

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025

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SENATE BILL 1041
State and Local Government Committee Substitute Adopted 6/3/26
Finance Committee Substitute Adopted 6/16/26

Short Title: Public Workforce Modernization Act.

(Public)

Sponsors:

Referred to:

May 4, 2026

1 A BILL TO BE ENTITLED
2 AN ACT TO MODERNIZE AND SIMPLIFY THE STATE HUMAN RESOURCES SYSTEM.
3 The General Assembly of North Carolina enacts:

4
5 **PART I. MODERNIZED STATE HUMAN RESOURCES**

6 **SECTION 1.** The General Statutes are amended by adding a new Chapter to read:

7 **"Chapter 126A.**

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

9 **"Article 1.**

10 **"State Human Resources System.**

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

12 **"§ 126A-1. Purpose of Chapter.**

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

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

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

34 **"§ 126A-2. Definitions.**

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



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

(23) The University of North Carolina. – As defined in G.S. 116-1. A constituent institution of The University of North Carolina has only the authority delegated to it by the Board of Governors or the University of North Carolina System Office.

"Part 2. Appointment Types.

"§ 126A-10. Appointment types.

(a) All employees are assigned a position with a designated appointment type.

(1) A position is the unique duties and responsibilities of a job to which a person is assigned.

(2) An appointment type defines the terms and expected duration of employment, benefits eligibility, and the applicability of this Chapter to the position.

(b) Appointment types are as follows:

(1) Permanent. – An appointment to a permanent position established and expected to continue indefinitely. All permanent employees are designated as one of the following subcategories:

a. Career appointment. – Assigned to an employee who has been continuously employed for the time period provided in G.S. 126A-10.1.

b. Probationary appointment. – Assigned to an employee who has not been continuously employed long enough to become a career employee under G.S. 126A-10.1.

c. Permanent experiential appointment. – Assigned to an employee in an experiential program who has not been continuously employed long enough to become a career employee under G.S. 126A-10.1.

(2) Non-permanent. – An appointment to a position for a finite period of time. All non-permanent employees are designated as one of the following subcategories:

a. Temporary appointment. – Assigned to an employee employed for a period typically not to exceed 11 months.

b. Time-limited appointment. – Assigned to an employee employed in a position that has a limited period not to exceed three years.

c. Non-permanent experiential appointment. – Assigned to an employee in an experiential program for a limited period of time.

(3) Exempt. – An appointment to a position designated by statute as exempt as defined in G.S. 126A-15. An exempt appointment may be made to a permanent or time-limited position.

(c) An employee who moves from a non-permanent or exempt appointment to a permanent appointment shall have a probationary appointment for at least 12 months.

(d) The following exceptions apply:

(1) When a time-limited appointment exceeds three years, the employee shall be designated as having a permanent appointment and, notwithstanding subsection (c) of this section, shall not be required to have a probationary appointment.

(2) A time-limited appointment may be made to a permanent position only when that position is vacant due to the incumbent's leave of absence and the replacement employee's services will be needed for a period of one year or less.

(3) A career employee who is assigned a position that is designated as exempt under G.S. 126A-15(1)a., 126A-15(2), and 126A-15(3) may, once that employee is no longer in the designated exempt position, be reassigned as a

1 career employee with no probationary period if the employee remains
2 continuously employed by the State.

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

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

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

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

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

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

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

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

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

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

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

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

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

4 "§ 126A-15. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

- 44 (1) Article 3 of this Chapter.
45 (2) Article 4 of this Chapter, except for G.S. 126A-42.
46 (3) All of Article 8 of this Chapter, except for G.S. 126A-84(b)(1) and (2).
47 (4) G.S. 126A-91.

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

- 49 (1) Article 3 of this Chapter.
50 (2) Article 4 of this Chapter, except for G.S. 126A-42.
51 (3) All of Article 8 of this Chapter, except for G.S. 126A-84(b)(1) and (2).

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

- 1 (8) Article 10 of this Chapter.
- 2 (l) State employees compensated as teachers are exempt from the following:
- 3 (1) Article 3 of this Chapter.
- 4 (2) Article 4 of this Chapter, except for G.S. 126A-42.
- 5 (3) Article 5 of this Chapter, except for G.S. 126A-52.
- 6 (4) Part 2 of Article 6 of this Chapter.
- 7 (5) Part 1 of Article 7 of this Chapter, except as to G.S. 126A-71.
- 8 (6) Article 8 of this Chapter.
- 9 (7) Article 9 of this Chapter, except for G.S. 126A-95.
- 10 (8) Article 10 of this Chapter.
- 11 (m) University health employees are exempt from the following:
- 12 (1) Article 3 of this Chapter.
- 13 (2) Article 4 of this Chapter, except for G.S. 126A-42.
- 14 (3) Article 5 of this Chapter, except for G.S. 126A-52 and G.S. 126A-57.3.
- 15 (4) Part 2 of Article 6 of this Chapter.
- 16 (5) Parts 2, 3, and 4 of Article 7 of this Chapter.
- 17 (6) Article 8 of this Chapter.
- 18 (7) Article 9 of this Chapter, except for G.S. 126A-95.
- 19 (n) University police employees are exempt from the following:
- 20 (1) Article 3 of this Chapter.
- 21 (2) Article 4 of this Chapter, except for G.S. 126A-42.
- 22 (3) Article 5 of this Chapter, except for G.S. 126A-52 and G.S. 126A-57.3.
- 23 (4) Part 2 of Article 6 of this Chapter.
- 24 (5) Parts 2, 3, and 4 of Article 7 of this Chapter.
- 25 (7) Article 9 of this Chapter, except for G.S. 126A-95.
- 26 (8) Article 10 of this Chapter.
- 27 (o) Local employees are exempt from the following:
- 28 (1) G.S. 126A-57.3.
- 29 (2) Parts 1, 2, and 3 of Article 7 of this Chapter.
- 30 (3) G.S. 126A-94.
- 31 (4) Article 13 of this Chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

47 "Article 2.

48 "Oversight of the State Human Resources System.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (1) Providing policy development for the Commission and implementing and
6 administering all policies established by the Commission.

7 (2) Providing training in personnel management to agencies, including
8 train-the-trainer programs upon agency request when sufficient staff and
9 expertise exist to provide the training within the agency.

10 (3) Providing technical assistance to agencies in the management of personnel
11 programs and activities.

12 (4) Negotiating decentralization agreements with agencies where it is cost
13 effective to include delegation of authority for certain classification and
14 corresponding salary administration actions and other personnel programs
15 specified in the agreements.

16 (5) Administering centralized programs and providing services as approved by
17 the Commission that have not been transferred to agencies, or when an
18 agency's authority has been rescinded for noncompliance.

19 (6) Approving personnel actions involving classification and compensation
20 where the approval authority has not been transferred to agencies, or when an
21 agency's authority has been rescinded for noncompliance.

22 (7) Maintaining a database of all relevant and necessary information on
23 employees and positions within agencies in the State's human resources
24 system. OSHR shall ensure compliance with all applicable laws in developing
25 the technology that supports the human resources system. The Director may
26 authorize an agency to operate its own human resources system technology in
27 accordance with policies on human resources systems technology established
28 by OSHR.

29 (8) Developing policies to measure the level of agency compliance with
30 established Commission policies when authority has been delegated to an
31 agency for classification, salary administration, performance management,
32 development, evaluation, and other decentralized programs.

33 (9) Determining through routine monitoring and periodic review whether
34 agencies are in compliance with established Commission policies.

35 (10) Implementing corrective actions in cases of agency noncompliance.

36 (11) Providing services requested by the legislative branch under
37 G.S. 120-36.31(6) and judicial branch under G.S. 7A-339(b).

38 (c) OSHR may charge fees for any of the following:

39 (1) Costs for participation in services OSHR is statutorily required to provide that
40 are receipt-supported, including training.

41 (2) Administrative costs associated with administering the JoinNC Program in
42 accordance with Article 11 of this Chapter.

43 (3) Costs of training and consultation services requested by a unit of local
44 government.

45 **"§ 126A-22. Commission policies.**

46 (a) Subject to the approval of the Governor, the Commission shall establish policies,
47 including adopting rules as provided in Chapter 150B of the General Statutes, as necessary to
48 effectuate the authority granted under this Chapter in order to administer an effective modern
49 human resources system, including policies related to the following:

50 (1) Classification, in accordance with Article 3 of this Chapter.

51 (2) Compensation, in accordance with Article 4 of this Chapter.

- 1 (3) Hiring, in accordance with Article 5 of this Chapter.
2 (4) Onboarding, in accordance with Article 6 of this Chapter.
3 (5) Benefits and terms of employment, in accordance with Article 7 of this
4 Chapter.
5 (6) Grievances and just cause, in accordance with Article 8 of this Chapter.
6 (7) Separation, in accordance with Article 9 of this Chapter.
7 (8) Political activity, in accordance with Article 10 of this Chapter.
8 (9) Temporary employment, in accordance with Article 11 of this Chapter.
9 (10) Local governments, in accordance with Article 12 of this Chapter.
10 (11) Workers' compensation, in accordance with Article 13 of this Chapter.
11 (12) Whistleblower protections, in accordance with Article 14 of this Chapter.
12 (13) Equal employment opportunity, in accordance with Article 15 of this Chapter.
13 (14) Privacy of personnel records, in accordance with Article 16 of this Chapter.
14 (b) Policies established by the Commission shall not limit the power of any Council of
15 State or Cabinet agency head, in the agency head's discretion when he or she has determined it
16 is in the agency's best interests, to transfer, demote, or separate an employee who is not a career
17 employee.
18 (c) The Director may in his or her discretion grant exceptions or variances from
19 Commission policies.
20 **§ 126A-23. Decentralization agreements.**
21 (a) Decentralization agreements with executive branch agencies shall require a person
22 designated by the agency to be accountable to the Director for the compliance of all personnel
23 actions taken pursuant to the delegated authority of the agency. The agreement shall specify the
24 required policies for agency personnel administration.
25 (b) The Director shall take appropriate corrective actions, including adjusting employee
26 salaries and changing classifications that are not in compliance with policy, and suspend
27 decentralization agreements when agencies are not in compliance with personnel administration
28 policies.
29 **§ 126A-24. State of the State workforce report and survey.**
30 (a) OSHR shall annually report by January 15 on the state of the State employee
31 workforce and statewide human resources programs to the Joint Legislative Commission on
32 Governmental Operations, the Joint Legislative Oversight Committee on General Government,
33 the Fiscal Research Division, and the Appropriations Committees of the House of
34 Representatives and the Senate. The report shall include the following:
35 (1) A comparison of employee compensation rates and benefits compared to
36 national trends, including at least the following:
37 a. An overview of economic conditions and labor market trends.
38 b. An analysis of the competitiveness of State salaries and benefits.
39 c. A review of recruitment and retention efforts and results.
40 d. The results of the annual compensation surveys conducted pursuant to
41 subsection (b) of this section.
42 (2) The safety, health, and workers' compensation activities of agencies in
43 compliance with Article 13 of this Chapter and the fines levied against
44 agencies pursuant to Article 16 of Chapter 95 of the General Statutes.
45 (3) The costs associated with the defense or settlement of administrative
46 grievances and lawsuits filed by current or former employees and applicants
47 for employment with an executive branch agency.
48 (4) Agency compliance with JoinNC policies, including the following:
49 a. The number and type of exceptions made by the Director.
50 b. A list of agencies with invoices more than 60 days overdue.

"Compensation.

"§ 126A-40. Compensation system.

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

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

(2) A compensation system.

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

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

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

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

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

"§ 126A-42. Minimum salary.

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

"Article 5.

"Recruitment and Hiring.

"Part 1. General Provisions.

"§ 126A-50. Recruitment and hiring.

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

(1) The posting of positions.

(2) Job applications.

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

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

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

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

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

1 necessary for supervisors, management personnel, and personnel professionals to implement the
2 policies.

3 **"§ 126A-51. Posting positions.**

4 (a) Each agency shall publicly post and accept applications in a fair and open competition
5 to hire for any permanent or time-limited positions subject to this Article, unless the agency head
6 determines, based on business needs and in accordance with Commission policy, that the agency
7 will not openly recruit for the vacancy. Any vacancy for which an agency is openly recruiting
8 shall be posted on a website maintained by OSHR.

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

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

15 **"§ 126A-52. Private personnel service.**

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

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

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

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

30 **"§ 126A-53. Increasing efficiency of application process.**

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

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

38 **"§ 126A-54. Hiring from pool of most qualified candidates.**

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

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

1 (c) Notwithstanding subsection (a) of this section, agencies may offer experiential
2 programs to candidates not meeting the minimum qualifications for the position classification.
3 An agency may identify positions appropriate for a permanent or non-permanent experiential
4 appointment and hire an applicant who is expected to meet the minimum qualifications for the
5 position classification following a fixed time period of employment and education or training
6 that occurs while employed, not to exceed four years. Employees hired into experiential
7 appointments may be selected for the position regardless of whether there are qualified
8 candidates in the applicant pool. An experiential appointment hiring is exempt from the hiring
9 priorities identified in G.S. 126A-57.

