

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 834
Committee Substitute Favorable 5/9/13
Committee Substitute #2 Favorable 5/14/13
Senate Pensions & Retirement and Aging Committee Substitute Adopted 6/25/13
PROPOSED SENATE COMMITTEE SUBSTITUTE H834-PCS70501-RF-34

Short Title: Modern State Human Resources Management/RTR.

(Public)

Sponsors:

Referred to:

April 11, 2013

A BILL TO BE ENTITLED

AN ACT ENHANCING THE EFFECTIVENESS AND EFFICIENCY OF STATE GOVERNMENT BY MODERNIZING THE STATE'S SYSTEM OF HUMAN RESOURCES MANAGEMENT AND BY PROVIDING FLEXIBILITY FOR EXECUTIVE BRANCH REORGANIZATION AND RESTRUCTURING AND TO IMPROVE TRANSPARENCY IN THE COST OF HEALTH CARE PROVIDED BY HOSPITALS AND AMBULATORY SURGICAL FACILITIES; TO TERMINATE SET-OFF DEBT COLLECTION BY CERTAIN STATE AGENCIES PROVIDING HEALTH CARE TO THE PUBLIC; TO MAKE IT UNLAWFUL FOR HEALTH CARE PROVIDERS TO CHARGE FOR PROCEDURES OR COMPONENTS OF PROCEDURES THAT WERE NOT PROVIDED OR SUPPLIED; TO PROVIDE FOR FAIR HEALTH CARE FACILITY BILLING AND COLLECTIONS PRACTICES; AND TO PROVIDE THAT HOSPITALS RECEIVING MEDICAID REIMBURSEMENTS PARTICIPATE IN THE NORTH CAROLINA HEALTH INFORMATION EXCHANGE NETWORK.

The General Assembly of North Carolina enacts:

PART I. ORGANIZATIONAL AND ADMINISTRATIVE CHANGES

SECTION 1.1. G.S. 126-3(a) reads as rewritten:

"(a) There is hereby established the Office of State Personnel (hereinafter referred to as 'the Office') which shall be placed for organizational purposes within the ~~Department of Administration~~ Office of the Governor. Notwithstanding the provisions of North Carolina State government reorganization as of January 1, 1975, and specifically notwithstanding the provisions of Chapter 864 of the 1971 North Carolina Session Laws, Chapter 143A of the General Statutes, the Office of State Personnel shall exercise all of its statutory powers in this ~~Chapter independent of control by the Secretary of Administration and Chapter~~, which shall be under the administration and supervision of a State Personnel Director (hereinafter referred to as 'the Director') appointed by the Governor and subject to the supervision of the Commission for purposes of this Chapter. The salary of the Director shall be fixed by the Governor. The Director shall serve at the pleasure of the Governor."

SECTION 1.2. G.S. 126-3(b)(8) reads as rewritten:

"(8) Developing criteria and standards to measure the level of compliance or noncompliance with established Commission policies, rules, procedures,



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1 criteria, and standards in agencies, departments, and institutions to which
 2 authority has been delegated for classification, salary
 3 ~~administration~~ administration, performance management, development,
 4 evaluation, and other decentralized programs, and determining through
 5 routine monitoring and periodic review process, that agencies, departments,
 6 and institutions are in compliance or noncompliance with established
 7 Commission policies, rules, procedures, criteria, and standards."

8 **SECTION 1.3.** G.S. 126-4(5) reads as rewritten:

9 **"§ 126-4. Powers and duties of State Personnel Commission.**

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

- 12 ...
- 13 (5) Hours and days of work, holidays, vacation, sick leave, and other matters
 14 pertaining to the conditions of employment. The legal public holidays
 15 established by the Commission as paid holidays for State employees shall
 16 include Martin Luther King, Jr.'s Birthday and Veterans Day. The
 17 Commission shall not provide for more than ~~14~~12 paid holidays per year
 18 ~~except that in those years in which Christmas Day falls on a Tuesday,~~
 19 ~~Wednesday, or Thursday, the Commission shall not provide for more than~~
 20 ~~12 paid holidays year, with three paid holidays being given for Christmas."~~

21 **SECTION 1.4.** G.S. 126-95 is amended by adding a new subsection to read:

22 "(c) As used in this section, the term "eligible officers and employees" means any officer
 23 or employee authorized to participate in the Teachers' and State Employees' Retirement System
 24 and the State Health Plan."

