION PERSONNEL OFFICERS: (Personnel Officers I)

Div. 11 - David Claude Wheeler, North Wilkesboro

Div. 12 - Robert Louis Bass, Shelby

Div. 13 - Joel Ray Mashburn, Asheville

Div. 14 - Tony Martin McCall, Sylva

APPENDIX H

GOVERNOR'S PATRONAGE TEAM MATERIALS

During August through October 1973, Governor Holshouser's administration operated a "Patronage Team" which was set up to screen Republican candidates for minor State jobs and recommend appointments. The team members activities were coordinated by Gene Anderson, Special Assistant to the Governor and his chief political advisor. All of the team members were employed in regular State job positions. On November 5, 1973, the team was disbanded by the Governor. Most of the members were retained as State employees, but they were given other duties.

The November 6, 1973, News And Observer quoted the Governor as saying: "We established this new personnel process with the best of intentions. However, it has been misunderstood by many, including some members of the General Assembly, and I do not believe it can function properly in this climate.... I have said consistantly that it is important that government today not only do the right thing, but also that it always give the appearance of trying to do the right thing.... I have felt from the beginning of my term that some method of supplementing the normal governmental process of screening and recruiting people for potential State employment would be desirable. I still have that concern."

Although the Governor's office did not supply the Committee with a list of the team members, the Committee Staff has compiled information about the team from news reports (information confirmed by the Governor's Press Secretary), from the State Personnel Office, etc. as follows:

CONGRESSIONAL  
DISTRICTS

PATRONAGE OFFICER  
HOME ADDRESS

STATE DEPARTMENT;  
POSITION; SALARY;  
EMPLOYMENT DATE

1	John Patterson Mitchell 119 South Rice Street Brevard, N. C. 28712	Dept. of Transport. Personnel Officer I \$11,376.00/year Began: April 30, 1973
2	James A. Norton Box 223 Salemburg, N. C. 28385	Dept. Human Res., Mental Health Liaison Ombudsman Assistant Deputy Commissioner for Mental Retardation \$11,376.00/year Began: July 9, 1973
3	Charles Edward Parrish Box 1612 Smithfield, N. C. 27522	Dept. of Transport. Personnel Officer I \$11,376.00/year Began: July 14, 1973
4	Donald R. Payne 2416 New Hope Church Rd. Raleigh, N. C. 27604	Dept. of Human Res. Legislative Liaison \$11,376.00*/year

(Payne, cont.)

Began: August 1, 1973

End: August 30, 1973

- 5 William Stowe Perry Dept. Social Rehab.  
1954 Queens Road West and Control  
Charlotte, N. C. 28207 Correctional Major  
\$12,480.00/year  
Began: June 11, 1973
- 6 Craig B. Corson Dept. of Administrat.  
2304 East Myron Drive Personnel Officer  
Raleigh, N. C. 27606 \$11,376.00\*/year  
Began: August 13, 1973
- 7 Roger D. Warlick Dept. of Natural and  
5808 Notaway Drive Economic Resources  
Raleigh, N. C. Staff Assistant  
\$13,000.00\*/year  
Began July 17, 1973
- 8 Kent Belmore, Jr. Dept. of Military  
4315 Leesville Road and Veterans Affairs  
Apt. 32-J Assistant Planning  
Raleigh, N. C. 27609 Coordinator  
\$11,376.00/year  
Began: August 27, 1973

9 Harry A. Diffendal  
3800-6 Colby Drive  
Raleigh, N. C. 27609

Dept. of Military and  
Veterans Affairs  
Assistant Planning  
Coordinator  
\$11,376.00/year  
Began: August 1, 1973  
End: August 24, 1973

10811 Grady G. Franklin  
5401 Portree Place  
Apt. 17  
Raleigh, N. C. 27607

Dept. of Revenue  
Administrative Offcr.  
\$11,916.00\*/year  
Began: July 16, 1973

\*Flat Rate (temporary classification)



## ARTICLE 5A.

*Committee Activity.*

§ 120-19.1. **Hearings; examination of witnesses; counsel.**—(a) Committees of either the House or Senate of the General Assembly of North Carolina may hold separate or joint hearings, call witnesses, and compel testimony relevant to any bill, resolution or other matter properly before the committee.

(b) Witnesses may be examined under oath.

(c) When any person is examined before a committee, any member wishing to ask a question must address it to the chairman or presiding officer, who repeats the question or directs the witness to answer the member's question. Staff members or counsel employed by the committee may propound questions to the chairman for a witness to answer.

(d) Objections to the propriety of a question are directed to the committee as a whole. The committee must determine whether the objection is to be sustained or overruled by majority vote of the committee.

(e) When any witness is examined under oath, the proceedings must be taken and transcribed verbatim. Upon request, a witness must be furnished a copy of the transcript of his appearance before the committee.

(f) Witnesses may be accompanied by their own counsel for the purpose of advising them concerning their rights. (1973, c. 543.)

§ 120-19.2. **Invitations to witnesses; when hearings and examinations held; subpoenas.** — (a) Committees of the General Assembly may invite witnesses to appear and testify concerning pending legislation or other matters properly before the committee and may require the attendance of witnesses by subpoena as hereinafter provided. The committee may submit questions in writing to the witness in advance of his appearance. Witnesses may be permitted, in the discretion of the committee, to submit written, sworn statements in addition to or in lieu of sworn oral testimony before the committee.

(b) Hearings and examinations of witnesses concerning pending legislation or other appropriate matter may be conducted during sessions of the General Assembly, during recesses, and in the interim period between sessions, at such times as committees are authorized to convene.

(c) A subpoena for the purpose of obtaining the testimony of a witness may be issued by the chairman of a committee, upon authorization of the Speaker of the House or the Speaker pro tempore of the House for House committees, and the President of the Senate or the President pro tempore of the Senate for Senate committees, and by majority vote of the committee. A subpoena for the purpose of obtaining the testimony of a witness before a joint committee of the House and Senate may be issued by the joint action of the cochairmen of the joint committee, upon authorization of one of the above officers from each house and by majority vote of the joint committee. The subpoena shall be signed by the committee chairman and either the Speaker of the House, the President of the Senate, the President pro tempore of the Senate, or the Speaker pro tempore of the House and shall be directed to the witness, and state the name of the witness, and a description of any papers, documents, or records that he is required to bring with him; and the subpoena shall state the subject matter of the hearing before the committee, the name of the committee, and the name and address of the committee chairman; and the subpoena shall also clearly designate the date, time, and place at which the witness's presence is required.

(d) Any witness shall have five days' notice of hearing, unless waived by the witness, and subpoenas may be served by a member of the State Bureau of Investigation, the State Highway Patrol, or within their respective jurisdiction by any sheriff or deputy, or any municipal police officer or other law-enforcement officer. In addition, a subpoena may be served in the manner provided for service of subpoenas under the North Carolina Rules of Civil Procedure.

(e) The form of subpoena shall generally follow the practice in the General Court of Justice in North Carolina with such additional information or modification as shall be approved by the Legislative Services Commission.

(f) Return of the subpoena shall be to the Legislative Services Officer, where a permanent record shall be maintained for five years, and one copy of the subpoena shall be immediately filed with the committee chairman and one copy transmitted to the Speaker of the House, the President of the Senate, the President pro tempore of the Senate, or the Speaker pro tempore of the House, as the case may be. (1973, c. 543.)

§ 120-19.3. **Witness fees and expenses.**—Witnesses subpoenaed to testify before a committee of either house of the General Assembly or a joint committee of the General Assembly shall be entitled to the same fees and expenses as

are allowable for witnesses in criminal proceedings in the superior court division of the General Court of Justice. (1973, c. 543.)

**§ 120-19.4. Failure to respond to subpoena or refusal to testify punishable as contempt.** — (a) Failure by any person without adequate cause to obey a subpoena served upon him may be deemed a contempt and shall be punishable as for contempt upon complaint by the committee, as in the case of a civil contempt. The proceeding for punishment for such contempt shall be as in the case of a contempt before an administrative agency or under such other procedure as is authorized by the laws of the state.

(b) Failure or refusal by any witness to testify, without just cause may also be deemed a civil contempt. Any witness or other person whose action in the immediate presence of the committee directly tends to disrupt its proceedings may also be subject to civil contempt proceedings. (1973, c. 543.)

**§ 120-19.5. Committee staff assistance.** — Upon a certificate of need from the Speaker of the House, the President of the Senate, the President pro tempore of the Senate, or the Speaker pro tempore of the House and upon request of the committee chairman, the Legislative Services Officer is authorized to assign to any standing committee having interim research, drafting, or hearing assignment one or more members of his staff who shall function as research assistant and counsel to the committee when needed. (1973, c. 543.)

**§ 120-19.6. Interim committee activity; rules.**—(a) Upon a general directive by resolution of the house in question or upon a specific authorization of either the Speaker of the House, President of the Senate, President pro tempore of the Senate or the Speaker pro tempore of the House, any standing committee, select committee or subcommittee of either house of the General Assembly is authorized to meet in the interim period between sessions or during recesses of the General Assembly to consider specific bills or resolutions or other matters properly before the committee. No particular form of authority is needed, but this section is intended to promote better coordination by having a system of authorization for meetings of the committees of the General Assembly between sessions or during recesses. Meetings will be held in Raleigh, but with the approval of the Speaker or Speaker pro tempore, a House committee may meet elsewhere; and with the approval of the President or President pro tempore, a Senate committee may meet elsewhere. In addition, committees may meet at such places as authorized by specific resolution or action of either body of the General Assembly.

(b) In all other respects, committees shall function in the interim period between sessions or during recesses in the same manner and under the rules generally applicable to committees of the house in question of the General Assembly during the session of the General Assembly.

(c) Any committee during the interim period that meets upon specific authorization of the Speaker of the House, President of the Senate, President pro tempore of the Senate or Speaker pro tempore of the House shall limit its activities to those matters contained in the authorization, and shall suspend its activities upon written directive of such officer. Any interim committee that meets upon a directive by resolution of the house in question of the General Assembly shall limit its activities to those matters contained in the authorization. (1973, c. 543.)

**§ 120-19.7. Subcommittees.**—By consent and approval of a majority of any committee, the chairman may designate a subcommittee of not less than five persons to conduct hearings, call witnesses, and inquire into any matters properly before the committee. A duly constituted subcommittee shall have all of the powers of the full committee, but any subcommittee shall cease its activities upon majority vote of the full committee, or as provided in G.S. 120-19.6. (1973, c. 543.)

**§ 120-19.8. Limitation by resolution of either house.**—The provisions of G.S. 120-19.5 pertaining to staff assistance and the provisions of G.S. 120-19.6 pertaining to interim committee activity shall not apply to the House if the House by rule or resolution shall adopt an alternate method of staff assistance or interim committee activity and shall not apply to the Senate if the Senate by rule or resolution shall adopt an alternate method of staff assistance or interim committee activity. Either house of the General Assembly shall have the right to determine any matter concerning the scope of its internal procedure by appropriate rule or resolution without the joinder of the other. (1973, c. 543.)

GENERAL STATUTES OF NORTH CAROLINA

§ 120-19. State officers, etc., upon request, to furnish data and information to legislative committees.—All officers, agents, agencies, and departments of the State are required to give to any committee of the General Assembly, upon request, all information and all data within their possession, or ascertainable from their records. This requirement is mandatory and shall include requests made by any individual member of the General Assembly or any of its committees or chairmen thereof. (Resolution 19, 1937, p. 927.)

PUBLIC LAWS OF NORTH CAROLINA

Regular Session 1937

1937—RESOLUTIONS

H. R. 363                      RESOLUTION 19

A JOINT RESOLUTION MAKING IT MANDATORY UPON THE OFFICERS AND DEPARTMENTS OF THE STATE TO GIVE TO MEMBERS OF THE GENERAL ASSEMBLY, IF SO REQUESTED, INFORMATION WITHIN THE POSSESSION OF THEMSELVES OR THEIR DEPARTMENTS.

*Resolved by the House of Representatives, the Senate concurring:*

SECTION 1. That all officers, agents, agencies, and departments of the State are required to give to any committee of the General Assembly, upon request, all information and all data within their possession, or ascertainable from their records.

State officers, etc., upon request, to furnish data and information to Legislative committees.

SEC. 2. That this requirement is mandatory and shall include requests made by any individual member of the General Assembly or any of its committees or chairmen thereof.

Requirement made mandatory.

SEC. 3. This Resolution shall be in effect from and after its ratification.

Ratified this the 22d day of February, A.D. 1937.



GENERAL ASSEMBLY OF NORTH CAROLINA

1973 SESSION

SENATE RULES

(As Amended May 24, 1973)

RULE 37. Interim Standing Committees

A. Interim Standing Committees

1. Interim standing committees as constituted below are authorized to function in the interim period between regular sessions within a biennium:

- a. Appropriations (Appropriations)
- b. Commerce (Alcoholic Beverage Control, Banking, Insurance, Manufacturing, Labor and Commerce, and Public Utilities)
- c. Courts and Law Enforcement (Courts and Judicial Districts, Social Rehabilitation and Control, and Law Enforcement)
- d. Education and Health (Education, Higher Education, Mental Health, Public Health)
- e. Finance (Finance)
- f. Judiciary I (Constitution, Judiciary I)
- g. Judiciary II (Election Laws, Highway Safety, Judiciary II, Rules and Operation of the Senate)
- h. Natural and Economic Resources (Agriculture, Natural and Economic

Resources, Wildlife)

i. State and Local  
Government

(Local Government and Regional  
Affairs, State Government, State  
Policies, Veterans and Military  
Affairs)

j. Transportation (Transportation)

2. Interim standing committees may meet separately or jointly with House interim committees.

3. An interim standing committee may hold hearings, conduct studies, approve bills, adopt committee amendments and committee substitute bills, and perform all the functions of a regular standing committee.

4. Any call or notice of an interim committee meeting between legislative sessions shall be mailed to each member of the committee at least five days prior to such meeting. Notice may be waived in accordance with Senate Rule 33. Interim subcommittees are not required to give said notice, but are encouraged to give as timely notice as possible.

5. Interim committees shall meet in the Legislative Building unless otherwise authorized by the President of the Senate.

B. Staffing Interim Standing Committees

1. Professional and clerical assistance shall be provided to each interim standing committee by the Legislative Services Commission upon the request of the interim committee chairman after consultation with the President of the Senate.

2. Authorized professional and clerical staff assistance shall be assigned to the interim committees by the Legislative Services Officer from a central staff pool maintained by him.

The Legislative Services Officer may contract for temporary professional and clerical staff assistance from sources outside the central staff pool.

3. In addition to secretarial services from the central staff pool, the Chairman of each of the Senate interim standing committees may utilize the services of his regular committee clerk on a part-time basis. This clerk shall be paid for a full day for each day on which she attends a committee or subcommittee meeting, plus one additional day for preparation and record keeping for each such meeting.

C. Membership of Interim Committees

1. Each Senator shall be eligible for assignment by the President of the Senate to each interim committee that is composed of one or more of his regular standing committees.

2. Any Senator who does not wish to serve on one or more of the interim committees for which he is eligible may inform the President of the Senate who shall draw up the official membership lists for the interim committees from the list of those eligible and desiring appointment.

3. The President of the Senate shall appoint the interim committee chairman from among the chairmen of the constituent committees.

4. Every Senator shall be allowed to be present during any action, study or consideration of any proposal introduced by him and shall be notified in accordance with Rule 37(a) (4).

D. Committee Planning

1. Each interim standing committee shall meet and submit a work plan to the President of the Senate and the Legislative

F 10

Services Commission. This plan should include a preliminary list of the legislation and studies the committee proposes to handle and estimated staffing and budget requirements for its interim operations.

2. Each interim committee shall keep the President of the Senate and the Legislative Services Officer informed of its activities to facilitate coordination of efforts.

E. Carry-Over Provision

1. A voting majority of a standing committee may recommend that bills assigned to said committee be carried over into the next regular session within the biennium, and retain their same status.

2. A voting majority of a standing committee may permit all bills favorably reported out of committee but not having been voted upon for final passage to retain said status when carried over to the next regular session within a biennium.

3. A voting majority of a standing committee may recommend bills be assigned to an interim standing committee for study or action.

4. A system of consecutive numbers for bills introduced within a biennium shall be instituted.

F. Limitations on Interim Operations

In addition to the interim standing committees which are authorized to function during the interim period, not more than two additional interim special committees may be appointed by the President of the Senate.

G. Pre-Filing of Legislation

Members may pre-file a proposed bill by submitting the bill to the Legislative Services Officer. The Legislative Services



Officer will assign the bill a number in sequence and arrange for its immediate printing and distribution to the members and the public. The proposed bill will be assigned to an interim standing committee by the President of the Senate not more than ten days after submission to the Legislative Services Officer. Formal action will not be taken on any bill by an interim standing committee but shall be assigned to the appropriate committee by the President of the Senate upon the convening of the legislative session.





STATE OF NORTH CAROLINA  
OFFICE OF THE LIEUTENANT GOVERNOR  
RALEIGH 27611

JAMES B. HUNT, JR.  
LIEUTENANT GOVERNOR

November 1, 1973

Dear Senator Barker:

As I earlier informed you, I am appointing an Interim Special Senate Committee under Rule 37(F) of the Rules of the North Carolina Senate (adopted May 11, 1973) for certain specific purposes which I shall set out herein. I am appointing you chairman of this committee and also naming to the committee the following: Senator Wesley Webster, Vice Chairman; Senator Dallas Alford, Senator Willard Blanchard, Senator Malcolm Butner, Senator Lamar Gudger, and Senator Lynwood Smith.

The Committee is charged to investigate the matters within its jurisdiction and make recommendations to the Senate upon its reconvening in January, 1974.

Although the regular standing committees of the Senate in North Carolina do not have spelled out in the Senate Rules their jurisdiction, I want to charge this committee and spell out its jurisdiction specifically. Its investigation should not extend beyond the scope of its purposes and jurisdiction.

The Special Committee is appointed to secure information regarding the personnel policies of state government in North Carolina. It is specifically requested to study the provisions and functioning of the Personnel Act of North Carolina (GS Chapter 126); the applications of the Federal Hatch Act to state employees in North Carolina; the North Carolina teacher tenure act (GS 115-142); and any other existing laws or regulations which affect the personnel policies of state government in North Carolina. The findings and recommendations of this committee will be for the purpose of enabling the North Carolina Senate, upon its reconvening in January, 1974, to consider legislation already introduced or to be introduced in the area of personnel policies.

The Committee is authorized to make a complete study and investigation into:

- (1) the provisions of the Personnel Act (GS Chapter 126) and its actual implementation;

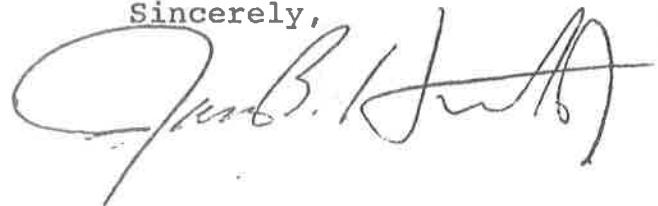
- (2) the existence and adequacy of the provisions of the State Personnel Act regarding reasons for changes in employee status;
- (3) the effectiveness of the appeal procedures for employees who claim to have been treated unfairly;
- (4) the procedures used in state government in employing personnel, terminating employment, demoting and transferring employees;
- (5) the reasons for the termination, transfer, promotion or demotion of individual state employees; and
- (6) the current policies and practices of personnel and supervisory officials and their effect on employee morale and job effectiveness.