10 **"§ 126A-55. Political hiring limited.**

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

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

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

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

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

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

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

22 **"§ 126A-56. Hiring candidate from most qualified pool in previous posting.**

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

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

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

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

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

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

36 **"§ 126A-56.1. Non-permanent to permanent hiring.**

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

39 (1) The employee was employed directly by the agency or through JoinNC in the
40 non-permanent appointment.

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

44 (3) The employee meets the minimum qualifications for the position
45 classification and the employee's salary is set within the vacant position's
46 salary range.

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

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

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

51 **"§ 126A-56.2. Lateral transfers.**

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

6 **"§ 126A-56.3. Consider applications for vacancies in the same or similar classification.**

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

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

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

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

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

15 (2) At equal priority, the following:

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

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

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

21 **"§ 126A-57.1. Career employee promotional priority.**

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

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

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

28 **"§ 126A-57.2. Reemployment rights for employees hired before August 21, 2013.**

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

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

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

47 (3) When a career employee who has more than two but less than 10 years of
48 cumulative service in a subject position moves from one exempt policymaking
49 or exempt managerial position covered by this subsection to another exempt
50 policymaking or exempt managerial position covered by this subsection
51 without a break in service and that employee is later removed from the last

1 exempt policymaking or exempt managerial position, for reasons other than
2 just cause, the employee shall have priority to any position that becomes
3 available for which the employee is qualified, according to the policies
4 regulating and defining priority as established by the Commission.

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

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

20 **§ 126A-57.3. Preference for veterans, National Guard members, and spouses of**
21 **active-duty troops.**

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

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

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

29 a. A resident of North Carolina who is a current member in good standing
30 of either the North Carolina Army National Guard or the North
31 Carolina Air National Guard.

32 b. A resident of North Carolina who is a former member of either the
33 North Carolina Army National Guard or the North Carolina Air
34 National Guard, whose discharge is under honorable conditions with
35 a minimum of six years of creditable service.

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

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

39 a. A veteran.

40 b. The spouse of a disabled veteran.

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

42 d. An eligible member of the National Guard.

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

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

48 (c) The Commission shall establish a policy to provide for a veteran and National Guard
49 preference. The policy shall include a provision that any eligible person who has reason to believe
50 that he or she did not receive a veteran's preference in accordance with the provisions of this

1 section or policies adopted under it may appeal that denial as provided by G.S. 126A-83 and
2 G.S. 126A-84.

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

5 "Part 2. Interchange of Governmental Employees.

6 **"§ 126A-58. Interchange of governmental employees.**

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

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

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

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

16 (3) Receiving agency. – Any division, department, agency, instrumentality,
17 authority, or political subdivision of the federal government or of a state or
18 local government which, under this section, receives an employee of another
19 governmental division, department, agency, instrumentality, authority, or
20 political subdivision of the federal government or of a state or local
21 government.

22 (4) Sending agency. – Any division, department, agency, instrumentality,
23 authority, or political subdivision of the federal government or of a state or
24 local government which, under this section, sends any employee thereof to
25 another governmental division, department, agency, instrumentality,
26 authority, or political subdivision of the federal government or of a state or
27 local government.

28 (c) Authority to Interchange Employees. – The authority for the interchange of
29 employees is as follows:

30 (1) Any division, department, agency, instrumentality, authority, or political
31 subdivision of the State of North Carolina may participate in a program of
32 interchange of employees with divisions, departments, agencies,
33 instrumentalities, authorities, or political subdivisions of the federal
34 government, of another state, or of this State, as a sending agency or a
35 receiving agency.

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

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

40 (4) Elected officials may not participate in a program of interchange.

41 (d) Status of Employees of Sending Agency. – The status of employees of a sending
42 agency is governed as follows:

43 (1) Employees of a sending agency participating in an exchange of personnel
44 authorized by subsection (c) of this section may be considered during such
45 participation to be either assigned employees or employees on leave.

46 (2) Assigned employees shall be entitled to the same salary and employment
47 benefits to which they would be entitled as employees of the sending agency
48 and shall remain employees of the sending agency for all purposes unless
49 otherwise provided in this section or in a written agreement between the
50 sending agency and the receiving agency.

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

5 (4) Employees of a sending agency of this State participating in an exchange of
6 personnel authorized by subsection (c) of this section, whether considered
7 assigned employees or employees on leave, shall have the same rights,
8 benefits and obligations to participate in and receive benefits, including death
9 benefits, from any retirement system of which they are members as employees
10 of the sending agency if the receiving agency agrees to and makes the
11 employer contributions and deducts from the salary of the employee the
12 employee contributions for continued membership in that retirement system,
13 whether they are members of the Teachers' and State Employees' Retirement
14 System, the North Carolina Local Governmental Employees' Retirement
15 System, the Law Enforcement Officers' Benefit and Retirement Fund, or any
16 other Retirement System established by the State for public employees. If the
17 employee remains entitled to death benefits resulting from his or her death
18 during the period of the exchange, where duplicate benefits would otherwise
19 be payable on account of disability or death, the employee or his or her estate
20 shall elect, within one year of the date of disability or death, which benefits to
21 receive.

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

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

28 (1) When a division, department, agency, instrumentality, authority, or political
29 subdivision of the State of North Carolina acts as a receiving agency, assigned
30 employees of the sending agency remain the employees of the sending agency
31 and continue to receive the employment benefits of the sending agency unless
32 otherwise specified in a written agreement between the sending agency and
33 the receiving agency.

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

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

49 (h) Administration. – The Commission and any State division, department, agency,
50 instrumentality, authority, or political subdivision participating in an interchange of employees
51 program may promulgate rules or regulations necessary for the administration of such program,

1 so long as such rules or regulations do not conflict with the provisions of this section or any other
2 provision of law.

3 "Article 6.

4 "Verification and Onboarding.

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

6 **"§ 126A-60. Onboarding of all positions.**

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

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

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

10 **"§ 126A-61. E-Verify.**

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

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

18 **"§ 126A-62. Fraudulent disclosure or concealment on application.**

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

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

31 "Part 2. Verification and Onboarding Procedures.

32 **"§ 126A-63. Onboarding.**

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

35 (1) Employee onboarding.

36 (2) Reference checks.

37 "Article 7.

38 "Benefits, Terms, and Conditions of Employment.

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

40 **"§ 126A-70. Benefits for all positions, not including temporary positions.**

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

42 **"§ 126A-71. Paid parental leave.**

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

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

47 (2) Reserved for future codification purposes.

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

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

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

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

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

6 **(2)** A period of minimum service before an employee becomes eligible for paid
 7 leave under this section that credits employees for aggregate service in an
 8 executive branch agency, public school, or community college.

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

10 **(4)** Available leave amounts following a miscarriage or death of a child during
 11 birth.

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

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

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

20 **"§ 126A-72. Benefits, terms, and conditions of employment.**

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

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

26 **(2)** Cooperating with the State Board of Education, the Department of Public
 27 Instruction, The University of North Carolina, the Community Colleges
 28 System Office, and other appropriate resources in developing programs in
 29 management and supervisory skills, performance evaluation, specialized
 30 employee skills, accident prevention, equal employment opportunity
 31 awareness, and customer service.

32 **(3)** Maintaining an accredited Certified Public Manager program.

33 **(4)** Maintaining a program of meritorious service awards and recognition of
 34 employees, public personnel management, and management excellence and
 35 authorizing agencies to provide bonuses to employees who receive these
 36 awards.

37 **(5)** Establishing programs of employee assistance, productivity incentives, and
 38 equal opportunity.

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

40 **(7)** Providing financial assistance for employee development and employee
 41 discounts for services.

42 **(8)** Allowing flexible work options for employees, including programs of
 43 telework or remote work, job-sharing, alternate work schedules, and
 44 permanent part-time positions.

45 **(9)** Promoting efficiency of administration and providing a fair and modern
 46 human resources system.

47 **"§ 126A-73. Paid State holidays.**

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

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

3 **"§ 126A-74. Minimum leave granted to employees.**

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

10 **"§ 126A-74.1. Transferred leave from legislative and judicial branch employment.**

11 When an individual transfers employment from a legislative or judicial branch position to an
12 executive branch position, the individual shall receive credit for the vacation and sick leave
13 accrued with the legislative or judicial branch if the employee is entitled to vacation and sick
14 leave in the executive branch position.

15 "Part 3. Voluntary Shared Leave.

16 **"§ 126A-75. Voluntary shared leave.**

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

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

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

26 "Part 4. Flexible Compensation Plan.

27 **"§ 126A-76. Flexible compensation plan.**

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

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

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

50 (d) With the approval of the Director, savings in the employer's share of contributions
51 under the Federal Insurance Contributions Act on account of the reduction in salary may be used

1 to pay some or all of the administrative expenses of the program. Should the Director decide to
2 contract with a third party to administer the terms and conditions of a plan of flexible
3 compensation as provided by this section, it may select such a contractor only upon a thorough
4 and completely advertised competitive procurement process.

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

9 "Article 8.

10 "Just Cause, Disciplinary Actions, and Grievances.

11 "**§ 126A-80. Just cause, disciplinary actions, and grievances.**

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

- 14 (1) The definition of just cause.
- 15 (2) The investigation of complaints and the issuing of binding corrective orders
16 or other appropriate action concerning employment, promotion, demotion,
17 transfer, discharge, reinstatement, and any other issue defined as a contested
18 case issue under G.S. 126A-84(c).
- 19 (3) The assessment of reasonable attorneys' fees and witnesses' fees against the
20 agency involved in the grievance.
- 21 (4) An alternative dispute resolution procedure.
- 22 (5) The disciplinary demotion, suspension, or dismissal of employees and the
23 disciplinary process.
- 24 (6) The grievance process.
- 25 (7) Review and approval of settlements, including authorization for agencies to
26 enter into settlement agreements for remedies other than back pay, front pay,
27 other omitted benefits, and attorneys' fees.

28 "**§ 126A-81. Disciplinary actions.**

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

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

- 33 (1) The severity of the conduct.
- 34 (2) The subject matter of the conduct and whether it was job-related.
- 35 (3) The actual harm or risk of potential harm resulting from the conduct, including
36 harm to the agency's operations, efficiency, mission, reputation, or public
37 trust.
- 38 (4) The employee's work history.
- 39 (5) Discipline imposed in past cases of similar violations. An agency may modify
40 its disciplinary standard when it determines that past precedent is no longer
41 appropriate and the modification is grounded in articulable reasoning and
42 applied fairly and consistently to current and prospective cases.

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

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

1 (1) Unsatisfactory job performance. – The employing agency shall assess whether
2 the employee fails to satisfactorily perform job requirements as specified in
3 the job description, work plan, or as directed by management.

4 (2) Grossly inefficient job performance. – The employing agency shall assess
5 whether the employee's failure to satisfactorily perform job requirements
6 results in harm or the potential for harm, including death, serious bodily
7 injury, or loss of or damage to State property or funds that result in a serious
8 impact on the State or work unit.

9 (e) In cases where an employing agency has decided to take disciplinary action, the
10 employee shall be given written notice before the action is taken that explains the specific acts
11 or omissions that are the reasons for the disciplinary action. The written notice shall also explain
12 the employee's appeal rights. The employee may appeal to the agency head through the agency
13 grievance procedure for a final agency decision within 15 days of receiving the notice. If the
14 employee appeal involves an allegation of discrimination, retaliation, or harassment, the
15 employee shall file an equal employment opportunity inquiry within 15 days of receiving the
16 notice before appealing through the agency grievance procedure. The employee will have 15
17 days following the closure of the equal employment opportunity inquiry to appeal through the
18 agency grievance procedure for a final agency decision.

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

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

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

31 **"§ 126A-82. Temporary redeployment of employees after criminal charges filed.**

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

38 **"§ 126A-83. Grievance; resolution.**

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

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

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

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

4 **"§ 126A-84. Grievance appeal process.**

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

- 13 (1) Reinstatement of the employee to the position from which the employee has
14 been removed.
- 15 (2) Ordering the employment, promotion, transfer, or salary adjustment of any
16 individual to whom it has been wrongfully denied.
- 17 (3) Directing other suitable action to correct the abuse which may include the
18 requirement of payment for any loss of salary that has resulted from the
19 improper action of the agency.

