

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

H

1

HOUSE BILL 541

Short Title: Economic Security Act. (Public)

Sponsors: Representatives Harrison, Morey, T. Brown, and A. Baker (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Rules, Calendar, and Operations of the House

April 3, 2023

A BILL TO BE ENTITLED

AN ACT ADVANCING ECONOMIC SECURITY FOR ALL IN NORTH CAROLINA BY INCREASING THE STATE MINIMUM WAGE IN PHASES TO FIFTEEN DOLLARS PER HOUR OVER FIVE YEARS; MANDATING EQUAL PAY FOR EQUAL WORK; REQUIRING PAID SICK LEAVE AND FAMILY MEDICAL LEAVE; RESTORING UNEMPLOYMENT INSURANCE BENEFITS ADJUSTED FOR INFLATION AND STUDYING UNEMPLOYMENT INSURANCE BENEFITS FOR APP-BASED "GIG ECONOMY" WORKERS; INCREASING THE TIPPED MINIMUM WAGE; ENDING WAGE THEFT; REQUIRING THE FAIR ASSESSMENT OF PERSONS WITH CRIMINAL HISTORIES BY "BANNING THE BOX"; REPEALING PUBLIC EMPLOYEE COLLECTIVE BARGAINING RESTRICTIONS; REENACTING THE EARNED INCOME TAX CREDIT AND TAX CREDITS FOR CHILD AND DEPENDENT CARE EXPENSES; CREATING A REBUTTABLE PRESUMPTION THAT FIRST RESPONDERS, HEALTH CARE WORKERS, AND ESSENTIAL SERVICE WORKERS INFECTED BY THE CORONAVIRUS CONTRACTED THE DISEASE IN THE COURSE OF EMPLOYMENT; REQUIRING THAT LOCAL GOVERNMENT EMPLOYERS CREDIT FIRST RESPONDERS AND HEALTH CARE WORKERS FOR LEAVE TAKEN WHILE QUARANTINED DURING THE CORONAVIRUS PANDEMIC; MANDATING HAZARD PAY FOR ESSENTIAL STATE EMPLOYEES FIGHTING THE PANDEMIC AND APPROPRIATING FUNDS FOR THAT PURPOSE; DIRECTING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY THE PROVISION OF HAZARD PAY TO PRIVATE AND LOCAL GOVERNMENTAL EMPLOYEES; AND APPROPRIATING FUNDS TO SETTLE PANDEMIC-RELATED STATE EMPLOYEE WORKERS' COMPENSATION CLAIMS.

The General Assembly of North Carolina enacts:

LIVING WAGE

SECTION 1.1.(a) This act shall be known and may be cited as the "Economic Security Act of 2023."

SECTION 1.1.(b) G.S. 95-25.3(a) reads as rewritten:

"§ 95-25.3. Minimum wage.

(a) Every employer shall pay to each employee who in any workweek performs any work, wages of at least ~~six dollars and fifteen cents (\$6.15) per hour or the minimum wage set forth in paragraph 1 of section 6(a) of the Fair Labor Standards Act, 29 U.S.C. 206(a)(1), as that wage~~



1 worked, hours of work, or restrictions or prohibitions on lifting or moving objects in excess of
2 specified weight, or other reasonable differentiation, or factor or factors other than sex, when
3 exercised in good faith.

4 (c) An employer that is in violation of this section may not reduce the pay of any
5 employee in order to bring the employer into compliance with this Article.

6 (d) An employer shall not retaliate against any employee who seeks redress pursuant to
7 this Article or who participates in the investigation of a complaint under this Article.

8 **"§ 95-25.28. Complaints; enforcement; civil actions.**

9 (a) An affected employee may file with the Department of Labor a complaint that the
10 wages paid to the employee are less than the wages to which the employee is entitled under this
11 Article. The Department of Labor shall investigate the complaint and notify the employer and
12 employee of the results of the investigation.

13 (b) An employee receiving less than the wage to which the employee is entitled under
14 this section may recover in a civil action the balance of such wages, together with the costs and
15 attorneys' fees, notwithstanding any agreement to work for a lesser wage. The employee is not
16 required to exhaust administrative remedies before filing the civil action.

17 (c) A civil action pursuant to this section shall be instituted within two years after the
18 date that the alleged violation is discovered by the affected employee."

19 **SECTION 1.2.(b)** This section is effective when this act becomes law.

20
21 **HEALTHY FAMILIES & WORKPLACES/PAID LEAVE**

22 **SECTION 1.3.(a)** Chapter 95 of the General Statutes is amended by adding a new
23 Article to read:

24 "Article 3A.

25 "Healthy Families and Healthy Workplaces Act.

26 **"§ 95-31.1. Short title and legislative purpose.**

27 (a) This Article shall be known and may be cited as the "Healthy Families and Healthy
28 Workplaces Act."

29 (b) The public policy of this State is declared as follows: The health and safety needs of
30 employees and their families and the protection of employees from losing their jobs and pay
31 while they seek medical care for themselves and their family members are subjects of concern
32 requiring legislation to promote the general welfare of the people of the State without
33 jeopardizing the competitive position of North Carolina business and industry. The General
34 Assembly declares that the general welfare of the State requires the enactment of this law under
35 the police power of the State.

36 **"§ 95-31.2. Definitions.**

37 (a) The following definitions apply in this Article:

38 (1) Child. – A biological, adopted, or foster child, stepchild, legal ward, or child
39 of a parent standing in loco parentis.

40 (2) Domestic violence. – As defined in G.S. 50B-1.

41 (3) Employ. – As defined by G.S. 95-25.2(3).

42 (4) Employee. – As defined by G.S. 95-25.2(4).

43 (5) Employer. – As defined by G.S. 95-25.2(5).

44 (6) Health care provider. –

45 a. A doctor of medicine or osteopathy licensed to practice medicine
46 under federal law, any state law, or the laws of another country
47 wherein the person practices.

48 b. A physician assistant licensed in this State licensed to practice under
49 federal law, any state law, or the laws of another country wherein the
50 person practices.

1 c. A family nurse practitioner or certified nurse midwife licensed to
2 practice under federal law, any state law, or the laws of another
3 country wherein the person practices.

4 (7) Immediate family member. – A child, grandchild, sibling, spouse, domestic
5 partner, civil union partner, parent, or grandparent of an employee, or a
6 spouse, domestic partner, or civil union partner of a parent or grandparent of
7 the employee, or a sibling of a spouse, domestic partner, or civil union partner
8 of the employee, or any other individual related by blood to the employee or
9 whose close association with the employee is the equivalent of a family
10 relationship.

11 (8) Paid sick time or paid sick days. – Time that is (i) compensated at the same
12 hourly rate and with the same benefits, including health care benefits, as the
13 employee normally earns during hours worked and (ii) provided by an
14 employer to an employee for the purposes described in G.S. 95-31.4(b) of this
15 Article.

16 (9) Parent. – A biological, foster, step, or adoptive parent of an employee or an
17 employee's spouse, or other person who stood in loco parentis during the
18 childhood of an employee or employee's spouse.

19 (10) Sexual assault. – As defined in Chapter 14 of the General Statutes.

20 (11) Small business. – An employer who employs 10 or fewer employees during
21 20 or more calendar workweeks in the current or preceding calendar year.

22 (12) Stalking. – As defined in Chapter 14 of the General Statutes.

23 **"§ 95-31.3. Exemptions.**

24 (a) The provisions of this section do not apply to any bona fide volunteers in any
25 organization where an employer-employee relationship does not exist.