Article 5A, of Chapter 120, of the North Carolina General Statutes (House bill 443 ratified chapter 543, May 17, 1973) pertains to committee activity and provides specifically for subpoena power. I would urge that this power be used only as a last recourse where all requests for witnesses or documents to be voluntarily submitted have failed. I would further urge that the committee operate in a nonpartisan fashion and agree within itself to subpoena such witnesses and documents as its minority party members have good reason to believe are necessary and relevant, and which are not furnished voluntarily.

Finally, I urge this committee to constantly remember that it is a fact-finding committee, authorized to investigate certain specific matters, and charged to inform the entire Senate regarding its findings in order that the Senate might legislate as it deems appropriate.

My best personal regards.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bob L. Barker". The signature is written in dark ink and is positioned to the right of the typed name.

Senator Bob L. Barker  
State Legislative Building  
Raleigh, North Carolina 27611

APPENDIX M

HATCH ACT MATERIALS

FROM: Federal Employee Facts No. 2, March 1964.

POLITICAL ACTIVITY

RULES FOR FEDERAL EMPLOYEES

The Hatch Act, passed in 1939, provides in general that Federal employees cannot render political service--that is, take an active part in political management or political campaigns--even if they are willing to do so.

WHO IS SUBJECT TO POLITICAL-ACTIVITY RESTRICTIONS

In general, employees of the Federal Government and the District of Columbia Government, whether career or excepted, are subject to political-activity restrictions. Part-time and temporary employees are included.

Some State employees are also subject to political-activity restrictions. They are employees whose principal employment is in connection with an activity that is partly or wholly financed by Federal funds.

WHAT EMPLOYEES MAY DO

These are some permissible activities with regard to politics:

----You have the right to vote as you choose. Political-activity restrictions do not relieve a Federal employee of his obligation as a citizen to inform himself of the issues and to register and vote.

Employees are encouraged to vote by being given up to 1 day off without charge to leave in order to register and to vote in States where absentee balloting is not permitted.

----You have the right to express your opinions on all political subjects and candidates as long as you do not do so in such a manner as to take an active part in political management or political campaigns of a partisan nature.

----You may make a voluntary campaign contribution to any regularly constituted political organization. (Note restrictions below.)

----You may display a political sticker on your private automobile.

----You may wear a political badge or button.

----You may accept appointment to such positions as member of boards of education, school committees, and boards of public libraries if your agency decides the holding of these local offices will not conflict or interfere with the efficient discharge of your Federal duties. If these offices are elective, you may not participate in a partisan political election.

----You may participate in a nonpartisan local election in which party designation, nomination, and sponsorship are completely absent. You may be a candidate for office in such an election and you may hold the office after election if the head of your agency decides that your holding it will not interfere with your Federal employment.

----You may petition Congress or any Member of Congress. For example, you may write to your Congressman and tell him how you think he should vote on any issue.

----You may sign petitions, including nominating petitions, but may not initiate them or canvass for the signature of others if they are identified with partisan political management or campaigns.

----You may attend political rallies and join political clubs, but you cannot take an active part in the conduct of the rally or the operation of the club or act as chairman, officer, committee member, or delegate. You may vote on issues, but you may not speak for or against them.

#### WHAT EMPLOYEES ARE PROHIBITED FROM DOING

The general prohibition on Federal employees is that they may not take an active part in political management or in political campaigns of a partisan character. These are some of the prohibited activities:

----You may not be a candidate for nomination or for election to a National or State office. You may run for a community office only as described in the section What Employees May Do or if you live in certain exempt communities (as Washington, D.C., where the majority of residents are Federal employees).

----You may not solicit others to become candidates for nomination or election to partisan offices.

----You may not campaign for or against a political party or candidate.

----You may not use your automobile to transport voters, except members of your immediate family, to the polls. However, riders in regularly scheduled carpools can stop at the polls on the way to or from work.

----You may not distribute campaign material.

----You may not march in a political parade.

----You may not sell tickets for or otherwise actively promote such activities as political dinners.

----You may not write for publication or publish any article or letter soliciting votes for or against any political party or candidate.

----You may not solicit or receive any assessment or contribution for any political purpose.

----You may not make a political contribution in a Federal building or to some other employee.



## GENERAL STATUTES OF NORTH CAROLINA

§ 126-1

1973 CUMULATIVE SUPPLEMENT

§ 126-2

## Chapter 126.

## State Personnel System.

## Article 1.

- State Personnel System Established.**
- Sec.
- 126-1. Purpose of chapter; application to local employees.
- 126-2. State Personnel Board.
- 126-3. State Personnel Department established; administration and supervision; appointment, compensation and tenure of Director.
- 126-4. Powers and duties of State Personnel Board.
- 126-5. Employees subject to Chapter; exemptions.
- 126-6. Policies continued; powers, etc., transferred.

## Article 2.

- Salaries and Leave of State Employees.**
- 126-7. Automatic and merit salary increases for State employees.
- 126-8. Minimum leave granted State employees.

## Article 3.

- Local Discretion as to Local Government Employees.**
- 126-9. County or municipal employees

## Sec.

- may be made subject to rules adopted by local governing body.
- 126-10. Personnel services to local governmental units.
- 126-11. Local personnel system may be established.

## Article 4.

**Competitive Service.**

- 126-12. Governor and Council of State to determine competitive service.

## Article 5.

**Political Activity of Employees.**

- 126-13. Appropriate political activity of State employees defined.
- 126-14. Promise or threat to obtain political contribution or support.
- 126-15. Disciplinary action for violation of article.

## Article 6.

**Equal Employment Opportunity.**

- 126-16. Equal employment opportunity by State departments and agencies and local political subdivisions.

## ARTICLE 1.

*State Personnel System Established.*

§ 126-1. Purpose of chapter; application to local employees.—It is the intent and purpose of this chapter to establish for the government of the State a system of personnel administration under the Governor, based on accepted principles of personnel administration and applying the best methods as evolved in government and industry. It is also the intent of this chapter that this system of personnel administration shall apply to local employees paid entirely or in part from federal funds, except to the extent that local governing boards are authorized by this chapter to establish local rules, local pay plans, and local personnel systems (1965, c. 640, s. 2.)

*Editor's Note.*—Session Laws 1965, c. 640, s. 1, effective July 1, 1965, repealed former chapter 126, consisting of 17 sections, and enacted the present chapter 126, consisting of §§ 126-1 to 126-12, in its stead. The repealed chapter was entitled "Merit System Council" and derived from Session Laws 1941, c. 378, as amended by 1947, cc. 598, 781, 933; 1949, cc. 492, 718;

1957, cc. 100, 1004, 1037; 1959, c. 1233.

*State Government Reorganization.*—The State personnel system was transferred to the Department of Administration by § 143A-84, enacted by Session Laws 1971, c. 864.

Cited in *Bean v. Darr*, 354 F. Supp. 1157 (M.D.N.C. 1973).

§ 126-2. State Personnel Board.—(a) There is hereby established the State Personnel Board (hereinafter referred to as "the Board").

(b) The Board shall consist of seven (7) members who shall be appointed by the Governor on July 1, 1965, or as soon thereafter as is practicable. Two mem-

bers of the Board shall be chosen from employees of the State subject to the provisions of this chapter, two members shall be appointed from a list of individuals nominated by the North Carolina association of county commissioners; two members shall be individuals actively engaged in the management of a private business or industry; and one member shall be appointed from the public at large. Of the initial members of the Board, two shall be appointed to serve for terms of two years, two shall be appointed to serve for terms of four years, and three shall be appointed to serve for terms of six years. Their successors shall be appointed by the Governor for terms of six years. Any vacancy occurring prior to the expiration of a term shall be filled by appointment for the unexpired term.

(c) A member of the Board shall not be considered a public officer, or as holding an office or place of trust or profit within the meaning of article XIV, § 7, of the Constitution of this State, but shall be deemed a commissioner for a special purpose.

(d) The Governor may at any time after notice and hearing remove any Board member for gross inefficiency, neglect of duty, malfeasance, misfeasance, or non-feasance in office.

(e) Members of the Board who are employees of the State subject to the provisions of this article shall be entitled to administrative leave without loss of pay for all periods of time required to conduct the business of the Board.

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

(g) The Governor shall designate one member of the Board as chairman.

(h) The Board shall meet quarterly, and at other times at the call of the chairman. (1965, c. 640, s. 2.)

**Editor's Note.—**

The reference to the Constitution in subsection (c) is to the Constitution adopted

in 1868, as amended. See now N.C. Const., Art. VI, § 9.

**§ 126-3. State Personnel Department established; administration and supervision; appointment, compensation and tenure of Director.—** There is hereby established the State Personnel Department (hereinafter referred to as "the Department"). The Department shall be separate and distinct from the Department of Administration and shall be under the administration and supervision of a State Personnel Director (hereinafter referred to as "the Director") appointed by the Board and subject to its supervision. The salary of the Director shall be fixed by the Governor subject to the approval of the Advisory Budget Commission. The Director shall serve at the pleasure of the State Personnel Board. (1965, c. 640, s. 2.) \*By 143A-9, Appointed by Director of Administration.

**§ 126-4. Powers and duties of State Personnel Board.—**Subject to the approval of the Governor, the State Personnel Board shall establish policies and rules governing each of the following:

- (1) A position classification plan 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) A compensation plan 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 age, character, physical condition, and other attributes pertinent to the work to be performed.
- (4) A recruitment program to attract applicants to public employment 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.
- (6) The appointment, promotion, transfer, demotion, suspension, and separation of employees.

- (7) Cooperation with the Department of Public Instruction, the State Board of Education, the Board of Higher Education, and the colleges and universities of the State in developing pre-service and in-service training programs.
- (8) The evaluation of employee performance, the granting of salary increments, and a program of meritorious service awards, which may include cash awards to be paid from savings resulting from the adoption of the employee suggestions, but in no case shall the cash award exceed ten per cent (10%) of the savings resulting during the first year following adoption, or a maximum of one thousand dollars (\$1,000.00).
- (9) Hearing of appeals of applicants, employees, and former employees and the issuing of advisory recommendations in all appeal cases.
- (10) Such other programs and procedures as may be necessary to promote efficiency of administration and provide for a fair and reasonable system of personnel administration. (1965, c. 640, s. 2.)

§ 126-5. Employees subject to Chapter; exemptions.—(a) The provisions of this Chapter shall apply to all State employees not herein exempt, and to employees of local welfare departments, public health departments, mental health clinics, and local civil defense agencies which receive federal grant-in-aid funds; and the provisions of this Chapter may apply to such other county employees as the several boards of county commissioners may from time to time determine.

(b) The provisions of this Chapter shall not apply to the following persons or employees: public school superintendents, principals, teachers, and other public school employees; instructional and research staff, physicians and dentists of the educational institutions of the State; business managers of the University of North Carolina and its several campuses, East Carolina University, and Appalachian State University; members of boards, committees, commissions, councils, and advisory councils compensated on a per diem basis, constitutional officers of the State and except as to salaries, their chief administrative assistants; employees of the General Assembly and its agencies and temporary employees of activities ancillary to the General Assembly; officials and employees whose salaries are fixed by the Governor, or by the Governor and Council of State, or by the Governor subject to the approval of the Council of State or the Advisory Budget Commission; blind or visually handicapped employees of the Department of Human Resources; officials or employees whose salaries are fixed by statute or by virtue of a specific statutory method other than the method provided by this Chapter, and explicitly pertaining to such officials or employees. In case of dispute as to whether an employee is subject to the provisions of this Chapter, the question shall be investigated by the State Personnel Department and decided by the State Personnel Board, subject to the approval of the Governor, and such decision shall be final. (1965, c. 640, s. 2; 1967, c. 24, s. 20; cc. 1038, 1143; 1971, c. 1025, s. 2; 1973, c. 476, s. 143.)

Editor's Note. — Session Laws 1967, c. 24, originally effective Oct. 1, 1967, corrected an error by eliminating a redundant clause in subsection (b). Session Laws 1967, c. 1078, amends Session Laws 1967, c. 24, so as to make it effective July 1, 1967.

Session Laws 1967, c. 1038, substituted "East Carolina University" for "East Carolina College" and "Appalachian State University" for "Appalachian State Teachers College" in subsection (b).

Session Laws 1967, c. 1143, effective July 1, 1967, amended the list of excluded employees in subsection (b) by deleting "Physicians and dentists on the staff of hospitals,

mental institutions, reformatories and correctional institutions of the State, deputy directors, director of professional training and director of research of the State Department of Mental Health" and inserting "physicians and dentists" preceding "of the educational institutions of the State."

Session Laws 1971, c. 1025, s. 2, effective July 1, 1971, inserted "blind or visually handicapped employees of the State Commission for the Blind, Bureau of Employment for the Blind Division" near the end of the first sentence in subsection (b).

The 1973 amendment, effective July 1, 1973, substituted "Department of Human

Resources" for "State Commission for the Division" near the end of the first sentence Blind, Bureau of Employment for the Blind of subsection (b).

§ 126-6. **Policies continued; powers, etc., transferred.**—(a) All classifications, grades, salaries, conditions of work, and rules and regulations established prior to July 1, 1965, by the State Personnel Council, the State Personnel Director, or the North Carolina Merit System Council shall remain in force until amended, repealed, or superseded by the Board, acting under the authority of this chapter.

(b) The State Personnel Board and the State Personnel Director herein provided shall be the successors of the State Personnel Council, the State Personnel Director, North Carolina Merit System Council, and the Merit System Supervisor. All records and property in the custody of these agencies and individuals are hereby transferred to the State Personnel Board and the State Personnel Department, effective July 1, 1965.

(c) Any status of employment or privilege previously attained by an employee in accordance with the State Personnel Act or the State Merit System Act shall continue under the provisions of this chapter. (1965, c. 640, s. 2.)

## ARTICLE 2.

### *Salaries and Leave of State Employees.*

§ 126-7. **Automatic and merit salary increases for State employees.**—It shall be considered a part of the personnel policy of this State that salary increases as provided in the compensation plan shall be granted in accordance with a standard of efficiency as established by the State Personnel Board. Each employee whose performance merits his retention in service shall be granted a salary increase in an amount corresponding to the increments between steps of the applicable salary range at least once each year until he reaches the intermediate salary step nearest to, but not exceeding, the middle of the salary range established for the class to which his position is assigned. Prior to July 1, 1965, each agency, board, commission, department, or institution of State government subject to the provisions of this article shall file with the State Personnel Director a written description of the plan or method it is currently following in awarding or allocating efficiency or merit salary increments. At the same time, each such agency, board, commission, department, or institution shall cause a copy thereof to be distributed to each employee. The State Personnel Director, with the approval of the State Personnel Board, shall modify, alter or disapprove any such plan submitted to it which it deems not to be in accordance with the provisions of this article. Within the limit of available funds, each employee meeting higher standards may be granted increases up to but not exceeding the maximum of the salary range established for the class to which his position is assigned. If, in addition to the salary ranges, the State Personnel Board shall establish uniform provisions for a system of payments over and above the standard salary ranges on a basis combining longevity in service and merit in the performance of duties, that plan of payments shall not be considered in applying this policy governing annual salary increments. The head of each department, bureau, agency, or commission, when making his budget request for the ensuing biennium, shall anticipate the funds which will be required during the biennium for the purpose of paying salary increments and shall include those amounts in his budget request. In no case shall the amount estimated for increments above the step nearest but not exceeding the middle of the range exceed two thirds of the sum which would be required to grant increments to all the personnel of the agency then receiving or who will receive during the first year of the biennium a salary equal to or above the intermediate step of the salary range. With the approval of the State Personnel Board, State departments, bureaus, agencies, or commissions with twenty-five or less employees subject to the provisions of this chapter may exceed the two-thirds restriction herein provided. (1965, c. 640, s. 2.)

**§ 126-8. Minimum leave granted State employees.**—The amount of vacation leave granted to each full-time State employee subject to the provisions of this Chapter shall be determined in accordance with a graduated scale established by the State Personnel Board which shall allow the equivalent rate of not less than two week's vacation per calendar year, prorated monthly, cumulative to at least 30 days. Sick leave allowed as needed to such State employees shall be at a rate not less than 10 days for each calendar year, cumulative from year to year. Notwithstanding any other provisions of this section, no full-time State employee subject to the provisions of Chapter 126, as the same appears in the Cumulative Supplement to Volume 3B of the General Statutes, on May 23, 1973 shall be allowed less than the equivalent of three weeks' vacation per calendar year, cumulative to at least 30 days. (1965, c. 640, s. 2; 1973, c. 697, ss. 1, 2.)

Editor's Note.—

The 1973 amendment rewrote the first sentence and added the third sentence.

### ARTICLE 3.

#### *Local Discretion as to Local Government Employees.*

**§ 126-9. County or municipal employees may be made subject to rules adopted by local governing body.**—(a) When a board of county commissioners adopts rules and regulations governing annual leave, sick leave, hours of work, holidays, and the administration of the pay plan for county employees generally and the county rules and regulations are filed with the State Personnel Director, the county rules will supersede the rules adopted by the State Personnel Board as to the county employees otherwise subject to the provisions of this chapter.

(b) No county employees otherwise subject to the provisions of this chapter may be paid a salary less than the minimum nor more than the maximum of the applicable salary range adopted in accordance with this chapter without approval of the State Personnel Board. Provided, however that subject to the approval of the State Personnel Board, a board of county commissioners may adjust the salary ranges applicable to employees who are otherwise subject to the provisions of this chapter, in order to cause the level of pay to conform to local financial ability and fiscal policy. The State Personnel Board shall adopt policies and regulations to ensure that significant relationships within the schedule of salary ranges are maintained.

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

(d) When a municipality is performing an activity by or through employees which are subject to the provisions of this chapter, the governing body of the municipality may exercise the authority hereinabove granted in subsections (a) and (b) of this section. (1965, c. 640, s. 2.)

**§ 126-10. Personnel services to local governmental units.**—The State Personnel Board may make the services and facilities of the State Personnel Department available upon request to the political subdivisions of the State. The State Personnel Board may establish reasonable charges for the service and facilities so provided, and all funds so derived shall be deposited in the State treasury to the credit of the general fund. (1965, c. 640, s. 2.)

**§ 126-11. Local personnel system may be established.**—The board of county commissioners of any county which shall establish and maintain a personnel system for all employees of the county subject to its jurisdiction, which system is found from time to time by the State Personnel Board to be substantially equivalent to the system established under article 1 of this chapter for employees of local wel-

fare departments, public health departments, and mental health clinics, may include employees of these local agencies within the terms of such system. Employees covered by that system shall be exempt from the provisions of article 1 of this chapter. (1965, c. 640, s. 2.)

Applied in *Bean v. Darr*, 354 F. Supp. 1137 (M.D.N.C. 1973).

#### ARTICLE 4.

##### *Competitive Service.*

§ 126-12. **Governor and Council of State to determine competitive service.**—The Governor, with the approval of the Council of State, shall from time to time determine for which, if any of the positions subject to the provisions of article 1 of this chapter, appointments and promotions shall be based on a competitive system of selection. (1965, c. 640, s. 2.)

Cross Reference.—See Editor's note to § 126-1.