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

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

- 27 (1) Discrimination or harassment. – An applicant for employment, an employee,
28 or former employee may allege discrimination or harassment based on race,
29 religion, color, national origin, sex, age, disability, genetic information, or
30 political affiliation if the employee believes that he or she has been
31 discriminated against in his or her application for employment or in the terms
32 and conditions of the employee's employment, or in the termination of his or
33 her employment.
- 34 (2) Retaliation. – An applicant for employment, an employee, or former employee
35 may allege retaliation for protesting discrimination based on race, religion,
36 color, national origin, sex, age, disability, political affiliation, or genetic
37 information if the employee believes that he or she has been retaliated against
38 in his or her application for employment, in the terms and conditions of the
39 employee's employment, or in the termination of the employee's employment.
- 40 (3) Just cause for dismissal, demotion, or suspension. – A career employee may
41 allege that he or she was dismissed, demoted, or suspended for disciplinary
42 reasons without just cause. A dismissal, demotion, or suspension not imposed
43 for disciplinary reasons shall not be considered a disciplinary action within
44 the meaning of this section. However, in contested cases conducted pursuant
45 to this section, an employee may appeal an involuntary nondisciplinary
46 separation due to an employee's unavailability in the same fashion as if it were
47 a disciplinary action, but the agency shall only have the burden to prove that
48 the employee was unavailable.
- 49 (4) Veteran's and National Guard preference. – An applicant for employment or
50 an employee may allege that he or she was denied veteran's preference or
51 National Guard preference in violation of the law.

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

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

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

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

(f) The Office of Administrative Hearings may award attorneys' fees to an employee where reinstatement or back pay is ordered or where an employee prevails in a whistleblower grievance. The remedies provided in this subsection in a whistleblower appeal shall be the same as those provided in G.S. 126A-143.

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

"§ 126A-85. Alternative dispute resolution.

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

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

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

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

"Article 9.

"Separation, Offboarding, and Reductions in Force.

"§ 126A-90. Separation of employees.

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

(1) The separation of employees.

(2) Voluntary separation incentives.

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

(4) Reductions in force.

"§ 126A-91. Voluntary separation incentives.

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

"§ 126A-92. Reductions in force.

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

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

7 **"§ 126A-93. Reductions in force priority policy.**

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

12 **"§ 126A-94. Discontinued service retirement allowance and severance wages for certain**
13 **employees.**

14 (a) When the closing of an agency or a reduction in force will accomplish economies in
15 the State Budget, the employees who were separated from employment as a result of the closure
16 or reduction in force shall receive from the last employing agency either a discontinued service
17 retirement allowance or severance wages if reemployment is not available. As used in this
18 section, "economies in the State Budget" means economies resulting from elimination of a job
19 and its responsibilities or from a lack of funds to support the job. The agency head shall determine
20 whether to pay a discontinued service retirement allowance or severance wages, after the
21 opportunity for consultation with the Director of the Office of State Budget and Management and
22 OSHR. Severance wages shall not be paid to an employee who chooses a discontinued service
23 retirement. Severance wages shall not be subject to employer or employee retirement
24 contributions. Severance wages shall be paid according to the policies established by the
25 Commission.

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

49 (c) The salary used to determine severance wages under this section is the last annual
50 salary except that if the employee was promoted within the previous 12 months, the last annual
51 salary is the annual salary prior to the promotion. If the annual salary prior to the promotion is

1 used, it shall be adjusted to account for any across-the-board legislative salary increases.
2 Excluded from any calculation are any benefits such as overtime pay, shift pay, holiday premium,
3 or longevity pay. The salary used to determine the discontinued retirement allowance under this
4 section is the same as the average final compensation under G.S. 135-1(5).

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

10 "Article 10.

11 "Inappropriate Political Activity.

12 **"§ 126A-100. Appropriate political activity of employees.**

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

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

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

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

32 **"§ 126A-101. Promise or threat to obtain political contribution or support.**

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

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

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

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

51 **"§ 126A-102. Threat to obtain political contribution or support.**

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

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

7 (c) An employee subject to this Article who without probable cause falsely accuses a
8 person of violating this section shall be subject to discipline or change in employment status in
9 accordance with the provisions of G.S. 126A-81 and may be subject to criminal penalties for
10 perjury or civil liability for libel, slander, or malicious prosecution.

11 **"§ 126A-103. Compelled speech prohibited.**

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

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

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

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

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

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

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

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

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

32 **"§ 126A-104. Ensuring dignity and nondiscrimination in State government workplaces.**

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

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

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

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

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

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

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

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

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

- 1 (8) The United States was created by members of a particular race or sex for the
2 purpose of oppressing members of another race or sex.
3 (9) The United States government should be violently overthrown.
4 (10) Particular character traits, values, moral or ethical codes, privileges, or beliefs
5 should be ascribed to a race or sex or to an individual because of the
6 individual's race or sex.
7 (11) The rule of law does not exist but instead is a series of power relationships
8 and struggles among racial or other groups.
9 (12) All Americans are not created equal and are not endowed by their Creator with
10 certain unalienable rights, including life, liberty, and the pursuit of happiness.
11 (13) Governments should deny to any person within the government's jurisdiction
12 the equal protection of the law.

13 (c) Nothing in this section prevents a private contractor who provides training to
14 employees from responding to questions that are raised by participants in the training and which
15 pertain to the concepts in subsection (b) of this section. However, the private contractor must
16 make it clear that the employing agency does not endorse those concepts.

17 (d) This section does not apply to speech protected by the First Amendment of the U.S.
18 Constitution.

19 **"§ 126A-105. Disciplinary action for violation of Article.**

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

22 "Article 11.

23 "Temporary Employees.

24 **"§ 126A-110. Temporary employment.**

25 The Commission shall establish polices on temporary employment for positions subject to
26 this Article, including the following:

- 27 (1) The implementation of the JoinNC Program under G.S. 126A-111 in a
28 consistent manner.
29 (2) Temporary employment.
30 (3) Fees for use of the JoinNC Program.

31 **"§ 126A-111. Use of JoinNC Program.**

32 (a) All Cabinet agencies that utilize temporary employees shall employ them through the
33 JoinNC Program administered by OSHR, except as provided in subsection (e) of this section.

34 (b) Council of State agencies, constituent institutions of The University of North
35 Carolina, local agencies, and consolidated agencies as defined in G.S. 153A-77(b) may use the
36 JoinNC Program in accordance with this section.

37 (c) Temporary employees shall not be employed for longer than 11 consecutive months,
38 unless an exception is granted under subsection (f) of this section. After 11 consecutive months
39 of employment, a temporary employee is eligible for reinstatement on the job assignment after
40 the employee is separated for at least 31 consecutive calendar days. It is the responsibility of
41 participating agencies to provide a separation request or notification of a 31-day separation to
42 OSHR before the temporary employee exceeds 11 consecutive months of employment, unless an
43 exception under subsection (f) of this section applies. Failure to provide a timely separation
44 request to OSHR may limit an agency's future access to temporary employees.

45 (d) OSHR may prohibit any agency or entity, except the North Carolina National Guard,
46 from acquiring new temporary employees if the agency or entity has an invoice owed to JoinNC
47 that is (i) more than 90 days overdue and (ii) exceeds two hundred thousand dollars (\$200,000).
48 If an agency or entity is prohibited, the prohibition shall continue until all overdue invoices are
49 paid.

1 (e) Notwithstanding the requirement of subsection (a) of this section, Cabinet agencies
2 may employ temporary employees outside of the JoinNC Program in the following
3 circumstances:

4 (1) The temporary employees are performing work that is information
5 technology-related.

6 (2) The Department of Transportation, Ferry Division, is employing temporary
7 employees when there is an established need for peak-season hires or when
8 the work requires a specific skillset beyond the scope of a temporary
9 employee.

10 (3) The Director in his or her discretion creates an exception when all of the
11 following conditions are met:

12 a. The JoinNC Program cannot meet the agency's employment needs for
13 the temporary position's classification.

14 b. Failure to recruit for the positions will cause severe harm to the
15 agency's ability to provide services to the public.

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

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

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

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

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

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

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

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

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

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

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

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

50 (i) OSHR shall monitor the employment of all temporary employees placed through
51 JoinNC and directly employed by Cabinet agencies and Council of State agencies. When an

1 employee has exceeded 11 consecutive months of employment, OSHR shall initiate separation
2 from any applicable human resources and payroll systems no more than two weeks past the
3 11-month limit, unless an exception under subsection (f) of this section applies. OSHR shall
4 provide written notice to employing agencies at intervals of 90, 60, and 30 days prior to a
5 temporary employee reaching 11 consecutive months of employment.

6 **"§ 126A-112. JoinNC Program assistance with recruiting.**

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

9 "Article 12.

10 "Local Discretion over Local Government Employees.

11 **"§ 126A-120. Local government policies.**

12 (a) When a local government adopts policies governing annual leave, sick leave, hours
13 of work, holidays, and the administration of the pay plan for county local government employees
14 generally and the county local government rules and regulations are filed with the Director, those
15 county rules will supersede the policies established by the Commission as to the county
16 employees otherwise subject to the provisions of this Chapter.

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

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

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

31 **"§ 126A-121. Human resources services to local governmental units.**

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

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

35 (2) Providing customized training programs.

36 (3) Responding to questions regarding personnel laws.

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

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

40 (b) Notwithstanding the provisions of G.S. 126A-161, 126A-163, 153A-98, and
41 160A-168:

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

50 (2) When a local agency requests that OSHR make the final determination as to
51 whether the employee or applicant meets the minimum qualifications, OSHR

1 may share the relevant portions of the personnel file of a specific employee or
2 applicant with the Deputy Director of the Public Health or Social Services
3 Division of the Department of Health and Human Services, or similar State
4 departmental staff, to assist in determining qualification status.

5 **"§ 126A-122. Local human resources system.**

6 (a) The board of county commissioners of any county may establish and maintain a
7 human resources system for all employees of the county subject to its jurisdiction. This system
8 and any substantial changes to the system are subject to the approval of the Commission. The
9 Commission shall approve a system that is substantially equivalent to the human resources
10 system established under this Chapter for employees of local departments of social services, local
11 health departments, area mental health programs, and local emergency management programs.
12 If approved by the Commission, the employees covered by the county system shall be exempt
13 from all provisions of this Chapter except Article 15.

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

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

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

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

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

38 **"§ 126A-123. Bonuses for local government.**

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

42 "Article 13.

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

44 **"§ 126A-131. Program goals.**

45 OSHR shall establish a written program for executive branch agencies for employee
46 workplace environmental, health, and safety, and workers' compensation. The program shall
47 promote safe and healthful working conditions, be based on clearly stated goals and objectives,
48 and provide managers and employees with an understanding of the State's concern for protecting
49 employees from job-related injuries and health impairment; preventing accidents and fires;
50 planning for emergencies and emergency medical procedures; identifying and controlling

1 physical, chemical, biological, and radiological hazards in the workplace; communicating
2 potential hazards to employees; and assuring adequate housekeeping and sanitation.

3 **"§ 126A-132. Program requirements.**

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

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

25 **"§ 126A-133. Model program; technical assistance; reports.**

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

- 27 (1) Maintain a model program of safety and health requirements to guide
28 executive branch agencies in the development of their individual programs
29 and in complying with the provisions of G.S. 95-148 and this Article.
- 30 (2) Establish guidelines for the creation and operation of executive branch agency
31 environmental, health and safety committees.
- 32 (3) Adopt policies that govern the administration of the workers' compensation
33 program and monitor compliance with Chapter 97 of the General Statutes.
- 34 (4) Establish guidelines for the delegation of certain administrative functions as
35 necessary for the administration of the workers' compensation program to
36 executive branch agencies, as defined in this section.

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

- 38 (1) Provide consultative and technical services, including environmental, health,
39 and safety training to assist executive branch agencies in establishing and
40 administering their workplace environmental, health, and safety programs and
41 to address specific technical problems through risk management and
42 mitigation.
- 43 (2) Monitor compliance with this Article.

44 **"§ 126A-134. Executive branch agency safety and health committees.**

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

49 "Article 14.

50 "Protection for Reporting Improper Government Activities.

51 **"§ 126A-140. Statement of policy.**

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

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

5 (2) Fraud.

6 (3) Misappropriation of State resources.

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

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

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

15 **"§ 126A-141. Protection from retaliation.**

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

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

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

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

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

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

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

39 **"§ 126A-142. Civil actions for injunctive relief or other remedies.**

40 (a) Any employee injured by a violation of G.S. 126A-141 who is not subject to Article
41 8 of this Chapter may maintain an action in superior court against the person or agency who
42 committed the alleged violation within one year after the occurrence.

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

46 **"§ 126A-143. Remedies.**

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

49 (1) An injunction.

50 (2) Damages.

51 (3) Reinstatement of the employee.