25 **SECTION 1.5.** This Part is effective when it becomes law.

26
 27 **PART II. STATE PERSONNEL COMMISSION CHANGES**

28 **SECTION 2.1.** G.S. 126-2 reads as rewritten:

29 **"§ 126-2. State Personnel Commission.**

30 (a) There is hereby established the State Personnel Commission (hereinafter referred to
 31 as "the Commission").

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

- 33 (1) ~~Two members shall be attorneys licensed to practice law in North Carolina~~
 34 ~~appointed by the General Assembly, one of whom shall be appointed upon~~
 35 ~~the recommendation of the Speaker of the House of Representatives, and one~~
 36 ~~of whom shall be appointed upon the recommendation of the President Pro~~
 37 ~~Tempore of the Senate.~~

38 ~~The initial two attorney members appointed under this subdivision shall~~
 39 ~~serve terms expiring June 30, 2004; the terms of subsequent appointees shall~~
 40 ~~be six years.~~

- 41 (2) ~~Two persons from private business or industry appointed by the Governor,~~
 42 ~~both of whom shall have a working knowledge of, or practical experience in,~~
 43 ~~human resources management. The initial members appointed under this~~
 44 ~~subdivision shall serve terms expiring June 30, 2003; the terms of~~
 45 ~~subsequent appointees shall be six years.~~

- 46 (3) ~~Two State employees subject to the State Personnel Act serving in~~
 47 ~~nonexempt positions, appointed by the Governor, including one of whom is~~
 48 ~~a veteran of the Armed Forces of the United States appointed upon the~~
 49 ~~nomination of the Veterans' Affairs Commission. One employee shall serve~~
 50 ~~in a State government position having supervisory duties, and one employee~~
 51 ~~shall serve in a nonsupervisory position. Neither employee may be a human~~

- 1 resources professional. The Governor shall consider nominations submitted
2 by the State Employees Association of North Carolina. The initial members
3 appointed under this subdivision shall serve terms expiring June 30, 2001;
4 the terms of subsequent appointees shall be six years.
- 5 (4) Two local government employees subject to the State Personnel Act
6 appointed by the Governor upon recommendation of the North Carolina
7 Association of County Commissioners, one a nonsupervisory local employee
8 and one a supervisory local employee. Neither local government employee
9 may be a human resources professional. The initial members appointed
10 under this subdivision shall serve terms expiring June 30, 2003; the terms of
11 subsequent appointees shall be for six years.
- 12 (5) One member of the public at large appointed by the Governor. The initial
13 member appointed under this subdivision shall serve for a term expiring
14 June 30, 2001; the terms of subsequent appointees shall be for six years.
- 15 (b1) The Commission shall consist of nine members, appointed as follows:
- 16 (1) One member appointed by the General Assembly upon the recommendation
17 of the Speaker of the House of Representatives who shall be an attorney
18 licensed to practice law in North Carolina.
- 19 (2) One member appointed by the General Assembly upon the recommendation
20 of the President Pro Tempore of the Senate who shall be an attorney licensed
21 to practice law in North Carolina.
- 22 (3) One member appointed by the General Assembly upon the recommendation
23 of the Speaker of the House of Representatives who shall be from private
24 business or industry and who shall have a working knowledge of, or
25 practical experience in, human resources management.
- 26 (4) One member appointed by the General Assembly upon the recommendation
27 of the President Pro Tempore of the Senate who shall be from private
28 business or industry and who shall have a working knowledge of, or
29 practical experience in, human resources management.
- 30 (5) One member who is a veteran of the Armed Forces of the United States
31 appointed by the Governor upon the nomination of the Veterans Affairs
32 Commission and who is a State employee subject to this Chapter serving in a
33 nonexempt supervisory position. The member may not be a human resources
34 professional.
- 35 (6) One member appointed by the Governor who is a State employee subject to
36 this Chapter serving in a nonexempt nonsupervisory position. The member
37 may not be a human resources professional. The Governor shall consider
38 nominations submitted by the State Employees Association of North
39 Carolina.
- 40 (7) One member appointed by the Governor upon the recommendation of the
41 North Carolina Association of County Commissioners who is a local
42 government employee subject to this Chapter serving in a supervisory
43 position. The member may not be a human resources professional.
- 44 (8) One member appointed by the Governor upon the recommendation of the
45 North Carolina Association of County Commissioners who is a local
46 government employee subject to this Chapter serving in a nonsupervisory
47 position. The member may not be a human resources professional.
- 48 (9) One member of the public at large appointed by the Governor.
- 49 (c) Each member of the Commission shall be appointed for a term of four years.
50 Members of the Commission may serve no more than two consecutive terms. Appointments by
51 the General Assembly shall be made in accordance with G.S. 120-121, and vacancies in those