26 (b) The provisions of this section do not apply to any person exempted from the Wage
27 and Hour Act under G.S. 95-25.14(a)(2) through (a)(8), 95-25.14(b), 95-25.14(b1), 95-25.14(c),
28 and 95-25.14(e), except that domestic workers are exempted only if they are employed in the
29 place of residence of their employer.

30 **"§ 95-31.4. Accrual of paid sick time.**

31 (a) Except as provided by G.S. 95-31.3, any employee who works in this State and who
32 must be absent from work for the reasons set forth in G.S. 95-31.5(a) shall be entitled to paid
33 sick time.

34 (b) Paid sick time as provided in this section shall begin to accrue at the commencement
35 of employment. Paid sick time shall accrue at the rate of one hour of pay for every 30 hours
36 worked. Paid sick time may be used as accrued or be loaned by the employer at its discretion to
37 the employee in advance of accrual. Unless the employer and employee agree to designate
38 otherwise, for periods of paid sick time that are less than a normal workday, the time shall be
39 counted on an hourly basis or the smallest increment that the employer's payroll system uses to
40 account for absences or use of leave.

41 (c) For employees of small businesses, there shall be a limit of 32 hours of accrued paid
42 sick time in a calendar year. For employees of other employers, there shall be a limit of 56 hours
43 of accrued paid sick time in a calendar year. Accrued paid sick time for employees carries over
44 from year to year but is limited to the aforementioned limits.

45 (d) When there is separation from employment and the employee is rehired within 90
46 days of separation by the same employer, previously accrued paid sick time that had not been
47 used shall be reinstated. The employee shall be entitled to use accrued paid sick time and accrue
48 additional sick time at the recommencement of employment.

49 **"§ 95-31.5. Use of paid sick time.**

50 (a) Paid sick time shall be provided to an employee by an employer for any of the
51 following reasons:

- 1 (1) To care for the employee's immediate family member who is suffering from a
2 physical or mental illness, injury, or medical condition that requires care,
3 professional medical diagnosis or care, preventive medical care, or a routine
4 medical appointment.
- 5 (2) To care for the employee's own physical or mental illness, injury, or medical
6 condition that requires care, professional medical diagnosis or care, preventive
7 medical care, or a routine medical appointment.
- 8 (3) Absence necessary due to circumstances resulting from the employee, or a
9 family member of the employee, being a victim of stalking or domestic or
10 sexual violence, if the leave is to allow the employee to obtain for the
11 employee or the family member (i) medical attention needed to recover from
12 physical or psychological injury or disability caused by stalking or domestic
13 or sexual violence, (ii) services from a designated domestic violence agency
14 or other victim services organization, (iii) psychological or other counseling,
15 (iv) relocation, or (v) legal services, including obtaining a restraining order or
16 preparing for, or participating in, any civil or criminal legal proceeding related
17 to the stalking or domestic or sexual violence.
- 18 (b) An employer may require certification of the qualifying illness, injury, health
19 condition, or violence when a paid sick time period covers more than three consecutive workdays.
20 Any reasonable documentation signed by a health care provider involved in following or treating
21 the illness, injury, or health condition and indicating the need for the amount of sick days taken
22 shall be deemed acceptable certification. Acceptable certification of domestic violence, sexual
23 assault, or stalking may include (i) law enforcement, court, or federal agency records or files, (ii)
24 documentation from a domestic violence or sexual assault program, or (iii) documentation from
25 a religious, medical, or other professional from whom assistance was sought in dealing with the
26 alleged domestic violence, sexual offense, or stalking.
- 27 (1) The employer shall not require certification from a health care provider
28 employed by the employer. The employer shall not delay the commencement
29 of time taken for purposes of subsection (a) of this section or pay for this
30 period on the basis that the employer has not yet received the certification.
31 Nothing in this section shall be construed to require an employee to provide
32 as certification any information from a health care provider that would be in
33 violation of section 1177 of the Social Security Act or the regulations
34 promulgated pursuant to section 264(c) of the Health Insurance Portability and
35 Accountability Act, 42 U.S.C. § 1320d-2.
- 36 (2) An employer may not require disclosure of details relating to domestic
37 violence, sexual assault, or stalking or the details of an employee's medical
38 condition as a condition of providing paid sick time under this Article. If an
39 employer possesses health information or information pertaining to domestic
40 violence, sexual assault, or stalking about an employee or employee's
41 immediate family member, such information shall be treated as confidential
42 and not disclosed except to the affected employee or with the permission of
43 the affected employee.
- 44 (c) When the use of paid sick time is foreseeable, the employee shall make a good-faith
45 effort to provide notice of the need for such time to the employer in advance of the use of the
46 sick time and shall make a reasonable effort to schedule the use of paid sick time in a manner
47 that does not unduly disrupt the operations of the employer.
- 48 (d) An employer may not require, as a condition of providing paid sick time under this
49 act, that the employee search for or find a replacement worker to cover the hours during which
50 the employee is on paid sick time.

1 (e) An employer's absence control policy shall not count paid sick time taken under this
2 Article as an absence that may lead to or result in a retaliatory personnel action or any other
3 adverse action.

4 (f) Nothing in this section shall be construed as requiring financial or other
5 reimbursement to an employee from an employer upon the employee's termination, resignation,
6 retirement, or other separation from employment for accrued paid sick days that have not been
7 used.

8 (g) Nothing in this section shall be construed to discourage employers from adopting or
9 retaining paid sick time policies more generous than policies that comply with the requirements
10 of this section, and nothing in this section shall be construed to diminish the obligation of an
11 employer to comply with any contract, collective bargaining agreement, or any employment
12 benefit program or plan that provides greater paid sick time leave rights to employees than the
13 rights established under this section.

14 (h) This act provides minimum requirements pertaining to paid sick time and shall not be
15 construed to preempt, limit, or otherwise affect the applicability of any other law, regulation,
16 requirement, policy, agreement, or standard that provides for greater accrual or use by employees
17 of sick time, whether paid or unpaid, or that extends other protections to employees.

18 (i) Employers who have a paid time-off leave policy shall not be required to modify that
19 policy, if that policy offers an employee the option, at the employee's discretion, to take paid sick
20 time that is at least equivalent to the amounts and for the same purposes and under the same
21 conditions as provided under this section.

22 **"§ 95-31.6. Notification, posting, and records.**

23 Employers shall give notice (i) that employees are entitled to paid sick time, (ii) of the amount
24 of paid sick time and the terms of its use guaranteed under this section, (iii) that retaliation against
25 employees who request or use paid sick time is prohibited, and (iv) that each employee has the
26 right to file a complaint with the Commissioner of Labor or in the General Court of Justice if
27 paid sick time as required by this Article is denied by the employer or the employee is retaliated
28 against for requesting or taking paid sick time. Employers may comply with this section by
29 supplying each of their employees with a notice in English and in Spanish that contains the
30 information required by this section or by displaying a poster in a conspicuous and accessible
31 place in each establishment where the employees are employed that contains in English and in
32 Spanish all information required by this section.

33 **"§ 95-31.7. Enforcement.**

34 (a) The Commissioner shall enforce and administer the provisions of this Article, and the
35 Commissioner or his or her authorized representative is empowered to hold hearings and to
36 institute civil proceedings hereunder.

37 (b) The Commissioner or the Commissioner's authorized representative shall have power
38 to administer oaths and examine witnesses, issue subpoenas, compel the attendance of witnesses
39 and the production of papers, books, accounts, records, payrolls, and documents, and take
40 depositions and affidavits in any proceeding hereunder.

41 (c) Any employer who violates the provisions of this Article shall be liable to the
42 employee or employees affected in the amount of their unpaid sick time, as the case may be, plus
43 interest at the legal rate set forth in G.S. 24-1 from the date each amount first came due.