#### ARTICLE 5.

##### *Political Activity of Employees.*

§ 126-13. **Appropriate political activity of State employees defined.**—As an individual, each State employee retains all the rights and obligations of citizenship provided in the Constitution and laws of the State of North Carolina and the Constitution and laws of the United States of America; however, no State employee subject to the Personnel Act or temporary State employee shall:

- (1) Take any active part in managing a campaign, or campaign for political office or otherwise engage in political activity while on duty or within any period of time during which he is expected to perform services for which he receives compensation from the State;
- (2) Otherwise use the authority of his position, or utilize State funds, supplies or vehicles to secure support for or oppose any candidate, party, or issue in a partisan election involving candidates for office or party nominations, or affect the results thereof. (1967, c. 821, s. 1.)

Editor's Note. — Section 3 of the act adding this article makes it effective July 1, 1967.

§ 126-14. **Promise or threat to obtain political contribution or support.**—No State employee or official shall use any promise of personal preferential treatment or threat of loss to encourage or coerce any State employee subject to the Personnel Act or temporary State employees to support or contribute to any political issue, candidate, or party. (1967, c. 821, s. 1.)

State Government Reorganization.—The Adjutant General's department was transferred to the Department of Military and Veteran's Affairs by § 143A-233, enacted by Session Laws 1971, c. 864.

§ 126-15. **Disciplinary action for violation of article.** — Failure to comply with this article is grounds for disciplinary action which, in case of deliberate or repeated violation, may include dismissal or removal from office. (1967, c. 821, s. 1.)

## ARTICLE 6.

*Equal Employment Opportunity.*

§ 126-16. **Equal employment opportunity 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, without regard to race, religion, color, creed, national origin or sex, to all persons otherwise qualified. (1971, c. 823.)

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**REORGANIZATION PROVISIONS —**

§ 143A-9. **Appointment of officers and employees; salaries of department heads.**—Any provisions of law to the contrary notwithstanding, and subject to the provisions of the Constitution of the State of North Carolina, the head of a principal department, except those departments headed by elected officials who are constitutional officers, shall be appointed by the Governor and serve at his pleasure. The salary of the head of each of the principal departments, except in those departments headed by elected officials who are constitutional officers, shall be set by the Advisory Budget Commission on the recommendation of the Governor. Salaries for these positions shall be filed with the General Assembly pursuant to G.S. 143-34.3 commencing with the 1973 General Assembly.

The head of a principal department shall appoint the chief deputy or chief assistant and such chief deputy or chief assistant shall be subject to the State Personnel Act. Except where appointment by the Governor is prescribed by existing statute, the head of the principal department shall appoint the administrative head of each transferred agency and, subject to the provisions of the State Personnel Act, appoint all employees of each division, section or other unit under a principal department.

In establishing the position of secretary, and the supporting staff for the principal departments, the cost of such staff positions will be met insofar as possible by utilizing existing positions or funds available from vacant positions within agencies assigned to the principal departments. (1971, c. 864, s. 1.)

§ 143A-10. **Governor; continuation of powers and duties; staff.**—All powers, duties and functions vested by law in the Governor or in the office of Governor are continued, except as otherwise provided by this Chapter.

The immediate staff of the Governor shall not be subject to the State Personnel Act; however, salaries for these positions shall be filed with the General Assembly pursuant to G.S. 143-34.3 commencing with the 1973 General Assembly. (1971, c. 864, s. 1.)





( EFFECTIVE : APRIL 24, 1973 )

SELECTED PARTS: NORTH CAROLINA STATE PERSONNEL MANUAL

This manual contains the policies, regulations, and procedures of the State Personnel Department which apply to all employees covered by the provisions of the State Personnel Act.

. . . Policies and regulations approved by the State Personnel Board are presented in six major sections:

- Section 1 - General Employment Policies
- Section 2 - Position Management
- Section 3 - Pay Plan
- Section 4 - Leave and Separation
- Section 5 - Employee Relations ✓
- Section 6 - Manpower Development

. . . Administrative procedures and guides are presented on the yellow pages following the statements of policy.

It is intended that the distribution of the Personnel Manual include those individuals who are assigned supervisory and day-to-day management responsibilities in the administration of personnel policies and procedures. For this reason, distribution is decided in cooperation with each agency head and a register is maintained of each manual assigned in order that additions and revisions may be supplied. It is the responsibility of the agencies to notify the State Personnel Department of changes in personnel that would affect the distribution of the Manual. Each employee assigned a copy is responsible for properly maintaining it at all times. Since the Manual is actually assigned to a position, it should not become the property of the employee. If for any reason the occupant leaves a position assigned a Manual, it should be reassigned to the incoming employee.

An employee assigned a copy of the Manual is expected to become fully acquainted with the policies, regulations, and procedures it contains and be able to explain them to *other employees* when needed.

Questions or suggestions regarding the contents of the Manual should be directed through supervisory channels to the State Personnel Department.

For information about payrolls, budget procedures, and other related matters, refer to the Accounting Manual, issued by the Budget Division, Department of Administration.

Appendix: State Personnel Act, effective July 1, 1965.

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## EMPLOYEE RELATIONS

The philosophy of State government in North Carolina is to provide the most effective services possible to meet the needs of a growing and dynamic society. It is recognized by all that success in meeting these needs is the responsibility and obligation of the people in State government. It follows then that the State's philosophy in personnel administration must always recognize the dignity and value of the individual. To this end, the State Personnel Act provides that the State Personnel Board, with approval of the Governor, shall develop and implement policies and procedures that are necessary to promote efficiency of administration and provide a fair and reasonable system of personnel administration. It is within this context that certain policies, included in this section on Employee Relations, have been adopted to promote a means of communications, participation, and understanding among all employees.

Other policies in this area are now being developed for adoption and implementation at a later date.

## IMPROVING COMMUNICATIONS BETWEEN SUPERVISORS AND EMPLOYEES

The State Personnel Board, with approval of the Governor, adopted this policy to provide a means of improving communications between supervisors and employees and to establish principles of administration to insure prompt, orderly, and fair response to an employee's problem or grievance.

### Policy

In order to maintain a harmonious and cooperative relationship between the State and its employees, it shall be a policy of the State to provide for the settlement of problems and differences through an orderly grievance procedure. Every employee shall have the right to present his problem or grievance in accordance with the procedures prescribed within his agency, with or without a representative of his own choosing, free from interference, coercion, restraint, discrimination, or reprisal.

The head of each agency shall establish a formal procedure for submission of problems or grievances by employees. The procedure shall be established in accordance with the general recommendations and approval of the State Personnel Board and shall provide for prompt and orderly consideration and determination of such grievances by supervisors and the agency head. Wherever possible, with due consideration to organization, size, and geographic spread of an agency, procedures shall provide for no more than three stages.

It is the responsibility of supervisors at all levels, consistent with authority delegated to him, to consider and take appropriate action promptly and fairly on a problem or grievance of any employee or employees.

Each agency head shall take necessary steps to insure that all employees and supervisors under his jurisdiction may be fully informed of the grievance procedures adopted and of their rights and obligations under the policy.

An employee shall be allowed such time off from his regular duties as may be necessary and reasonable for the processing of a grievance under the procedures adopted within his agency without loss of pay, vacation, or other time credits.

The State Personnel Department will prepare and transmit to agencies materials that will outline the Board's recommendation for the implementation of this policy. They will review agency recommendations and render any possible assistance prior to a review and approval by the Board. The Personnel Department will work in cooperation with agencies in preparing materials, explaining the procedures to employees, and developing materials and instructions helpful to supervisors.

In adopting this policy, the Board sets forth the following objectives to be attained in this program:

- Assure employees of a way in which they can get their problems or complaints considered rapidly, fairly, and without fear of reprisal.
- Encourage the employee to express himself about how the conditions of work affect him as an employee.
- Get better understanding of policies, practices, and procedures which affect employees.
- Provide employees with assurance that actions are taken in accordance with policies.
- Provide a check on how policies are carried out by supervisors.
- Give supervisors a greater sense of responsibility in their dealings with employees.

## CONSIDERATIONS IN DEVELOPING A PROCEDURE FOR DEALING WITH EMPLOYEE QUESTIONS OR PROBLEMS

The policy provides that wherever possible, with due consideration to organization, size, and geographic spread, a procedure should be developed within an agency in not more than three stages. This is because experience has shown that complicated procedures do not work very effectively and for this reason emphasis is placed on using as few steps as possible. Below are some of the points that should be considered in planning lines of communication within an agency. These points are based on a procedure involving three steps within an agency, with the fourth or final step an appeal to the State Personnel Board. This does not mean that a procedure could not provide more than three steps. A decision as to how many steps should be included will depend on the organizational structure and other considerations that must be taken into account to best meet the needs of the agency.

### Step One

This step should provide that the employee first discuss his problem or grievance with his immediate supervisor. This gives the supervisor an opportunity to settle a grievance or answer an employee's question at as early a stage as possible. A common mistake in many formal grievance procedures is to require that an employee, if he is not satisfied with the answer or decision of the immediate supervisor, continue his appeal through each level of supervision until he reaches the top administrative head. To require a review by too many supervisory levels is unduly time consuming and complicated, quite often to the point that employees are discouraged from appealing a legitimate grievance to the top.

Generally, when a grievance is taken higher up the supervisory line, more knowledge and a broader point of view is brought to bear on employee problems or grievances. But this does not necessarily mean a grievance procedure must require the employee to appeal a decision at each of the supervisory levels. If higher level supervisors have more knowledge or a broader viewpoint on what is causing a grievance, or an appropriate way to handle a complaint, this information should be made available to the immediate supervisor before he gives the first answer or makes the first decision. Therefore, it is recommended that provisions be made in the first step whereby the immediate supervisor may, if he so desires, seek any needed advice or counsel from higher level supervisors before making a decision or giving an answer. Normally, the immediate supervisor would not consult with the agency head, since the top authority may be required to review the entire appeal and render a final decision for the agency.

### Step Two

If the decision or answer in step one is not satisfactory to the employee, a further appeal should be provided in the second step. At this step, it is suggested that discussions take place between the employee and agency personnel officer. (In agencies that do not have a full-time personnel officer, it is desirable to assign this responsibility to the person who serves as personnel officer or someone deemed appropriate by the agency head.) In this step, emphasis is placed on discussions and efforts among appropriate agency personnel to reach an acceptable solution before a final review and decision is necessary by the agency head. The question always arises as to "if" and "when" a problem or grievance should be reduced to writing. Our research on this point shows that it is probably not advisable to require written statements in the first step. The reason being that once a grievance is written down during the first discussions, the thinking behind it on the part of the employee, and often on the part of the supervisor, becomes crystalized, making it more difficult to reach a mutual satisfactory agreement. There is some risk that if writing down the grievance is put off too long the issues may become confused. But it is believed the risk is worth taking if it results in a much better chance of an agreement that satisfies both parties. It is generally agreed that grievances can be satisfactorily handled without reducing them to writing unless the appeal goes to the agency head. However, it is recommended that a decision as to "if" and to "what extent" facts should be put in writing be provided in the second step.

### Step Three

In the event the employee's question or problem is not resolved to his satisfaction in step two, an appeal to the agency head may be provided in the third step. In some agencies, it may be desirable to consider a three or five-man committee to hear appeals prior to a final decision by the agency head. Responsibility may be delegated to the committee to determine that the evidence or questions are all inclusive, the records accurate, and the proceedings fair, and to make their recommendation to the agency head.

### Step Four

A final step in the grievance procedure would provide for an appeal from the agency head's decision to the State Personnel Board. The procedure that has been adopted for an appeal to the Board is as follows:

*Appeals to State Personnel Board*—“If the employee is not satisfied with the decision of the agency head, he may request, within five working days of receipt of the agency's decision, a public hearing by the State Personnel Board. His request should be filed through the agency personnel officer or the agency head. If the employee so desires, he may ask the agency for help in submitting his appeal in writing. The date and time for the employee's meeting with the Board will be determined by the State Personnel Director. The date will be set as early as possible after the request is received from the employee. The State Personnel Director will determine the parties deemed necessary for the hearing and request their presence. The State Personnel Board, within five working days after the hearing, shall make its recommendation to the agency. After considering the Board's recommendation, the agency shall make its decision and shall notify the employee in writing of the agency's decision”.

On pages 5-7 and 5-8 is a sample procedure which includes the basic State policy and provides a three-step agency procedure. This procedure is applicable in an agency that has elected to use an employee relations committee and has a full-time personnel officer.

Supervisory Procedure in Dealing with  
Employee Questions or Problems

**PURPOSE**

To provide a means of improving communications between supervisors and employees and establish principles of administration to insure prompt, orderly, and fair response to an employee grievance or appeal.

**POLICY**

It is State policy that every employee has the right to present a problem or appeal free from interference, restraint, coercion, discrimination, or reprisal. This includes any cause for dissatisfaction outside the employee's control or anything connected with his job that he thinks or feels is wrong.

Employee shall be entitled to such time off from his regular duties as may be necessary and reasonable for the presentation and processing of his grievance or appeal without loss of pay, vacation, or other "time credits". When presenting an appeal, employee may, if he so desires, be accompanied and/or be represented by a person of his own choosing.

This policy shall be posted immediately in a permanent and conspicuous manner by every department in as many work areas as may be necessary. It shall be covered fully during the orientation procedure for new employees.

**PROCEDURE**

**STEP 1 - DISCUSSIONS BETWEEN EMPLOYEE AND IMMEDIATE SUPERVISOR**

If an employee has a problem or grievance, it should first be discussed with his immediate supervisor. The supervisor may call higher level supervisors into the discussion *if the employee agrees*. Or, the supervisor may consult with higher level supervisors to seek any needed advice or counsel from his administrative superiors before giving an answer.

The employee shall receive an answer within five working days, or be advised as to the conditions which prevent an answer within five working days and when an answer may be expected.

**STEP 2 - DISCUSSIONS BETWEEN EMPLOYEE AND AGENCY PERSONNEL OFFICER**

If the decision is not sufficiently satisfactory to the employee in Step 1, or if he fails to receive an answer within the designated period provided in Step 1, he may request the agency personnel officer to consider the matter. The request may be presented either in person or in writing but must be presented within five working days after receipt of the Step 1 decision. Depending on the nature of the appeal, the personnel officer will determine to what extent facts will be required in writing. The supervisor and employee shall provide all pertinent information to the personnel officer who will review the facts and hold whatever discussions he deems desirable or the employee or supervisor may request. The personnel officer shall provide a recommendation to the proper administrators or superiors within

five working days after all necessary discussions are held; and, shall at the same time advise the employee of his recommended course of action. In the absence of objection or appeal, by either the supervisor or the employee, the agency head will expect the recommendation of the personnel officer to be carried out within a reasonable period of time.

### **STEP 3 - APPEAL TO THE GRIEVANCE AND APPEAL COMMITTEE**

If the decision reached in Step 2 is not satisfactory to the employee or the supervisor or is not promptly implemented, the matter may be referred by the employee, the supervisor, or the personnel officer to the grievance committee. Any request for review shall be submitted within five working days after the personnel officer has presented his recommendation. The party requesting the referral shall provide a written summary of the specific facts of the complaint, copies of which shall be provided at the same time to all other parties concerned. If the employee so desires, he may ask the personnel officer for help in preparing the request and the written summary of facts of the appeal. A request from the employee or the supervisor for a hearing shall be made to the personnel officer who shall transmit the request to the grievance committee. At the conclusion of hearings, it will be the responsibility of the chairman of the grievance committee to inform the agency head of the details of the problem, the reasons why it was not resolved at lower levels, and the recommendations of the committee. The agency head will make the decision for the agency within five working days, and his decision will be announced immediately by the agency head to all parties concerned. If the employee is not satisfied with the decision, he may appeal to the State Personnel Board.

### **STEP 4 - APPEAL TO STATE PERSONNEL BOARD**

If the employee is not satisfied with the decision of the agency head, he may request, within five working days of receipt of the agency's decision, a public hearing by the State Personnel Board. His request should be filed through the agency personnel officer or the agency head. If the employee so desires, he may ask the agency for help in submitting his appeal in writing. The date and time for the employee's meeting with the Board will be determined by the State Personnel Director. The date will be set as early as possible after the request is received from the employee. The State Personnel Director will determine the parties deemed necessary for the hearing and request their presence. The State Personnel Board, within five working days after the hearing, shall make its recommendation to the agency. After considering the Board's recommendation, the agency shall make its decision and shall notify the employee in writing of the agency's decision.



## DISCIPLINARY ACTION, SUSPENSION, AND DISMISSAL

The State Personnel Board approved a formal policy concerning disciplinary action and dismissal which it felt would be helpful to all levels of supervision and administration in promoting efficiency and would provide equitable treatment for employees.

It is of particular importance to note the thinking on part of the Board members in considering and adopting this policy. The Board recognized that this material would require further consideration after initial implementation through the management of the various agencies. All administrative and supervisory personnel should become thoroughly familiar with the provisions and purpose of this policy. If this is clearly understood, management philosophy as well as administrative responsibility will be the essential factors in the administrative evaluation. A statement of purposes and a copy of the policy in its initial form was approved as stated below:

The Board recognizes that, consistent with sound employee relations practices, it is most important that disciplinary action, suspensions, and dismissals be administered in as near a uniform manner as possible in all agencies. It is believed that a formalized written policy covering this management area would be helpful to all levels of supervision and administration as well as beneficial to all employees. *The policy is designed so as not to restrict operating personnel but to help them solve problems of this type in a fair and equitable manner without prejudice or favoritism.*

### POLICY

An employee, regardless of occupation, position, profession, or work performed, may be warned, reprimanded, dismissed, or given a leave of absence without pay by an appointing authority whenever he considers the good of the service to be served thereby. The degree and kind of action to be taken will be based upon the sound and considered judgment of the appointing authority in accordance with the provisions of this policy to assure that the intent of the policy is followed.

The causes for suspension or dismissal fall into two categories: (1) *Causes relating to performance of duties*, (2) *Causes relating to personal conduct detrimental to State service*.

1. *Performance of Duties.* Employees who are dismissed for unsatisfactory performance of duties should receive at least three warnings: First, one or more oral warnings; second, an oral warning with a follow-up letter to the employee which sets forth the points covered in the discussion; third, a written warning which will serve notice upon the employee that a continuation of the unacceptable practices may result in specific pay losing disciplinary action or dismissal. (See *Performance of Duties*, page 5-10.)

- a. **First Oral Warning**

The supervisor is responsible for maintaining the proper conduct and discipline of employees under his supervision. When some action is necessary, the supervisor may give the first oral warning without prior approval of the agency head. The supervisor will talk privately with the employee and do the following:

- (1) Review with the employee exactly what is expected of him and why.
- (2) Explain to the employee how he has not met the requirements and why his conduct has been unacceptable.
- (3) Allow the employee to give the reasons for his actions or failure.
- (4) Make suggestions for correction.
- (5) Record the date of the interview and other necessary information for any future use.

b. Oral Warning With Follow-up Letter to Employee

- (1) Review again the points covered in the oral warning that must be corrected, and serve a strong warning that a change in work performance must be made.
- (2) Tell the employee he will receive a letter covering the significant points of the discussion.
- (3) Review with the agency head the contents of the letter prior to a delivery of the letter to the employee by the supervisor.

c. Written Warning

Before issuing the final written warning, the agency head and the supervisor must review the contents of the letter which will include a notice to the employee that a continuation of the practice may result in eventual dismissal. (If requested, the State Personnel Department will give assistance or advice concerning written warnings.)

d. Dismissal

Before an employee is dismissed because of unsatisfactory performance of duties, the following should occur:

- (1) A written summary of the case will be prepared by the supervisor and reviewed with the agency head .
- (2) Upon reaching a decision to dismiss the employee, an effective date of not less than two weeks notice will be determined. This two weeks period may include payment for accumulated annual leave and, in exceptional situations, with prior approval of the State Personnel Director, may be in the form of payment in lieu of notice.
- (3) The supervisor will give the employee written notice of the decision.
- (4) A copy of the notice will be placed in the employee's file.