1 appointments shall be filled in accordance with G.S. 120-122. Vacancies in appointments made
2 by the Governor occurring prior to the expiration of a term shall be filled by appointment for
3 the unexpired term.

4 (d) No member of the Commission may serve on a case where there would be a conflict
5 of interest. The appointing authority may at any time remove any Commission member for
6 cause.

7 (e) Members of the Commission who are State or local government employees subject
8 to ~~the State Personnel Act~~ this Chapter shall be entitled to administrative leave without loss of
9 pay for all periods of time required to conduct the business of the Commission.

10 (f) ~~Six~~ Five members of the Commission shall constitute a quorum.

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

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

13 **SECTION 2.2.** The terms of the two attorney members appointed under
14 G.S. 126-2(b)(1), serving on the Commission on January 1, 2013, shall expire on June 30,
15 2013. The terms of the persons from private business or industry appointed under
16 G.S. 126-2(b)(2), serving on the Commission on January 1, 2013, shall expire on June 30,
17 2014. The terms of the two State employees appointed under G.S. 126-2(b)(3), serving on the
18 Commission on January 1, 2013, shall expire on June 30, 2013. The terms of the two local
19 government employees appointed under G.S. 126-2(b)(4), serving on the Commission on
20 January 1, 2013, shall expire on June 30, 2014. The term of the public at-large member
21 appointed under G.S. 126-2(b)(5), serving on the Commission on January 1, 2013, shall expire
22 June 30, 2013. If the terms of office eliminated in this act have not been set out, then the
23 appointing authorities shall determine by July 1, 2013, which terms to eliminate to achieve the
24 membership totals pursuant to this act. After determining which terms to eliminate, the
25 appointing authority shall notify in writing all the persons and entities required to receive
26 notification pursuant to G.S. 143-47.7.

27 **SECTION 2.3.** This Part is effective when it becomes law.

29 **PART III. PROBATIONARY AND CAREER STATE EMPLOYEES**

30 **SECTION 3.1.** G.S. 126-1.1 reads as rewritten:

31 "**§ 126-1.1. Career State employee defined.**

32 (a) For the purposes of this Chapter, unless the context clearly indicates otherwise,
33 "career State employee" means a State employee or an employee of a local entity who is
34 covered by this Chapter pursuant to G.S. 126-5(a)(2) who:

35 (1) Is in a permanent ~~position appointment;~~ position, and

36 (2) Has been continuously employed by the State of North Carolina or a local
37 entity as provided in G.S. 126-5(a)(2) in a position subject to the State
38 Personnel Act for the immediate 24 preceding months.

39 (b) As used in this Chapter, "probationary State employee" means a State employee
40 who is in a probationary appointment and is exempt from the provisions of the State Personnel
41 Act only because the employee has not been continuously employed by the State for the time
42 period required by subsection (a) of this section."