- 1 (1) Reserved for future codification purposes.
- 2 (2) Employee. – A current employee, former employee, or applicant for
3 employment at an agency.
- 4 (3) Personnel file. – Any employment-related or personal information gathered
5 by an employing agency or by OSHR. Employment-related information
6 contained in a personnel file includes information related to an individual's
7 application, selection, promotion, demotion, transfer, leave, salary, contract
8 for employment, benefits, suspension, performance evaluation, disciplinary
9 actions, and termination. Personal information contained in a personnel file
10 includes an individual's home address, social security number, medical
11 history, personal financial data, marital status, dependents, and beneficiaries.
- 12 (4) Record. – The personnel information that each employing agency is required
13 to maintain in accordance with G.S. 126A-162.

14 (c) Personnel files of former employees who have been separated from agency
15 employment for 10 or more years may be open to inspection and examination, except for papers
16 and documents relating to demotions and to disciplinary actions resulting in the dismissal of the
17 former employee. Retirement files maintained by the Retirement Systems Division of the
18 Department of State Treasurer shall be made public pursuant to G.S. 128-33.1 and G.S. 135-6.1.
19 **§ 126A-162. Certain records to be kept by agencies open to inspection.**

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

- 22 (1) Name.
- 23 (2) Date of original employment or appointment to agency service.
- 24 (3) The terms of any contract by which the employee is employed whether written
25 or oral, past and current, to the extent that the agency has such record in its
26 possession.
- 27 (4) Current position.
- 28 (5) Title.
- 29 (6) Current salary.
- 30 (7) Date and amount of each increase or decrease in salary with that agency.
- 31 (8) Date and type of each promotion, demotion, transfer, suspension, separation,
32 or other change in position classification with that agency.
- 33 (9) Date and general description of the reasons for each promotion with that
34 agency.
- 35 (10) Date and type of each dismissal, suspension, or demotion for disciplinary
36 reasons taken by the agency. If the disciplinary action was a dismissal, a copy
37 of the written notice of the final decision of the agency head setting forth the
38 specific acts or omissions that are the basis of the dismissal.
- 39 (11) The office or station to which the employee is currently assigned.

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

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

48 **§ 126A-162.1. Certain restrictions on access to records.**

49 (a) Notwithstanding G.S. 126A-162, persons in the custody of or under the supervision
50 of the Division of Institutions of the Department of Adult Correction and persons in the custody
51 of local confinement facilities are not entitled to access the records made public under

1 G.S. 126A-162 and are prohibited from obtaining those records, absent a court order authorizing
2 access, custody, or possession of the records.

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

9 **"§ 126A-163. Confidential information in personnel files.**

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

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

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

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

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

23 (5) A party by authority of a proper court order may inspect and examine a
24 particular confidential portion of an employee's personnel file. In this
25 subdivision, "court order" includes a lawfully issued subpoena or discovery
26 request so long as the parties have moved for the court to issue a protective
27 order regarding the confidential personnel file information. A party may
28 lawfully delay producing requested confidential personnel file documents
29 until the court has ruled on that party's motion for protective order regarding
30 those documents.

31 (6) An official of an agency of the federal government, State government, or any
32 political subdivision thereof. The official may inspect any personnel records
33 when the inspection is deemed by the agency head as necessary and essential
34 to the proper function of the agency or to protect the safety of another person.
35 This information shall not be divulged for purposes of assisting in a criminal
36 prosecution or for purposes of assisting in a tax investigation.

37 (7) Staff performing human resources functions at the employing agency or
38 OSHR.

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

40 (9) A grievant's, during a grievance hearing held by the employing agency,
41 personnel file information may be provided to the grievant to the extent
42 necessary to adjudicate the grievance. If the agency provides confidential
43 personnel file information of a person other than the grievant, the grievant
44 shall keep that information confidential.

45 (10) An employing agency subject to this Article conducting a quasi-judicial
46 hearing or a party to that quasi-judicial hearing may have access to relevant
47 material in personnel files and may introduce copies of that material or
48 information based on that material as evidence in the hearing, either (i) upon
49 consent of the employee, former employee, or applicant for employment or
50 (ii) upon subpoena properly issued by the agency either upon request of a party

1 or on its own motion. Nothing in this Chapter shall impose liability on any
2 agent or officer of the State for compliance with this provision.

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

13 **"§ 126A-164. Remedies of employee objecting to material in file.**

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

16 (1) Place in his or her file a written statement relating to the material considered
17 inaccurate or misleading.

18 (2) Seek the removal of such material from the file in accordance with a grievance
19 procedure under G.S. 126A-85(b).

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

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

25 **"§ 126A-165. Penalty for permitting access to confidential file by unauthorized person.**

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

31 **"§ 126A-166. Penalty for accessing confidential file without authority.**

32 Any person not specifically authorized by G.S. 126A-163 to have access to a personnel file
33 designated as confidential by this Article who knowingly and willfully examines in its official
34 filing place or removes or copies any portion of a confidential personnel file shall be guilty of a
35 Class 3 misdemeanor and upon conviction shall only be fined in the discretion of the court but
36 not in excess of five hundred dollars (\$500.00)."

37
38 **PART II. LEGISLATIVE HUMAN RESOURCES**

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

40 **"§ 120-32. Commission duties.**

41 The Legislative Services Commission is authorized to:

- 42 (1) ~~Determine the number, titles, classification, functions, compensation, and~~
43 ~~other conditions of employment of the joint legislative service employees of~~
44 ~~the General Assembly, including but not limited to the following departments:~~
- 45 a. ~~Legislative Services Officer and personnel.~~
 - 46 b. ~~Electronic document writing system.~~
 - 47 c. ~~Proofreaders.~~
 - 48 d. ~~Legislative printing.~~
 - 49 e. ~~Enrolling clerk and personnel.~~
 - 50 f. ~~Library.~~
 - 51 g. ~~Research and bill drafting.~~

1 h. Printed bills.
 2 i. Disbursing and supply.
 3 ~~The provisions of G.S. 135-3(a)(8)c. do not apply to temporary employees of~~
 4 ~~the General Assembly with respect to compensation earned while a temporary~~
 5 ~~employee of the General Assembly. Establish human resources policies for the~~
 6 ~~legislative branch, as provided in Article 7E of this Chapter.~~

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

11 (2a) ~~Obtain a criminal history record check of a prospective employee, volunteer,~~
 12 ~~or contractor of the General Assembly and lobbyists and liaison personnel~~
 13 ~~registered under Chapter 120C of the General Statutes. The criminal history~~
 14 ~~record check shall be conducted by the State Bureau of Investigation as~~
 15 ~~provided in G.S. 143B-973. G.S.143B-1209.55. The criminal history report~~
 16 ~~shall be provided to the Legislative Services Officer and is not a public record~~
 17 ~~under Chapter 132 of the General Statutes.~~

18"

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

20 SECTION 2.(c) Chapter 120 of the General Statutes is amended by adding a new

21 Article to read:

22 "Article 7E.

23 "Legislative Human Resources.

24 "Part 1. Legislative Services Commission Policies.

25 "**§ 120-36.30. Primary source of law.**

26 In recognition of the separation of powers required by the Constitution of this State, all human
 27 resources policies and all matters of employment within the legislative branch are the exclusive
 28 jurisdiction of the General Assembly. When in conflict, policies established by the Legislative
 29 Services Commission for legislative employees shall supersede all State laws to the contrary.

30 "**§ 120-36.31. Policies.**

31 The Legislative Services Commission is authorized to:

32 (1) Determine the number, titles, classification, functions, compensation, and all
 33 other conditions of employment of the joint legislative services employees of
 34 the General Assembly. The provisions of G.S. 135-3(a)(8)c. do not apply to
 35 temporary employees of the General Assembly with respect to compensation
 36 earned while a temporary employee of the General Assembly.

37 (2) Determine the classification and compensation of employees of the respective
 38 houses other than staff-elected officers. The hiring of employees of each house
 39 and their duties shall be prescribed by the rules and administrative regulations
 40 of the respective house.

41 (3) Obtain a criminal history record check of a prospective employee, volunteer,
 42 or contractor of the General Assembly and lobbyists and liaison personnel
 43 registered under Chapter 120C of the General Statutes. Upon request, the State
 44 Bureau of Investigation shall conduct the criminal history record check as
 45 provided in G.S. 143B-1209.55. The criminal history report shall be provided
 46 to the Legislative Services Officer and is not a public record under Chapter
 47 132 of the General Statutes.

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

- 1 (5) Establish all personnel policies that govern legislative branch employees,
2 including vacation leave, sick leave, parental leave, and all other types of leave
3 benefits and holidays for legislative branch officers and employees. When an
4 individual transfers employment from an executive or judicial branch position
5 to a position in the legislative branch, the leave policies shall credit any
6 vacation and sick leave accrued with the transferring branch if the employee
7 is entitled to vacation and sick leave in the legislative branch position.
- 8 (6) Request that the Office of State Human Resources provide the following
9 programs, benefits, or assistance. Upon request, the Office of State Human
10 Resources shall coordinate:
- 11 a. Flexible compensation benefits for legislative branch employees as
12 provided in G.S. 126A-76.
- 13 b. Safety, health, and workers' compensation programs for legislative
14 branch employees.
- 15 c. Recruitment assistance for legislative branch positions.
- 16 d. Training for legislative branch employees.
- 17 e. Any other programs, benefits, or assistance requested by the
18 Legislative Services Commission.

19 **§ 120-36.32. Equal employment opportunities.**

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

24 "Part 2. Employee Personnel Records.

25 **§ 120-36.40. Privacy of employee personnel records.**

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

- 27 (1) Employee. – A current employee, former employee, or applicant for
28 employment.
- 29 (2) Legislative branch employer. – The office within the legislative branch that
30 hired an employee and has the power to separate the employee from a position.
31 If the legislative branch employer was a legislator who no longer holds office,
32 the Legislative Services Commission shall be deemed the legislative branch
33 employer.
- 34 (3) Personnel file. – Any employment-related or personal information gathered
35 by the legislature. Employment-related information contained in a personnel
36 file includes information related to an individual's application, selection,
37 promotion, demotion, transfer, leave, salary, contract for employment,
38 benefits, suspension, performance evaluation, disciplinary actions, and
39 termination. Personal information contained in a personnel file includes an
40 individual's home address, social security number, medical history, personal
41 financial data, marital status, dependents, and beneficiaries.
- 42 (4) Record. – The personnel information that is maintained in accordance with
43 G.S. 120-36.41.

44 (b) The Legislative Services Commission shall establish policies on personnel records of
45 positions subject to this Part.

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

51 **§ 120-36.41. Certain records to be kept by legislature open to inspection.**

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

3 (1) Name.

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

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

8 (4) Current position.

9 (5) Title.

10 (6) Current salary.

11 (7) Date and amount of each increase or decrease in salary with the legislature.

12 (8) Date and type of each promotion, demotion, transfer, suspension, separation,
13 or other change in position classification with the legislature.

14 (9) Date and general description of the reasons for each promotion with the
15 legislature.

16 (10) The office or station to which the employee is currently assigned.

17 (b) The Legislative Services Commission shall establish a policy on inspection of the
18 records made public under subsection (a) of this section.

19 (c) Persons in the custody of or under the supervision of the Division of Institutions of
20 the Department of Adult Correction and persons in the custody of local confinement facilities are
21 not entitled to access the records made public under subsection (a) of this section and are
22 prohibited from obtaining those records.

23 **"§ 120-36.42. Confidential information in personnel files.**

24 (a) Other than information made public by G.S. 120-36.41, all other information
25 contained in a personnel file is confidential and shall not be open for inspection and examination,
26 except to the following persons:

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

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

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

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

38 (5) A party by authority of a proper court order may inspect and examine a
39 particular confidential portion of an employee's personnel file. In this
40 subdivision, "court order" includes a lawfully issued subpoena or discovery
41 request so long as the parties have moved for the court to issue a protective
42 order regarding the confidential personnel file information. A party may
43 lawfully delay producing requested confidential personnel file documents
44 until the court has ruled on that party's motion for protective order regarding
45 those documents.

46 (6) An official of an agency of the federal government, State government, or any
47 political subdivision. The official may inspect any personnel records when the
48 inspection is deemed by the legislative branch employer as necessary and
49 essential to the proper function of the legislature or to protect the safety of
50 another person. This information shall not be divulged for purposes of

1 assisting in a criminal prosecution or for purposes of assisting in a tax
2 investigation.

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

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

5 (b) Notwithstanding any other provision of this Part, the legislative branch employer
6 may, in its discretion, disclose to a person any promotion, demotion, suspension, reinstatement,
7 transfer, separation, dismissal, employment, or nonemployment of any employee and the reasons
8 for the action. The legislative branch employer may also permit any person to inspect or examine
9 the personnel file, or any portion of the file, of an employee when it determines that disclosure
10 is essential to maintaining the integrity of the legislature or the level or quality of services it
11 provides. Before releasing any information or making any file available under this subsection,
12 the legislative branch employer shall prepare a memorandum stating the circumstances requiring
13 disclosure and identifying the information to be disclosed. The memorandum shall be retained in
14 legislative files and shall be a public record.

