

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 828*
Finance Committee Substitute Adopted 6/6/12
Third Edition Engrossed 6/7/12
House Committee Substitute Favorable 6/13/12
Fifth Edition Engrossed 6/19/12

Short Title: Unemployment Insurance Changes.

(Public)

Sponsors:

Referred to:

May 21, 2012

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE CHANGES TO THE UNEMPLOYMENT INSURANCE LAWS.
3 The General Assembly of North Carolina enacts:

4
5 **PART I. CHANGE THE LAW TO CONTINUE THE THREE-YEAR LOOKBACK**
6 **TRIGGER FOR EXTENDED BENEFITS**

7 **SECTION 1.(a)** The General Assembly finds that it enacted Section 6.16 of
8 Session Law 2011-145 and, in so doing, validated the effects of the Governor's Executive Order
9 No. 113 with the stated intent to allow extended benefits to be paid under the Tax Relief Act of
10 2010 so long as payment of the extended benefits did not hinder the State's ability to reduce its
11 debt owed to the federal government for unemployment benefits.

12 **SECTION 1.(b)** It is deemed, therefore, to be in the best interest of the people of
13 this State that the General Assembly now ratify and hereby validate the effects of the
14 Governor's Executive Order No. 113.

15 **SECTION 1.(c)** Section 6.16(d) of S.L. 2011-145 reads as rewritten:

16 "**SECTION 6.16.(d)** This section becomes effective April 16, 2011, and expires ~~January 1,~~
17 ~~2012.~~January 1, 2013."

18 **SECTION 1.(d)** G.S. 96-12.01(a1)(4)c.3. reads as rewritten:

19 "3. This section applies as provided under the Tax Relief,
20 Unemployment Insurance Reauthorization, and Job Creation
21 Act of 2010 (P.L. 111-312) as it existed on December 17,
22 2010, and is applicable to compensation for weeks of
23 unemployment beginning after December 17, 2010, and
24 ending on or before ~~December 31, 2011,~~ December 31, 2012,
25 provided that:

- 26 I. The average rate of (i) insured unemployment, not
27 seasonally adjusted, equaled or exceeded one hundred
28 twenty percent (120%) of the average of such rates for
29 the corresponding 13-week period ending in all of the
30 preceding three calendar years and equaled or
31 exceeded five percent (5%) or (ii) total
32 unemployment, seasonally adjusted, as determined by
33 the United States Secretary of Labor, for the period



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1 consisting of the most recent three months for which
 2 data for all states are published before the close of the
 3 week equals or exceeds six and one-half percent
 4 (6.5%); and

5 II. The average rate of total unemployment in this State,
 6 seasonally adjusted, as determined by the United
 7 States Secretary of Labor, for the three-month period
 8 referred to in this subsection, equals or exceeds one
 9 hundred ten percent (110%) of the average for any of
 10 the corresponding three-month periods ending in the
 11 three preceding calendar years."

12 **SECTION 1.(e)** G.S. 96-12.01(a1)(4)e.3. reads as rewritten:

13 "3. This subdivision applies as provided under the Tax Relief,
 14 Unemployment Insurance Reauthorization, and Job Creation
 15 Act of 2010 (P.L. 111-312) as it existed on December 17,
 16 2010, and is applicable to compensation for weeks of
 17 unemployment beginning after December 17, 2010, and
 18 ending on or before ~~December 31, 2011,~~ December 31, 2012,
 19 provided that:

20 I. The average rate of total unemployment, seasonally
 21 adjusted, as determined by the United States Secretary
 22 of Labor, for the period consisting of the most recent
 23 three months for which data for all states are
 24 published before the close of the week equals or
 25 exceeds eight percent (8%); and

26 II. The average rate of total unemployment in this State,
 27 seasonally adjusted, as determined by the United
 28 States Secretary of Labor, for the three-month period
 29 referred to in this subdivision equals or exceeds one
 30 hundred ten percent (110%) of the average for any of
 31 the corresponding three-month periods ending in the
 32 three preceding calendar years."

33 **SECTION 1.(f)** This section is effective when it becomes law and applies
 34 retroactively to January 1, 2012.
 35

36 **PART II. RESOLUTION OF OUTSTANDING ISSUES FROM S.L. 2011-401**

37 **SECTION 2.(a)** The Current Operations Appropriations Act for the 2012-2013
 38 fiscal year shall provide for the annual salaries of the Board of Review, as provided in
 39 G.S. 96-4(b).