43 **SECTION 3.2.** G.S. 126-15.1 is repealed.

44 **SECTION 3.3.** This Part is effective when it becomes law.

46 **PART IV. EXEMPT POSITION MODIFICATIONS**

47 **SECTION 4.1.** G.S. 126-5(d)(1) reads as rewritten:

48 "(d) (1) Exempt Positions in Cabinet Department. – Subject to the provisions of this
49 Chapter, which is known as the State Personnel Act, the Governor may
50 designate a total of ~~4,000~~ 1,500 exempt positions throughout the following
51 ~~departments;~~ departments and offices:

- 1 a. Department of Administration.
- 2 b. Department of Commerce.
- 3 c. Repealed by Session Laws 2012-83, s. 7, effective June 26, 2012,
- 4 and by Session Laws 2012-142, s. 25.2E(a), effective January 1,
- 5 2013.
- 6 d. Department of Public Safety.
- 7 e. Department of Cultural Resources.
- 8 f. Department of Health and Human Services.
- 9 g. Department of Environment and Natural Resources.
- 10 h. Department of Revenue.
- 11 i. Department of Transportation.
- 12 j. Repealed by Session Laws 2012-83, s. 7, effective June 26, 2012,
- 13 and by Session Laws 2012-142, s. 25.2E(a), effective January 1,
- 14 2013.
- 15 k. Office of Information Technology Services.
- 16 l. Office of State Budget and Management.
- 17 m. Office of State Personnel.

18 ~~Notwithstanding the provisions of this subdivision or the other requirements of this~~
 19 ~~subsection, the Governor may at any time designate up to one percent (1%) of the total number~~
 20 ~~of full time positions in the Department of Public Safety, not to exceed 100 positions, as~~
 21 ~~exempt managerial positions. Notwithstanding the provisions of this subdivision, or the other~~
 22 ~~requirements of this subsection, the Governor may at any time increase by five the number of~~
 23 ~~exempt policy making positions at the Department of Public Safety, but at no time shall the~~
 24 ~~total number of exempt policy making positions exceed 105."~~

25 **SECTION 4.2.** G.S. 147-33.77(a) reads as rewritten:

26 "(a) The State Chief Information Officer may appoint a Chief Deputy Information
 27 Officer. The salary of the Chief Deputy Information Officer shall be set by the State Chief
 28 Information Officer. The State Chief Information Officer may appoint all employees, including
 29 legal counsel, necessary to carry out the powers and duties of the office. These employees shall
 30 be subject to the State Personnel ~~Act~~Act, except that employees in positions designated as
 31 exempt under G.S. 126-5(d)(1) are not subject to the Act, in accordance with the provisions of
 32 that section."

33 **SECTION 4.3.** G.S. 126-5(e) is repealed.

34 **SECTION 4.4.** G.S. 126-5(f) is repealed.

35 **SECTION 4.5.** G.S. 126-5(d)(5) reads as rewritten:

36 "(d) ...
 37 (5) Creation, Transfer, or Reorganization. – The Governor, elected department
 38 head, or State Board of Education may designate as exempt a position that is
 39 created or transferred to a different department, or is located in a department
 40 in which reorganization has occurred, after ~~July 1~~October 1 of the year in
 41 which the oath of office is administered to the Governor. The designation
 42 must be made in a letter to the State Personnel Director, the Speaker of the
 43 North Carolina House of Representatives, and the President of the North
 44 Carolina Senate within 180 days after such position is created, transferred, or
 45 in which reorganization has occurred."

46 **SECTION 4.6.** This Part becomes effective June 30, 2013, with the repeal of the
 47 provisions in G.S. 126-5(e) and G.S. 126-5(f) applying as to State employees hired on or after
 48 that date.

50 **PART V. REDUCTIONS IN FORCE**

51 **SECTION 5.1.** G.S. 126-7.1 reads as rewritten:

1 "§ 126-7.1. Posting requirement; State employees receive priority consideration;
2 reduction-in-force; Work First hiring.