15 **"§ 120-36.43. Remedies of employee objecting to material in file.**

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

19 (b) If the legislative branch employer determines that material in the employee's
20 personnel file is inaccurate or misleading, the legislative branch employer shall remove or amend
21 the inaccurate material to ensure that the file is accurate.

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

24 **"§ 120-36.44. Penalty for permitting access to confidential file by unauthorized person.**

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

30 **"§ 120-36.45. Penalty for accessing confidential file without authority.**

31 Any person not specifically authorized by this Part to have access to a personnel file
32 designated as confidential by this Part who knowingly and willfully examines in its official filing
33 place, or removes or copies any portion of a confidential personnel file, shall be guilty of a Class
34 3 misdemeanor and upon conviction shall only be fined in the discretion of the court but not in
35 excess of five hundred dollars (\$500.00)."

36
37 **PART III. JUDICIAL HUMAN RESOURCES SYSTEM**

38 **SECTION 3.** Chapter 7A of the General Statutes is amended by adding a new Article
39 to read:

40 "Article 28E.

41 "Judicial Human Resources System.

42 "Part 1. Policies.

43 **"§ 7A-339. Judicial Human Resources System.**

44 (a) The Director of the Administrative Office of the Courts is authorized to establish
45 policies to:

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

50 (2) Establish vacation leave, sick leave, parental leave, and other types of leave
51 benefits and holidays for judicial branch officers and employees. When an

1 individual transfers employment from an executive or legislative branch
2 position to a position in the judicial branch, the leave policies shall credit any
3 vacation and sick leave accrued with the transferring branch if the employee
4 is entitled to vacation and sick leave in the judicial branch position.

5 (b) At the Director's request, the Office of State Human Resources shall coordinate to:

- 6 (1) Offer flexible compensation benefits for judicial branch employees as
7 provided in G.S. 126A-76.
- 8 (2) Offer safety, health, and workers' compensation programs for judicial branch
9 employees.
- 10 (3) Provide recruitment assistance for judicial branch positions.
- 11 (4) Provide training to judicial branch employees.
- 12 (5) Secure temporary employees for the judicial branch.
- 13 (6) Provide a performance management system for the judicial branch.

14 **"§ 7A-339.05. Equal employment opportunity.**

15 The judicial branch shall give equal opportunity for employment and compensation, without
16 regard to race, religion, color, national origin, sex, age, disability, or genetic information to all
17 persons otherwise qualified, and shall not retaliate against an employee for protesting alleged
18 violations of this section.

19 **"§ 7A-339.10. Ensuring dignity and nondiscrimination in workplaces.**

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

25 (b) The judicial branch shall not compel employees to affirm or profess belief in any of
26 the following concepts in the workplace or as part of any employee training program:

- 27 (1) One race or sex is inherently superior to another race or sex.
- 28 (2) An individual, solely by virtue of his or her race or sex, is inherently racist,
29 sexist, or oppressive.
- 30 (3) An individual should be discriminated against or receive adverse treatment
31 solely or partly because of his or her race or sex.
- 32 (4) An individual's moral character is necessarily determined by his or her race or
33 sex.
- 34 (5) An individual, solely by virtue of his or her race or sex, bears responsibility
35 for actions committed in the past by other members of the same race or sex.
- 36 (6) Any individual, solely by virtue of his or her race or sex, should feel
37 discomfort, guilt, anguish, or any other form of psychological distress.
- 38 (7) A meritocracy is inherently racist or sexist.
- 39 (8) The United States was created by members of a particular race or sex for the
40 purpose of oppressing members of another race or sex.
- 41 (9) The United States government should be violently overthrown.
- 42 (10) Particular character traits, values, moral or ethical codes, privileges, or beliefs
43 should be ascribed to a race or sex or to an individual because of the
44 individual's race or sex.
- 45 (11) The rule of law does not exist but instead is a series of power relationships
46 and struggles among racial or other groups.
- 47 (12) All Americans are not created equal and are not endowed by their Creator with
48 certain unalienable rights, including life, liberty, and the pursuit of happiness.
- 49 (13) Governments should deny to any person within the government's jurisdiction
50 the equal protection of the law.

1 (c) Nothing in this section prevents a private contractor who provides training to
2 employees from responding to questions that are raised by participants in the training and which
3 pertain to the concepts in subsection (b) of this section. However, the private contractor must
4 make it clear that the employer does not endorse those concepts.

5 (d) This section does not apply to speech protected by the First Amendment of the U.S.
6 Constitution.

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

8 **"§ 7A-339.15. Duty to report improper government activities.**

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

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

13 (2) Fraud.

14 (3) Misappropriation of State resources.

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

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

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

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

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

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

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

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

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

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

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

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

- 3 (1) An injunction.
- 4 (2) Damages.
- 5 (3) Reinstatement of the employee.
- 6 (4) Payment of back wages.
- 7 (5) Full reinstatement of fringe benefits and seniority rights.
- 8 (6) Payment of costs.
- 9 (7) Reasonable attorneys' fees.
- 10 (8) Any combination of the subdivisions in this subsection.

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

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

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

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

23 "Part 3. Employee Personnel Records.

24 "§ 7A-339.20. Privacy of employee personnel records.

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

- 26 (1) Employee. – A current judicial branch employee, former judicial branch
27 employee, or applicant for employment with the judicial branch.
- 28 (2) Judicial branch employer. – The office within the judicial branch that hired an
29 employee and has the power to separate the employee from a position. For
30 elected officials, the judicial branch employer is the office to which the
31 individual was elected. For magistrates, the judicial branch employer is the
32 office of the chief district court judge for the judicial district that includes the
33 magistrate's county of appointment.
- 34 (3) Personnel file. – Any employment-related or personal information gathered
35 by the judicial branch. Employment-related information contained in a
36 personnel file includes information related to an individual's application,
37 selection, promotion, demotion, transfer, leave, salary, contract for
38 employment, benefits, suspension, performance evaluation, disciplinary
39 actions, and termination. Personal information contained in a personnel file
40 includes an individual's home address, social security number, medical
41 history, personal financial data, marital status, dependents, and beneficiaries.
- 42 (4) Record. – The personnel information that is maintained in accordance with
43 G.S. 7A-339.25.

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

49 "§ 7A-339.25. Certain records to be kept open to inspection.

50 (a) The Administrative Office of the Courts shall maintain a record with the following
51 information for each judicial branch employee:

- 1 (1) Name.
- 2 (2) Date of original employment or appointment to service.
- 3 (3) The terms of any contract by which the employee is employed whether written
4 or oral, past and current, to the extent that the judicial branch has such record
5 in its possession.
- 6 (4) Current position.
- 7 (5) Title.
- 8 (6) Current salary.
- 9 (7) Date and amount of each increase or decrease in salary with the judicial
10 branch.
- 11 (8) Date and type of each promotion, demotion, transfer, suspension, separation,
12 or other change in position classification with the judicial branch.
- 13 (9) Date and general description of the reasons for each promotion with the
14 judicial branch.
- 15 (10) Date and type of each dismissal, suspension, or demotion for disciplinary
16 reasons taken by the judicial branch. If the disciplinary action was a dismissal,
17 a copy of the written notice of the final decision setting forth the specific acts
18 or omissions that are the basis of the dismissal.
- 19 (11) The office or station to which the employee is currently assigned.
- 20 (b) For the purposes of this section, the term "salary" includes pay, benefits, incentives,
21 bonuses, and deferred and all other forms of compensation paid by the judicial branch.
- 22 (c) The Administrative Office of the Courts shall permit records made public by this
23 section to be inspected, examined, and copied by any person during regular business hours.
24 Except as provided in G.S. 7A-339.30, any person who is denied access to a record shall have
25 the right to compel compliance with the provisions of this section by application to a court of
26 competent jurisdiction for a writ of mandamus or other appropriate relief.
- 27 **"§ 7A-339.30. Certain restrictions on access to records.**
- 28 The Administrative Office of the Courts is not required to provide persons in the custody of
29 or under the supervision of the Division of Institutions of the Department of Adult Correction
30 and persons in the custody of local confinement facilities access to the records made public under
31 G.S. 7A-339.25, absent a court order authorizing access, custody, or possession of the records.
- 32 **"§ 7A-339.35. Confidential information in personnel files.**
- 33 (u) Other than information made public by G.S. 7A-339.25, all other information
34 contained in a personnel file is confidential and shall not be open for inspection and examination,
35 except to the following persons:
- 36 (1) The employee or his or her properly authorized agent, who may examine his
37 or her own personnel file in its entirety except for (i) letter of references
38 solicited prior to employment or (ii) information concerning a medical
39 disability, mental or physical, that a prudent physician would not divulge to a
40 patient. An employee's medical record may be disclosed to a licensed
41 physician designated in writing by the employee.
- 42 (2) The supervisor and indirect supervisors of the employee.
- 43 (3) A potential supervisor during the interview process, only with regard to
44 performance management documents or to prevent application fraud.
- 45 (4) Members of the General Assembly who may inspect and examine personnel
46 records under the authority of G.S. 120-19.
- 47 (5) A party by authority of a proper court order may inspect and examine a
48 particular confidential portion of an employee's personnel file. In this
49 subdivision, "court order" includes a lawfully issued subpoena or discovery
50 request so long as the parties have moved for the court to issue a protective
51 order regarding the confidential personnel file information. A party may

1 lawfully delay producing requested confidential personnel file documents
2 until the court has ruled on that party's motion for protective order regarding
3 those documents.

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

11 (7) Staff performing human resources functions for the judicial branch, including
12 staff at the Office of State Human Resources, only to the extent necessary to
13 maintain human resources data on behalf of the judicial branch.

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

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

25 **"§ 7A-339.40. Remedies of employee objecting to material in file.**

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

29 (b) If the judicial branch employer determines that material in the employee's personnel
30 file is inaccurate or misleading, the judicial branch employer shall remove or amend the
31 inaccurate material to ensure that the file is accurate.

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

34 **"§ 7A-339.45. Penalty for permitting access to confidential file by unauthorized person.**

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

40 **"§ 7A-339.50. Penalty for accessing confidential file without authority.**

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

46
47 **PART IV. CONFORMING CHANGES**

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

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

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

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

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

11 "(13) Investigating written complaints against magistrates. The chief district judge
12 may, in writing, delegate authority to an appointed chief magistrate to make
13 preliminary investigations into written complaints against magistrates and to
14 make a written report of their preliminary findings to the chief district judge.
15 However, the delegation shall not authorize the chief magistrate to make
16 written findings of misconduct or take any disciplinary action. Upon
17 investigation and written findings of misconduct in violation of the Rules of
18 Conduct for Magistrates, a chief district court judge may discipline a
19 magistrate in accordance with the Rules of Conduct for Magistrates. Written
20 complaints received by the chief district court judge and records of
21 investigations into those complaints are to be treated as personnel records
22 under ~~Article 7 of Chapter 126~~ Article 16 of Chapter 126A of the General
23 Statutes. Notwithstanding ~~Article 7 of Chapter 126~~ Article 16 of Chapter
24 126A of the General Statutes, once a letter of caution, written reprimand, or
25 suspension has been issued by the chief district court judge, the written
26 complaint, and the record of the chief district court judge's action on that
27 complaint, including any investigatory records, are no longer confidential
28 personnel records."

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

30 "**§ 7A-754. Qualifications; standards of conduct; removal.**

31 Only persons duly authorized to practice law in the General Court of Justice shall be eligible
32 for appointment as the Director and chief administrative law judge or as an administrative law
33 judge in the Office of Administrative Hearings. The Chief Administrative Law Judge and the
34 administrative law judges shall comply with the Model Code of Judicial Conduct for State
35 Administrative Law Judges, as adopted by the National Conference of Administrative Law
36 Judges, Judicial Division, American Bar Association, (revised August 1998), as amended from
37 time to time, except that the provisions of this section shall control as to the private practice of
38 law in lieu of Canon 4G, and ~~G.S. 126-13~~ G.S. 126A-100 shall control as to political activity in
39 lieu of Canon 5. Failure to comply with the applicable provisions of the Model Code may
40 constitute just cause for disciplinary action under ~~Chapter 126~~ Chapter 126A of the General
41 Statutes and grounds for removal from office. Neither the chief administrative law judge nor any
42 administrative law judge may engage in the private practice of law as defined in G.S. 84-2.1
43 while in office; violation of this provision shall constitute just cause for disciplinary action under
44 ~~Chapter 126~~ Chapter 126A of the General Statutes and shall be grounds for removal from office.
45 Each administrative law judge shall take the oaths required by Chapter 11 of the General Statutes.
46 An administrative law judge may be removed from office by the Director of the Office of
47 Administrative Hearings for just cause, as that term is used in ~~G.S. 126-35~~ G.S. 126A-81 and this
48 section."