44 (d) In addition to the amounts awarded pursuant to subsection (c) of this section, the court
45 shall award liquidated damages in an amount equal to the amount found to be due as provided in
46 subsection (c) of this section, provided that if the employer shows to the satisfaction of the court
47 that the act or omission constituting the violation was in good faith and that the employer had
48 reasonable grounds for believing that the act or omission was not a violation of this Article, the
49 court may, in its discretion, award no liquidated damages or may award any amount of liquidated
50 damages not exceeding the amount found due as provided in subsection (c) of this section.

1 (e) Action to recover such liability may be maintained in the General Court of Justice by
2 any one or more employees.

3 (f) The court, in any action brought under this Article, may, in addition to any judgment
4 awarded to the plaintiff, order costs and fees of the action and reasonable attorneys' fees to be
5 paid by the defendant. The court may order costs and fees of the action and reasonable attorneys'
6 fees to be paid by the plaintiff if the court determines that the action was frivolous.

7 (g) The Commissioner may determine and supervise the payment of the amounts due
8 under this section, including interest at the legal rate set forth in G.S. 24-1 from the date each
9 amount first came due, and the agreement to accept such amounts by the employee shall
10 constitute a waiver of the employee's right to bring an action under subsection (e) of this section.

11 (h) Actions under this Article must be brought within two years pursuant to G.S. 1-53.

12 (i) The rights and remedies created by this Article are supplementary to all existing
13 common-law and statutory rights and remedies.

14 **"§ 95-31.8. Rules.**

15 The Commissioner of Labor shall adopt rules to implement this Article.

16 **"§ 95-31.9. Severability.**

17 The provisions of this Article shall be severable, and if any phrase, clause, sentence, or
18 provision is declared to be invalid or is preempted by federal law or regulation, the validity of
19 the remainder of this Article shall not be affected thereby."

20 **SECTION 1.3.(b)** G.S. 95-241(a) reads as rewritten:

21 "(a) No person shall discriminate or take any retaliatory action against an employee
22 because the employee in good faith does or threatens to do any of the following:

- 23 (1) File a claim or complaint, initiate any inquiry, investigation, inspection,
24 proceeding or other action, or testify or provide information to any person
25 with respect to any of the following:
26 a. Chapter 97 of the General Statutes.
27 b. ~~Article 2A~~ Article 2A, Article 3A, or Article 16 of this Chapter.
28 c. Article 2A of Chapter 74 of the General Statutes.
29 d. G.S. 95-28.1.
30 e. Article 16 of Chapter 127A of the General Statutes.
31 f. G.S. 95-28.1A.
32 g. Article 52 of Chapter 143 of the General Statutes.
33 h. Article 5F of Chapter 90 of the General Statutes.
34 (2) Cause any of the activities listed in subdivision (1) of this subsection to be
35 initiated on an employee's behalf.
36 (3) Exercise any right on behalf of the employee or any other employee afforded
37 by ~~Article 2A~~ Article 2A, Article 3A, or Article 16 of this Chapter, by Article
38 2A of Chapter 74 of the General Statutes, or by Article 52 of Chapter 143 of
39 the General Statutes.
40 (4) Comply with the provisions of Article 27 of Chapter 7B of the General
41 Statutes.
42 (5) Exercise rights under Chapter 50B. Actions brought under this subdivision
43 shall be in accordance with the provisions of G.S. 50B-5.5."

44 **SECTION 1.3.(c)** This section becomes effective January 1, 2024, and applies only
45 to covered employment on or after that date. With respect to employees covered by a valid
46 collective bargaining agreement in effect on January 1, 2024, this section shall not apply until
47 the stated expiration date in the collective bargaining agreement; however, this section shall apply
48 upon any such agreement's renewal, extension, amendment, or modification in any respect after
49 January 1, 2024.

50
51 **INCREASE TIPPED MINIMUM WAGE**

1 **SECTION 1.4.(a)** Effective until December 31, 2023, G.S. 95-25.3(f) reads as
2 rewritten:

3 "(f) Tips earned by a tipped employee may be counted as wages only up to the amount
4 ~~permitted in section 3(m) of the Fair Labor Standards Act, 29 U.S.C. 203(m), if the tipped~~
5 ~~employee is notified in advance, is permitted to retain all tips and the employer maintains~~
6 ~~accurate and complete records of tips received by each employee as such tips are certified by the~~
7 ~~employee monthly or for each pay period. Even if the employee refuses to certify tips accurately,~~
8 ~~tips may still be counted as wages when the employer complies with the other requirements of~~
9 ~~this section and can demonstrate by monitoring tips that the employee regularly receives tips in~~
10 ~~the amount for which the credit is taken. of five dollars (\$5.00) per hour. Tip pooling ~~shall also~~~~
11 ~~be is~~ permissible among employees who customarily and regularly receive tips; however, no
12 employee's tips may be reduced by more than fifteen percent (15%) under a tip pooling
13 arrangement."

14 **SECTION 1.4.(b)** Effective January 1, 2024, G.S. 95-25.3(f), as amended by
15 subsection (a) of this section, reads as rewritten:

16 "(f) Tips earned by a tipped employee ~~may be counted as wages only up to the amount of~~
17 ~~five dollars (\$5.00) per hour. shall not be counted as wages.~~ Tip pooling is permissible among
18 employees who customarily and regularly receive tips; however, no employee's tips may be
19 reduced by more than fifteen percent (15%) under a tip pooling arrangement."

20 **SECTION 1.4.(c)** Except as otherwise provided, this section is effective when this
21 act becomes law.
22

23 WAGE THEFT

24 **SECTION 1.5.(a)** G.S. 95-25.2 reads as rewritten:

25 "§ 95-25.2. Definitions.

26 ~~In this Article, unless the context otherwise requires:~~ The following definitions apply in this
27 Article:

- 28 (1) ~~"Agriculture" includes farming~~ Agriculture. – Farming in all its branches
29 performed by a farmer or on a farm as an incident to or in conjunction with
30 farming operations.
- 31 (2) ~~"Commissioner" means the Commissioner.~~ The Commissioner of Labor.
- 32 (3) ~~"Employ" means to Employ.~~ To suffer or permit to work.
- 33 (4) ~~"Employee" includes any Employee.~~ Any individual employed by an
34 employer.
- 35 (5) ~~"Employer" includes any Employer.~~ Any person acting directly or indirectly
36 in the interest of an employer in relation to an employee.
- 37 (5a) Employment status. – The status of an individual, under the usual
38 common-law rules applicable in determining the employee-employer
39 relationship, as an employee or as an independent contractor (or another
40 individual who is not an employee).
- 41 (5b) Enterprise. – The related activities performed either through unified
42 operations or common control by any person or persons for a common
43 business purpose and includes all such activities whether performed in one or
44 more establishments or by one or more corporate units but shall not include
45 the related activities performed for such enterprise by an independent
46 contractor or franchisee.
- 47 (6) ~~"Establishment" means a Establishment.~~ A physical location where business
48 is conducted.
- 49 (7) ~~"The Fair Labor Standards Act" means the Fair Labor Standards Act.~~ The
50 Fair Labor Standards Act of 1938, as amended and as the same may be
51 amended from time to time by the United States Congress.