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2. *Personal Conduct.* An employee may be dismissed or suspended without warning for causes relating to personal conduct detrimental to State service in order to avoid undue disruption of work or to protect the safety of persons or property or for other serious reasons. In less serious or disruptive situations, steps similar to those listed under *Performance of Duties* may be in order. When an employee is suspended or dismissed immediately, the following steps will be taken by the supervisor: (See *Personal Conduct*, page 5-11.)

- a. He will tell the employee to leave the State property at once and either report back to the supervisor the following day or remain away until further notice.
- b. If an immediate dismissal is made, all facts leading to the dismissal must be clearly understood by the supervisor and the agency head and a written summary should be prepared giving the circumstances and facts which led to the decision for dismissal and a copy filed in the employee's personnel folder.

### **Suspension (Compulsory Leave of Absence Without Pay)**

Suspension of an employee may become necessary because of problems arising as a result of *performance of duties or personal conduct*.

Therefore, the policy provides that this step may be used in the event the various levels of authority elect to do so. However, certain limitations and cautions should be considered.

#### **Limitations and Cautions Concerning Compulsory Leave Without Pay:**

1. This provision is authorized with the *caution* that much thought and deliberation be given before taking such action, as it could prove to be a distinct disadvantage. The existing facts and circumstances should be weighed carefully. *Leave of absence without pay should never be used as an act of punishment.*
2. In the event higher levels of authority are not available for consultation and the severity of the case is such a nature that judgment dictates that the employee remove himself from the premises at the moment until such time as those persons are available, the intent of this provision is carried out. Or, in the event a "cooling-off" period is so indicated, the intent of this provision of the policy is carried out.
3. The length of time of such compulsory leaves is limited to a maximum of thirty (30) days in any twelve (12) month period.
4. Failure of the employee to report back to work when requested or at the expiration date will be considered to have terminated his employment, and any subsequent reinstatement or re-employment would be on the basis of new employment.
5. Any leave of absence without pay must be fully documented stating (a) *beginning date*, (b) *reasons for action*, (c) *brief description of plans and procedures for solving the problem*, and (d) *signatures of appropriate levels of authority*. At the conclusion of the problem, give dates and details of the action taken and place in personnel file.
6. If the employee is suspended and later is proved not at fault, he is to be reinstated to his same duties, classification, and rate of pay, and he is to receive pay (his regular rate) for the time lost, based on a forty-hour week.

#### **Additional Considerations (Transfer of Employee Who Cannot Do the Job)**

After oral warnings or discussions with the employee, the supervisor may realize that the employee's problem is caused by his not being able to fit into the work group or not being able to perform his duties satisfactorily. Disciplinary action should not be taken in this case. Instead, an effort should be made to aid the employee with his problem. If it is determined that a transfer of the employee to another job environment might be beneficial to both the employee and the State, the following points are suggested:

1. That those persons in authority actively seek out other job vacancies within the same unit or other units of State government for which the employee would qualify. Aid the employee in the necessary procedures required to be considered. Enlist the aid of the personnel officer as well as the State Personnel Department.
2. Establish with the employee that this is *not* a disciplinary action as such, but a method by which all can benefit under the circumstances.

3. Take time in counseling the employee and do not prohibit the employee from seeing anyone at any level that he wishes to see.
4. The consideration of a transfer should be a sincere desire to transfer without prejudice and malice toward the employee. It should not be used to provide a method by which those responsible will use it as a "compromise" or method by which they "pass" the problem to another supervisor. Only after all facts, circumstances, personal attitudes, and conflicts are analyzed should a transfer be considered.

## RIGHT OF APPEAL

An employee may appeal his suspension or dismissal to the particular agency head or his designated representative. In most cases, such appeals are settled at the agency level; however, an employee or agency head or both may review the matter with the State Personnel Department. State policy provides that a final appeal may be made to the State Personnel Board if necessary. The appeal shall be filed in writing not later than thirty days after the effective date of dismissal or suspension. A hearing before the State Personnel Board shall be arranged at its next regular meeting. The State Personnel Director shall furnish the personnel officer of the agency concerned with a copy of the appeal in advance of the hearing. Both the employee and the agency shall be notified reasonably in advance of the hearing and shall have the right to present witnesses and give evidence before the Board. The State Personnel Board, within five working days after the hearing, shall make its recommendation to the agency for consideration.

## Reference:

*Performance of Duties*—The following causes relating to the performance of duties are representative of those considered for suspension or dismissal:

1. Inefficiency or incompetency in the performance of duties.
2. Negligence in the performance of duties.
3. Physical or mental incapability for performing duties.
4. Careless, negligent, or improper use of State property or equipment.
5. Failure to maintain satisfactory and harmonious working relationships with the public and employees.
6. Absence without approved leave.
7. Habitual improper use of sick leave privileges.
8. Habitual pattern of failure to report for duty at the assigned time and place.
9. Failure to obtain or maintain a current license or certificate required by law as a condition for performing the job.

*Personal Conduct*—The following causes relating to personal conduct are representative of those considered for suspension or dismissal:

1. Guilty of gross misconduct or conduct unbecoming a State officer or employee.
2. Conviction of a felony.
3. Guilty of immoral conduct or a criminal act.
4. Misuse of State funds.
5. Falsified job information to secure position.
6. Participation in any action that would in any way seriously disrupt or disturb the normal operation of the agency, institution, department, or any other segment of State government.
7. Trespassing on the home of any State official or employee for the purpose of harassing or forcing dialogue or discussion from the occupants.
8. Willful damage or destruction of property.
9. Willful acts that would endanger the lives and property of others.
10. Possession of unauthorized fire arms or lethal weapons on the job.
11. Brutality in the performance of duties.
12. Refusal to accept a reasonable and proper assignment from an authorized supervisor (insubordination).
13. Reporting to work under the influence of alcohol or drugs, or partaking of such things on the job.
14. Acceptance of gifts in exchange for "favors" or "influence"
15. Betrayal of *confidential* information from official records.
16. Engaging in incompatible employment or serving a conflicting interest.
17. Taking part in political management or in political campaigns prohibited by law.

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STATE OF NORTH CAROLINA  
DEPARTMENT OF ADMINISTRATION

JAMES E. HOLSHOUSER, JR.  
Governor

CLAUDE E. CALDWELL  
State Personnel Director

Office of State Personnel

WILLIAM L. BONDURANT  
Secretary

121 West Jones Street Raleigh 27603

October 31, 1973

MEMORANDUM

TO: Mr. William L. Bondurant, Secretary, Department of Administration  
FROM: Claude E. Caldwell  
SUBJECT: Department of Transportation's Personnel Policies

Mr. Mercer Doty's memorandum to you dated October 24, 1973, raises the question as to whether the personnel policies and related administrative procedures issued by the Department of Transportation, effective July 1, 1973, had been coordinated with the State Personnel Board, and, if so, is the Personnel Board in agreement with all provisions of the memorandum?

In early June, 1973, Mr. Troy Doby requested that I furnish a staff member from this office to assist them in preparing certain supplementary departmental policies. Mr. Sam Badgett of my staff served in this capacity. As a result of the work done by the Task Force, with which Mr. Badgett worked, a memorandum was issued by the Department of Transportation, effective July 1, 1973. The memorandum outlined departmental procedures for the application of basic personnel policies previously adopted by the State Personnel Board. So far as we are able to determine, the policies, as they affect personnel management, are substantially consistent with all policies adopted by the State Personnel Board.

The Department of Transportation's memorandum, effective July 1, 1973, also dealt with some items which are not strictly speaking personnel management, such as use of state property and equipment, acceptance of gratuities and the like and with matters of internal management spelling out certain delegation of authority to individuals who were at various levels in the chain of command to make personnel management decisions and such related matters.

Neither the Personnel Board nor members of the staff of the Office of State Personnel exercised any role in the determination of these matters of internal management of the agency.

dh

An Equal Opportunity Employer

STATE PERSONNEL BOARD:

James W. Dixon, Chairman, Raleigh

Fred D. Hauser, Winston-Salem

Elton R. Jeffries, Mebane

H. D. Jordan, Jr., Mt. Gilead

E. Sharpe Newton, Wilson

Sally A. Myers, Raleigh

W. H. Davis III, Cary

## DEPARTMENT OF TRANSPORTATION PERSONNEL POLICIES,

EFFECTIVE 7-1-73

## EMPLOYEE RELATIONS PROGRAM

I. Grievance Procedure.

Policy: Improving communications.

A. The policy of the Department of Transportation and Highway Safety provides that an employee may, after following the procedure established within the major office of his employment, continue his appeal in the following manner.

1. Discussion between employee and Department of Transportation Personnel Officer.
2. Appeal to Employee Relations Committee.

Right of appeal: Appeal to State Personnel Board.

II. Disciplinary Action.

Policy: Problem solving in fair and equitable way without prejudice or favoritism.

A. An employee, regardless of occupation, position, profession, or work performed, may be warned, reprimanded, dismissed, or given a compulsory leave of absence without pay by an appointing authority whenever he considers the good of the service to be served thereby.

B. The causes for suspension fall into two categories:

(1) Causes related to performance of duties. (2)

Causes related to personal conduct detrimental to state service.



1. Performance of duties: three warnings before dismissal.
  - a. First oral warning.
  - b. Oral warning with follow-up letter to employee.
  - c. Final written warning.
  - d. Dismissal.
2. Personal conduct.
  - a. An employee may be dismissed without warning.  
But: If an immediate dismissal is made all facts must be clearly understood by the Supervisor and the Division Engineer, Unit Head or Section Chief. It is required that written reports will be forwarded to the Personnel Office of Department of Transportation and Highway Safety setting forth the circumstances and facts which led to the decision for dismissal.

Right of Appeal: An employee may appeal his suspension or dismissal as provided by the established grievance procedure. State policy provides that a final appeal may be made to the State Personnel Board if necessary. The State Personnel Director shall furnish the Personnel Officer of the department concerned with a copy of the appeal in advance of the hearing. Both employee and the department shall be notified of the hearing and shall have the right to present witnesses and give evidence before the Board.



STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION AND HIGHWAY SAFETY  
RALEIGH 27611

JAMES E. HOLSHOUSER, JR.  
GOVERNOR

June 26, 1973

PERSONNEL DEPARTMENT  
DAVID R. MADIGAN, PERSONNEL OFFICER  
P. O. BOX 25201/HIGHWAY BUILDING  
919/829-7684

BRUCE A. LENTZ  
SECRETARY

MEMORANDUM TO: (HIGHWAY) - SECTION CHIEFS, BRANCH MANAGERS,  
UNIT HEADS AND DIVISION ENGINEERS  
(MVD) - DIVISION OF REGISTRATION, DRIVER LICENSE,  
COMMON CARRIER TAX, LICENSE & THEFT,  
TRAFFIC SAFETY EDUCATION, HIGHWAY PATROL  
AND TRAFFIC RECORDS AND INFORMATION

MR. BOYD C. MILLER, TRANSPORTATION SAFETY  
MR. JAMES W. DAVIS, PORTS AUTHORITY

FROM: David R. Madigan, Personnel Officer

SUBJECT: Department of Transportation Personnel Policies Effective 7-1-73

The attached copy of Personnel Policies is transmitted to reflect administrative procedural and policy changes necessitated by legislative action. The effective date is 7-1-73; the previous policy of 4-1-73 is to be discarded. Those with State Personnel Manuals should include this policy as a supplement.

Some of the major changes are brought to your immediate attention:

Pages 1-2 through 1-5 introduce the EEO Section and its areas of responsibility. Each region has been staffed with a Regional EEO Officer who will implement those duties on page 1-5. The EEO Coordinator, in addition to those other duties on page 1-4, will recruit and hire minority employees for Central Headquarters of Highways and Motor Vehicles.

Please note the new reporting procedures on page 1-6. Recent memorandums from this office and this page point out the importance of complying with House Bill 1231. Pages 1-7 and 1-10 describe the actual mechanics of reporting vacancies. Again, note that 7-1-73 is the effective date for these changes.

Special procedures for statewide operating units are pointed out on page 1-13. The procedures are in keeping with the concept of central control.

Please make the new policies available to all employees. You are encouraged to post them if possible.

DRM/DC/db  
Attachment

cc: Messrs. Bruce A. Lentz  
Thomas R. Cross

Billy Rose  
John H. Davis

G. C. Davis

P-94

DEPARTMENT OF TRANSPORTATION & HIGHWAY SAFETY  
PERSONNEL POLICIES

Effective July 1, 1973

This is to set forth the administrative policies and regulations concerning personnel management in the Department of Transportation and Highway Safety. Basic policies covering many aspects of personnel management are provided for all agencies by the State Personnel Board with the approval of the Governor. In addition to these statewide policies, it is necessary that each major department adopt certain supplementary policies to assure uniform and effective management in keeping with departmental needs and objectives.

This supplement provides you with the policies adopted by this department as of this date. You will be furnished with additional policies as our needs dictate. These policy statements should be filed as a supplement in your State Personnel Manual. They replace those policy statements previously released.

Questions regarding the contents of this material should be directed to your Supervisor and division Personnel Officer.

Effective 7-1-73

## I GENERAL EMPLOYMENT POLICIES

- 1 - 1 Employee Recruitment and Evaluation Policy
- 1 - 2 Employment and Promotion Services
- 1 - 3 Equal Employment Opportunity Policy Statement
- 1 - 4 EEO Section - Duties of the EEO Coordinator
- 1 - 5 EEO Section - Duties of Regional EEO Officers
- 1 - 6 Reporting Procedures
- 1 - 7 Personnel Requisition
- 1 - 8 Sample form PO-100
- 1 - 9 Instructions for form PO-100
- 1 -10 Requests for Promotion
- 1 -11 Sample form PO-300
- 1 -12 Instructions for form PO-300
- 1 -13 Employment Policies for Statewide Operating Units
- 1 -14 Regional Boundaries

## II GENERAL DEPARTMENT OF TRANSPORTATION POLICIES

- 2 - 1 Work Schedule
- 2 - 2 Use of State Equipment and State Property
- 2 - 3 Acceptance of Gifts and Gratuities
- 2 - 4 Retirement
- 2 - 5 Outside Employment
- 2 - 6 Sample Form PO-102

## III ADMINISTRATION OF WORKWEEK, PAYPLAN, AND OVERTIME COMPENSATION

- 3 - 1 The Workweek
- 3 - 3 Overtime Compensation
- 3 - 7 Compensatory Leave

Effective 7-1-73

- 3 - 8 Annual Salary Increases
- 3 - 9 Overtime Guidelines
- 3 -14 Classifications Eligible for Overtime

#### IV EMPLOYEE RELATIONS

- 4 - 1 Grievance Procedure
- 4 - 3 Disciplinary Actions, Suspensions and Dismissals

## EMPLOYEE RECRUITMENT AND EVALUATION POLICY

All recruiting efforts, except at educational institutions, for positions within the Department of Transportation will be coordinated through the Director of Field Services. Region Personnel Officers, Division Personnel Officers, and Region EEO Officers will work closely with the Director to insure that a uniform recruiting policy is maintained. This uniformity will be achieved by coordinated advertising and the sharing of job applications.

The Director of the Training and Classification Section is responsible for conducting recruiting programs at educational institutions. Since this recruiting effort is carried out primarily for hiring civil engineering graduates for a formal training program, no commitments may be given for positions until the Director of Training and Classification authorizes the position and coordinates the selection procedure with the Director of Field Services. It is planned that the EEO Officers shall participate in campus recruiting for the purpose of minority hiring.

Applicants recruited will not be asked to take an examination unless the position for which the applicant is applying requires an examination to evaluate the abilities necessary for the satisfactory completion of the duties required. The job specification as approved by the State Personnel Department will be used as a criteria for employment. If a specific requirement other than those listed in the job specifications are necessary, approval should be received through the Department of Transportation Personnel Office.

## EMPLOYMENT AND PROMOTION SERVICES

It is the policy of the Department of Transportation and Highway Safety that a verbal or written commitment to an employee concerning his promotion or a commitment to hire a new employee shall not be made until approval is received through the Divisional Personnel Officers.

### Services

To implement this policy, designed to offer more effective services to the employees of this department, the following procedures are provided.

The State will be divided into fourteen major divisions to include all operations within the Department of Transportation. A Personnel Officer will be assigned to each such division. The Personnel Officer will provide professional services to all operations including but not limited to recruitment, selection, and placement; position classification, administration of general employment policies; retirement; employee evaluation; position complement analysis; and, public relations.

Initial responsibilities upon implementation of this policy will be concerned mainly with employment, recruitment, selection and placement. In this connection appropriate forms have been designed and are included with this material. (1) Personnel Requisition Form PO-100 and (2) Requisition for Promotion Form PO-300. Procedures for the processing of these forms are explained on the reverse side of each form.

To provide additional services to management and employees the State will be divided into three geographical regions. Regions will be designed in such a manner as will provide the most effective lines of management communications between all operations within the Department of Transportation and Highway Safety. A headquarters will be established in each region; one to be located in Asheville, one in Asheboro and one in Kinston. Each regional office will be staffed with a Regional Personnel Officer who will provide general supervision and staff services in all aspects of Personnel management. The three regions are identified on page 1-15.

The Equal Employment Opportunity Section of Field Services is provided to complete and assure those professional services. An EEO Coordinator staffed in Raleigh is responsible for implementing the intent of this program. Regional EEO Officers, corresponding with the three regions are provided to carry out those duties as set forth in the EEO Policy Statement.

NORTH CAROLINA DEPARTMENT OF TRANSPORTATION & HIGHWAY SAFETY

EQUAL EMPLOYMENT OPPORTUNITY POLICY STATEMENT

It is the policy of the Department of Transportation and Highway Safety to afford equal employment opportunity to all qualified persons without regard to race, creed, color, sex, religion or national origin.

This includes, but is not limited to the following:

1. Hiring, Placement, Upgrading, Transfer or Demotion
2. Recruitment, Advertising or Solicitation for Employment
3. Treatment During Employment
4. Rates of Pay or Other Forms of Compensation
5. Selection for Training, including Apprenticeship
6. Layoff or Termination

It is the further policy of the Department of Transportation and Highway Safety to cooperate to the fullest extent with the compliance of Title VII of the Civil Rights Act of 1972, Executive Order No. 11246, and the Federal-aid Highway Act of 1968. This policy pertains, so far as the responsibility of this department is concerned, to any arrangement under which employees, including apprentices and trainees, are selected or referred for work.



## Personnel Transactions

It is the established policy that all personnel transactions which occur within the division will be reviewed by that Personnel Officer assigned to that division before they are forwarded to the appropriate department outside the division. This includes all personnel transactions whether or not they require the Division Personnel Officer's approval.

This procedure is to be followed in an effort to keep the Division Personnel Officer informed on all personnel matters taking place within his area of responsibility. The provided information will enable the Division Personnel Officer to document the activities of the division for the Department of Transportation Personnel Officer through the Regional Personnel Officer and Director of Field Services.