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

50 "**§ 7A-759. Role as deferral agency.**

1 (a) The Office of Administrative Hearings is designated to serve as the State's deferral
2 agency for cases deferred by the Equal Employment Opportunity Commission to the Office of
3 Administrative Hearings as provided in Section 706 of the Civil Rights Act of 1964, 42 U.S.C.
4 § 2000e-5, the Age Discrimination in Employment Act, 29 U.S.C. § 621 et seq., and the
5 Americans with Disabilities Act, 42 U.S.C. § 12101 et seq. for charges filed by State or local
6 government employees covered under ~~Chapter 126~~ Chapter 126A of the General Statutes and
7 shall have all of the powers and authority necessary to function as a deferral agency.

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

12 (b1) As provided in the contract between the Office of Administrative Hearings and the
13 Equal Employment Opportunity Commission, a deferred charge for purposes of 42 U.S.C. §
14 2000e-5(c) or (d) is a charge that is filed by a State or local government employee covered under
15 ~~Chapter 126~~ Chapter 126A of the General Statutes and alleges an unlawful employment practice
16 prohibited under that Chapter or any other State law. A deferred charge may be filed with either
17 agency.

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

26"

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

28 "**§ 7A-760. Number and status of employees; staff assignments.**

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

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

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

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

45 "(c) Personnel records of the Commission are subject to ~~Article 7 of Chapter 126~~ Article
46 16 of Chapter 126A of the General Statutes."

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

48 "**§ 18C-120. Selection of the Director; powers and duties.**

49 (a) The Commission shall select a Director to operate and administer the Lottery and to
50 serve as the Secretary of the Commission. Except as to the provisions of ~~Articles 6 and 7 of~~

1 ~~Chapter 126~~ Articles 15 and 16 of Chapter 126A of the General Statutes, the Director shall be
2 exempt from the North Carolina Human Resources Act.

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

- 5 ...
6 (3) To set the salaries of all Commission employees, subject to the approval of
7 the Commission. Except for the provisions of ~~Articles 6 and 7 of Chapter 126~~
8 Articles 15 and 16 of Chapter 126A of the General Statutes, all employees of
9 the Commission shall be exempt from the North Carolina Human Resources
10 Act.

11"

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

13 **"§ 53C-2-3. The Office of the Commissioner of Banks.**

14 ...
15 (c) Except as otherwise provided in this Chapter, the OCOB and its employees are
16 exempt from portions of the North Carolina Human Resources Act as provided in
17 G.S. 126A-15.2, including the classification and compensation rules policies established by the
18 State Human Resources Commission pursuant to G.S. 126-4(1) through (4); G.S. 126-4(5) only
19 as it applies to for classification, compensation, hours and days of work, vacation, vacation and
20 sick leave; G.S. 126-4(6) only as it applies to leave, promotion and transfer; G.S. 126-4(10) only
21 as it applies to the transfer, and prohibition of the establishment of incentive pay programs; and
22 Article 2 of Chapter 126 of the General Statutes, except for G.S. 126-7.1. programs. The salary
23 of the Commissioner shall be fixed by the General Assembly.

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

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

30 **"§ 62-12. Organization of Commission; adoption of rules and regulations therefor.**

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

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

40 **"§ 62-14. Commission staff; structure and function.**

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

47 (b) The salaries and compensation of all such personnel shall be fixed in the manner
48 provided by law for fixing and regulating salaries and compensation by other State agencies,
49 except that the Commission and its employees are exempt from ~~the classification and~~
50 compensation rules portions of the North Carolina Human Resources Act as provided in
51 G.S. 126A-15.2, including policies established by the State Human Resources Commission

1 pursuant to ~~G.S. 126-4(1) through (4); G.S. 126-4(5) only as it applies to~~ for classification,
2 compensation, hours and days of work, vacation, vacation and sick leave; G.S. 126-4(6) only as
3 it applies to leave, promotion and transfer; G.S. 126-4(10) only as it applies to the transfer, and
4 prohibition of the establishment of incentive pay programs; and Article 2 of Chapter 126 of the
5 General Statutes, except for G.S. 126-7.1 programs.

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

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

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

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

21 "(b) Notwithstanding ~~G.S. 126-5(e1)(15),~~ G.S. 126A-15.2, the Secretary of
22 Transportation may designate employees of the Authority as subject to ~~Chapter 126~~ Chapter
23 126A of the General Statutes."

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

25 "(a) The Commissioner shall appoint a Director to assist him or her in administering the
26 provisions of this Article and, through the Director, shall have authority to appoint, subject to
27 ~~Chapter 126~~ Chapter 126A of the General Statutes of North Carolina, such officers, engineers,
28 inspectors, and employees as he or she deems requisite for the administration of this Article; and
29 to prescribe powers, duties, and responsibilities of all officers, engineers, inspectors, and
30 employees engaged in the administration of this Article."

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

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

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

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

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

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

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

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

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

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

1 The chairman shall be the chief judicial officer and the chief executive officer of the Industrial
2 Commission; such authority shall be exercised pursuant to the provisions of ~~Chapter 126~~ Chapter
3 126A of the General Statutes and the rules and policies of the State Human Resources
4 Commission. Notwithstanding the provisions of this Chapter, the chairman shall have such
5 authority as is necessary to direct and oversee the Commission. The chairman may delegate any
6 duties and responsibilities as may be necessary to ensure the proper management of the Industrial
7 Commission. Notwithstanding the provisions of this Chapter, Chapter 143A, and Chapter 143B
8 of the General Statutes, the chairman may hire or fire personnel and transfer personnel within the
9 Industrial Commission.

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

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

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

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

16 **"§ 114-4. Assistants; compensation; assignments.**

17 The Attorney General shall be allowed to appoint from among his or her staff such number
18 of assistant attorneys general as he or she shall deem advisable, and each of such assistant
19 attorneys general shall be subject to all of the provisions of ~~Chapter 126~~ Chapter 126A of the
20 General Statutes relating to the State Human Resources system. Two assistant attorneys general
21 shall be assigned to the State Department of Revenue. The other assistant attorneys general shall
22 perform such duties as may be assigned by the Attorney General: ~~Provided, however, the~~
23 ~~General.~~ The provisions of this section shall not be construed as preventing the Attorney General
24 from assigning additional duties to the assistant attorneys general assigned to the State
25 Department of Revenue."

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

27 **"§ 114-4.2B. Employment of attorney for University of North Carolina Hospitals at Chapel**
28 **Hill.**

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

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

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

37 **"§ 114-4.2C. Employment of attorney for the Real Estate Commission.**

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

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

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

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

- 49 (1) To organize and establish a Department of Public Instruction which shall
50 include divisions and departments for supervision and administration of the
51 public school system, to administer the funds appropriated for the operation

1 of the Department of Public Instruction, in accordance with all needed rules
2 and regulations adopted by the State Board of Education, and to enter into
3 contracts for the operations of the Department of Public Instruction. All
4 appointments of administrative and supervisory personnel to the staff of the
5 Department of Public Instruction and the State Board of Education, except for
6 certain personnel appointed by the State Board of Education as provided in
7 G.S. 115C-11(j), shall be under the control and management of the
8 Superintendent of Public Instruction who may terminate these appointments
9 in conformity with ~~Chapter 126~~ Chapter 126A of the General Statutes, the
10 North Carolina Human Resources Act."

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

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

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

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

24 "(6) A board of directors may (i) provide paid parental leave consistent with the
25 requirements of ~~G.S. 126-8.6~~ G.S. 126A-71 or (ii) require, as a condition of a
26 contract with an education management organization or charter management
27 organization to employ and provide teachers, that paid parental leave be
28 provided to those teachers consistent with the requirements of ~~G.S. 126-8.6~~
29 G.S. 126A-71. If the board provides paid parental leave to its employees or
30 requires paid parental leave be provided by contract, it shall be eligible to
31 receive funds as provided in G.S. 115C-336.1(b). If the board does not provide
32 paid parental leave, it shall provide written notice to individuals upon offering
33 employment. The notice shall state that employment with the charter school
34 will not count toward any minimum period of service established pursuant to
35 ~~G.S. 126-8.6(e1)~~ G.S. 126A-71."

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

37 **"§ 115C-238.68. Employees.**

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

39 ...

40 (7) Exemptions. – Employees of the board of directors shall be exempt from
41 ~~Chapter 126~~ Chapter 126A of the General Statutes, except ~~Articles 6 and~~
42 ~~7~~ Articles 15 and 16.

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

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

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

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

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

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

8 "**§ 115C-336.1. Parental leave.**

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

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

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

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

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

26 "(a3) The President shall be assisted by such professional staff members as may be deemed
27 necessary to carry out the provisions of this Chapter, who shall be elected by the State Board on
28 nomination of the President. The compensation of the staff members elected by the Board shall
29 be fixed by the State Board of Community Colleges, upon recommendation of the President of
30 the Community Colleges System, from funds provided in the Current Operations Appropriations
31 Act. These staff members shall include such officers as may be deemed desirable by the President
32 and State Board. Provision shall be made for persons of high competence and strong professional
33 experience in such areas as academic affairs, public service programs, business and financial
34 affairs, institutional studies and long-range planning, student affairs, research, legal affairs,
35 health affairs and institutional development, and for State and federal programs administered by
36 the State Board. In addition, the President shall be assisted by such other employees as may be
37 needed to carry out the provisions of this Chapter, who shall be subject to the provisions of
38 ~~Chapter 126~~ Chapter 126A of the General Statutes. The staff complement shall be established by
39 the State Board on recommendation of the President to insure that there are persons on the staff
40 who have the professional competence and experience to carry out the duties assigned and to
41 insure that there are persons on the staff who are familiar with the problems and capabilities of
42 all of the principal types of institutions represented in the system."

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

44 "(b) The President shall be assisted by such professional staff members as may be deemed
45 necessary to carry out the provisions of this Article, who shall be elected by the Board on
46 nomination of the President. The Board shall fix the compensation of the staff members it elects.
47 These staff members shall include a senior vice-president and such other vice-presidents and
48 officers as may be deemed desirable. Provision shall be made for persons of high competence
49 and strong professional experience in such areas as academic affairs, public service programs,
50 business and financial affairs, institutional studies and long-range planning, student affairs,
51 research, legal affairs, health affairs and institutional development, and for State and federal

1 programs administered by the Board. In addition, the President shall be assisted by such other
 2 employees as may be needed to carry out the provisions of this Article, who shall be subject to
 3 the provisions of ~~Chapter 126~~ Chapter 126A of the General Statutes. The staff complement shall
 4 be established by the Board on recommendation of the President to insure that there are persons
 5 on the staff who have the professional competence and experience to carry out the duties assigned
 6 and to insure that there are persons on the staff who are familiar with the problems and
 7 capabilities of all of the principal types of institutions represented in the system. Subject to
 8 approval by the Board, the President may establish and abolish employment positions within the
 9 staff complement authorized by this subsection in the manner of and under the conditions
 10 prescribed by G.S. 116-30.4 for special responsibility constituent institutions."

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

12 **"§ 116-30.4. Position management.**

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

- 16 (1) State personnel policies and procedures if these positions are subject to the
 17 North Carolina Human Resources Act and if the institution is operating under
 18 the terms of a Performance Agreement or a Decentralization Agreement
 19 authorized under ~~Chapter 126~~ Chapter 126A of the General Statutes; or
- 20 (2) Policies and procedures of the Board of Governors if these positions are
 21 exempt from the North Carolina Human Resources Act.

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

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

27 **"§ 116-33.2. Cooperative Extension Service employees.**

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

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

33 "(b) Personnel. – Employees of UNC-CH Dental School Clinical Operations shall be
 34 deemed to be employees of the State and shall be subject to all relevant provisions of State law
 35 ~~relevant thereto; provided, however, that except as to the provisions of Articles 5, 6, 7, and 14 of~~
 36 ~~Chapter 126 of the General law. Except as provided in Part 3 of Article 1 of Chapter 126A of the~~
 37 ~~General Statutes~~ Statutes, the North Carolina Human Resources Act shall not apply to employees
 38 of UNC-CH Dental School Clinical Operations, and the policies and procedures governing the
 39 terms and conditions of employment of such employees shall be adopted by the Board of Trustees
 40 of the University of North Carolina at Chapel Hill; provided, that with Hill. With respect to such
 41 employees as may be members of the faculty of the University of North Carolina at Chapel Hill,
 42 no such policies and procedures may be inconsistent with policies established by, or adopted
 43 pursuant to delegation from, the Board of Governors of The University of North Carolina. ~~Such~~
 44 These policies and procedures shall be implemented on behalf of UNC-CH Dental School
 45 Clinical Operations by a personnel office maintained by the University of North Carolina at
 46 Chapel Hill. The following provisions apply:

- 47 (1) The board of trustees shall fix or approve the schedules of pay, expense
 48 allowances, and other compensation, and adopt position classification plans
 49 for employees of UNC-CH Dental School Clinical Operations.
- 50 (2) The board of trustees may adopt or provide for rules and regulations
 51 concerning, but not limited to, annual leave, sick leave, special leave with full

1 pay, or with partial pay supplementing workers' compensation payments for
 2 employees injured in accidents arising out of and in the course of employment,
 3 working conditions, service awards, and incentive award programs, grounds
 4 for dismissal, demotion, or discipline, other personnel policies, and any other
 5 measures that promote the hiring and retention of capable, diligent, and
 6 effective career employees. However, an employee who ~~has achieved~~ was
 7 appointed as a career State employee status employee, as defined by
 8 ~~G.S. 126-1.1~~ G.S. 126A-2, by June 30, 2022, shall not have his or her
 9 compensation reduced as a result of this subdivision. Further, an employee
 10 who ~~has achieved~~ was appointed as a career State employee status employee,
 11 as defined by ~~G.S. 126-1.1~~ G.S. 126A-2, by June 30, 2022, shall be subject to
 12 the rules regarding discipline or discharge that were effective on June 30,
 13 2022, and shall not be subject to the rules regarding discipline or discharge
 14 adopted after June 30, 2022.