40 **SECTION 2.(b)** G.S. 96-14(2) reads as rewritten:

41 **"§ 96-14. Disqualification for benefits.**

42 An individual shall be disqualified for benefits:

- 43 ...
- 44 (2) For the duration of the individual's unemployment beginning with the first
 45 day of the first week after the disqualifying act occurs with respect to which
 46 week an individual files a claim for benefits if it is determined by the
 47 Division that such individual is, at the time such claim is filed, unemployed
 48 because he or she was discharged for misconduct connected with the work.
 49 Misconduct connected with the work is defined as conduct evincing a willful
 50 or wanton disregard of the employer's interest as is found in deliberate
 51 violations or disregard of standards of behavior which the employer has the

1 right to expect of an employee or has explained orally or in writing to an
 2 employee or conduct evincing carelessness or negligence of such degree or
 3 recurrence as to manifest an intentional and substantial disregard of the
 4 employer's interests or of the employee's duties and obligations to the
 5 employer. intentional acts or omissions evincing disregard of an employer's
 6 interest or standards of behavior which the employer has a right to expect or
 7 has explained orally or in writing to an employee or evincing carelessness or
 8 negligence of such degree as to manifest equal disregard.The following
 9 examples are prima facie evidence of misconduct, which may be rebutted by
 10 the claimant:

11 "Discharge for misconduct with the work" as used in this section is
 12 defined to include but not be limited

- 13 a. separation initiated by an employer for violating Violating the
 14 employer's written alcohol or illegal drug policy; reporting policy.
 15 b. Reporting to work significantly impaired by alcohol or illegal drugs;
 16 consuming drugs.
 17 c. Consuming alcohol or illegal drugs on employer's premises;
 18 conviction premises.
 19 d. Conviction by a court of competent jurisdiction for manufacturing,
 20 selling, or distribution of a controlled substance punishable under
 21 G.S. 90-95(a)(1) or G.S. 90-95(a)(2) while in the employ of said
 22 employer; being if the offense is related to or connected with an
 23 employee's work for an employer or is in violation of a reasonable
 24 work rule or policy.
 25 e. Being terminated or suspended from employment after arrest or
 26 conviction for an offense involving violence, sex crimes, or illegal
 27 drugs; any drugs if the offense is related to or connected with an
 28 employee's work for an employer or is in violation of a reasonable
 29 work rule or policy.
 30 f. Any physical violence whatsoever related to an employee's work for
 31 an employer, including, but not limited to, physical including
 32 physical violence directed at supervisors, subordinates, coworkers,
 33 vendors, customers, or the general public; inappropriate public.
 34 g. Inappropriate comments or behavior towards supervisors,
 35 subordinates, coworkers, vendors, customers, or to the general public
 36 relating to any federally protected characteristic which creates a
 37 hostile work environment; theft environment.
 38 h. Theft in connection with the employment; forging employment.
 39 i. Forging or falsifying any document or data related to employment,
 40 including a previously submitted application for employment;
 41 violation employment.
 42 j. Violating of an employer's written absenteeism policy;
 43 refusing policy.
 44 k. Refusing to perform reasonably assigned work tasks or failing to adequately
 45 perform employment duties as evidenced by no fewer than three written
 46 reprimands in the 12 months immediately preceding the employee's
 47 termination. This

48 The phrase "discharge for misconduct connected with the work" does not
 49 include the discharge or an employer-initiated separation of a severely
 50 disabled veteran, as defined in G.S. 96-8, for any act or omission of the
 51 veteran that the Division determines are attributed to a disability incurred or

1 aggravated in the line of duty during active military service, or to the
2 veteran's absence from work to obtain care and treatment of a disability
3 incurred or aggravated in the line of duty during active military service."

4 **SECTION 2.(c)** G.S. 96-15(b)(2) reads as rewritten:

5 "(2) Adjudication. – When a protest is made by the claimant to the initial or
6 monetary determination, or a question or issue is raised or presented as to the
7 eligibility of a claimant under G.S. 96-13, or whether any disqualification
8 should be imposed under G.S. 96-14, or benefits denied or adjusted pursuant
9 to G.S. 96-18, the matter shall be referred to an adjudicator. The adjudicator
10 may consider any matter, document or statement deemed to be pertinent to
11 the issues, including telephone conversations, and after such consideration
12 shall render a conclusion as to the claimant's benefit entitlements. The
13 adjudicator shall notify the claimant and all other interested parties of the
14 conclusion reached. The conclusion of the adjudicator shall be deemed the
15 final decision of the Division unless within 30 days after the date of
16 notification or mailing of the conclusion, whichever is earlier, a written
17 appeal is filed pursuant to rules adopted by the Division. The Division shall
18 be deemed an interested party for such purposes and may remove to itself or
19 transfer to an appeals referee the proceedings involving any claim pending
20 before an adjudicator.