- 1 (8) ~~"Hours worked" includes all~~ Hours worked. – All time an employee is
2 employed.
- 3 (8a) Intentional. – The employer consciously committed the act which violated the
4 statute.
- 5 (9) ~~"Payday" means that~~ Payday. – That day designated for payment of wages due
6 by virtue of the employment relationship.
- 7 (10) ~~"Pay periods" may~~ Pay periods. – May be daily, weekly, biweekly,
8 semimonthly, or monthly.
- 9 (11) ~~"Person" means an~~ Person. – An individual, partnership, association,
10 corporation, business trust, legal representative, or any organized group of
11 persons. For the purposes of G.S. 95-25.2, G.S. 95-25.3, G.S. 95-25.14, and
12 G.S. 95-25.20, it also means the State of North Carolina, any city, town,
13 county, or municipality, or any State or local agency or instrumentality of
14 government. The Government of the United States and any agency of the
15 United States (including the United States Postal Service and Postal Rate
16 Commission) are not included as persons for any purpose under this Article.
- 17 (12) ~~"Seasonal food service establishment" means a~~ Seasonal food service
18 establishment. – A restaurant, food and drink stand or other establishment
19 generally recognized as a commercial food service establishment, preparing
20 and serving food to the public but operating 180 days or less per year.
- 21 (13) ~~"Seasonal religious or nonprofit educational conference center or a seasonal~~
22 ~~amusement or recreational establishment" means an~~ Seasonal religious or
23 nonprofit educational conference center or a seasonal amusement or
24 recreational establishment. – An establishment which does not operate for
25 more than seven months in any calendar year, or during the preceding calendar
26 year had average receipts for any six months of such year of not more than
27 thirty-three and one-third percent (33 1/3%) of its average receipts for the
28 other six months of that year.
- 29 (14) ~~"Tipped employee" means any~~ Tipped employee. – Any employee who
30 customarily receives more than twenty dollars (\$20.00) a month in tips.
- 31 (15) ~~"Tip" shall mean any~~ Tip. – Any money or part thereof over and above the
32 actual amount due a business for goods, food, drink, services or articles sold
33 which is paid in cash or by credit card, or is given to or left for an employee
34 by a patron or patrons of the business where the employee is employed.
- 35 (16) ~~"Wage"~~ Wage. – Wage paid to an employee means compensation for labor or
36 services rendered by an employee whether determined on a time, task, piece,
37 job, day, commission, or other basis of calculation, and the reasonable cost as
38 determined by the Commissioner of furnishing employees with board,
39 lodging, or other facilities. For the purposes of G.S. 95-25.6 through
40 G.S. 95-25.13 "wage" includes sick pay, vacation pay, severance pay,
41 commissions, bonuses, and other amounts promised when the employer has a
42 policy or a practice of making such payments.
- 43 (16a) Willful. – The employer knew or showed reckless disregard for the issue of
44 whether the employer's conduct was prohibited.
- 45 (17) ~~"Workweek" means any~~ Workweek. – Any period of 168 consecutive hours.
- 46 (18) ~~"Enterprise" means the related activities performed either through unified~~
47 ~~operations or common control by any person or persons for a common~~
48 ~~business purpose and includes all such activities whether performed in one or~~
49 ~~more establishments or by one or more corporate units but shall not include~~
50 ~~the related activities performed for such enterprise by an independent~~
51 ~~contractor or franchisee."~~

1 **SECTION 1.5.(b)** G.S. 95-25.13 reads as rewritten:

2 "**§ 95-25.13. Notification, posting, and records.**

3 Every employer shall do all of the following:

- 4 (1) Notify its employees, in writing at the time of hiring, and upon any material
5 change, of the following information:
6 a. The amount of the promised wages and the day and place for
7 payment, basis upon which the promised wages will be calculated (for
8 example, per hour or per piece).
9 b. The method, day, and place for payment of wages.
10 c. The full name, mailing address, and telephone number of the employer
11 and the federal and State tax identification number of each employer
12 who is not a natural person.
13 d. The employment status of the employee. Such notification or
14 classification by the employer is not determinative of the employee's
15 actual employment status.
16 (2) Make available to its employees, in writing or through a posted notice
17 maintained in a place accessible to its employees, employment practices and
18 policies with regard to promised wages.
19 (3) Notify employees, in writing, at least one pay period prior to any changes in
20 promised wages. Wages may be retroactively increased without the prior
21 notice required by this subsection.
22 (4) Furnish each employee with an itemized statement of deductions made from
23 that employee's wages under G.S. 95-25.8 and with the information required
24 by 13 NCAC 12 .0801(6) and 13 NCAC 12 .0801(8) through (13) for each
25 pay period such deductions are made, period."

26 **SECTION 1.5.(c)** G.S. 95-25.22 reads as rewritten:

27 "**§ 95-25.22. Recovery of unpaid wages.**

28 (a) Any employer who violates the provisions of G.S. 95-25.3 (Minimum Wage),
29 G.S. 95-25.4 (Overtime), or G.S. 95-25.6 through 95-25.12 (Wage Payment) shall be liable to
30 the employee or employees affected in the amount of their unpaid minimum wages, their unpaid
31 overtime compensation, or their unpaid amounts due under G.S. 95-25.6 through G.S. 95-25.12,
32 as the case may be, plus interest at the legal rate set forth in G.S. 24-1, from the date each amount
33 first came due.

34 (a1) In addition to the amounts awarded pursuant to subsection (a) of this section, the court
35 shall award liquidated damages in an amount equal to twice the amount found to be due as
36 provided in subsection (a) of this section, provided that if the employer shows to the satisfaction
37 of the court that the act or omission constituting the violation was in good faith and that the
38 employer had reasonable grounds for believing that the act or omission was not a violation of
39 this Article, the court may, in its discretion, award no liquidated damages or may award any
40 amount of liquidated damages not exceeding twice the amount found due as provided in
41 subsection (a) of this section.

42 (a2) Any employer who violates the provisions of G.S. 95-25.13 or any rule adopted under
43 that section shall be liable to the employee or employees affected in the amount of their actual
44 damages, including, but not limited to, lost wages and benefits plus interest.

45 (a3) In addition to the amounts awarded pursuant to subsections (a), (a1), and (a2) of this
46 section, if the court finds that the employer has intentionally violated any provision of this Article
47 or any regulation issued pursuant to this Article, the court shall award statutory damages of up to
48 five hundred dollars (\$500.00) per employee per violation. Factors to be considered in setting the
49 number of statutory damages include the nature and persistence of the violations and the extent
50 of the employer's culpability.

1 (b) Action to recover such liability may be maintained in the General Court of Justice by
2 any one or more employees.

3 (c) Action to recover such liability may also be maintained in the General Court of Justice
4 by the Commissioner at the request of the employees affected. Any sums thus recovered by the
5 Commissioner on behalf of an employee shall be held in a special deposit account and shall be
6 paid directly to the employee or employees affected.

7 (d) The court, in any action brought under this Article ~~may, shall,~~ in addition to any
8 judgment awarded plaintiff, order costs and fees of the action and reasonable attorneys' fees to
9 be paid by the defendant. In an action brought by the Commissioner in which a default judgment
10 is entered, the clerk shall order attorneys' fees of three hundred dollars (\$300.00) to be paid by
11 the defendant.

12 The court may order costs and fees of the action and reasonable attorneys' fees to be paid by
13 the plaintiff if the court determines that the action was frivolous.

14 (e) The Commissioner is authorized to determine and supervise the payment of the
15 amounts due under this section, including interest at the legal rate set forth in G.S. 24-1, from the
16 date each amount first came due, and the agreement to accept such amounts by the employee
17 shall constitute a waiver of the employee's right to bring an action under subsection (b) of this
18 section.

19 (f) Actions under this section must be brought within two years pursuant to
20 ~~G.S. 1-53~~G.S. 1-53, except that an action arising out of a willful violation may be brought within
21 three years. Actions may also be brought within one year after notification to the employee of
22 final disposition by the State of a complaint for the same violation.