15 (3) The board of trustees may prescribe the office hours, workdays, and holidays
 16 to be observed by the various offices and departments of UNC-CH Dental
 17 School Clinical Operations.

18 (4) The board of trustees may establish boards, committees, or councils to conduct
 19 hearings upon the appeal of employees who have been suspended, demoted,
 20 otherwise disciplined, or discharged, to hear employee grievances, or to
 21 undertake any other duties relating to personnel administration that the board
 22 of trustees may direct.

23 The board of trustees shall submit all initial classification and pay plans, and other rules and
 24 regulations adopted pursuant to subdivisions (1) through (4) of this subsection, to the Office of
 25 State Human Resources for review upon adoption by the board. Any subsequent changes to these
 26 plans, rules, and policies adopted by the board shall be submitted to the Office of State Human
 27 Resources for review. Any comments by the Office of State Human Resources shall be submitted
 28 to the Chancellor of the University of North Carolina at Chapel Hill and the President of The
 29 University of North Carolina."

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

31 "**§ 116-239.10. Employees.**

32 The chancellor shall appoint all licensed and nonlicensed staff in accordance with the
 33 following:

34 ...

35 (8) Exemptions. – Employees of the constituent institution shall be exempt from
 36 ~~Chapter 126~~ Chapter 126A of the General Statutes, except ~~Articles 6 and~~
 37 ~~7~~ Articles 15 and 16.

38 (9) Paid parental leave. – Teachers employed by the board of the constituent
 39 institution shall be eligible for paid parental leave as provided in ~~G.S. 126-8.6.~~
 40 G.S. 126A-71. The constituent institution shall be eligible to receive funds as
 41 provided in G.S. 115C-336.1(b)."

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

43 "(a) Employment Authority. – The System may employ a workforce to conduct its
 44 operations. Employees who are employed directly by the System, and not by a System affiliate,
 45 are State employees whose terms and conditions of employment, including benefit plans and
 46 programs, are determined by the Board. ~~Only Articles 5, 6, 7, and 14 of Chapter 126 of the~~
 47 General Statutes, Except as provided in Part 3 of Article 1 of Chapter 126A of the General
 48 Statutes, the State-North Carolina Human Resources Act, Act shall not apply to these State
 49 employees. The Board of the System may authorize the System to employ the faculty and staff
 50 of the University of North Carolina School of Medicine as well as other health affairs schools
 51 and components of the University of North Carolina at Chapel Hill subject to the provisions of

1 this subsection, provided that any employees who are faculty members shall remain subject to
2 the faculty policies of the University of North Carolina at Chapel Hill, as established or adopted
3 pursuant to delegation from the Board of Governors of The University of North Carolina. A State
4 employee employed by the System immediately prior to January 1, 2024, has the right to (i)
5 continued State employment if the employee remains in the employee's current role or position,
6 unless terminated in accordance with the terms of employment that existed immediately prior to
7 January 1, 2024, subject to all relevant provisions of State and federal law and (ii) continued
8 participation in the State Teachers' and State Employees' Retirement System if the employee was
9 enrolled in the Retirement System immediately prior to January 1, 2024, and maintains State
10 employee status."

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

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

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

15 (1) For employees of the Medical Faculty Practice Plan. – The compensation of a
16 State employee who ~~achieved~~ was appointed as a career State employee status
17 employee, as defined by G.S. 126A-2, by October 31, 1998, shall not be
18 reduced as a result of this section and that employee shall (i) remain subject
19 to the rules regarding discipline or discharge that were effective on October
20 31, 1998, and (ii) not be subject to the rules regarding discipline or discharge
21 adopted after that date.

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

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

30 **"§ 120-86.1. Personnel-related action unethical.**

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

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

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

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

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

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

51 **"§ 122C-154. Personnel.**

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

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

12 "(a) The area authority shall establish a salary plan which shall set the salaries for
13 employees of the area authority. The salary plan shall be in compliance with ~~Chapter 126~~ Chapter
14 126A of the General Statutes. In a multi-county area, the salary plan shall not exceed the highest
15 paying salary plan of any county in that area. In a single-county area, the salary plan shall not
16 exceed the county's salary plan. The salary plan limitations set forth in this section may be
17 exceeded only if the area authority and the board or boards of county commissioners, as the case
18 may be, jointly agree to exceed these limitations."

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

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

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

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

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

37 "(d) The provisions of this section shall be subject to the provisions of Article 1 of Chapter
38 165 of the General Statutes, ~~G.S. 126-83, Statutes~~ and Parts 13 and 19 of Article 9 of Chapter
39 143B of the General Statutes. Exempt policymaking employees and designated employees of
40 policymakers, statutorily exempt employees, State employees compensated as teachers, as
41 defined in Chapter 126A of the General Statutes, employees of the legislative and judicial
42 branches, and employees covered by G.S. 126A-15.1(b) are subject to this statute."

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

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

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

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

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

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

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

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

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

"§ 130A-45.12. Personnel.

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

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

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

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

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

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

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

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

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

- (1) Employment-related information. – As defined in ~~G.S. 126-22(b)(3)~~.G.S. 126A-161.
- (2) Personal information. – As defined in ~~G.S. 126-22(b)(3)~~.G.S. 126A-161.

1 (3) Retirement file. – Any employment-related, retirement-related, or personal
2 information of members in a State-administered retirement plan gathered by
3 the Retirement Systems Division of the Department of State Treasurer.

4 (4) Retirement-related information. – Information including membership and
5 service details, benefit payment information, and other information the
6 Retirement Systems Division of the Department of State Treasurer deems
7 necessary to administer a retirement plan."

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

9 **"§ 135-48.23. Executive Administrator.**

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

13"

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

15 **"§ 136-4. Chief Engineer.**

16 There shall be a Chief Engineer, who shall be a career official and who shall be the
17 administrative officer of the Department of Transportation for highway matters. For purposes of
18 this section, the term "highway matters" includes planning, design, construction, maintenance,
19 operations, procurements, agreements, delivery methods, standards, and specifications for
20 current and future State-maintained roads. The Chief Engineer shall be appointed by the
21 Secretary of Transportation and he or she may be removed at any time by the Secretary of
22 Transportation. He or she shall be paid a salary to be set in accordance with ~~Chapter 126~~ Chapter
23 126A of the General Statutes, the North Carolina Human Resources Act. The Chief Engineer
24 shall have such powers and perform such duties as the Secretary of Transportation shall
25 prescribe."

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

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

28 ...

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

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

35"

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

37 **"§ 138A-12. Inquiries by the Commission.**

38 ...

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

44 (1) The application or alleged violation of this Chapter.

45 (2) For legislators, the application or alleged violations of Part 1 of Article 14 of
46 Chapter 120 of the General Statutes.

47 (3) An alleged violation of the criminal law by a covered person in the
48 performance of that individual's official duties.

49 (4) An alleged violation of ~~G.S. 126-14~~ G.S. 126A-101.

50 Upon receipt of a referral under G.S. 147-64.6B or a report under G.S. 147-64.6(c)(19), the
51 Commission may conduct an inquiry under this section on its own motion. Allegations of

1 violations of the Code of Judicial Conduct shall be referred to the Judicial Standards Commission
2 without investigation.

3 ...
4 (e) Complaint. –

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

16"

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

18 "**§ 143-202.4. Roanoke Island Festival Park staff.**

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

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

28 "(a) The sovereign immunity of the State is waived for the limited purpose of allowing
29 State employees, except for those in exempt policy-making positions designated pursuant to ~~G.S.~~
30 ~~126-5(d), G.S. 126A-15.4~~, to maintain lawsuits in State and federal courts and obtain and satisfy
31 judgments against the State or any of its departments, institutions, or agencies under:

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

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

37 "(a) Any employee or former employee of an employing entity within the meaning of
38 G.S. 143-552(1)a whose employment is terminated pursuant to the provisions of this Part shall
39 be given the opportunity to appeal the employment termination to the State Human Resources
40 Commission according to the normal appeal and hearing procedures provided by ~~Chapter 126~~
41 Chapter 126A of the General Statutes and the State Human Resources Commission rules adopted
42 pursuant to the authority of that Chapter; however, nothing herein shall be construed to give the
43 right to termination reviews to anyone exempt from that right under ~~G.S. 126-5, Part 3 of Article~~
44 1 of Chapter 126A of the General Statutes."

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

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

47 "(f) Staff Assistance. – The Commission shall hire a person to serve as Executive Director
48 of the Commission. If necessary, the Executive Director may train and contract with independent
49 contractors for the purpose of regulating and monitoring events, issuing licenses, collecting fees,
50 and enforcing rules of the Commission. The Executive Director may initiate and review criminal
51 background checks on persons requesting to work as independent contractors for the Commission

1 or persons applying to be licensed by the Commission. The Commission may also hire additional
2 staff. The Executive Director is exempt from provisions of the North Carolina Human Resources
3 Act as provided by ~~G.S. 126-5~~-G.S. 126A-15.2. All other staff of the Commission are subject to
4 the North Carolina Human Resources Act."

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

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

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

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

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

17 "(c) The exemptions to ~~Chapter 126~~-Chapter 126A of the General Statutes authorized by
18 ~~G.S. 126-5(e11)~~-G.S. 126A-15.2 for the employees of the Department of Natural and Cultural
19 Resources listed in that ~~subsection~~-section shall be used to develop organizational classification
20 and compensation innovations that will result in the enhanced efficiency of operations. The
21 Office of State Human Resources shall assist the Secretary of Natural and Cultural Resources in
22 the development and implementation of an organizational structure and human resources
23 programs that make the most appropriate use of the exemptions, including (i) a system of job
24 categories or descriptions tailored to the agency's needs; (ii) policies regarding paid time off for
25 agency personnel and the voluntary sharing of such time off; and (iii) a system of uniform
26 performance assessments for agency personnel tailored to the agency's needs. The Secretary of
27 Natural and Cultural Resources may, under the supervision of the Office of State Human
28 Resources, develop and implement organizational classification and compensation innovations
29 having the potential to benefit all State agencies."

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

31 "(2) The North Carolina Partnership and the local partnerships shall agree to adopt
32 procedures for its operations that are comparable to those of Article 33C of
33 Chapter 143 of the General Statutes, the Open Meetings Law, and Chapter
34 132 of the General Statutes, the Public Records Law, and provide for
35 enforcement by the Department. The procedures may provide for the
36 confidentiality of personnel files comparable to ~~Article 7~~-Article 16 of ~~Chapter~~
37 ~~126~~-Chapter 126A of the General Statutes."

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

39 "(2) Each local partnership shall agree to adopt procedures for its operations that
40 are comparable to those of Article 33C of Chapter 143 of the General Statutes,
41 the Open Meetings Law, and Chapter 132 of the General Statutes, the Public
42 Records Law, and provide for enforcement by the Department. The
43 procedures may provide for the confidentiality of personnel files comparable
44 to ~~Article 7 of Chapter 126~~-Article 16 of Chapter 126A of the General
45 Statutes."

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

47 "(b) Under the direction of the Secretary of Health and Human Services, the Director of
48 the Office of Policy and Planning shall have the authority to direct Divisions, offices, and
49 programs within the Department to conduct periodic reviews of policies, plans, and rules and
50 shall advise the Secretary when it is determined to be appropriate or necessary to modify, amend,
51 and repeal departmental policies, plans, and rules. All policy and management positions within

1 the Office of Policy and Planning are exempt positions as ~~that term is defined in G.S. 126-5 as~~
2 provided in Part 3 of Article 1 of Chapter 126A of the General Statutes."