21 Provided, any interested employer shall be allowed ~~30~~10 days from the
22 ~~earlier of mailing or delivery~~ of the notice of the filing of a claim against the
23 employer's account to protest the claim and have the claim referred to an
24 adjudicator for a decision on the question or issue raised. A copy of the
25 notice of the filing shall be sent contemporaneously to the employer by
26 telefacsimile transmission if a fax number is on file. Provided further, no
27 question or issue may be raised or presented by the Division as to the
28 eligibility of a claimant under G.S. 96-13, or whether any disqualification
29 should be imposed under G.S. 96-14, after 45 days from the first day of the
30 first week after the question or issue occurs with respect to which week an
31 individual filed a claim for benefits. None of the provisions of this
32 subsection shall have the force and effect nor shall the same be construed or
33 interested as repealing any other provisions of G.S. 96-18.

34 An employer shall receive written notice of the employer's appeal rights
35 and any forms that are required to allow the employer to protest the claim.
36 The forms shall include a section referencing the appropriate rules pertaining
37 to appeals and the instructions on how to appeal."

38 **SECTION 2.(d)** G.S. 96-15(f) reads as rewritten:

39 "(f) Procedure. – The manner in which disputed claims shall be presented, the reports
40 thereon required from the claimant and from employers, and the conduct of hearings and
41 appeals shall be in accordance with rules adopted by the Division for determining the rights of
42 the parties, whether or not such rules conform to common-law or statutory rules of evidence
43 and other technical rules of procedure. ~~All~~

44 All testimony at any hearing before an appeals referee upon a disputed claim shall be
45 recorded unless the parties have waived the evidentiary hearing and entered into a
46 stipulation resolving the issues pending before the appeals referee, hearing officer, or other
47 employee assigned to make the decision, recording is waived by all interested parties. If the
48 testimony is recorded, it but need not be transcribed unless the disputed claim is further
49 appealed and, one or more of the parties objects, under such rules as the Division may adopt,
50 being provided a copy of the tape recording of the hearing. Any other provisions of this
51 Chapter notwithstanding, any individual receiving the transcript shall pay to the Division such

1 reasonable fee for the transcript as the Division may by regulation provide. The fee so
2 prescribed by the Division for a party shall not exceed the lesser of sixty-five cents (65¢) per
3 page or sixty-five dollars (\$65.00) per transcript. The Division may by regulation provide for
4 the fee to be waived in such circumstances as it in its sole discretion deems appropriate but in
5 the case of an appeal in forma pauperis supported by such proofs as are required in G.S. 1-110,
6 the Division shall waive the fee.

7 The parties may enter into a stipulation of the facts. If the appeals referee, hearing officer,
8 or other employee assigned to make the decision believes the stipulation provides sufficient
9 information to make a decision, then the appeals referee, hearing officer, or other employee
10 assigned to make the decision may accept the stipulation and render a decision based on the
11 stipulation. If the appeals referee, hearing officer, or other employee assigned to make the
12 decision does not believe the stipulation provides sufficient information to make a decision,
13 then the appeals referee, hearing officer, or other employee assigned to make the decision must
14 reject the stipulation. The decision to accept or reject a stipulation must occur in a recorded
15 hearing."

16 **SECTION 2.(e)** Subsections (b) through (d) of this section become effective
17 November 1, 2012. The remainder of this section is effective when it becomes law.

18 **PART III. COMPLIANCE WITH THE TRADE ADJUSTMENT ASSISTANCE** 19 **EXTENSION ACT OF 2011**

20 **SECTION 3.(a)** G.S. 110-129.2(c) reads as rewritten:

21
22 "(c) Report Contents. – Each report required by this section shall contain the name,
23 address, ~~and~~ social security number of the newly hired employee, the date services for
24 remuneration were first performed by the newly hired employee, and the name and address of
25 the employer and the employer's identifying number assigned under section 6109 of the
26 Internal Revenue Code of 1986 and the employer's State employer identification number.
27 Reports shall be made on the W-4 form or, at the option of the employer, an equivalent form,
28 and may be transmitted magnetically, electronically, or by first-class mail."