In order to coordinate anticipated complement changes as a result of position classification studies, all PD-118's will be routed from the Classification Section to the Field Coordinator. It will then be the responsibility of the Field Coordinator to inform the appropriate Regional and Divisional Personnel Officers of any changes in complement which they might anticipate. The Field Coordinator will then forward the PD-118's to the Department of Transportation's Personnel Officer for his signature.

## Vacant Positions

House Bill 1231, effective July 1, 1973, provides that every State Agency must list every job opening occurring within the agency with the Employment Security Commission of North Carolina within ten (10) working days after the vacancy has occurred, and to report the filling of any such listed vacancy within five (5) working days after the vacancy is filled.

In order to comply with this Act, it is established that the Regional Personnel Officers will be responsible for compiling and submitting the required data to the Director of Field Services for final transmittal to the Employment Security Commission. As stated in the Department of Transportation Personnel Officer's memorandum of June 18, 1973, the reporting procedures are:

1. A PO-100 will be completed for all existing vacancies.
2. It will be necessary to prepare an original and three (3) copies of the PO-100.
3. The original and two (2) copies will be forwarded to the Divisional Personnel Officer.
4. The third copy will be forwarded to the Regional Personnel Officer.

## PROCEDURES: PERSONNEL REQUISITION

A Personnel Requisition Form PO-100 shall be completed at the time a position becomes vacant. This form will originate with, and be approved by the appropriate Division Engineer, Unit Head, or Section Chief. An original and three copies will be prepared. One copy will be forwarded to the Regional Personnel Officer. The original and two copies will be forwarded to the Divisional Personnel Officer.

The Divisional Personnel Officer is responsible for the reviewing, interviewing, and selection of applicants. He will work closely with the Supervisors and/or Division Engineer, Unit Head or Section Chief in making selections of applicants to be employed.

After a decision has been reached by the Divisional Personnel Officer, he will retain one copy and the original and one copy returned to the Division Engineer, Unit Head or Section Chief. The Division Engineer, Unit Head or Section Chief will retain the original copy and the second copy will be forwarded to the Department of Transportation Personnel Officer attached to the Personnel Action Form PD-105.

Personnel Action Forms are subject to final approval by the Department of Transportation Personnel Officer, Office of State Personnel and Office of Budget.

PROCEDURES: REQUEST FOR PROMOTION

The procedure for requesting a promotion will be as follows:

A PO-100 will be prepared by the appropriate supervisor any time there is a vacancy. Approval will be given by the Division Engineer, Unit Head or Section Chief. An original and three copies will be prepared. One copy will be forwarded to the Regional Personnel Officer. The original and two copies will be forwarded to the Divisional Personnel Officer.

If the Division or Department Head feels that the vacancy can best be filled by promotion, then he will attach a PO-300 to the PO-100 recommending whom he feels is the most qualified.

If in reviewing the request the Division Personnel Officer determines that other employees should be considered, then he will request the Division or Department Head to prepare a PO-300 on these employees and submit them to him for his evaluation and subsequent approval.

In the event that none of the promotional applicants are qualified or if there is a more qualified new hire applicant, then it will be the responsibility of the Division Personnel Officer to select the most qualified person and fill vacancy via the PO-100.

After a decision has been reached by the Division Personnel Officer, he will retain one copy. The original and one copy will be returned to the Division Engineer, Unit Head or Section Chief. The Division Engineer, Unit Head or Section Chief will retain the original copy and the second copy will be forwarded to the Department of Transportation Personnel Officer attached to the Personnel Action Form PD-105.

Personnel Action Forms are subject to final approval by the Department of Transportation Personnel Officer, Office of State Personnel and Office of Budget.

## EMPLOYMENT POLICY FOR STATEWIDE OPERATING UNITS

The following modifications are implemented in order for the hiring and promotional procedures to function within the statewide operating units organization.

### New Hire

The central administration Unit Heads for statewide operations will verify that a vacancy exists and submit an original and three copies of form PO-100 to the Director of Field Services. It is the responsibility of the Unit Head to notify the local supervisor of this action.

The Director of Field Services will refer the forms PO-100 to the appropriate Division Personnel Officer. The Division Personnel Officer will work closely with the supervisor in reviewing, interviewing, and selecting applicants.

After the decision has been reached by the Division Personnel Officer, he will retain one copy of the PO-100 for his records. The Personnel Officer will send the original and one copy of the forms and attached application to the Unit Head.

The Unit Head will retain the original form. The signed copy will be attached to the PD-105 and transmitted to the Department of Transportation Personnel Officer.

### Promotions

The central administration Unit Head will submit forms PO-100 to the Director of Field Services to indicate that positions are vacant. Forms PO-300 will be attached to indicate the Unit Head's choice of candidates for promotion.

If in reviewing the request the Division Personnel Officer determines that other employees should be considered, he will request that the Unit Head prepare forms PO-300 on these employees and submit them to him for his evaluation and subsequent approval.

In the event that none of the candidates are qualified for promotion or if there is a more qualified new hire applicant, it will be the responsibility of the Division Personnel Officer to select the most qualified person to fill the vacancy via the form PO-100.

After the decision is reached by the Division Personnel Officer, he will send the original and one copy of the forms PO-100 to the Unit Head and retain one copy for his records. The Unit Head will retain the original and attach the second copy to the PD-105 and refer them to the Department of Transportation Personnel Officer.

Eastern Region  
Kinston

Currituck  
Camden  
Pasquotank  
Perquimans  
Chowan  
Gates  
Hertford  
Northampton  
Bertie  
Halifax  
Nash  
Edgecombe  
Martin  
Washington  
Tyrrell  
Dare  
Wilson  
Pitt  
Beaufort  
Hyde  
Johnston  
Greene  
Wayne  
Lenoir  
Craven  
Pamlico  
Sampson  
Jones  
Duplin  
Onslow  
Carteret  
Harnett  
Cumberland  
Robeson  
Bladen  
Pender  
Columbus  
Brunswick  
New Hanover

Central Region  
Asheboro

Stokes  
Rockingham  
Caswell  
Person  
Granville  
Vance  
Franklin  
Warren  
Forsyth  
Guilford  
Alamance  
Orange  
Durham  
Wake  
Davie  
Davidson  
Rowan  
Randolph  
Chatham  
Cabarrus  
Mecklenburg  
Union  
Stanly  
Anson  
Montgomery  
Moore  
Lee  
Richmond  
Hoke  
Scotland

Western Region  
Asheville

Cherokee  
Graham  
Swain  
Macon  
Clay  
Haywood  
Jackson  
Transylvania  
Madison  
Burcombe  
Henderson  
Mitchell  
Yancey  
McDowell  
Rutherford  
Polk  
Avery  
Watauga  
Caldwell  
Ashe  
Alleghany  
Wilkes  
Surry  
Yadkin  
Burke  
Cleveland  
Alexander  
Iredell  
Catawba  
Lincoln  
Gaston

USE OF STATE EQUIPMENT AND

STATE PROPERTY

The use of State equipment or facilities for any purpose other than authorized official State business is prohibited. Under no circumstances will State equipment, materials or facilities be used for personal business.

Private Use of Publicly Owned Vehicle - General Statutes 14-247 states that it shall be unlawful for an employce of the State of North Carolina to use a State owned vehicle for private purpose. An employee violating this statute will be guilty of a misdemeanor and punished by law.

Use of materials for personal autos or equipment such as gasoline, oil, batteries, tires, etc. will result in charges of felony or grand larceny and permanent dismissal.

## COMPENSATORY LEAVE

Under the Department of Transportation's Overtime Compensation Policy certain employees are designated as Administrative, Executive or Professional. Employees in these categories are exempt from the provisions of overtime pay. Employees of the Department of Transportation in salary grade 69 or above and designated as Administrative, Executive and Professional employees will not be eligible for compensatory leave. Employees in salary grade 68 and below and designated as Administrative, Executive or Professional employees not eligible for overtime compensation pay will be granted compensatory leave. When compensatory leave is granted the following applies:

1. Amount -

Compensatory time is granted on an hour for hour basis.

2. Noncumulative -

Compensatory leave is not accumulative beyond a 12-month period. For this reason an employee must be required to take compensatory leave as soon as possible after it is credited.

3. Nontransferable -

Compensatory leave may not be transferred to any other type of leave or to another agency.

4. Separation -

Compensatory leave is lost when an employee is separated from State service. The separation date may not be moved forward in order to pay for compensatory time.

## PURPOSE

To provide a means of improving communications between supervisors and employees and establish principles of administration to insure prompt, orderly and fair response to an employee grievance or appeal.

## GENERAL POLICY

It is State Policy and it shall be the policy of the Department of Transportation that every employee has the right to present a problem or appeal free from interference, restraint, coercion, discrimination or reprisal. This includes any cause for dissatisfaction outside the employee's control or anything connected with his job that he thinks or feels is wrong. An employee may continue his appeal, through proper channel, until he is satisfied with an answer or decision up to and including a decision made by the State Personnel Board.

Employee shall be entitled to such time off from his regular duties as may be necessary and reasonable for the presentation and processing of his grievance or appeal without loss of pay, vacation or other "time credits". When presenting an appeal, employee may, if he so desires, be accompanied and/or be represented by a person of his own choosing.

The policy of the Department of Transportation and Highway Safety provides that an employee may, after following the procedure established within the major Office of his employment continue his appeal in the following manner.

## DISCUSSIONS BETWEEN EMPLOYEE AND DEPARTMENT OF TRANSPORTATION PERSONNEL OFFICER

If the decision of the major office administration is not sufficiently satisfactory to the employee or if the employee fails to receive an answer within five working days, he may request the Department of Transportation Personnel Officer to consider this matter. The request will be presented in writing within five working days after appeal, the Personnel Officer will determine to what extent additional facts will be required in writing. The employee and Division Engineer, Unit Head or Section Chief, shall provide all pertinent information to the Personnel Officer who will review the facts and hold whatever discussions he deems desirable or that the employee or Division Engineer, Unit Head or Section Chief may request. The Personnel Officer shall provide a recommendation to the Assistant Secretary for Management, Department of Transportation within five working days after all necessary discussions are held; and shall at the same time advise the employee of his recommended course of action. In the absence of objection or appeal, by either party, the Department Head will expect the recommendation of the Personnel Officer be carried out within a reasonable period of time.

## APPEAL TO EMPLOYEE RELATIONS COMMITTEE

If the decision reached with the Personnel Officer is not satisfactory to the employee or other parties or is not promptly implemented, the matter may be referred by any party as listed in the preceding steps to the Employee Relations Committee. The Employee Relations Committee will be chaired by the Assistant Secretary for Management with four additional members. Members shall be selected by the Assistant Secretary in such a manner as to assure a fair hearing, depending on the nature and origin of the complaint. Any request for review shall be submitted within five working days after the Personnel Officer has presented his recommendation. The party requesting the referral shall provide a written summary of the specific facts of the complaint, copies of which shall be provided at the same time to all parties concerned. If the employee desires, he may ask the Personnel Officer for help in preparing the request and the written summary of facts of the appeal. A request from the employee or other parties for a hearing shall be made to the Personnel Officer who shall transmit the request to the Chairman of the Employee Relations Committee. The Employee Relations Committee will make a final decision for the agency within five working days, and their decision will be announced immediately to all parties concerned. If the employee is not satisfied with the decision, he may appeal to the State Personnel Board.



**APPEAL TO STATE PERSONNEL BOARD**

If the employee is not satisfied with the decision of the Employee Relations Committee, he may request, within five working days of the receipt of the Department's decision, a public hearing by the State Personnel Board. His request should be filed through the Personnel Officer. If the employee desires, he may ask the agency for help in submitting his appeal in writing. The date and time for the employee's meeting with the Board will be determined by the State Personnel Director. The date will be set as early as possible after the request is received from the employee. The State Personnel Director will determine the parties deemed necessary for the hearing and request their presence. The State Personnel Board, within five working days after the hearing, shall make its recommendation to the agency. After considering the Board's recommendation, the agency shall make its decision and shall notify the employee in writing of the agency's decision.

This policy shall be posted immediately in a permanent and conspicuous manner by every division in as many work areas as may be necessary. It shall be covered fully during the orientation procedure for new employees.

## Disciplinary Action, Suspension, Dismissal

The State Personnel Act provides that the State Personnel Board, subject to the approval of the Governor, shall establish programs and procedures as may be necessary to promote efficiency of administration and provide for a fair and reasonable system of personnel administration.

The Board recognizes that, consistent with sound employee relations practices, it is most important that disciplinary action, suspensions and dismissals be administered in as near a uniform manner as possible in all agencies. It is believed that a formalized written policy covering this management area would be helpful to all levels of supervision and administration as well as beneficial to all employees. The policy is designed so as not to restrict operating personnel but to help them solve problems of this type in a fair and equitable manner without prejudice or favoritism.

## P O L I C Y

An employee, regardless of occupation, position, profession, or work performed, may be warned, reprimanded, dismissed, or given a compulsory leave of absence without pay by an appointing authority whenever he considers the good of the service to be served thereby. The degree and kind of action to be taken will be based upon the sound and considered judgment of the appointing authority in accordance with the provisions of this policy to assure that the intent of the policy is carried out.

The causes for suspension or dismissal fall into two categories: (1) Causes relating to performance of duties. (2) Causes relating to personal conduct detrimental to State service.

1. Performance of Duties. Employees who are dismissed for unsatisfactory performance of duties should normally receive at least three warnings: First, one or more oral warnings; second, an oral warning with a follow-up letter to the employee which sets forth the points covered in the discussion; third, a written warning which will serve notice upon the employee that a continuation of the unacceptable practices may result in dismissal. If, however, in the opinion of the supervisor, the seriousness of the situation requires more positive and immediate attention, he may use one oral warning with an immediate follow-up letter to serve notice upon the employee that corrected performance must take place immediately in order to avoid dismissal.

The Secretary, Department of Transportation and Highway Safety, holds each Director of the major offices within the Department responsible for determining that an employee dismissal is based on a factual and justifiable cause. To administer this responsibility, a Director may require that all correspondence to an employee, as provided below, will be reviewed by two levels of supervision above the employee's supervisor and that a final decision for dismissal will be made by the Division Engineer, Unit Head or Section Chief.

A copy of all letters to an employee arising out of this policy will be forwarded to the Department of Transportation Personnel Office.

## a. First Oral Warning

The supervisor is responsible for maintaining the proper conduct and discipline of employees under his supervision. When some action is necessary, the supervisor may give the first oral warning without prior approval of his supervisor. The supervisor will talk privately with the employee and do the following.

- (1) Review with the employee exactly what is expected of him and why.
- (2) Explain to the employee how he has not met the requirements and why his conduct has been unacceptable.

- (3) Allow the employee to give the reasons for his actions or failure.
- (4) Make suggestions for correction.
- (5) Supervisor will record the date of the interview and other necessary information for any future use. Proper notification will be made and record will be placed in the employee's file at the respective office.

b. Oral Warning With Follow-up Letter to Employee

- (1) Review again the points covered in the oral warning that must be corrected; and serve a strong warning that a change in work performance must be made.
- (2) Tell the employee he will receive a letter covering the significant points of the discussion.

c. Final Written Warning

The contents of this letter will include a notice to the employee that a continuation of the practice may result in eventual dismissal. Division Engineers, Unit Heads or Section Chiefs will be responsible for the final written warning.

d. Dismissal

Before an employee is dismissed because of unsatisfactory performance of duties, the following should occur:

- (1) The Division Engineer, Unit Head or Section Chief will be responsible for reviewing all the facts and circumstances of the case.
- (2) Upon reaching a decision to dismiss the employee, an effective date of not less than two weeks notice will be determined. This two weeks period may include payment for accumulated annual leave and, in exceptional situations, with prior approval of the State Personnel Director, may be in the form of payment in lieu of notice.
- (3) The Division Engineer, Unit Head or Section Chief will give the employee a written notice of the decision.

2. Personal Conduct. An employee may be dismissed or suspended without warning for causes relating to personal conduct detrimental to State service in order to avoid undue disruption of work or to protect the safety of persons or property or for other serious reasons. In less serious or disruptive situations, steps similar to those listed under Performance of Duties may be in order. When an employee is suspended, or dismissed immediately, the following steps will be taken by the supervisor:

- a. He will tell the employee to leave the State property at once and either report back to the supervisor the following day or remain away until further notice.
- b. If an immediate dismissal is made, all facts leading to the dismissal must be clearly understood by the supervisor and the Division Engineer, Unit Head or Section Chief. It is required that written reports will be forwarded to the Personnel Office of Department of Transportation and Highway Safety setting forth the circumstances and facts which led to the decision for dismissal.

Suspension (Compulsory Leave of Absence Without Pay)

Suspension of an employee may become necessary due to problems arising as a result of Performance of Duties or Personal Conduct.

Therefore, the policy provides that this step may be used in the event the various levels of authority elect to do so. However, certain limitations and cautions should be considered.

#### Limitations and Cautions Concerning Compulsory Leave Without Pay:

1. This provision of the policy is authorized with the caution that much thought and deliberation be given before taking such action, as it may have a possibility of a distinct disadvantage. A thorough analysis of the existing facts and circumstances should be weighed carefully. Leave of Absence Without Pay should never be used as an act of punishment.
2. In the event higher levels of authority are not available for consultation and the severity of the case is such a nature that judgment dictates that the employee remove himself from the premises at the moment until such time as those persons are available, the intent of this provision is carried out. Or, in the event a "cooling-off" period is so indicated, the intent of this provision of the policy is carried out.
3. The length of time of such compulsory leaves is limited to a maximum of thirty (30) days in any twelve (12) month period.
4. Failure of the employee to report back to work when requested or at the expiration date will be considered to have terminated his employment, and any subsequent reinstatement or re-employment would be on the basis of new employment.
5. Any Leave of Absence Without Pay must be fully documented stating (a) beginning date, (b) reasons for action, (c) brief description of plans and procedures for solving the problem, (d) signatures of appropriate levels of authority, (e) at the conclusion of the problem, give date and details of the action taken, (f) file in personnel file. (This to be mailed to appropriate Director and Department of Transportation Personnel Officer).
6. If the employee is suspended and later is proved not at fault, he is to be reinstated to his same duties, classification, and rate of pay, and he is to receive pay (his regular rate) for the time lost, based on a 40-hour week.

#### Additional Considerations (Transfer of Employee Who Cannot Do the Job)

After oral warnings or discussions with the employee, the supervisor may realize that the employee's problem is caused by his not being able to fit into the work group or not being able to perform his duties satisfactorily. Disciplinary action should not be taken in this case. Instead, an effort should be made to aid the employee with his problem. If it is determined that a transfer of the employee to another job environment might be beneficial to both the employee and the State, the following points are suggested:

1. That those persons in authority actively seek out other job vacancies within the same unit or other units of State government for which the employee would qualify. Aid the employee in the necessary procedures required to be considered. Enlist the aid of the Department of Transportation Personnel Officer as well as the State Personnel Department.
2. Establish with the employee that this is not a disciplinary action as such, but a method by which all can benefit under the circumstances.
3. Take time in counseling the employee and do not prohibit the employee from seeing anyone at any level that he wishes to see.
4. The consideration of a transfer should be a sincere desire to transfer without prejudice and malice toward the employee. It should not be used to provide a method by which those responsible will use it as a "compromise" or method by which they "pass" the problem to another supervisor. Only after all facts, circumstances, personal attitudes and conflicts are analyzed should a transfer be considered.