23 (g) Prior to initiating any action under this section, the Commissioner shall exhaust all
24 administrative remedies, including giving the employer the opportunity to be heard on the matters
25 at issue and giving the employer notice of the pending action."

26 **SECTION 1.5.(d)** G.S. 95-25.23 reads as rewritten:

27 "**§ 95-25.23. Violation of provisions on minimum wage, overtime, wage payment,**
28 **withholding of wages, notification, and youth employment; civil penalty.**

29 (a) Any employer who violates the provisions of G.S. 95-25.3 (Minimum Wage),
30 G.S. 95-25.4 (Overtime), G.S. 95-25.5 (Youth Employment)-Employment), G.S. 95-25.6 (Wage
31 Payment), or G.S. 95-25.13 (Notification), or any regulation issued thereunder, shall be subject
32 to a civil penalty not to exceed five hundred dollars (\$500.00) for the first violation and not to
33 exceed one thousand dollars (\$1,000) for each subsequent violation. In determining the amount
34 of such penalty, the appropriateness of such penalty to the size of the business of the person
35 charged and the gravity of the violation shall be considered. The determination by the
36 Commissioner shall be final, unless within 15 days after receipt of notice thereof by certified
37 mail with return receipt, by signature confirmation as provided by the U.S. Postal Service, by a
38 designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt,
39 or via hand delivery, the person charged with the violation takes exception to the determination,
40 in which event final determination of the penalty shall be made in an administrative proceeding
41 pursuant to Article 3 of Chapter 150B and in a judicial proceeding pursuant to Article 4 of
42 Chapter 150B.

43 (b) The amount of such penalty when finally determined may be recovered in the manner
44 set forth in G.S. 95-25.23B.

45 (c) The clear proceeds of civil penalties provided for in this section shall be remitted to
46 the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

47 (d) Assessment of penalties under this section shall be subject to a ~~two-year~~three-year
48 statute of limitations commencing at the time of the occurrence of the violation."

49 **SECTION 1.5.(e)** Article 2A of Chapter 95 of the General Statutes is amended by
50 adding a new section to read:

51 "**§ 95-25.23D. Wage claims; liens; collections.**

- 1 (a) For the purposes of wage claims and collections under this Article, an employee is
2 entitled to a lien upon:
- 3 (1) All property of the employer, real or personal, located in this State; and
4 (2) All property upon which the employee has performed work at the insistence
5 of the owner or of any person acting by the employer's authority or under the
6 owner as contractor or otherwise, for the full amount of the wages and any
7 statutory penalties owed.
- 8 (b) Both a wage claim and an action to enforce a lien under this section may be brought
9 by the employee individually or by the Commissioner, or any representative of the employee on
10 behalf of the employee, including collective bargaining representatives.
- 11 (c) If no lien has been recorded at the time the employee files the complaint with the
12 Commissioner, the Commissioner shall record and provide notice of the lien on behalf of the
13 employee.
- 14 (d) Any number of wage claims or wage deficiencies against the same employer may be
15 joined in a single proceeding, but the court may order separate trials or hearings. If the proceeds
16 of the sale of the property subject to a lien are insufficient to pay all the claimants, whether or
17 not such claims have been joined together, the court shall order the claimants to be paid in
18 proportion to the amount due each claimant.
- 19 (e) An employee's lien upon personal property shall be limited to such property as can be
20 made subject to a security interest under the Commercial Code by the filing of a financing
21 statement.
- 22 (f) In order to enforce a lien under this section upon real property, a claim of lien must
23 be recorded with the county recorder in the county where the property is located, as follows:
- 24 (1) The claim shall include all of the applicable information set forth under
25 G.S. 44A-12.
- 26 (2) The notice of lien shall be served on the property owner in the manner
27 prescribed by G.S. 44A-11.
- 28 A lien under this section is perfected as soon as notice is provided as required by this
29 subsection.
- 30 (g) In order to enforce a lien under this section upon personal property, the
31 Commissioner, employee representative, or employee shall file the notice of the lien in the office
32 of the Secretary of State and serve a copy of the notice by personal service to the employer in the
33 same manner as a summons or by mail. The office of the Secretary of State shall place the notice
34 of the lien in the same file as the financing statements pursuant to G.S. 25-9-310. The notice shall
35 specify the nature and amount of the claim, describe the property on which the lien is made, and
36 state that the person filing the notice claims a lien on that property.
- 37 (h) The lien may be filed at any time prior to the expiration of the statute of limitations
38 for a wage claim on the same wages pursuant to G.S. 95-25.22(f).
- 39 (i) Mistakes or errors in the claimed amount owed shall not invalidate the lien unless
40 made with the intent to defraud.
- 41 (j) If a lien is recorded pursuant to subsection (f) of this section and an action to recover
42 unpaid wages has been filed, then that action shall also be deemed an action to foreclose upon
43 any property subject to the recorded lien. In the judgment resulting from such an action, the court
44 may order the sale at sheriff's auction or the transfer to the plaintiff of title or possession of any
45 property subject to the lien. Whether or not the court makes such an order as part of the judgment,
46 a writ of sale may be issued for any property subject to the lien at any point after a judgment for
47 unpaid wages is issued.
- 48 (k) If judgment is entered in favor of the employer in an action for unpaid wages or if the
49 case is dismissed with prejudice, the lien shall be extinguished upon expiration of the applicable
50 appeals period if no appeal is filed. If an appeal is filed, the lien shall continue in force until all
51 issues on appeal have been decided.

1 (l) If an action to recover the wages is not brought within one year of the filing of the
2 lien, the lien created by this section shall be extinguished.

3 (m) A lien recorded pursuant to subsection (f) of this section takes precedence over all
4 other debts, judgments, decrees, liens, or mortgages against the employer, regardless as to
5 whether these debts, judgments, decrees, liens, or mortgages originate before or after the wage
6 lien, and regardless of whether these debts, judgments, decrees, liens, or mortgages were
7 perfected prior to the wage lien. An employee's lien is effective against the employer, the estate
8 of the employer, or a subsequent bona fide purchaser of the property subject to the employee's
9 lien.

10 (n) The employee, the Commissioner, or the employee's representative, as assignee of the
11 employee, is entitled to court costs and reasonable attorneys' fees for filing a successful action to
12 foreclose a lien pursuant to this section."

13 **SECTION 1.5.(f)** This section is effective when this act becomes law and applies to
14 employers and employees on or after that date.

15
16 **"BAN THE BOX"**

17 **SECTION 1.6.(a)** Chapter 126 of the General Statutes is amended by adding a new
18 Article to read:

19 "Article 17.

20 "Fair Assessment of Persons with Criminal Histories.

21 **"§ 126-100. Definitions.**

22 The following definitions apply in this Article:

- 23 (1) Criminal history. – A State or federal history of conviction of a crime, whether
24 a misdemeanor or felony, that bears upon an applicant's fitness for public
25 employment. The term does not include a record of arrest not resulting in
26 conviction.
- 27 (2) Hiring authority. – The agent responsible by law for the hiring of persons for
28 public employment.
- 29 (3) Public employment. – Any job, work for pay, or employment, including
30 temporary or seasonal work, where the employer is the State of North Carolina
31 or any local political subdivision of the State.

32 **"§ 126-101. Consideration of applicant criminal history.**

33 A hiring authority may not inquire into or consider the criminal history of an applicant for
34 public employment, or include any such inquiry on any initial employment application form,
35 until the hiring authority has made a conditional offer of employment to the applicant. This
36 Article is not applicable to positions for which a hiring authority is otherwise required by law to
37 consider the criminal record; however, nothing in this Article shall be construed to preclude any
38 hiring authority in its discretion from adopting the provisions of this Article.