29 **SECTION 3.(b)** G.S. 110-129.2(j) is amended by adding a new subdivision to
30 read:

31 "(j) Definitions. – As used in this section, unless the context clearly requires otherwise,
32 the term:

33 ...
34 (5) "Newly hired employee" means (i) an employee who has not previously
35 been employed by the employer and (ii) an employee who was previously
36 employed by the employer but has been separated from such prior
37 employment for at least 60 consecutive days."

38 **SECTION 3.(c)** G.S. 96-9(c)(2) is amended by adding a new sub-subdivision to
39 read:

40 "(2) Charging of benefit payments. –

41 ...

42 f. The Division shall charge benefits to an employer's account when it
43 determines that an overpayment has been made to a claimant and it
44 determines that both of the following conditions apply:

- 45 1. The overpayment occurred because the employer failed to
46 respond timely or adequately to a written request of the
47 Division for information relating to an unemployment
48 compensation claim.
- 49 2. The employer exhibits a pattern of failure to respond timely
50 or adequately by failing to respond to written requests from
51 the Division for information relating to an unemployment

1 compensation claim on two or more occasions. If an
2 employer uses a third-party agent to respond on its behalf to
3 the Division, then the actions of the agent must be considered
4 when determining a pattern of failure to respond timely or
5 adequately. A pattern is established based on the agent's
6 behavior overall and not only with respect to its behavior
7 related to the employer.

8 For purposes of this sub-subdivision, written notification may
9 include a request sent electronically. A response is considered
10 untimely if it fails to be made within the time allowed under
11 G.S. 96-15(b)(2). A response is considered inadequate if it fails to
12 provide sufficient facts to enable the Division to make a correct
13 determination of benefits. However, a response may not be
14 considered inadequate if the Division fails to request the necessary
15 information.

16 The prohibition on the noncharging of an employer's account
17 under this sub-subdivision applies to each week of unemployment
18 compensation that is an overpayment until the Division makes a
19 determination that the claimant is no longer eligible for the overpaid
20 amount and stops making the overpayment. If the claim is a
21 combined-wage claim, the determination of noncharging for the
22 combined-wage claim shall be made by the paying state. If the
23 response from the employer does not meet the criteria established by
24 the paying state for an adequate or timely response, the paying state
25 must promptly notify the transferring state of its determination and
26 the employer must be appropriately charged. The Division may
27 waive the prohibition for good cause."

28 **SECTION 3.(d)** G.S. 96-18 is amended by adding a new subsection to read:

29 "(h) Mandatory Federal Penalty. – A person who has been held ineligible for benefits
30 under subsection (e) of this section and who, because of those same acts or omissions, has
31 received any sum as benefits under this Chapter to which the person is not entitled shall be
32 assessed a penalty in an amount equal to fifteen percent (15%) of the amount of the erroneous
33 payment. The penalty amount shall be payable to the Unemployment Insurance Fund. The
34 penalty applies to an erroneous payment made under any State program providing for the
35 payment of unemployment compensation as well as an erroneous payment made under any
36 federal program providing for the payment of unemployment compensation. The notice of
37 determination or decision advising the person that benefits have been denied or adjusted
38 pursuant to subsection (e) of this section must include the reason for the finding of an erroneous
39 payment, the penalty amount assessed under this subsection, and the reason the penalty has
40 been applied.

41 The penalty amount may be collected in any manner allowed for the recovery of the
42 erroneous payment, except that the penalty amount may not be recovered through offsets of
43 future benefits. When a recovery with respect to an erroneous payment is made, any recovery
44 applies first to the principal of the erroneous payment, then to the federally mandated penalty
45 amount imposed under this subsection, and finally to any other amounts due."