## Right of Appeal

An employee may appeal his suspension or dismissal as provided by the established grievance procedure. In most cases, such appeals are settled at the division level; however, an employee, Division Engineer, Unit Head or Section Chief or his designated representative or both may review the matter with the State Personnel Department. State policy provides that a final appeal may be made to the State Personnel Board if necessary. The appeal shall be filed in writing not later than thirty days after the effective date of dismissal or suspension. A hearing before the State Personnel Board shall be arranged at its next regular meeting. The State Personnel Director shall furnish the Personnel Officer of the department concerned with a copy of the appeal in advance of the hearing. Both the employee and the department shall be notified reasonably in advance of the hearing and shall have the right to present witnesses and give evidence before the Board. The State Personnel Board, within five working days after the hearing, shall make its recommendation to the department for consideration.

## Reference:

**Performance of Duties** - The following causes relating to the performance of duties are representative of those considered for suspension or dismissal:

1. Inefficiency or incompetency in the performance of duties.
2. Negligence in the performance of duties.
3. Physical or mental incapability for performing duties.
4. Careless, negligent, or improper use of State property or equipment.
5. Failure to maintain satisfactory and harmonious working relationships with the public and employees.
6. Absence without approved leave.
7. Habitual improper use of sick leave privileges.
8. Habitual pattern of failure to report for duty at the assigned time and place.
9. Failure to obtain or maintain a current license or certificate required by law as a condition for performing the job.

**Personal Conduct** - The following causes relating to personal conduct are representative of those considered for suspension or dismissal:

1. Guilty of gross misconduct or conduct unbecoming a State officer or employee.
2. Conviction of a felony.
3. Guilty of immoral conduct or a criminal act.
4. Misuse of State funds.
5. Falsified job information to secure position.
6. Participation in any action that would in any way seriously disrupt or disturb the normal operation of the agency, institution, department or any other segment of State government.
7. Trespassing on the home of any State official or employee for the purpose of harassing or forcing dialogue or discussion from the occupants.
8. Willful damage or destruction of property.
9. Willful acts that would endanger the lives and property of others.
10. Possession of unauthorized fire arms or lethal weapons on the job.
11. Brutality in the performance of duties.
12. Refusal to accept a reasonable and proper assignment from an authorized supervisor (insubordination).
13. Reporting to work under the influence of alcohol or drugs, or partaking of such things on the job.
14. Acceptance of gifts in exchange for "favors" or "influence".
15. Betrayal of confidential information from official records.
16. Engaging in incompatible employment or serving a conflicting interest.
17. Taking part in political management or in political campaigns prohibited by law.



## GENERAL ASSEMBLY OF NORTH CAROLINA

1973 SESSION

**H****2**

HOUSE BILL 1062

Second Edition Engrossed 4/23/73

Last Action Through 5/24/73: S-Referred to State Government Committee

Short Title: State Personnel Bd.-Appeal To. (Public)

Sponsors: Representatives Long, Bundy, Gardner, Foster, Fenner,  
Soles, Arnold, and Chase.

Referred to: State Personnel.

April 5

1 A BILL TO BE ENTITLED  
 2 AN ACT AMENDING CHAPTER 126 OF THE GENERAL STATUTES WITH REGARD  
 3 TO THE APPEALS OF STATE AND LOCAL EMPLOYEES TO THE STATE  
 4 PERSONNEL BOARD.

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 126-3 is hereby amended by striking out  
 7 the last sentence and inserting in lieu thereof the following:

8 "The Director shall be appointed by and serve at the pleasure  
 9 of the State Personnel Board notwithstanding the provisions of  
 10 Chapter 864 of the Session Laws of 1971."

11 Sec. 2. G.S. 126-4 is hereby amended by deleting  
 12 therefrom subsection (9) and substituting in lieu thereof the  
 13 following:

14 "(9) Hearing of appeals of applicants, employees, and former  
 15 employees, the investigation of complaints, the issuing of  
 16 advisory recommendations in nondiscrimination cases, and the  
 17 directing of such binding corrective action upon the appointing  
 18 authority as the Board shall find justified."

19 Sec. 3. G.S. 126-5 is hereby amended by adding a new  
 20 subsection (c) which shall read as follows:

21

Q-114

1 "(c) Exempt Positions. In addition to the employees listed in  
2 subsection (b), the provisions of this act except as to salaries  
3 shall not apply to the following:

4 (1) The chief deputy or chief assistant to the head of each  
5 State department who is designated either by statute or by the  
6 administrative head to act for and perform all of the duties of  
7 such administrative head during his absence or incapacity;

8 (2) One confidential assistant or secretary for each elected  
9 or appointed department head and each chief deputy or chief  
10 assistant; and

11 (3) All employees of the Governor's office and of the  
12 Lieutenant Governor's office."

13 Sec. 4. Chapter 126 of the General Statutes is hereby  
14 amended by adding a new Article as follows:

15 "Article 7.

16 "Disciplinary Action and Employee Appeals.

17 "§ 126-17. Written statement.--No permanent employee subject  
18 to the State Personnel Act shall be discharged, suspended or  
19 reduced in pay or position, except for just cause. In case of a  
20 disciplinary action, the employee shall, before the action is  
21 taken, be furnished with a statement in writing setting forth the  
22 reasons for the disciplinary action. The employee shall be  
23 permitted five days to reply in writing or to appeal personally  
24 and reply to the head of the department. A copy of the written  
25 statement given the employee and the employee's reply, if any,  
26 shall be filed with the State Personnel Director within five days  
27 of their delivery and prior to the effective date thereof.



1 "§ 126-18. Grievance appeal for State employees.--Any  
 2 permanent State employee who has a grievance arising out of or  
 3 due to his employment and who does not allege discrimination  
 4 because of his sex, race, color, national origin, religion, creed  
 5 or political affiliation shall first discuss his problem or  
 6 grievance with his supervisor and follow the grievance procedure  
 7 established by his department or agency. If the employee has  
 8 been discharged, suspended or reduced in pay or position and is  
 9 not satisfied with the decision of the agency head, he may appeal  
 10 to the State Personnel Board within 30 days of receipt of the  
 11 agency's decision.

12 [H-75 126-19] Appeal of unlawful State employment  
 13 practice.--Any applicant for State employment or any State  
 14 employee or former State employee who has reason to believe that  
 15 employment, promotion, training, transfer, lay-off or termination  
 16 of employment was forced upon him because of his age, sex, race,  
 17 color, national origin, religion, creed or political affiliation  
 18 shall have the right to appeal directly to the State Personnel  
 19 Board.]

20 [H-"§126-19. Appeal of unlawful State employment practice.--  
 21 Any applicant for State employment or any State employee or  
 22 former State employee who has reason to believe that employment,  
 23 promotion, training, or transfer was denied him or that demotion,  
 24 lay-off or termination of employment was forced upon him because  
 25 of his age, sex, race, color, national origin, religion, creed,  
 26 political affiliation, or physical disability except where  
 27 specific age, sex or physical requirements constitute a bona fide  
 28 occupational qualification necessary to proper and efficient

1 administration, shall have the right to appeal directly to the  
2 State Personnel Board. ]

3 "§ 126-20. Personnel Director investigate, hear, recommend  
4 settlement; Personnel Board hear or review findings and make  
5 binding decision.--The State Personnel Director or any other  
6 person or persons designated by the Board shall investigate the  
7 disciplinary action or alleged discrimination which is appealed  
8 to the Board. The State Personnel Board may hear the case or  
9 direct the State Personnel Director or other person or persons  
10 designated by the Board to conduct a hearing of the facts and  
11 issues. If, following the investigation and hearing, a  
12 settlement is agreed to by both parties, the State Personnel  
13 Director or the designated agent shall certify the settlement to  
14 the Board. If, following the investigation and hearing, there  
15 are issues and facts on which agreement cannot be reached, the  
16 Personnel Director or the designated agent shall report his  
17 findings to the Board with his recommendations. The Board at  
18 their next meeting, or as soon as possible thereafter, shall  
19 consider the report and modify, alter, set aside or affirm said  
20 report and certify its findings to the appointing authority which  
21 shall be binding. Upon a finding of prohibited discrimination,  
22 the State Personnel Board is hereby authorized to reinstate any  
23 employee to the position for which he has been removed, to order  
24 the employment, promotion, transfer, or salary increase of any  
25 individual to whom it has been wrongfully denied or to direct  
26 other suitable action to correct the abuse which may include the  
27 requirement of payment for any loss of salary which has resulted

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1 from the improperly discriminatory action of the appointing  
2 authority.

3 "§ 126-21. Judicial review.--Actions of the State Personnel  
4 Board under the provisions of Section 126-20 are subject to  
5 judicial review as provided under Article 33 of Chapter 143 of  
6 the General Statutes.

7 "§ 126-22. Subpoenas.--The State Personnel Board and the State  
8 Personnel Director, when authorized by a majority of the Board,  
9 may issue subpoenas to compel the attendance and testimony of any  
10 State or local official or employee and the production of  
11 evidence including books, records, correspondence, and documents  
12 in their possession or under their control. The State Personnel  
13 Board and the State Personnel Director may administer oaths and  
14 may examine any records which may relate to matters in dispute in  
15 any appeal.

16 "§ 126-23. Contempt power.--The General Court of Justice,  
17 Superior Court Division, shall have the power to impose  
18 punishment as for contempt for acts occurring before the State  
19 Personnel Board which would constitute direct or indirect  
20 contempt if the acts occurred in an action pending in superior  
21 court."

22 Sec. 6. This act shall become effective upon  
23 ratification.

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GENERAL ASSEMBLY OF NORTH CAROLINA

1973 SESSION

HOUSE BILL 1083

Second Edition Engrossed 4/23/73

Last Action Through 5/24/73: S-Referred to State Government Committee  
Short Title: (Public)

Sponsors: Representative Long.

Referred to: State Personnel.

April 6

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND G.S. 126-2 RELATING TO THE STATE PERSONNEL BOARD.  
3 The General Assembly of North Carolina enacts:

4 Section 1. G.S. 126-2(b) is hereby rewritten to read as  
5 follows:

6 "§ 126-2(b) The Board shall consist of seven (7) members who  
7 shall be appointed by the Governor on July 1, 1965, or as soon  
8 thereafter as is practicable. Two members of the Board shall be  
9 appointed from a list of [H-ten (10)] individuals nominated by  
10 the North Carolina State Employees Association and the North  
11 Carolina Highway and Correction Employees Association, which  
12 nominees shall be employees of the State subject to the  
13 provisions of this Chapter; two members shall be appointed from a  
14 list of individuals nominated by the North Carolina association  
15 of county commissioners; two members shall be individuals  
16 actively engaged in the management of a private business or  
17 industry; and one member shall be appointed from the public at  
18 large. Of the initial members of the Board, two shall  
19 appointed to serve for terms of two years, two shall be appointed  
20 to serve for terms of four years, and three shall be appointed  
21 to serve for terms of six years. Their successors shall be

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1 appointed by the Governor for terms of six years. Any vacancy  
2 occurring prior to the expiration of a term shall be filled by  
3 appointment for the unexpired term.

4           Sec. 2. This act shall become effective upon  
5 ratification.

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GENERAL ASSEMBLY OF NORTH CAROLINA

1973 SESSION

SENATE BILL 251



Last Action Through 5/24/73: S- Referred to State Government Committee

Short Title:

(Public)

Sponsors:

Senators Stallings and Garrison.

Referred to: State Government.

February 7

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A BILL TO BE ENTITLED

AN ACT TO AMEND THE STATE PERSONNEL ACT TO PROTECT PROFESSIONAL STATE EMPLOYEES.

The General Assembly of North Carolina enacts:

Section 1. Any State employee who is classified under the State Personnel Act, G.S. 126-5, and other statutes pertaining thereto with reference to classification of his or her job shall not be removed from the position held on the basis of his political party affiliation only. Any dismissed employee who has reason to believe his dismissal was politically motivated may appeal to the State Personnel Board for reinstatement.

Sec. 2. Notwithstanding any other provisions of the General Statutes, the State Personnel Board is hereby given authority to reinstate any employee found to have been dismissed under Section 1 of this act and may order such person paid for any time away from his position because of such dismissal.

Sec. 3. G.S. 126.2 is hereby amended by adding a new subsection to be designated (i) to read as follows:

"(i) No more than five (5) members of the State Personnel Board shall be members of the same political party."

1           Sec. 4.    Actions of the Board under the provisions of  
2 this section are subject to judicial review as provided under  
3 Article 33 of Chapter 143 of the General Statutes.

4           Sec. 5.    This act shall become effective upon  
5 ratification.

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## INSTITUTE OF GOVERNMENT

THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL 27514

*Memorandum*

TO: Senator Bob L. Barker

FROM: Donald Hayman

DATE: November 23, 1973

SUBJECT: Personnel Acts of Other States

RECEIVED

NOV 27 1973

LEGISLATIVE SERVICES OFFICE

Attached are two copies of a memorandum describing the constitutional or statutory provisions governing state personnel administration in eight states, Alabama, California, Connecticut, Florida, Georgia, Minnesota, New York and Virginia. Copies of the constitutional and statutory provisions are also attached. Among students and practitioners these states are believed to vary considerably in the quality of personnel administration provided the employees and citizens of those states.

This material was originally requested by Representative James E. Long, chairman of the House State Personnel Subcommittee. I am sorry that I did not have more than one copy with me Wednesday when you requested it.

cc: Mr. Clyde Ball

INSTITUTE OF GOVERNMENT  
THE UNIVERSITY OF NORTH CAROLINA  
AT CHAPEL HILL 27814

MEMORANDUM

TO: Representative James Long

FROM: Donald Hayman

DATE: March 7, 1973

SUBJECT: Selected Provisions of Personnel Acts of Eight States.

Attached are Xerox copies of selected sections of the state personnel acts of the following six states: Alabama, Connecticut, Florida, Georgia, New York, and Virginia. With the sections submitted two weeks ago from the California and Minnesota acts, these should present a fair cross section of current state personnel acts.

The Xerox excerpts will indicate how these eight states have handled the matters of (1) the number, term and appointment of board or commission members, (2) unclassified and exempt positions, and (3) the appeal rights of employees suspended, transferred or dismissed.

To assist the members of your committee, I have attempted to digest each of the acts on these three points.

ALABAMA

BOARD - 3 members appointed by the Governor with the confirmation of the legislature to 6 year overlapping terms.

UNCLASSIFIED SERVICE AND EXEMPT POSITIONS - The unclassified service includes one confidential assistant or secretary for each board commission and elected officer and when requested by the governor for each department head appointed by the governor.

Exempt positions include the same legislative, judicial, and instructional personnel as in North Carolina plus (1) all officers and employees of educational, eleemosynary, and correctional institutions, and (2) the employees of the governor's office.

Each permanent employee appointed to an exempt or unclassified position shall at the conclusion of his occupancy of such a position, resume his previous status in the classified service.

Employees in the unclassified service shall be subject to the same rules and regulations of employment as apply to employees in the classified service except as to appointment and dismissal.

APPEAL RIGHTS OF EMPLOYEES - Dismissal reasons must be stated in writing and filed with the state personnel director and become a public record. Employee may request a hearing. If charges are proved

Representative Long  
Page two  
March 7, 1973

unwarranted, the employee may be reinstated under such conditions as the board may determine.

Any officer, citizen or taxpayer of the state may file charges against any employee. The hearing may be held by the personnel director, a special agent appointed for the purpose, or the board.

The personnel director or special agent shall make a finding of fact and law and recommend a decision. The board at their next regular or special meeting shall consider said report and modify, alter, set aside or affirm said report and certify its findings to the appointing authority who shall forthwith put the same into effect.

The decision of the board based upon its record and the testimony shall be final.

If any employee in the state service shall willfully refuse or fail to appear before any court or judge, any legislative committee, or any officer, board or body, authorized to conduct any hearing or inquiry, or having appeared shall refuse to testify or answer any question relating to the affairs of government of the state or the conduct of any state officer or employee . . . such conduct shall be cause for removal.

#### CONNECTICUT

**BOARD** - State Personnel Board includes the Commissioner of Finance and Control, Labor Commissioner, an appointee by the Commissioner of Higher Education and 3 members appointed by the governor from the public who serve 6 year overlapping terms.

**UNCLASSIFIED SERVICE AND EXEMPT POSITIONS** - All commissioners or administrative head of a state department or institution who is appointed by a board or commission. All superintendents or wardens of state institutions. The state librarian. The president of the University of Connecticut. State historian.

One deputy to the administrative head of each department or institution who is designated either by statute or by the administrative head to act for and perform all of the duties of such administrative head during his absence or incapacity.

No more than three executive assistants to each state elective officer and each department head.

One personal secretary to the administrative head of each department or institution.

**APPEAL RIGHTS OF EMPLOYEE** - A special personnel appeal board of 9 members is appointed by the governor for 6 year overlapping terms. No member of the board shall be an employee of the state. Three

members of the board may serve as a hearing panel. Such hearing panel shall have the power to make investigations and inquiries and to hold hearings. Hearing shall be open to the public except that a hearing panel may conduct a closed hearing upon the request of the aggrieved employee.

Any permanent employee holding a position in the classified service who is demoted, suspended or dismissed or is aggrieved as a result of alleged discrimination, unfair treatment or unsafe or unhealthy working conditions or interpretations and application of state personnel regulations may appeal.

The hearing panel shall not be bound by technical rules of evidence prevailing in the courts. If, after hearing, a majority of the hearing panel determines that the action appealed from was arbitrary or taken without reasonable cause, the appeal shall be sustained; otherwise, the appeal shall be dismissed. The hearing panel shall have the power to direct appropriate remedial action and shall do so after taking into consideration just and equitable relief to the employee and the best interests and effectiveness of the state service.

Within ten days of a decision by a hearing panel sustaining an appeal, the appointing authority of the employee shall take such measures as are necessary to comply with the remedial action directed by the hearing panel and shall render a report of such measures to the personnel commissioner.

#### CALIFORNIA

**BOARD** - Five members appointed by the governor and approved by the senate for 10 year terms. A member may be removed by concurrent resolution adopted by each house, two-thirds of the membership of each house concurring.

**EXEMPT POSITIONS** - Legislative, judicial and elected officials. A deputy and an employee selected by each elected officer. A deputy or employee selected by a board or commission either appointed by the governor or authorized by statute; a deputy or employee selected by each department head; officers appointed by the governor or lieutenant governor or employees of the governor's office; instructional personnel of university or department of education; six deputies or employees of the attorney general; one deputy or employee of the public utilities commission and two deputies to the legislative counsel.

**APPEAL RIGHTS OF EMPLOYEE** - Hearings may be held by the board, or by any authorized representative, but the board shall render the decision. The decision by the board shall be in writing. An employee or an attorney designated by him, shall have the right to inspect any documents which are relevant to the punitive action and which

March 7, 1973

would be admissible in evidence at a hearing of the employee's appeal.

The board or its authorized representative shall issue subpoenas for witnesses for the employee upon his written request and at his cost. The board or its authorized representative may require such costs to be prepaid.

FLORIDA

**BOARD** - Five members of the Career Service Commission appointed by the governor with the approval of three members of his Cabinet for overlapping 4 year terms with confirmation by the senate. The governor may suspend a commissioner only for cause subject to removal or reinstatement by the senate.