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

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

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

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

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

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

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

25 "(f) The Bureau may provide a criminal record check to the schools within the Department
26 of Health and Human Services of a person who is employed, applies for employment, or applies
27 to be selected as a volunteer, if the employee or applicant consents to the record check. The
28 Department of Health and Human Services shall keep all information pursuant to this subsection
29 confidential, as provided in ~~Article 7~~Article 16 of Chapter 126~~Chapter 126A~~ of the General
30 Statutes."

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

32 **"§ 143B-1212. Personnel of the Department of Military and Veterans Affairs.**

33 Notwithstanding G.S. 114-2.3, the Secretary of Military and Veterans Affairs shall have the
34 power to appoint all employees, including consultants and legal counsel, necessary to carry out
35 the powers and duties of the office. These employees shall be subject to the North Carolina
36 Human Resources Act, except that employees in positions designated as exempt under ~~G.S.~~
37 ~~126-5(d)(1)~~G.S. 126A-15.4 are not subject to the Act, in accordance with the provisions of that
38 section."

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

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

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

49 **"§ 143C-6-10. Flexible compensation plan.**

50 Notwithstanding any other provision of law, the Director may establish a program of
51 dependent care assistance and a flexible compensation plan for eligible officers and employees

1 of State agencies as provided in ~~G.S. 126-95~~, G.S. 126A-76. With the approval of the Director,
2 savings in the employer's share of contributions under the Federal Insurance Contributions Act
3 on account of the reduction in salary may also be used as provided by ~~G.S.~~
4 ~~126-95~~, G.S. 126A-76."

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

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

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

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

23 **"§ 147-65.2. Salary of State Treasurer and certain Department employees.**

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

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

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

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

50 **SECTION 4.82.** G.S. 148-118.8(a) reads as rewritten:

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

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

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

- 23 (1) Exceeded its authority or jurisdiction.
- 24 (2) Acted erroneously.
- 25 (3) Failed to use proper procedure.
- 26 (4) Acted arbitrarily or capriciously.
- 27 (5) Failed to act as required by law or rule.

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

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

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

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

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

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

- 47 "(11) Order the assessment of reasonable attorneys' fees and witnesses' fees against
48 the State agency involved in contested cases decided under this Article where
49 the administrative law judge finds that the State agency named as respondent
50 has substantially prejudiced the petitioner's rights and has acted arbitrarily or
51 capriciously or under ~~Chapter 126~~ Chapter 126A of the General Statutes

1 where the administrative law judge finds discrimination, harassment, or orders
2 reinstatement or back pay."

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

4 "(5) The board of commissioners shall fix the salaries, allowances and other
5 compensation of county employees subject to the North Carolina Human
6 Resources Act according to the procedures set forth in ~~Chapter 126.~~ Chapter
7 126A of the General Statutes. The board may make these employees subject
8 to a county position classification plan only as provided in ~~Chapter~~
9 ~~126.~~ Chapter 126A of the General Statutes."

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

11 "(b) The policies adopted by the Board of Trustees of North Carolina State University and
12 North Carolina Agricultural and Technical State University, respectively, for the employees of
13 the North Carolina Cooperative Extension Service shall govern the employment of employees
14 exempted from certain provisions of ~~Chapter 126.~~ Chapter 126A of the General Statutes pursuant
15 to ~~G.S. 126-5(e1)(9a).~~ Part 3 of Article 1 of Chapter 126A of the General Statutes. The policies
16 adopted by the University of North Carolina Board of Governors and the employing constituent
17 institution shall govern the employment of employees of the North Carolina Cooperative
18 Extension Service exempted from certain provisions of ~~Chapter 126.~~ Chapter 126A of the General
19 Statutes pursuant to ~~G.S. 126-5(e1)(8).~~ Part 3 of Article 1 of Chapter 126A of the General
20 Statutes."

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

22 **"§ 168A-10.1. Dispute resolution in public services discrimination cases.**

23 The North Carolina Office on the Americans with Disabilities Act shall adopt rules to provide
24 a consistent and comprehensive mechanism for accommodating requests regarding accessibility
25 to public services, and shall adopt dispute resolution procedures to govern responsiveness to
26 those requests. This section does not authorize the North Carolina Office on the Americans with
27 Disabilities Act to adopt rules or procedures that apply to the resolution of matters constituting
28 grounds for a contested case under ~~Chapter 126.~~ Chapter 126A of the General Statutes."

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

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

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

34 **CLARIFICATIONS REGARDING GRIEVANCES/STATUS OF CERTAIN** 35 **EMPLOYEES/OTHER MATTERS**

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

- 38 (1) Any contested case pending before the State Human Resources Commission
39 or the Office of Administrative Hearings on the effective date of this act,
40 including any judicial review of such a case pending in the General Court of
41 Justice.
- 42 (2) Any grievance, disciplinary action, or appeal initiated under Chapter 126 of
43 the General Statutes prior to the effective date of this act that is not finally
44 resolved as of that date.
- 45 (3) Any claim for back pay, reinstatement, or other relief arising from
46 employment actions that occurred prior to the effective date of this act.
- 47 (4) Any right to career State employee status vested under G.S. 126-1.1 prior to
48 the effective date of this act.
- 49
- 50

- 1 (5) Any cause of action arising under Chapter 126 of the General Statutes that
2 accrued prior to the effective date of this act regardless of when the suit or
3 administrative action is initiated.

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

- 6 (1) G.S. 126A-10.1(a)(2), as enacted by this act.
7 (2) G.S. 126A-15.2(e), as enacted by this act.

8 **SECTION 5.1.(c)** Employees designated under G.S. 126-5 on or before September
9 30, 2026, shall be designated as the following under Part 3 of Article 1 of Chapter 126A of the
10 General Statutes, as enacted by this act, effective October 1, 2026:

- 11 (1) Employees designated as confidential assistants or confidential secretaries are
12 automatically redesignated as designated employees of policymakers.
13 (2) Employees designated as exempt wardens are automatically redesignated as
14 exempt wardens.
15 (3) Employees designated as exempt policymaking employees are automatically
16 redesignated as exempt policymaking employees.
17 (4) Employees designated as exempt managerial employees are automatically
18 redesignated as exempt managerial employees.
19

20 **SYSTEMATIC REVIEW OF RULES**

21 **SECTION 5.2.(a)** If a provision of Chapter 126A of the General Statutes conflicts
22 with an existing rule in Title 25, Chapter 01 of the North Carolina Administrative Code, the
23 provisions of Chapter 126A of the General Statutes, as enacted by this act, shall control. This
24 subsection does not repeal any rule by operation of this act.

25 **SECTION 5.2.(b)** The State Human Resources Commission shall review rules in
26 Title 25, Chapter 01 of the North Carolina Administrative Code pursuant to G.S. 150B-21.5 and
27 repeal any rules it determines to be unnecessary after enactment of this act.
28

29 **EFFECT ON AGREEMENTS AND PENDING LITIGATION**

30 **SECTION 5.3.(a)** All decentralization agreements, delegation agreements, and
31 memoranda of understanding between the Office of State Human Resources and any agency,
32 department, or institution in effect on September 30, 2026, shall remain in effect until modified
33 or terminated in accordance with the terms of those agreements or memoranda or superseded by
34 agreements executed under the authority of Chapter 126A of the General Statutes, as enacted by
35 this act.

36 **SECTION 5.3.(b)** No action or proceeding brought by or against the State Human
37 Resources Commission or the Office of State Human Resources, or against the State of North
38 Carolina concerning either the State Human Resources Commission or the Office of State Human
39 Resources, that is pending on October 1, 2026, shall be abated, suspended, or otherwise affected
40 by the enactment of this act. Any such action or proceeding shall be prosecuted or defended under
41 the law applicable at the time the action or proceeding was initiated, provided that nothing in this
42 subsection shall preclude any party from citing provisions for persuasive guidance where the
43 language of Chapter 126A of the General Statutes, as enacted by this act, and Chapter 126 of the
44 General Statutes as it exists on September 30, 2026, is identical or substantially identical.
45

46 **CLASSIFICATION AND COMPENSATION ASSESSMENT**

47 **SECTION 5.4.(a)** The Office of State Human Resources shall assess the State's
48 classification and compensation system and identify opportunities for improvement, consulting
49 with agencies and outside experts, as needed. By October 1, 2027, the Office of State Human
50 Resources shall report its findings and recommendations to the chairs of the Senate
51 Appropriations/Base Budget Committee, the chairs of the House Appropriations Committee, the

1 Joint Legislative Commission on Governmental Operations pursuant to G.S. 120-36.7, and the
2 Fiscal Research Division.

3 **SECTION 5.4.(b)** By March 1, 2027, and annually thereafter, each executive branch
4 agency shall report the following information to the Office of State Human Resources, upon
5 request:

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

13 **SECTION 5.4.(c)** The Office of State Human Resources shall incorporate trends and
14 recommended legislative actions from this assessment into the annual State of the State
15 workforce report required by G.S. 126A-24.

16 **SECTION 5.4.(d)** Following the initial assessment and review of agency data, the
17 Office of State Human Resources shall contemplate executing a pilot on classification and
18 compensation recommendations in one or more executive branch agencies that volunteer to
19 participate. The purpose of the pilot is to test modifications to classification and compensation
20 practices, including alternative job titling, revised qualification standards, or adjusted pay-setting
21 flexibility, that the Office of State Human Resources determines are likely to improve
22 recruitment, retention, or time-to-hire outcomes.

23 24 **DEVELOP IMPROVED WORKFORCE ACCOUNTABILITY SYSTEM**

25 **SECTION 5.5.** By December 1, 2026, the Office of State Human Resources shall
26 submit to the State Human Resources Commission and the Governor a revised disciplinary policy
27 containing an improved process for managing State employee performance and conduct. The
28 State Human Resources Commission, subject to the approval of the Governor, shall adopt a
29 revised Disciplinary Action Policy by April 1, 2027.

30 31 **STATE OF THE STATE WORKFORCE REPORT**

32 **SECTION 5.6.** The Office of State Human Resources shall submit the first State of
33 the State workforce report required by G.S. 126A-24, as enacted by this act, by January 15, 2027.

34 35 **CONFORMING E-VERIFY CHANGES**

36 **SECTION 5.7.(a)** If House Bill 1214, 2025 Regular Session, becomes law,
37 G.S. 64-25(4), as amended by House Bill 1214, 2025 Regular Session, reads as rewritten:

- 38 "(4) Employer. – Any person, business entity, or other organization that transacts
39 business in this State and that employs 25 or more employees in this State.
40 The term also includes any entity required to participate in E-Verify pursuant
41 to any of the following:
- 42 a. State and local entities pursuant to ~~G.S. 126-7.1(i)~~G.S. 126A-61.
 - 43 b. Counties pursuant to G.S. 153A-99.1.
 - 44 c. Municipalities pursuant to G.S. 160A-169.1."

45 **SECTION 5.7.(b)** If House Bill 1214, 2025 Regular Session, becomes law, Section
46 1(j) of House Bill 1214, 2025 Regular Session, is repealed.

47 **SECTION 5.7.(c)** If House Bill 1214, 2025 Regular Session, becomes law,
48 G.S. 126A-61(a), as enacted by this act, reads as rewritten:

49 "(a) Each agency, community college, and public school unit as defined in G.S. 115C-5
50 shall (i) verify, in accordance with the E-Verify Program administered by the United States
51 Department of Homeland Security pursuant to 8 U.S.C. § 1101, et seq., each individual's legal

1 status or authorization to work in the United States after hiring the individual as an employee to
2 work in the United States. States and (ii) comply with Article 2 of Chapter 64 of the General
3 Statutes."

4 **SECTION 5.7.(d)** If House Bill 1214, 2025 Regular Session, becomes law, Section
5 3(a) of House Bill 1214, 2025 Regular Session, reads as rewritten:

6 "SECTION 3.(a) There is appropriated from the General Fund to the Department of Labor
7 the sum of ninety thousand dollars (\$90,000) in recurring funds for the 2026-2027 fiscal year for
8 one full-time equivalent position to assist in the enforcement of this act. This position shall be
9 designated as an exempt policymaking position of the Commissioner of Labor, ~~not subject to the~~
10 ~~limitations under G.S. 126-5(d)(2).~~ Labor in accordance with G.S. 126A-15.4(d)(7)."

11 **SECTION 5.7.(e)** If House Bill 1214, 2025 Regular Session, becomes law,
12 G.S. 126A-15.4(d)(7), as enacted by this act, reads as rewritten:

13 "(7) The Commissioner of Labor. – Notwithstanding the designation limits of this
14 subsection, the Commissioner shall designate (i) three additional full-time
15 equivalent attorney positions and (ii) one additional official primarily
16 responsible for ensuring compliance with Article 2 of Chapter 64 of the
17 General Statutes as exempt policymaking positions."
18

19 PART VI. EFFECTIVE DATE

20 **SECTION 6.1.** This act becomes effective October 1, 2026.