46 **SECTION 3.(e)** G.S. 96-6(a) reads as rewritten:

47 "(a) Establishment and Control. – There is hereby established as a special fund, separate
48 and apart from all public moneys or funds of this State, an Unemployment Insurance Fund,
49 which shall be administered by the Division's Employment Insurance Section exclusively for
50 the purposes of this Chapter. All moneys in the fund shall be commingled and undivided. This
51 fund shall consist of:

- 1 (1) All contributions collected under this Chapter, together with any interest
2 earned upon any moneys in the ~~fund~~;fund.
- 3 (2) Any property or securities acquired through the use of moneys belonging to
4 the ~~fund~~;fund.
- 5 (3) All earnings of such property or ~~securities~~;securities.
- 6 (4) Any moneys received from the federal unemployment account in the
7 unemployment trust fund in accordance with Title XII of the Social Security
8 Act as ~~amended~~;amended.
- 9 (5) All moneys credited to this State's account in the Unemployment Trust Fund
10 pursuant to section 903 of Title IX of the Social Security Act, as amended,
11 (~~U.S.C.A. Title 42, sec. 1103 (a)~~);(U.S.C.A. Title 42, sec. 1103 (a)).
- 12 (6) All moneys paid to this State pursuant to section 204 of the Federal-State
13 Extended Unemployment Compensation Act of ~~1970~~;1970.
- 14 (7) Reimbursement payments in lieu of contributions.
- 15 (8) Any federally mandated penalty amount assessed under G.S. 96-18(h).
16 ~~All moneys in the fund shall be commingled and undivided."~~

17 **SECTION 3.(f)** Subsection (c) of this section becomes effective October 1, 2013,
18 and applies to an overpayment established on or after that date. Subsections (d) and (e) of this
19 section become effective October 1, 2013, and apply to an erroneous payment determined
20 under G.S. 96-18(e) to be a fraudulent overpayment on or after that date. The remainder of this
21 section becomes effective July 1, 2012.

22
23 **PART IV. ENHANCE UNEMPLOYMENT COMPENSATION FRAUD DETECTION**
24 **AND RECOVERY, AS RECOMMENDED BY THE HOUSE UNEMPLOYMENT**
25 **FRAUD TASK FORCE**

26 **SECTION 4.(a)** G.S. 96-18(a) reads as rewritten:

27 "(a) ~~Any~~ It shall be unlawful for any person who makes to make a false statement or
28 representation knowing it to be false or to knowingly fails fail to disclose a material fact to
29 obtain or increase any benefit under this Chapter or under an employment security law of any
30 other state, the federal government, or of a foreign government, either for himself or any other
31 ~~person, shall be guilty of a Class 1 misdemeanor, and each such false statement or~~
32 ~~representation or failure to disclose a material fact shall constitute a separate offense.~~ person.
33 Records, with any necessary authentication thereof, required in the prosecution of any criminal
34 action brought by another state or foreign government for misrepresentation to obtain benefits
35 under the law of this State shall be made available to the agency administering the employment
36 security law of any such state or foreign government for the purpose of such prosecution.
37 Photostatic copies of all records of agencies of other states or foreign governments required in
38 the prosecution of any criminal action under this section shall be as competent evidence as the
39 originals when certified under the seal of such agency, or when there is no seal, under the hand
40 of the keeper of such records.

- 41 (1) A person who violates this subsection shall be found guilty of a Class I
42 felony if the value of the benefit wrongfully obtained is more than four
43 hundred dollars (\$400.00).
- 44 (2) A person who violates this subsection shall be found guilty of a Class 1
45 misdemeanor if the value of the benefit wrongfully obtained is four hundred
46 dollars (\$400.00) or less."

47 **SECTION 4.(b)** G.S. 96-18(g)(1) is repealed.

48 **SECTION 4.(c)** G.S. 96-18(g)(2) reads as rewritten:

- 49 "(2) Any person who has received any sum as benefits under this Chapter by
50 reason of the nondisclosure or misrepresentation by him or by another of a
51 material fact (irrespective of whether such nondisclosure or

1 misrepresentation was known or fraudulent) or has been paid benefits to
 2 which he was not entitled for any reason (including errors on the part of any
 3 representative of the Division) ~~other than subparagraph (1) above~~ shall be
 4 liable to repay such sum to the Division as provided in ~~subparagraph (3)~~
 5 ~~below, provided no such recovery or recoupment of such sum may be~~
 6 ~~initiated after three years from the last day of the year in which the~~
 7 ~~overpayment occurred.~~ subdivision (3) of this subsection."

8 **SECTION 4.(d)** The Department of the Treasury, Financial Management Service,
 9 is the federal government's central debt collection agency. It develops and maintains a
 10 centralized offset program known as the Treasury Offset Program (TOP), by which payments
 11 are offset to collect delinquent debts owed to federal agencies and states. State Unemployment
 12 Compensation debts are now eligible for referral to the Program, pursuant to Public Law
 13 110-32 and Public Law 111-291.