39 **"§ 126-102. Criteria for disqualification.**

40 (a) Except as otherwise required by law, no person shall be disqualified from public
41 employment solely or in part because of a prior conviction, unless the conviction is determined
42 to be substantially related to the qualifications, functions, or duties of the position after
43 consideration of all of the following factors:

- 44 (1) The level and seriousness of the crime.
- 45 (2) The date of the crime.
- 46 (3) The age of the person at the time of the conviction.
- 47 (4) The circumstances surrounding the commission of the crime, if known.
- 48 (5) The nexus between the criminal conduct and the duties of the position.
- 49 (6) The prison, jail, probation, parole, rehabilitation, and employment records of
50 the person since the date the crime was committed.
- 51 (7) The subsequent commission of a crime by the person.

1 (b) A record of arrest not resulting in conviction may not be the basis for disqualification
2 from public employment.

3 **"§ 126-103. Opportunity to provide evidence of inaccuracy.**

4 The hiring authority must inform the individual of the potential adverse employment decision
5 based on the background check report prior to a final decision and must provide an opportunity
6 to demonstrate that the individual was not correctly identified in the background check report or
7 that the report is otherwise inaccurate.

8 **"§ 126-104. Data collection.**

9 The State Human Resources Commission shall do the following:

- 10 (1) Record and log the positions that are statutorily required to conduct
11 background checks prior to a conditional offer of employment.
- 12 (2) Conduct quarterly reviews to determine compliance with this Article and
13 make a report on all such reviews to the General Assembly annually.
- 14 (3) Collect, and make available to the public, data on:
 - 15 a. The number of applicants for public employment with criminal
16 histories given conditional offers of employment.
 - 17 b. The number of applicants for public employment with criminal
18 histories who are subsequently employed.
 - 19 c. The retention rate of public employees with criminal histories.

20 **"§ 126-105. Applicability.**

21 The provisions of this Article apply to all applicants for public employment."

22 **SECTION 1.6.(b)** G.S. 126-5 is amended by adding a new subsection to read:

23 "(c19) Notwithstanding any other provision of law, the provisions of Article 17 of this
24 Chapter apply as to applicants for employment with the State or any local political subdivision
25 of the State."

26 **SECTION 1.6.(c)** This section is effective when this act becomes law and applies to
27 applications for employment made on or after that date.

28
29 **REPEAL OF PUBLIC EMPLOYEE COLLECTIVE BARGAINING RESTRICTION**

30 **SECTION 1.7.(a)** G.S. 95-98 reads as rewritten:

31 ~~"§ 95-98. Contracts between units of government and labor unions, trade unions or labor~~
32 ~~organizations concerning public employees declared to be illegal.~~

33 ~~Any agreement, or contract, between the governing authority of any city, town, county, or~~
34 ~~other municipality, or between any agency, unit, or instrumentality thereof, or between any~~
35 ~~agency, instrumentality, or institution of the State of North Carolina, and any labor union, trade~~
36 ~~union, or labor organization, as bargaining agent for any public employees of such city, town,~~
37 ~~county or other municipality, or agency or instrumentality of government, is hereby declared to~~
38 ~~be against the public policy of the State, illegal, unlawful, void and of no effect."~~

39 **SECTION 1.7.(b)** This section is effective when this act becomes law.

40
41 **EARNED INCOME TAX CREDIT**

42 **SECTION 1.8.(a)** G.S. 105-151.31 is reenacted as it existed immediately before its
43 expiration and reads as rewritten:

44 **"§ 105-151.31. Earned income tax credit.**

45 (a) Credit. – An individual who claims for the taxable year an earned income tax credit
46 under section 32 of the Code is allowed a credit against the tax imposed by this Part equal to a
47 percentage five percent (5%) of the amount of credit the individual qualified for under section
48 32 of the Code. A nonresident or part-year resident who claims the credit allowed by this section
49 must reduce the amount of the credit by multiplying it by the fraction calculated under
50 G.S. 105-134.5(b) or (c), as appropriate. ~~The percentage is as follows:~~

- 51 (1) ~~For taxable year 2013, four and one-half percent (4.5%).~~

(2) For all other taxable years, five percent (5%).

(b) Credit Refundable. – If the credit allowed by this section exceeds the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowable, the Secretary must refund the excess to the taxpayer. The refundable excess is governed by the provisions governing a refund of an overpayment by the taxpayer of the tax imposed in this Part. ~~Section 3507 of the Code, Advance Payment of Earned Income Credit, does not apply to the credit allowed by this section.~~ In computing the amount of tax against which multiple credits are allowed, nonrefundable credits are subtracted before refundable credits.

(e) Sunset. — ~~This section is repealed effective for taxable years beginning on or after January 1, 2014.~~

SECTION 1.8.(b) This section is effective for taxable years beginning on or after January 1, 2023.

TAX CREDIT FOR CHILD AND DEPENDENT CARE EXPENSES

SECTION 1.9.(a) Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-151.34. Credit for qualified child and dependent care expenses.

(a) Credit. – A person who is allowed a credit against federal income tax for a percentage of employment-related expenses under section 21 of the Code shall be allowed as a credit against the tax imposed by this Part an amount equal to one hundred percent (100%) of the amount of the credit provided for in section 21 of the Code which is claimed and allowed pursuant to the Internal Revenue Code. To claim the credit allowed by this section, the taxpayer must provide with the tax return the information required by the Secretary of Revenue.

(b) Phaseout. – The credit allowed by this section shall be reduced by a percentage listed below, rounded to the nearest percentage point, based on the taxpayer's adjusted gross income as calculated under the Code:

<u>Filing Status</u>	<u>For AGI Exceeding</u>	<u>Percentage Reduction</u>
<u>Married, filing jointly</u>	<u>\$75,000</u>	<u>The lesser of 100% or [(Taxpayer's AGI – \$75,000)/\$125,000]</u>
<u>Head of Household</u>	<u>\$56,250</u>	<u>The lesser of 100% or [(Taxpayer's AGI – \$56,250)/\$93,750]</u>
<u>Single</u>	<u>\$37,500</u>	<u>The lesser of 100% or [(Taxpayer's AGI – \$37,500)/\$62,500]</u>

(c) Limitations. – A nonresident or part-year resident who claims the credit allowed by this section shall reduce the amount of the credit by multiplying it by the fraction calculated under G.S. 105-153.4(b) or (c), as appropriate. The credit allowed by this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowable, except for payments of tax made by or on behalf of the taxpayer."

SECTION 1.9.(b) Subsection (a) of this section is effective for taxable years beginning on or after January 1, 2023.

UNEMPLOYMENT INSURANCE BENEFITS INCREASES

SECTION 2.1.(a) G.S. 96-14.2(a) reads as rewritten:

(a) Weekly Benefit Amount. – The weekly benefit amount for an individual who is totally unemployed is an amount equal to the wages paid to the individual in the ~~last two completed quarters~~ highest paid quarter of the individual's base period divided by 52 and rounded to the next lower whole dollar. If this amount is less than fifteen dollars (\$15.00), the individual is not eligible for benefits. The weekly benefit amount may not exceed ~~three hundred fifty dollars (\$350.00)~~ six hundred eighty dollars (\$680.00)."

1 **SECTION 2.1.(b)** This section is effective for benefit weeks beginning on or after
 2 April 1, 2023.