3 ...

4 (e) If a State employee subject to this section:

- 5 (1) Applies for another position of State employment that would constitute a
6 promotion; and
7 (2) Has substantially equal qualifications as an applicant who is not a State
8 ~~employee-employee;~~

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

12 (f) If a State employee who has been separated due to reduction in force or who has
13 been given notice of imminent separation due to reduction in force:

- 14 (1) Applies for another position of State employment equal to or lower in salary
15 grade than the position held by the employee at the time of notification or
16 separation; and
17 (2) Has substantially equal qualifications as any other applicant;

18 then within all State agencies, the State employee who has been notified of or separated due to
19 a reduction in force shall receive priority consideration over all other applicants. This priority
20 shall remain in effect for a period of 12 months from the date the employee receives
21 notification of separation by reduction in force. State employees separated due to reduction in
22 force shall receive higher priority than other applicants with employment or reemployment
23 priorities, except that the reemployment priority created by G.S. 126-5(e)(1) shall be
24 considered as equal.

25 (f1) If a State employee who has been separated due to reduction in force or who has
26 been given notice of imminent separation due to reduction in force accepts or rejects an offer
27 for a position of State employment that is equal to or higher than the position held or equal to
28 or higher than the salary earned by the employee at the time of separation or notification, then
29 the employee's acceptance or rejection of that offer shall satisfy and terminate the one-time,
30 12-month priority granted by subsection (f) of this section.

31"

32 **SECTION 5.2.** This Part is effective when it becomes law and applies to
33 reductions in force implemented on or after that date.

34 **PART VI. EMPLOYEE GRIEVANCES**

35 **SECTION 6.1.** Article 8 of Chapter 126 of the General Statutes reads as rewritten:

36 "Article 8.

37 "Employee Appeals of Grievances and Disciplinary Action.

38 **§ 126-34.01. Grievance; resolution.**

39 Any State employee having a grievance arising out of or due to the employee's employment
40 shall first discuss the problem or grievance with the employee's supervisor, unless the problem
41 or grievance is with the supervisor. Then the employee shall follow the grievance procedure
42 approved by the State Personnel Commission. The proposed agency final decision shall not be
43 issued nor become final until reviewed and approved by the Office of State Personnel. The
44 agency grievance procedure and Office of State Personnel review shall be completed within 90
45 days from the date the grievance is filed.

46 **§ 126-34.02. Grievance appeal process; grounds.**

47 (a) Once a final agency decision has been issued in accordance with G.S. 126-34.01, an
48 applicant for State employment, a State employee, or former State employee may file a
49 contested case in the Office of Administrative Hearings under Article 3 of Chapter 150B of the
50 General Statutes. The contested case must be filed within 30 days of receipt of the final agency
51 decision.

1 decision. Except for cases of extraordinary cause shown, the Office of Administrative Hearings
2 shall hear and issue a final decision in accordance with G.S. 150B-34 within 180 days from the
3 commencement of the case. In deciding cases under this section, the Office of Administrative
4 Hearings may grant the following relief:

- 5 (1) Reinstate any employee to the position from which the employee has been
6 removed.
- 7 (2) Order the employment, promotion, transfer, or salary adjustment of any
8 individual to whom it has been wrongfully denied.
- 9 (3) Direct other suitable action to correct the abuse which may include the
10 requirement of payment for any loss of salary which has resulted from the
11 improper action of the appointing authority.

12 An aggrieved party in a contested case under this section shall be entitled to judicial review
13 of a final decision by appeal to the Court of Appeals as provided in G.S. 7A-29(a). The
14 procedure for the appeal shall be as provided by the rules of appellate procedure. The appeal
15 shall be taken within 30 days of receipt of the written notice of final decision. A notice of
16 appeal shall be filed with the Office of Administrative Hearings and served on all parties to the
17 contested case hearing.