14 It is the desire of the General Assembly for the State to participate in the
 15 Unemployment Insurance Compensation Debt Program on or before January 1, 2013. The
 16 Division of Employment Security is required to report to the House Unemployment Fraud Task
 17 Force by September 1, 2012, November 1, 2012, and January 1, 2013, on the implementation
 18 of the TOP. The report should contain, at a minimum, the following:

- 19 (1) An implementation time line, including a go-live date and status update on
 20 where the Division is in the process.
- 21 (2) A detailed list of implementation requirements. For each requirement, the
 22 Division is to provide any barriers and proposed solutions to each barrier.
- 23 (3) An itemized accounting of the cost to implement TOP, including the source
 24 of funds used. Recurring and nonrecurring costs shall be broken out
 25 accordingly.
- 26 (4) For the September 1 report, the Division is to provide an estimate of how
 27 much it anticipates recovering annually through TOP. The report should
 28 include the methodology used to arrive at this estimate.

29 **SECTION 4.(e)** Subsection (a) of this section becomes effective December 1,
 30 2012, and applies to offenses committed on or after that date. Subsections (b) and (c) of this
 31 section become effective October 1, 2012, and apply to an overpayment established on or after
 32 that date. The remainder of this section is effective when it becomes law.

33

34 **PART V. TECHNICAL CHANGES REQUESTED BY THE DIVISION OF**

35 **EMPLOYMENT SECURITY**

36 **SECTION 5.(a)** The title of Article 4 of Chapter 96 of the General Statutes reads
 37 as rewritten:

38 "Article 4.

39 "Labor and Economic Analysis Division: Job Training, Education, and Placement Information
 40 Management."

41 **SECTION 5.(b)** G.S. 96-31 reads as rewritten:

42 "**§ 96-31. Definitions.**

43 As used in this Article, unless the context clearly requires otherwise, the term:

- 44 (1) "CFS" means the common follow-up information management system
 45 developed by ~~DES~~ the Labor and Economic Analysis Division under this
 46 Article.
- 47 (2) ~~"DES" means the Division of Employment Security.~~
- 48 (3) Repealed by Session Laws 2000, c. 140, s. 93.1(d).
- 49 (4) "State job training, education, and placement program" or "State-funded
 50 program" means a program operated by a State or local government agency
 51 or entity and supported in whole or in part by State or federal funds, that

1 provides job training and education or job placement services to program
2 participants. The term does not include on-the-job training provided to
3 current employees of the agency or entity for the purposes of professional
4 development."

5 **SECTION 5.(c)** G.S. 96-32 reads as rewritten:

6 **"§ 96-32. Common follow-up information management system created.**

7 (a) The ~~DES~~Labor and Economic Analysis Division shall develop, implement, and
8 maintain a common follow-up information management system for tracking the employment
9 status of current and former participants in State job training, education, and placement
10 programs. The system shall provide for the automated collection, organization, dissemination,
11 and analysis of data obtained from State-funded programs that provide job training and
12 education and job placement services to program participants. In developing the system, the
13 ~~DES~~Division shall ensure that data and information collected from State agencies is
14 confidential, not open for general public inspection, and maintained and disseminated in a
15 manner that protects the identity of individual persons from general public disclosure.

16 (b) The ~~DES~~Labor and Economic Analysis Division shall adopt procedures and
17 guidelines for the development and implementation of the CFS authorized under this section.

18 (c) Based on data collected under the CFS, the ~~DES~~Labor and Economic Analysis
19 Division shall evaluate the effectiveness of job training, education, and placement programs to
20 determine if specific program goals and objectives are attained, to determine placement and
21 completion rates for each program, and to make recommendations regarding the continuation
22 of State funding for programs evaluated."

23 **SECTION 5.(d)** G.S. 96-33 reads as rewritten:

24 **"§ 96-33. State agencies required to provide information and data.**

25 (a) Every State agency and local government agency or entity that receives State or
26 federal funds for the direct or indirect support of State job training, education, and placement
27 programs shall provide to the ~~DES~~Labor and Economic Analysis Division all data and
28 information available to or within the agency or entity's possession requested by the ~~DES~~
29 Division for input into the common follow-up information management system authorized
30 under this ~~Article~~Article and for such other official functions as are performed by the Division.
31 The Division of Employment Security shall provide all information in its possession and
32 control requested by the Division in order for the Division to accomplish the purpose set forth
33 in this Article and such other official functions performed by it.