Members appointed to the commission shall be laymen with at least five years' experience in business, industry or labor at the management level or in a recognized profession. No member of the career service commission shall be a member of any county, state or national committee of a political party or an officer in any partisan political club or organization, or shall hold, or be a candidate for, any other public office. No person shall be appointed as a member of the commission who has held an elective public office in a political party within the year immediately preceding his appointment.

**EXEMPT POSITIONS** - A maximum of ten policymaking positions and the secretaries to each, in the offices of secretary of state, attorney general, comptroller, treasurer, commissioner of education, and commissioner of agriculture as exempted by each aforementioned officer. All employees in the governor's general office and at the governor's mansion and the head of each separate budget entity assigned to the governor.

The appointed secretaries, assistant secretaries, deputy secretaries, executive directors, assistant executive directors, and deputy executive directors of all departments and, unless otherwise provided, the directors of divisions of all departments and legislative, judicial officers, etc.

**APPEAL RIGHTS OF EMPLOYEES** - An employee with permanent status may only be terminated for cause after written notice. The employee may appeal the suspension, reduction in pay, transfer, layoff, demotion or dismissal.

After hearing the commission may order the reinstatement of an employee, with or without back pay, which order shall be binding on the agency or officer concerned. The action of the commission shall be in writing.

Representative Long  
Page five  
March 7, 1973

The decision of the commission shall be reviewable only by the judiciary on the grounds that: (a) the commission did not afford a fair and equitable hearing; (b) the decision was not in accordance with existing statutes or rules and regulations; or (c) the decision was not based on substantial evidence.

#### GEORGIA

**BOARD** - The 3 member State Personnel Board is appointed by the governor with the approval of the senate. No state official or employee shall be a member of the State Personnel Board.

**EXEMPT POSITIONS** - Officers and employees of the executive office of the governor or lieutenant governor, heads of departments or agencies, all officers, officials and employees of the state university system, officers and employees of the department of law, a deputy or deputies to the head of departments or agencies according to the size of the department, provided that the State Personnel Board shall prescribe the conditions under which more than one deputy may be excluded. A confidential secretary for the head of each department as recommended by the governor and approved by the State Personnel Board.

**APPEAL RIGHTS OF EMPLOYEES** - May appeal dismissal or other disciplinary action to the State Personnel Board. The board is authorized to appoint a hearing officer to compile evidence and submit evidence for its determination. The decision of the board shall be binding upon the appointing authority. The board may modify the action of the department, but may not increase the severity of such action on the employee. Such appointing authority shall promptly comply with such order as may be issued as a result of the appeal. The decision of the board shall not limit the rights of the employee or the department to judicial review as to errors of law.

#### MINNESOTA

**BOARD** - Three members, appointed by governor for 6 year overlapping terms with the consent of the senate without regard to party affiliation. No member of the board shall hold any other public office or public employment, and no person shall be appointed as a member of the board who has held a paid position in a political party within the two years immediately preceding his appointment. The governor may remove a member of the board only upon written charges after an opportunity to be heard publicly on the charges.

**UNCLASSIFIED SERVICE** - Heads of departments required by law to be appointed by the governor or other elective officers; the executive or administrative heads of departments, divisions and institutions specifically established by law. One private secretary to each of the elective officers of the state and in addition one deputy, clerk or employee to the secretary of state, state auditor, and state treasurer.

Representative Long  
Page six  
March 7, 1973

One executive secretary and other confidential employees in the office of the governor, and one confidential employee for the governor in the office of the adjutant general. Deputy attorneys general, assistant attorneys general, legal assistants, examiners, three confidential employees, and special counsel to state departments appointed by the attorney general or employed with his authorization. Other usually exempt positions.

**APPEAL RIGHTS OF EMPLOYEES** - Employee must be furnished with a statement in writing of the reason for the disciplinary action. An employee may appeal to the board, and the employee and the appointing authority shall meet with the director or with any other person appointed by the board for the purpose of determining the facts at issue.

Those issues, upon which agreement cannot be reached, shall be reported to the board. If a settlement between both parties is reached, the settlement shall be certified to the board. If approved by the board, it shall become binding upon both parties.

If the board finds that the action complained of was taken by the appointing authority for any political, racial or religious reason, or if the board finds there was no reasonable ground for institution of dismissal proceedings, the employee shall be reinstated to his position, or an equal position in another department or division, without loss of pay. The board may reinstate the employee with full, partial or no pay or find that the grounds of dismissal is reasonable.

The board by majority vote may issue subpoenas to compel attendance of witnesses and the production of books and papers pertinent to any inquiry or investigation. Any person refusing to comply with any subpoena may be ordered by the district court to comply. Failure to obey the order of the court may be punished by the court as a contempt thereof.

Each person not in the classified or unclassified service who appears before the board or the director by order shall receive for his attendance the fees and mileage provided for witnesses in civil actions in the district court. Witnesses subpoenaed at the request of parties other than the board or the director shall be entitled to compensation from the state for attendance or travel only if the board certifies that the testimony of these witnesses was relevant and material to the matter investigated.

The board shall not be bound by the technical rules of evidence.

NEW YORK

**BOARD** - Three members appointed by the governor for 6 year overlapping terms with the advice and consent of the senate. Not more than two may be of the same party.

Representative Long  
Page seven  
March 7, 1973

UNCLASSIFIED SERVICE AND EXEMPT POSITIONS - All offices filled by appointment by the governor either upon or without confirmation by the senate, except officers and employees in the executive departments who are not heads of divisions; the head of any department of government who is vested with authority, direction and control over a department, and who has power and authority to appoint and remove officers and employees; legislative, judicial and elected officials.

One secretary of each state department or division. The deputies of principal executive officers authorized by law to act generally for and in place of their principals.

APPEAL RIGHTS OF EMPLOYEES - An employee shall not be removed or subjected to any disciplinary penalty except for incompetency or misconduct shown after hearing upon stated charges. Employee must be provided written notice, and a hearing before a body having the power to remove the person against whom such charges are preferred or by a deputy or other person designated by such officer or body. The board may hear and determine appeals and may affirm, reverse or modify such action or determination appealed from. Employee may be reinstated with pay, suspended, fined or discharged. The employee shall be permitted to be represented by counsel and allowed to summon witnesses in his behalf. Witnesses shall be entitled to the same fees as are allowed in civil cases in courts of record. The board may compel witnesses to attend hearings by subpoena. Compliance with technical rules of evidence shall not be required.

#### VIRGINIA

BOARD - Governor may appoint an advisory state personnel board, but evidently has not. The governor is the chief personnel officer.

UNCLASSIFIED SERVICE AND EXEMPT POSITIONS - Very similar to North Carolina.

APPEAL RIGHTS OF EMPLOYEES - 2.1-114(6) An appeal procedure which shall assure all persons employed under this chapter a full and impartial inquiry into the circumstances of removal.

DH/ma



PROVISIONS REQUIRING MANDATORY AUTHORITY IN THE STATE  
PERSONNEL BOARD FOR THOSE STATE AGENCIES WITH SUBSTANTIAL  
FEDERAL FUNDING.

The News and Observer, Tuesday, Oct. 22, 1973

## Personnel Board Gets New Powers

The state personnel board, which until now has been empowered only to issue advisory opinions, has been authorized in an agreement with the federal government to have the final word in certain types of personnel grievances.

State personnel director Claude E. Caldwell said Monday that as a result of federal directives, the board will be the final authority in deciding on certain cases of alleged discrimination when the employee involved works for a federally funded state agency.

The action, which affects 4,000 to 5,000 state employees, brings the state personnel board closer to a model urged by House Democrats in the 1973 General Assembly.

At that time, the Democrats proposed the board be given

broad powers over the hiring and firing of state employees. The measure passed the House and is scheduled to be considered by the Senate in the 1974 legislative session.

Caldwell explained that a year-old amendment to federal civil service standards required that a state appeal procedure be developed in which persons alleging certain types of discrimination primarily race, sex, age and political — could appeal their cases to a board having final authority.

"Since our law does not give that power to the personnel board, we agreed that the state agencies affected by this ruling will treat the decision of the personnel board, which in all other cases is advisory, as binding," Caldwell explained.

These agencies include the Employment Security Commission, the Social Services Division of the N. C. Department of Human Resources, some sections of the public health and mental health divisions of the Human Resources Department and the N. C. Civil Defense agency.

Caldwell said the federal government informed state department heads of the requirements in a letter mailed about a month ago.

Copies of the letters were sent to Caldwell, who then discussed the new procedures with the department heads, he said.

—LESLIE WAYNE

U. S. CIVIL SERVICE COMMISSION



1166 Merchandise Mart  
240 Peachtree Street, N. W.  
Atlanta, Georgia 30303  
Sept. 20, 1973

INFORMAL

TO: Mr. Claude Caldwell  
Personnel Director  
Raleigh, North Carolina

Mr. Hammond B. Smith, Regional Director for the Civil Service Commission, has asked Federal funding agencies to request assurances from their program agencies in North Carolina to honor the Personnel Board's decisions as final in cases of alleged discrimination until such time as the North Carolina Legislature has passed appropriate legislation. For your information we are enclosing copies of Mr. Smith's letters to the Federal agencies requesting that assurances be secured from the grant-aided agencies in North Carolina listed on the attachment.

Attachments

From: *C. Lane Reece*  
C. Lane Reece  
Chief, Merit Systems and Technical  
Assistance Branch, DIPP

DIPP-2 10/71

Commission for the Blind  
Department of Social Services  
Coordinating Council on Aging  
Dept. of Labor (Occupational Safety and Health  
Statistics and Occupational Safety and  
Health Administration)  
Division of Civil Preparedness  
North Carolina Federal Property Agency  
Manpower Council  
Employment Security Commission  
State Board of Health  
Office of Comprehensive Health Planning  
Medical Care Commission  
North Carolina Drug Authority  
Department of Mental Health

September 10, 1975

Mr. Eddie J. Sessions  
 Acting Regional Health Administrator, H  
 Attn: William D. Lyons  
 Public Health Service  
 Dept. of Health, Education & Welfare  
 Room 866, 50 Seventh St., N.E.  
 Atlanta, Georgia 30323

Dear Mr. Sessions:

The Equal Employment Opportunity section of the Federal "Standards for a Merit System of Personnel Administration" requires that State "...regulations will include provisions for appeals in cases of alleged discrimination to an impartial body whose determination shall be binding upon a finding of discrimination." It has recently come to our attention that it will be necessary for the North Carolina Legislature to amend the State Personnel Law (Chapter 126-4, (9) ) to give the Personnel Board authority to make a final decision in appeals alleging discrimination. Although the rules and regulations covering positions under the competitive service contain such a provision, it is our understanding that it is necessary for the State of North Carolina Legislature to take action to give the Personnel Board this authority.

At the time the above information came to our attention, legislation was pending in the North Carolina Legislature to amend the Personnel Law to give the Personnel Board final authority in cases of appeals alleging discrimination. The legislation did not pass the North Carolina Senate, which is now adjourned until January 1974. We are therefore requesting that your office secure a letter from each of the following programs funded by your agency assuring that they will honor the Personnel Board's decisions as final in cases of appeals alleging discrimination until such time as the appropriate legislation is passed. The programs about which we are concerned are located in the State Board of Health, Office of Comprehensive Health Planning, Medical Care Commission and the Department of Mental Health agencies.

-2-

One copy of the assurances should be sent to this office, one copy to Mr. Caldwell, State Personnel Director, and one copy should be retained in your office.

Sincerely yours,

HAMMOND B. SMITH  
 Regional Director

cc:  
 Claude Caldwell

S-133



## GENERAL STATUTES OF NORTH CAROLINA

## CH. 14. CRIMINAL LAW

## § 14-247

§ 14-247. **Private use of publicly owned vehicle.**—It shall be unlawful for any officer, agent or employee of the State of North Carolina, or of any county or of any institution or agency of the State, to use for any private purpose whatsoever any motor vehicle of any type or description whatsoever belonging to the State, or to any county, or to any institution or agency of the State. (1925, c. 239, s. 1.)

**Elements of Offense.** — The elements of the offense created by §§ 14-247 and 14-252 are (1) the use of a vehicle belonging to the State or one of the political subdivisions named in the statute (2) by a public official or employer answering to the statutory description (3) for a private purpose. A warrant which fails to charge that the use of a police car by a policeman of a

are (1) the use of a vehicle belonging to the State or one of the political subdivisions named in the statute (2) by a public official or employer answering to the statutory description (3) for a private purpose. A warrant which fails to charge that the use of a police car by a policeman of a

§ 14-248. **Obtaining repairs and supplies for private vehicle at expense of State.**—It shall be unlawful for any officer, agent or employee to have any privately owned motor vehicle repaired at any garage belonging to the State or to any county, or any institution or agency of the State, or to use any tires, oils, gasoline or other accessories purchased by the State, or any county, or any institution or agency of the State, in or on any such private car. (1925, c. 239, s. 2.)

§ 14-251. **Violation made misdemeanor.**—Any person, firm or corporation violating any of the provisions of §§ 14-247 to 14-250 shall be guilty of a misdemeanor punishable by a fine of not less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00), imprisonment for not more than six months, or both such fine and imprisonment. Nothing in §§ 14-247 through 14-251 shall apply to the purchase, use or upkeep or expense account of the car for the executive mansion and the Governor. (1925, c. 239, s. 5; 1969, c. 1224, s. 16.)

**Editor's Note.** — The 1969 amendment rewrote the provisions as to punishment in the first sentence.

APPENDIX U

§ 147-7. **Traveling expenses on State's business.**—When, to efficiently and properly carry into effect and execute any of the duties imposed by his appointment or by the provision of any statute of this State, and provide for the expenses thereof, it is required that any officer of the State or any employee of any department thereof shall travel from place to place, such traveling and other expenses as shall be required shall be approved by said officer or head of the department whose employee incurs such expenses. (1919, c. 117, s. 3; C. S., s. 7631.)

Reimbursement for political activity expenses would be actionable as fraud.





STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION AND HIGHWAY SAFETY  
RALEIGH 27611

JAMES E. HOLSHOUSER, JR.  
GOVERNOR

January 8, 1974

PERSONNEL DEPARTMENT  
AL BOYLES, DIRECTOR OF PERSONNEL  
P. O. BOX 25201/HIGHWAY BUILDING  
919/829-7684

BRUCE A. LENTZ  
SECRETARY

MEMORANDUM TO: SENATOR BOB L. BARKER, CHAIRMAN  
FROM: Al Boyles, Director of Personnel  
SUBJECT: Result of Grievance Hearings

I have held to date ten (10) hearings and these hearings were set up in the order in which they were received. I have recommended six (6) reinstatements which have been accepted by Secretary Bruce Lentz, one (1) pending and three (3) recommended to the next grievance level.

The following is a list of people referred to above:

- D. W. Hodges, Dobson, North Carolina
- C. H. Moore, Ararat, North Carolina
- M. W. Bass, Newton Grove, North Carolina
- H. D. Hartsoe, Crumpler, North Carolina
- G. R. Fuller, Buxton, North Carolina
- L. R. Westall, Marion, North Carolina
- J. P. Hollingsworth, King, North Carolina
- J. E. Koontz, N. Wilkesboro, North Carolina
- J. G. Brown, Tarboro, North Carolina
- J. G. Haynes, Spindale, North Carolina
- W. J. Byrd, Erwin, North Carolina

At the request of W. F. Ray, former Division Engineer in Sylva, North Carolina, another position was offered Mr. Ray by Secretary Lentz and Billy Rose, Highway Administrator. This offer was rejected.

AB/db





APPENDIX W

MATERIALS ON THE NORTH CAROLINA DEPARTMENT OF SOCIAL REHABILITATION AND CONTROL; OCTOBER 29, 1973, ANNOUNCEMENT OF "13" FIRINGS" IN YOUTH DEVELOPMENT.

DEPARTMENT ORGANIZATION

SECRETARY: David L. Jones

DEPUTY SECRETARY: Donald P. Torppa

OFFICE OF CORRECTIONS

Ralph D. Edwards, Commissioner

YOUTH DEVELOPMENT\*

Dr. John R. Larkins, Commissioner

PROBATION

Bertis H. Sellers, Director

PAROLES

J. Mac Boxley, Board Chairman

---

\* Youth Development Organization:

I. CLASSIFICATION OF TRAINING SCHOOLS

- A. 4 coeducational schools for general treatment
  - 1. Cameron Morrison—Hoffman
  - 2. Samarkand Manor—Eagle Springs
  - 3. Stonewall Jackson—Concord
  - 4. Dobbs Schools—Kinston
- B. Juvenile Evaluation Center—Swannanoa—Treatment and Evaluation Center
- C. Richard T. Fountain School—Rocky Mount—Evaluation Center
- D. C. A. Dillon School—Butner—Deviant Adolescents

II. STUDENTS

- A. Student population—1,015
  - 1. 698 boys
  - 2. 317 girls
- B. Cost per student—\$18.78 per day or \$6,855 per year.

III. STAFF

- A. Number of employees
  - 1. 331 cottage parents
  - 2. 145 teachers
  - 3. 19 administrative personnel

## THE "13 FIRINGS" IN YOUTH DEVELOPMENT

(Information gathered by committee staff reference to news reports and other information; most confirmed by Secretary Jones and his staff at the January 9, 1974 committee meeting. Dismissals were carried out by Youth Development Director Larkins helicopter visits on October 26, at Secretary Jones's direction.)

### Terminations for incompetency announced October 29:

William D. Nolan, Director, C. A. Dillon School in Butner (alleged inconsistent administration and lack of programs)

John L. Parrish, Director, Juvenile Evaluation Center in Swannanoa (alleged poor administration)

Henry W. Parker, Director, Samuel Leonard School in McCain (alleged deplorable condition of school; sleeping on floors, etc.)

Gene U. Cantrell\*, Principal, Juvenile Evaluation Center (alleged inability to coordinate programs and lack of knowledge of youth development)

\*Civil suit pending

Aivis M. Whitted, Jr., Principal, C. A. Dillon School (alleged allowing child abuse; no therapeutic treatment programs)

Lorenzo V. Balsley, Principal, Samuel Leonard School in McCain (alleged incompetence)

Ralph L. Foushee, Principal, Samarkand Manor in Eagle Springs (alleged incompetence) [Resigned after he was offered a forced transfer]

Positions Abolished by Reorganization, announced October 29:

J. W. McGinnis, Supervisor of Religious and Moral Life Training, Youth Development

Warren A. Ellis, Special Education Director, Youth Development

Edward B. West, Assistant Director Juvenile Evaluation Center

Mary W. Hoyle, Assistant Training Superintendant, Samarkand

Harold W. Stephan, Juvenile Evaluation Director, Juvenile Evaluation Center

Carl Duncan, Juvenile Evaluation Counselor, Samuel Leonard School (alleged incompetence)

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November 2, 1973 - Board of Youth Development ordered reinstatement of those dismissed, and the Teacher Tenure Act (part attached) was raised by dismissed principals.

November 5, 1973 - Secretary Jones restated his dismissal of all but the four principals, denying any authority of the Board of Youth Development.

November 9, 1973 - Secretary Jones agreed to rehire the three correction center directors, yielding to an Attorney General's opinion that confirmed the Board's authority

over them. (The six job abolutions were allowed to stand.)