18 (b) The following issues may be heard as contested cases after completion of the
19 agency grievance procedure and the Office of State Personnel review:

- 20 (1) Discrimination or harassment. – An applicant for State employment, a State
21 employee, or former State employee may allege discrimination or
22 harassment based on race, religion, color, national origin, sex, age,
23 disability, genetic information, or political affiliation if the employee
24 believes that he or she has been discriminated against in his or her
25 application for employment or in the terms and conditions of the employee's
26 employment, or in the termination of his or her employment.
- 27 (2) Retaliation. – An applicant for State employment, a State employee, or
28 former State employee may allege retaliation for protesting discrimination
29 based on race, religion, color, national origin, sex, age, disability, political
30 affiliation, or genetic information if the employee believes that he or she has
31 been retaliated against in his or her application for employment or in the
32 terms and conditions of the employee's employment, or in the termination of
33 the employee's employment.
- 34 (3) Just cause for dismissal, demotion, or suspension. – A career State employee
35 may allege that he or she was dismissed, demoted, or suspended for
36 disciplinary reasons without just cause. A dismissal, demotion, or suspension
37 which is not imposed for disciplinary reasons shall not be considered a
38 disciplinary action within the meaning of this section. However, in contested
39 cases conducted pursuant to this section, an employee may appeal an
40 involuntary nondisciplinary separation due to an employee's unavailability in
41 the same fashion as if it were a disciplinary action, but the agency shall only
42 have the burden to prove that the employee was unavailable. In cases of such
43 disciplinary action the employee shall, before the action is taken, be
44 furnished with a statement in writing setting forth the specific acts or
45 omissions that are the reasons for the disciplinary action and the employee's
46 appeal rights. The employee shall be permitted 15 days from the date the
47 statement is delivered to appeal under the agency grievance procedure.
48 However, an employee may be suspended without warning pending the
49 giving of written reasons in order to avoid undue disruption of work, to
50 protect the safety of persons or property, or for other serious reasons.

1 (4) Veteran's preference. – An applicant for State employment or a State
2 employee may allege that he or she was denied veteran's preference in
3 violation of the law.

4 (5) Failure to post or give priority consideration. – An applicant for State
5 employment or a State employee may allege that he or she was denied hiring
6 or promotion because a position was not posted in accordance with this
7 Chapter or because he or she was denied hiring or promotion as a result of a
8 failure to give priority consideration for promotion or reemployment as
9 required by G.S. 126-7.1.

10 (6) Whistleblower. – A whistleblower grievance as provided for in this Chapter.

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

13 (d) In contested cases conducted pursuant to this section, the burden of showing that a
14 career State employee was discharged, demoted, or suspended for just cause rests with the
15 employer. In all other contested cases, the burden of proof rests on the employee.

16 (e) The Office of Administrative Hearings may award attorneys' fees to an employee
17 where reinstatement or back pay is ordered or where an employee prevails in a whistleblower
18 grievance. The remedies provided in this subsection in a whistleblower appeal shall be the
19 same as those provided in G.S. 126-87.

20 (f) The Office of Administrative Hearings shall report to the Office of State Personnel
21 and the Joint Legislative Administrative Procedure Oversight Committee on the number of
22 cases filed under this section and on the number of days between filing and closing of each
23 case. The report shall be filed on a semiannual basis.

24 **§ 126-34. Grievance appeal for career State employees.**

25 ~~Unless otherwise provided in this Chapter, any career State employee having a grievance~~
26 ~~arising out of or due to the employee's employment and who does not allege unlawful~~
27 ~~harassment or discrimination because of the employee's age, sex, race, color, national origin,~~
28 ~~religion, creed, handicapping condition as defined by G.S. 168A-3, or political affiliation shall~~
29 ~~first discuss the problem or grievance with the employee's supervisor and follow the grievance~~
30 ~~procedure established by the employee's department or agency. Any State employee having a~~
31 ~~grievance arising out of or due to the employee's employment who alleges unlawful harassment~~
32 ~~because of the employee's age, sex, race, color, national origin, religion, creed, or handicapping~~
33 ~~condition as defined by G.S. 168A-3 shall submit a written complaint to the employee's~~
34 ~~department or agency. The department or agency shall have 60 days within which to take~~
35 ~~appropriate remedial action. If the employee is not satisfied with the department or agency's~~
36 ~~response to the complaint, the employee shall have the right to appeal directly to the Office of~~
37 ~~Administrative Hearings.~~