3 **SECTION 2.2.** G.S. 96-14.3 reads as rewritten:

4 "**§ 96-14.3. Duration of benefits.**

5 (a) ~~Duration.—The number of weeks an individual is allowed to receive unemployment~~
 6 ~~benefits depends on the seasonal adjusted statewide unemployment rate that applies to the~~
 7 ~~six month base period in which the claim is filed. One six month base period begins on January~~
 8 ~~1 and one six month base period begins on July 1. For the base period that begins January 1, the~~
 9 ~~average of the seasonal adjusted unemployment rates for the State for the preceding months of~~
 10 ~~July, August, and September applies. For the base period that begins July 1, the average of the~~
 11 ~~seasonal adjusted unemployment rates for the State for the preceding months of January,~~
 12 ~~February, and March applies. The Division must use the most recent seasonal adjusted~~
 13 ~~unemployment rate determined by the U.S. Department of Labor, Bureau of Labor Statistics, and~~
 14 ~~not the rate as revised in the annual benchmark.~~

Seasonal Adjusted	Number
Unemployment Rate	of Weeks
Less than or equal to 5.5%	12
Greater than 5.5% up to 6%	13
Greater than 6% up to 6.5%	14
Greater than 6.5% up to 7%	15
Greater than 7% up to 7.5%	16
Greater than 7.5% up to 8%	17
Greater than 8% up to 8.5%	18
Greater than 8.5% up to 9%	19
Greater than 9%	20

26 (a1) Maximum Duration. – An eligible individual is entitled to receive unemployment
 27 benefits for a maximum period of 26 weeks, unless the benefit period is extended expressly by
 28 State or federal law.

29 (b) Total Benefits. – The total benefits paid to an individual equals the individual's
 30 weekly benefit amount allowed under G.S. 96-14.2 multiplied by the number of weeks allowed
 31 under subsection (a) of this section.26."

32 **SECTION 2.3.** The Legislative Research Commission (LRC) shall study expanding
 33 the State's employment security system to cover self-employed workers who are laid off or have
 34 hours reduced due to an economic downturn. For the purposes of this review, the term
 35 "self-employed worker" means an individual who has a contract or arrangement to perform work
 36 or services. The term includes, but is not limited to, app-based ride-share and food delivery
 37 drivers, freelancers, and other similar "gig economy" workers.

38 The LRC shall report its findings and any legislative proposals to the 2024 Session of
 39 the 2023 General Assembly.

40
 41 **PANDEMIC/OCCUPATIONAL DISEASE PRESUMPTION**

42 **SECTION 3.1.(a)** G.S. 97-53 reads as rewritten:

43 "**§ 97-53. Occupational diseases ~~enumerated; when due to exposure to chemicals and~~**
 44 **conditions enumerated.**

45 The following diseases and conditions only shall be deemed to be occupational diseases
 46 within the meaning of this Article:

- 47 ...
- 48 (30) Pandemic infection contracted by a covered person. – A pandemic infection
 49 contracted by a covered person shall be presumed to be due to exposure in the
 50 course of the covered person's employment. The presumption may only be

1 rebutted by clear and convincing evidence. The following definitions apply in
 2 determining eligibility for compensation under this subdivision:

- 3 a. Covered person. – Means (i) a law enforcement officer, jailer, prison
 4 guard, firefighter, or an emergency medical technician or paramedic
 5 employed by a State or local governmental employer, including a
 6 volunteer firefighter meeting the requirements of G.S. 58-84-5(3a),
 7 (ii) a health care worker, or (iii) an employee required to work during
 8 a pandemic for a business declared essential by executive order of the
 9 Governor or by order of a local governmental authority, including food
 10 service, retail, and other essential personnel.
 11 b. Pandemic. – An outbreak of an emerging disease prevalent in the
 12 United States or the whole world.

13"

14 **SECTION 3.1.(b)** This section is effective when this act becomes law and applies
 15 to claims for workers' compensation benefits filed on or after that date.

17 **PANDEMIC/LOCAL GOVERNMENT EMPLOYEE QUARANTINE PAY**

18 **SECTION 3.2.(a)** Notwithstanding any provision of law to the contrary, the
 19 following local governmental employees shall be credited by their respective employers for any
 20 sick or vacation leave taken by the employee to comply with a quarantine related to exposure to
 21 the coronavirus:

- 22 (1) Health care workers.
 23 (2) Law enforcement officers, jailers, prison guards, firefighters, emergency
 24 medical technicians, paramedics, and volunteer firefighters meeting the
 25 requirements of G.S. 58-84-5(3a).

26 **SECTION 3.2.(b)** This section is effective when this act becomes law and applies
 27 to every local law enforcement agency, county, city, and local political subdivision of the State.

29 **PANDEMIC/MANDATORY STATE EMPLOYEES/HAZARD PAY/STUDY**

30 **SECTION 4.1.(a)** Article 2 of Chapter 126 of the General Statutes is amended by
 31 adding a new section to read:

32 "**§ 126-8.6. Mandatory State operations; mandatory employees; hazard pay requirements.**

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

- 34 (1) Epidemic. – A disease occurring suddenly in a community, region, or country
 35 in numbers clearly in excess of normal. This includes the occurrence of several
 36 cases of a disease associated with a common source.
 37 (2) High-risk employees. – Employees in a certain age group or who have serious
 38 underlying medical conditions and might be at higher risk for severe illness
 39 from a communicable disease as identified by the federal Centers for
 40 Communicable Diseases or the Division of Public Health of the North
 41 Carolina Department of Health and Human Services.
 42 (3) Isolation. – A control measure issued by a local health director or the State
 43 Health Director under G.S. 130A-145 limiting the movement or action of
 44 persons or animals infected or reasonably suspected to be infected with a
 45 communicable disease or condition for the period of communicability to
 46 prevent the spread of the communicable disease or condition, as described in
 47 G.S. 130A-2(3a).
 48 (4) Mandatory employee. – An employee with a permanent, probationary, or
 49 time-limited appointment who is required to report to a designated work site
 50 (particularly when all other employees are restricted from coming into the
 51 workplace), other than their personal residence, and only for those specific

1 dates and times that such on-site reporting is required during a public health
2 emergency. Mandatory employees include, but are not limited to, employees
3 in positions that directly impact the (i) public health and patient care, (ii)
4 public safety, (iii) operation of critical infrastructure and facilities, (iv)
5 operation and safety of sensitive research labs and ongoing care for research
6 animals, and (v) custody or care of persons or property for whom the State has
7 a duty to continue to serve. Mandatory employees may also be referred to as
8 "essential employees."

9 (5) Pandemic. – The worldwide spread of an infectious/communicable disease
10 affecting a large number of people.

11 (6) Quarantine. – A control measure issued by a local health director or the State
12 Health Director under G.S. 130A-145 limiting the movement or action of
13 persons or animals who have been exposed to or are reasonably suspected of
14 having been exposed to a communicable disease or condition for the period of
15 time necessary to prevent the spread of the communicable disease or
16 condition, as described in G.S. 130A-2(7a).

17 (7) Social distancing. – Actions taken to reduce the opportunities for close contact
18 between people in order to limit the spread of a communicable disease.

19 (8) State agency or agency. – The legislative, executive, and judicial branches of
20 State government and the respective departments, divisions, and other units
21 thereof. The term includes The University of North Carolina.

22 (b) Findings and Policy. – Notwithstanding the existence of a communicable disease
23 epidemic or pandemic in this State, the mandatory essential functions of government must
24 continue, even if isolation, quarantine, and social distancing are public health control measures
25 that may be required to protect the public health. Certain State employees are essential such that
26 their continued presence in the workplace may be required in a situation. It is the policy of this
27 State to provide mandatory State employees with (i) the most effective equipment and measures
28 to protect their health in the workplace and (ii) hazard pay to compensate them for their continued
29 service during an epidemic or pandemic.