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On January 9, 1974, Secretary Jones testified before the committee. He submitted various documents concerning dismissal of some 85 minor employees. He also submitted a list of 21 employees whose jobs were abolished; the list included the six job abolutions in the "13 firings." Secretary Jones commented on the "13 firings" in response to committee questions, indicating that he is now seeking dismissal of the remaining directors through proper action before the Board of Youth Development, and dismissal of the remaining principals through proper actions in compliance with the Teacher Tenure Act. Most of the presented documents are reproduced below:

DEPARTMENT OF SOCIAL REHABILITATION AND CONTROL

Office Memorandum

TO: Mr. Jones

PLACE:

DATE: 1/8/74

FROM: Robert L. Hinton

SUBJECT: Report on Dismissals and Hearings before the State Personnel Board

During the past year, 35 employees were dismissed from the Department of Social Rehabilitation and Control. The names, classifications, locations, dates and causes for dismissal are listed in enclosure "A".

Of those dismissed, only five appealed their cases to the State Personnel Board. The Board concurred with the Department's action in all but one case in which they recommended reinstatement and we complied. They also recommended permitting one employee to resign (Mr. Peele), and permitting two other employees to seek employment in other agencies (Mrs. Williams and Mr. Turner). The names, classifications, dates of hearings, charges and findings of the Board are listed on enclosure "B".

The policy regarding dismissal as approved by the State Personnel Board and adopted by this Department provides for 1) oral warning, 2) oral warning followed up by letter to employee, 3) written warning, and 4) dismissal. An exception to the above provides that an employee can be dismissed without warning for causes relating to personal conduct detrimental to the State Service.

All the above actions are subject to review by higher authority. Employees in this Department are advised of their right to appeal any disciplinary action to higher authority including the State Personnel Board.

This Department complies with the spirit of the State policy; however, because our personnel are charged with the supervision of convicted offenders, it is not always feasible to follow the letter of the policy. This is especially true when the incident is committed in the presence of and observed by the inmates. Examples of such cases include reporting for duty under the influence of alcohol or drugs or partaking of such things on the job; guilty of immoral conduct or a criminal act; and refusal to accept a reasonable and proper assignment from an authorized supervisor (Insubordination).

Mr. Jones  
Page Two  
January 8, 1974

Article 3 or General Policies, Rules and Regulations of the Office of Correction relating to conduct of employees state that "Members of the State Correctional Service must be persons of unimpeachable character. They must be capable of commanding the respect and confidence of the inmates and the public. Since the Department of Correction will be judged by the behavior of its personnel, the conduct of a member of the State Correctional Service must be above criticism; members are expected to act at all times, on duty and off, in a manner befitting a member of a Service dedicated to the correction of convicted offenders." The above policy applies equally to employees in the Divisions of Parole, Probation and Youth Development.

Having worked with this administration and with previous administrations, it is my observation that all of the policies regarding dismissals have not always been complied with. Most of the problems are inherent from the strict departmental policies in the past relating to commanding the respect and confidence of the inmates and the public. In the field of corrections it is difficult to retain an employee in this category. This office has counseled with administrative and supervisory personnel explaining the intent of the policy and offering guidance in disciplinary cases. This has resulted in a marked reduction in questionable dismissals and subsequent requests for hearings.

State Personnel Department advised us that the latest figures available (December 1972) showed 19.9% of employees in State government were black and 39.6% were females. The Department of Social Rehabilitation and Control has 21.3% black employees.

Enclosures

*[REPRESENTATIVE EXAMPLES OF 85 DISMISSALS  
ARE ATTACHED; REMAINDER IN COMMITTEE FILES.]*

Department of Social Rehabilitation and Control

July-1973

<u>Name:</u>	<u>Classification:</u>	<u>Unit:</u>	<u>Date Separated:</u>
1- Grady A. Williams "Personal misconduct: Driving under the influence of alcohol and in the company of a girlfriend of an inmate."	Corr. Supt. I	Lincoln	7-7-73
2- Elton Roy Peale "Inefficiency in the performance of duties."	Computer Center Director I	Admin.(Data Proc.)	7-9-73
3- Michael Leon Bell "Admitted assault with fist and pistol."	Corr. Off. Tr.	Odom	7-13-73
4- William Ray Cratt "Arrested for simple Possession of a Controlled Substance: Admitted guilt in the smoking of marijuana."	Corr. Off. Tr.	Polk Youth Center	7-18-73
5- Charlie James Watson "Arrested for driving under the influence of alcohol while enroute to work."	Corr. Off.	Odom	7-22-73
6- Norman H. Jeffries "Failed to report to work twelve days in July."	Corr. Off.	Caswell	7-27-73
7- Jimmy L. McLean "Did not report for work as scheduled."	Corr. Prog. Supv.	Community Vols.(Fed. Grant)	7-31-73

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EMPLOYEES WHOSE POSITIONS HAVE BEEN  
ABOLISHED DUE TO RE-ORGANIZATION

<u>NAME</u>	<u>POSITION</u>	<u>OFFICE</u>
Mrs. Sandra Mills	Steno II	Probation
Mrs. Jean Riley	Steno II	Probation Transferred to Probation Division in Charlotte
Mrs. Susan Weatherly	Steno II	Probation
Mrs. Joyce Fellows	Steno II	Probation Secured Other Employment
Mrs. Betty Ann Dew	Steno II	Probation Secured Other Employment
Mrs. Peggy Harrell	Steno II	Probation
Mrs. Jill Wood	Steno II	Probation
Miss Ann Thomas	Steno II	Probation
Ms. Carolyn Wyland	Social Research Assistant II	Correction Promoted to position at Corr. Ctr. for Women
Mr. Christopher Behre	Social Research Assistant II	Correction
Mr. Clyde Ellis	Social Research Assistant II	Correction Promoted to position in South Central Area
Mr. Phillip Service	Correctional Research Associate	Correction
Dan F. Cameron	Farm Superintendent IV	Youth Development - Retired 11/1/73
James W. Bryan	Juvenile Correctional Programs Administrator	Youth Development - Early Retirement
Warren A. Ellis *	Special Education Programs Administrator	Youth Development - Transferred Dept. Public Instruction
James W. McGinnis *	Clinical Chaplain III	Youth Development
R. Vance Robertson	Juvenile Correctional Programs Administrator	Youth Development Service Retirement
Mary N. Hoyle *	Training School Assistant Director	Youth Development Teacher A-3 Stonewall Jackson
Carl T. Duncan *	Juvenile Evaluation Counselor	Youth Development
Edward B. West *	Juvenile Evaluation	Youth Development Transferred to teaching position Juvenile Evaluation Center
Harold W. Stephan *	Juvenile Evaluation Director	Youth Development

\* INCLUDED IN THE "13 FITZINGS"



Employees who appealed to State Personnel Board:

Mrs. Julia Williams, Correctional Officer - Correctional Center for Women  
Hearing 6/15/73. Refused to carry out work assignment. Employee stated  
she did not want to return to Department. Personnel Board recommended  
assistance in finding other State employment. Mrs. Williams did not want  
assistance due to personal problems.

Ms. Troylene H. Cowick, Stenographer III - Probation Hearing 9/28/73.  
Gross misconduct. Personnel Board recommended reinstatement. Department  
complied.

James L. Conner, Correctional Officer - Central Prison  
Hearing 10/26/73. Insubordination.  
State Personnel Board concurred in dismissal.

Robert L. Turner, Correctional Major - Odom Prison  
Hearing 12/14/73.  
Appealed forced retirement.  
Personnel Board recommended reinstatement in another agency if possible.

Elton R. Peele, Computer Center Director, Social Rehabilitation and Control  
Hearing 9/14/73. Inefficiency in the performance of duties.  
State Personnel Board concurred with the Department's action but recommended  
employee be given option of resigning.

Enclosure "B"

GENERAL ASSEMBLY OF NORTH CAROLINA  
1973 SESSION  
RATIFIED BILL

CHAPTER 315

SENATE BILL 699

AN ACT TO INCLUDE CERTAIN PERSONNEL UNDER THE PROVISION OF THE  
TEACHER FAIR EMPLOYMENT AND DISMISSAL ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-142 by adding a new section (p) to  
read as follows:

"(p) Notwithstanding any law or regulation to the contrary and  
the teachers' salary schedule as adopted by the State Board of  
Education, this act shall apply to all persons defined as  
teachers by this act who serve as teachers in the following  
schools and institutions:

Cameron Morrison

Samuel Leonard

Richard T. Fountain

Juvenile Evaluation Center

C.A. Dillon

Dobbs School for Girls

Samarkand Manor

Stonewall Jackson

Sec. 2. All persons employed as teachers or principals  
in the schools and institutions listed in Section 1 herein shall  
be compensated at the same rate as are teachers in the public  
schools in accordance with the salary schedule adopted by the  
State Board of Education.

Sec. 3. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified,  
this the 4th day of May, 1973.

JAMES B. HUNT, JR.

James B. Hunt, Jr.

President of the Senate

JAMES E. RAMSEY

James E. Ramsey

Speaker of the House of Representatives

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REQUESTS FOR OFFICIAL LIST OF DISMISSALS, RETIREMENTS, ETC. FROM THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION; THE "LIST OF 100"

- October 24, 1973-----Department of Transportation News Release  
[see Appendix A]
- October 29, 1973-----Request memo from Legislative Services  
Office
- October 30, 1973-----Reply from Assistant Secretary Cross; "in  
the process of preparing the list...will  
forward...to the committee upon comple-  
tion..."
- November 1, 1973-----Oral request of Cross and Personnel  
Director Boyles by committee staff
- November 2, 1973-----Reply by Cross and Boyles; "list...will  
not be available before late Monday...  
excuse the delay..." (Monday, November 5)
- November 6, 1973-----Request letter by Chairman Barker to  
Secretary Lentz
- November 9, 1973-----News release of complete list [see  
Appendix B]
- November 11, 1973-----News stories carried full list
- November 21, 1973-----Telephone request to Department of  
Transportation Public Information office  
by committee staff asking for copy of  
press release dated November, 9 [see

Appendix B]

November 26, 1973-----Received copy of November 9, 1973 press  
release

November 28, 1973-----Received official list from Secretary  
Lentz [see Appendix C]

Requests were made under authority of G.S. 120-19 [see Appendix  
I].

APPENDIX Y

REQUESTS FOR COPIES OF WEEKLY ACTIVITY REPORTS BY DOT PERSONNEL OFFICERS

- November 1, 1973-----Request letter to Assistant Secretary Cross by Committee Staff.
- November 1, 1973-----Oral response by Personnel Director Boyles; The reports apparently did exist, but they have been lost, or stolen, or destroyed.
- November 2, 1973-----Response letter from Boyles; "I need additional time to go through the files to be sure we are not overlooking any activity report that might be here."
- November 6, 1973-----Request letter to Secretary Lentz by Chairman Barker.
- November 7, 1973-----Telephone response to Committee staff by Governor's Counsel Morrison; Will be no immediate answer to request....
- November 28, 1973-----Former Personnel Director Madigan recognized existence of activity reports and acknowledged that reports were similar to a copy in the Committee's possession; however, he did not specifically identify or authenticate the copy. (Alleged report attached)
- December 6, 1973-----Personnel Officer McCall did not specifically recognize the alleged copy of an activity report and he declined to acknowledge that

he was the originator of the report. However, he did admit to reporting political information to Personnel Director Madigan.  
(Alleged report attached)

Copies of the activity reports were requested under authority of G.S. 120-19 [See Appendix I]. No copies were ever received. Many of the personnel officers questioned remembered preparing such reports, but they stated that the originals and any copies had since been destroyed or that they were discarded after initially being read.





STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION AND HIGHWAY SAFETY  
RALEIGH 27611

JAMES E. HOLSHOUSER, JR.  
GOVERNOR

September 5, 1973

PERSONNEL DEPARTMENT  
DAVID R. MADIGAN, PERSONNEL OFFICER  
P. O. BOX 25201/HIGHWAY BUILDING  
919/829-7684

BRUCE A. LENTZ  
SECRETARY

MEMORANDUM TO: David Madigan, Personnel Officer  
FROM: Tony McCall, 14th Division Personnel Officer  
SUBJECT: Weekly Activity Report (August 30 - September 5, 1973)

August 30, 1973:

1. Office @ 8:00
2. Equipment Shop about all engines from Macon County burned up for lack of oil. I called Mr. Byrd from Franklin and will give verbal reprimand.
3. Andrews to see Jeff Brooks (Gardner Chairman) and Grady Garrett. Both are Frank Rouse but would like to meet Tom Bennett.
4. Murphy met Lonnie Hoover and Dayle Burch - both for Tom Bennett. Met Jack Lovingood (County Commissioner) Tom Bennett.
5. Bryson City met Mr. Payne (Tom Bennett) very mad about people not wanting to fire Bobby Robinson.
6. Dinner in Bryson City
7. Perry Suttons house in Dillsboro (Precinct Chairman) Tom Bennett.
8. Home @ 9:30

August 31, 1973:

1. Franklin @ 9:00 a.m. Could not find Brice Rowland
2. Maint. Yard about engines from truck burned up - Byrd will call later
3. Hayesville for Lunch and met Bill Bradley and Hartsell Moore - both do not know what to do.
4. Franklin @ Calvin Henson's Office - Tom Bennett
5. Brice Rowland's home - Tom Bennett
6. Ate in Franklin
7. Home @ 7:00

September 3, 1973:  
Holiday

September 4, 1973:

1. Office @ 8:00 Interviewed & hired
2. Waynesville @ Maint. Yard
3. Canton to look @ some road problems
4. Sec. Lentz supposed to meet in Sylva - did not make the appointment

September 5, 1973:  
Vacation.



INTERIM SPECIAL SENATE COMMITTEE ON PERSONNEL POLICIES; MEETING  
SCHEDULE AND WITNESS LISTS.

1. November 2, 1973, meeting - Deputy Assistant Attorney General  
R. Bruce White, Jr.
2. November 8, 1973, meeting - No witnesses (staff information)
3. November 14, 1973, meeting - Rev. Charles V. Bryant, Minister,  
Garner United Methodist Church

The 17 Department of Transportation Regional and District Personnel Officers were requested to appear at the November 14, meeting, but they declined to attend. [See APPENDIX G for list of Personnel Officers]

Also, some staff members of the Department of Transportation, members of the Governor's Patronage Team, and other members of the Governor's staff were requested to appear on November 20, but that proposed meeting was cancelled in advance of the November 21 meeting with the Governor. [See APPENDIX H for list of members of the Patronage Team]

4. November 21, 1973, meeting - Professor Donald Hayman  
Institute of Government

Mr. Claude E. Caldwell  
Director of Personnel Division

Mr. Emmett W. Burden  
Executive Director of State  
Employees Association

Mr. Floyd Bass  
Executive Director of State Highway  
and Correctional Employees Association

Mr. Lee Bounds  
Former Commissioner of N. C.  
Department of Corrections

Former State Employees:

Mr. J. Walter Bryan  
Raleigh, North Carolina

Mr. Clyde R. Williams  
Brunswick, North Carolina

Mr. M. W. Bass  
Newton Grove, North Carolina

Mr. John Hollingsworth  
Mt. Airy, North Carolina

Mr. Thomas M. George  
Robbinsville, North Carolina

Mr. J. Roger Hester  
Greensboro, North Carolina

Mr. Conrad G. Burrell  
Sylva, North Carolina

5. November 28, 1973, meeting - Mr. Bruce Lentz, Secretary  
Department of Transportation

Mr. Troy Doby  
Department of Transportation

Mr. Al Boyles, Director of Personnel  
Department of Transportation

Mr. David Madigan  
Former Personnel Director  
Department of Transportation  
Now, Director of Field Forces Division  
Department of Revenue

6. December 6 and 7, 1973, meeting -

Department of Transportation: Mr. William Dean Allman, Asheville  
Regional Personnel Director

Mr. David Claude Wheeler, North  
Wilkesboro  
Division Personnel Officer

Mr. Tony Martin McCall, Sylva  
Division Personnel Officer

Mr. Joel Ray Mashburn, Asheville  
Division Personnel Officer

Mr. Robert Louis Bass, Shelby  
Division Personnel Officer

Former State Employees:

Mr. Robert A. Gilbert  
Hendersonville, North Carolina

Mr. E. W. Proffitt  
Bakersville, North Carolina

Mr. J. G. Haynes  
Spindale, North Carolina

\* Mr. R. B. Long  
Hayesville, North Carolina

\*Did not testify - submitted statement.

Mr. D. C. McTaggart  
Hayesville, North Carolina

Mr. J. A. Cabe  
Hayesville, North Carolina

Mr. G. D. Dillingham  
Barnardsville, North Carolina

Mr. J. D. Plott  
Waynesville, North Carolina

Mr. Donald Cooper

Mr. W. F. Ray

Mr. Johnnie Becker

Mr. H. D. Hartsoe

Mr. R. V. Jenkins

Mr. James W. Baldwin

Mr. Bennett Arvey

Mr. John Plott

Mr. Alfred Ray Bishop

Mrs. Myrtle Holcombe

Mr. F. L. Bishop

Mr. D. F. Bishop

\*Mr. Wayne McClung

\*Mr. Johnnie Rymer

7. December 13, 1973, meeting -

Department of Transportation:

Mr. Walter W. Bridges, Kinston  
Regional Personnel Director

Mr. Elson Hardin Stevens, Fayetteville  
Division Personnel Officer

Mr. Palmer Donald McDaris, Ahoskie  
Division Personnel Officer

Mr. James Malcom Knox, Wilmington  
Division Personnel Officer

\*Did not testify - submitted statement.

Mr. Julius Bishop, Greenville  
Division Personnel Officer

Mr. George Rufus Thomas, Wilson  
Division Personnel Officer

Former State Employees:

Mr. R. W. Dawson  
Wilson, North Carolina

Mr. J. G. Brown  
Tarboro, North Carolina  
(Mr. Joel K. Bourne, Attorney from  
Tarboro, N. C. appeared with  
Mr. Brown and spoke in his behalf.)

8. December 8 and 9, 1973, meeting -

Department of Transportation: Mr. James Jarvis Stephens, Asheboro  
Regional Personnel Director

Mr. Robert Hunter Mathes, Durham  
Division Personnel Officer

Mr. Otis Elbert Chilton, Winston Salem  
Division Personnel Officer

Mr. James Fredrick Peterman, Albemarle  
Division Personnel Officer

Mr. William Anthony Batchelor,  
Aberdeen  
Division Personnel Officer

Mr. Robert Bruce Miller, Greensboro  
Division Personnel Officer

Mr. Tony Martin McCall, Sylva  
Division Personnel Officer

Mr. David Madigan, Director of  
Field Forces Division  
Department of Revenue  
Former Personnel Director  
Department of Transportation

Mr. Bruce A. Lentz, Secretary  
Department of Transportation

Mr. Gene Anderson  
Special Assistant to the Governor

Mr. David L. Jones, Secretary  
Department of Social Rehabilitation  
and Control

Mr. J. Howard Coble, Secretary  
Department of Revenue

Mr. Billy T. Edwards was invited, but he failed to appear.  
Mr. Edwards' dismissal from his job with the Department of  
Human Resources was apparently related to Hatch Act violations  
in connection with his work in the successful campaign of  
Republican Party Chairman Bennett.

9. January 15, 1974, meeting -

Former State Employees: Mr. C. R. Dawkins  
Former Highway Commissioner  
Fayetteville, North Carolina

Mr. W. C. Hough  
Goldston, North Carolina

Mr. N. W. Singletary  
Aberdeen, North Carolina

Mr. J. W. Greeson  
Asheboro, North Carolina

Mr. D. R. Neal  
Belew Creek, North Carolina