34 (b) Each agency or entity required to report information and data to the ~~DES~~Labor and
35 Economic Analysis Division under this Article shall maintain true and accurate records of the
36 information and data requested by the ~~DES~~Division. The records shall be open to ~~DES~~the
37 Division for inspection and copying at reasonable times and as often as necessary. Each agency
38 or entity shall further provide, upon request by ~~DES~~the Division, sworn or unsworn reports
39 with respect to persons employed or trained by the agency or entity, as deemed necessary by
40 the ~~DES~~Division to carry out the purposes of this Article. Information obtained by the ~~DES~~
41 Division from the ~~agency or entity~~agency, entity, or the Division of Employment Security shall
42 be held by ~~DES~~the Division as ~~confidential~~confidential, subject to the State and federal laws
43 governing treatment of such information, and shall not be published or open to public
44 inspection other than in a manner that protects the identity of individual persons and
45 employers."

46 **SECTION 5.(e)** G.S. 96-35 reads as rewritten:

47 **"§ 96-35. Reports on common follow-up system activities.**

48 (a) The ~~DES~~Secretary shall present annually by May 1 to the General Assembly and to
49 the Governor a report of CFS activities for the preceding calendar year. The report shall include
50 information on and evaluation of job training, education, and placement programs for which

1 data was reported by State and local agencies subject to this Article. Evaluation of the programs
2 shall be on the basis of fiscal year data.

3 (b) The ~~DES~~ Secretary shall report to the Governor and to the General Assembly upon
4 the convening of each biennial session, its evaluation of and recommendations regarding job
5 training, education, and placement programs for which data was provided to the CFS."

6 **SECTION 5.(f)** This section is effective when it becomes law.
7

8 **PART VI. NC FACTS PROGRAM**

9 **SECTION 6.(a)** G.S. 96-4(x)(1) reads as rewritten:

10 "(x) Confidentiality of Records, Reports, and Information Obtained from Claimants,
11 Employers, and Units of Government. Disclosure and redisclosure of confidential information
12 shall be consistent with 20 C.F.R. Part 603 and any written guidance promulgated and issued
13 by the U.S. Department of Labor consistent with this regulation and any successor regulation.
14 To the extent a disclosure or redisclosure of confidential information is permitted or required
15 by this federal regulation, the Department's authority to disclose or redisclose the information
16 includes the following:

17 (1) Confidentiality of Information Contained in Records and Reports. – (i)
18 Except as hereinafter otherwise provided, it shall be unlawful for any person
19 to obtain, disclose, or use, or to authorize or permit the use of any
20 information which is obtained from any employing unit, individual, or unit
21 of government pursuant to the administration of this Chapter or
22 G.S. 108A-29. (ii) Any claimant or employer or their legal representatives
23 shall be supplied with information from the records of the Division to the
24 extent necessary for the proper presentation of claims or defenses in any
25 proceeding under this Chapter. Notwithstanding any other provision of law,
26 any claimant may be supplied, subject to restrictions as the Division may by
27 regulation prescribe, with any information contained in his payment record
28 or on his most recent monetary determination, and any individual, as well as
29 any interested employer, may be supplied with information as to the
30 individual's potential benefit rights from claim records. (iii) Subject to
31 restrictions as the Secretary may by regulation provide, information from the
32 records of the Division may be made available to any agency or public
33 official for any purpose for which disclosure is required by statute or
34 regulation. (iv) The Division may, in its sole discretion, permit the use of
35 information in its possession by public officials in the performance of their
36 public duties. (v) The Division shall release the payment and the amount of
37 unemployment compensation benefits upon receipt of a subpoena in a
38 proceeding involving child support. (vi) The Division shall furnish to the
39 State Controller any information the State Controller needs to prepare and
40 publish a comprehensive annual financial report of the State or to track
41 debtors of the State. (vii) The Secretary may disclose or authorize
42 redisclosure of any confidential information to an individual, agency, or
43 entity, public or private, consistent with the requirements enumerated in 20
44 C.F.R. Part 603 or any successor regulation and any written guidance
45 promulgated and issued by the U.S. Department of Labor consistent with 20
46 C.F.R. Part 603.

47"

48 **SECTION 6.(b)** This section is effective when it becomes law.
49

50 **PART VII. EFFECTIVE DATE**

1 **SECTION 7.** Except as otherwise provided, this act is effective when it becomes
2 law.