30 (c) Agency Responsibilities. – It is the responsibility of the head of each State agency to
31 consult with local, State, and federal public health officials to assess the severity of the individual
32 situation and to determine what actions shall be taken (including the closure of the agency or
33 university, by facility or location). Each State agency shall:

34 (1) Comply with and adhere to any control measures, other orders, or instructions
35 from federal, State, and local public health agencies to prevent transmission
36 of a communicable disease.

37 (2) Require that agency management and employees follow public health
38 guidelines.

39 (3) Immediately inform agency management and other employees, and the local
40 health department, of any evidence in the workplace of a communicable
41 disease that could seriously endanger the health of employees and others.

42 (d) Mandatory Operations. – In order to continue essential State government functions,
43 the head of each State agency shall predetermine and designate mandatory operations and
44 designate the mandatory employees to staff the operations even when isolation, quarantine, and
45 social distancing are public health control measures that may be required to protect the public
46 health during a communicable disease pandemic or epidemic.

47 (e) Mandatory Employees. – A mandatory employee may be required to work during a
48 pandemic or epidemic in order to maintain mandatory operations. A mandatory employee may
49 be excused from work if the employee is:

50 (1) A high-risk employee;

- 1 (2) Isolated, quarantined, ill, or subject to other public health control measures;
2 or
3 (3) Required to care for a member of the employee's immediate family who is
4 isolated, quarantined, or ill or who requires the employee's care due to the
5 closure of a public or private school, a day care center, or an elder care facility.

6 Based on an agency's operational needs, a supervisor may excuse a mandatory employee if
7 the employee is a parent (or guardian) who is required to stay home with underage children
8 because of the closure of a day care facility, public or private school, or elder care facility.

9 If operational needs change, a mandatory employee may be required to return to work, but
10 only for documented compelling reasons that will not jeopardize the health and safety of the
11 mandatory employee. Management's discretion or convenience is not a compelling reason when
12 the employee has been advised by a health care provider to quarantine due to exposure to a
13 communicable disease. The advice to quarantine must be documented and based upon the health
14 care provider's belief that the employee has the communicable disease, may have been exposed
15 to the communicable disease, or is particularly vulnerable to the communicable disease.

16 Each State agency shall maintain a list of mandatory employees by position, including current
17 employee name and contact information. The agency head shall develop an alternative plan for
18 personnel in case the designated personnel are unable to work. Alternative workers may include
19 current employees who are not designated as mandatory but who possess the skills to fill in for
20 mandatory employees, retirees, contract workers, or other temporary employees. Employees
21 designated as mandatory personnel shall be notified of such designation and the requirement to
22 report for, or remain at, work in emergency situations.

23 If mandatory personnel are required to remain at the work site for an extended period of time,
24 the agency or university must provide adequate housing and food. If an employee remains on the
25 employer's premises for 24 hours a day, the employee shall be eligible for extra hazard duty pay
26 as appropriate and may be entitled to receive pay for all those hours depending on the situation.
27 Employees shall have a normal night's sleep and ample eating time, and this time is not
28 considered as hours worked. At a minimum, the sleep allowance is for eight hours of sleep, and
29 the meal period is for three hours.

30 (f) Hazard Pay/Compensatory Time. – When an agency is closed or when management
31 determines that only mandatory employees are required to report to a specific work site
32 (particularly when all other employees are restricted from coming into the workplace), the
33 mandatory employees shall be granted hazard pay of at least 1.5 or an equivalent ratio in
34 compensatory time for hours worked on-site up to 40 hours in a workweek. It is the agency head's
35 discretion to determine any other appropriate compensation options based on the availability of
36 funds, operational needs of the agency, and in consideration of the duties being performed.
37 Compensatory time must be used within 24 months of it being awarded, or it will expire.
38 Agencies shall make every effort to give employees the opportunity to take this time off.
39 Compensatory time earned during a public health emergency is not paid out at expiration or upon
40 separation and does not transfer to another State agency. This provision applies to all designated
41 mandatory employees, both exempt and nonexempt, under the Fair Labor Standards Act (FLSA).

42 (g) Discipline and Appeals. – Individuals designated as mandatory employees may be
43 subject to disciplinary action, up to and including termination of employment, for willful failure
44 to report for or remain at work. Each situation will be reviewed on a case-by-case basis to
45 determine appropriate action. A mandatory employee may appeal the denial of an exemption,
46 any disciplinary action under this section, or both, pursuant to G.S. 126-34.02.

47 (h) Applicability. – This section applies to all State employees, whether or not they are
48 exempt or nonexempt from the provisions of this Chapter."

49 **SECTION 4.1.(b)** G.S. 126-34.02(b) reads as rewritten:

50 "(b) The following issues may be heard as contested cases after completion of the agency
51 grievance procedure and the Office of State Human Resources review:

1 ...
2 (7) Treatment of mandatory employees. – A mandatory employee may appeal the
3 denial of an exemption, the adequacy of the amount of hazard pay, and any
4 disciplinary action under G.S. 126-8.6."

5 **SECTION 4.1.(c)** G.S. 126-8 reads as rewritten:

6 **"§ 126-8. Minimum leave granted State employees.**

7 ~~The~~ Except as otherwise authorized by G.S. 126-8.6(f), the amount of vacation leave granted
8 to each full-time State employee subject to the provisions of this Chapter shall be determined in
9 accordance with a graduated scale established by the State Human Resources Commission which
10 shall allow the equivalent rate of not less than two weeks' vacation per calendar year, prorated
11 monthly, cumulative to at least 30 days. On December 31 of each year, any State employee who
12 has vacation leave in excess of the allowed accumulation shall have that leave converted to sick
13 leave. Sick leave allowed as needed to such State employees shall be at a rate not less than 10
14 days for each calendar year, cumulative from year to year. Notwithstanding any other provisions
15 of this section, no full-time State employee subject to the provisions of Chapter 126, as the same
16 appears in the Cumulative Supplement to Volume 3B of the General Statutes, on May 23, 1973,
17 shall be allowed less than the equivalent of three weeks' vacation per calendar year, cumulative
18 to at least 30 days."

19
20 **LEGISLATIVE RESEARCH COMMISSION/STUDY HAZARD PAY**

21 **SECTION 5.1.** The Legislative Research Commission shall study the practices of
22 local governmental and private employers in this State regarding hazard pay for their employees
23 and report its findings and any legislative proposals to the 2024 Regular Session of the 2023
24 General Assembly upon its convening.

25
26 **APPROPRIATIONS**

27 **SECTION 6.1.(a)** There is appropriated from the General Fund to the Office of State
28 Budget and Management the sum of five million dollars (\$5,000,000) for the 2023-2024 fiscal
29 year to fund mandatory employee hazard pay and otherwise implement the provisions of this act.

30 **SECTION 6.1.(b)** There is appropriated from the General Fund to the Office of State
31 Human Resources (OSHR), Department of Administration, the sum of five million dollars
32 (\$5,000,000) in nonrecurring funds for the 2023-2024 fiscal year to settle claims filed by State
33 employees who contract the coronavirus in the course of State employment as provided by
34 G.S. 97-53(30), as enacted by this act. These funds shall remain available to pay these State
35 employee claims until December 31, 2023. After that date, OSHR may use these funds to assist
36 State agencies with the settlement of prior outstanding workers' compensation claims.

37 **SECTION 6.1.(c)** This section becomes effective July 1, 2023.

38
39 **EFFECTIVE DATE**

40 **SECTION 7.1.** Except as otherwise provided, this act is effective when it becomes
41 law.