38 **§ 126-34.1. Grounds for contested case under the State Personnel Act defined.**

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

42 (1) ~~Dismissal, demotion, or suspension without pay based upon an alleged~~
43 ~~violation of G.S. 126-35, if the employee is a career State employee.~~

44 (2) ~~An alleged unlawful State employment practice constituting discrimination,~~
45 ~~as proscribed by G.S. 126-36, including:~~

46 a. ~~Denial of promotion, transfer, or training, on account of the~~
47 ~~employee's age, sex, race, color, national origin, religion, creed,~~
48 ~~political affiliation, or handicapping condition as defined by Chapter~~
49 ~~168A of the General Statutes.~~

50 b. ~~Demotion, reduction in force, or termination of an employee in~~
51 ~~retaliation for the employee's opposition to alleged discrimination on~~

- 1 account of the employee's age, sex, race, color, national origin,
2 religion, creed, political affiliation, or handicapping condition as
3 defined by Chapter 168A of the General Statutes.
- 4 (3) Retaliation against an employee, as proscribed by G.S. 126-17, for protesting
5 an alleged violation of G.S. 126-16.
- 6 (4) Denial of the veteran's preference granted in accordance with Article 13 of
7 this Chapter in initial State employment or in connection with a reduction in
8 force, for an eligible veteran as defined by G.S. 126-81.
- 9 (5) Denial of promotion for failure to post or failure to give priority
10 consideration for promotion or reemployment, to a career State employee as
11 required by G.S. 126-7.1 and G.S. 126-36.2.
- 12 (6) Denial of an employee's request for removal of allegedly inaccurate or
13 misleading information from the employee's personnel file as provided by
14 G.S. 126-25.
- 15 (7) Any retaliatory personnel action that violates G.S. 126-85.
- 16 (8) Denial of promotion in violation of G.S. 126-14.2, where an initial
17 determination found probable cause to believe there has been a violation of
18 G.S. 126-14.2.
- 19 (9) Denial of employment in violation of G.S. 126-14.2, where an initial
20 determination found probable cause to believe that there has been a violation
21 of G.S. 126-14.2.
- 22 (10) Harassment in the workplace based upon age, sex, race, color, national
23 origin, religion, creed, or handicapping condition, whether the harassment is
24 based upon the creation of a hostile work environment or upon a quid pro
25 quo.
- 26 (11) Violation of any of the following federal statutes as applied to the employee:
27 a. The Fair Labor Standards Act, 29 U.S.C. § 201, et seq.
28 b. The Age Discrimination in Employment Act, 29 U.S.C. § 621, et seq.
29 c. The Family Medical Leave Act, 29 U.S.C. § 2601, et seq.
30 d. The Americans with Disabilities Act, 42 U.S.C. § 12101, et seq.
- 31 (b) An applicant for initial State employment may file in the Office of Administrative
32 Hearings a contested case under Article 3 of Chapter 150B of the General Statutes based upon:
- 33 (1) Alleged denial of employment in violation of G.S. 126-16.
- 34 (2) Denial of the applicant's request for removal of allegedly inaccurate or
35 misleading information from the personnel file as provided by G.S. 126-25.
- 36 (3) Denial of equal opportunity for employment and compensation on account
37 of the employee's age, sex, race, color, national origin, religion, creed,
38 political affiliation, or handicapping condition as defined by Chapter 168A
39 of the General Statutes. This subsection with respect to equal opportunity as
40 to age shall be limited to persons who are at least 40 years of age. An
41 applicant may not, however, file a contested case where political affiliation
42 was the reason for the person's nonselection for (i) an exempt policymaking
43 position as defined in G.S. 126-5(b)(3), (ii) a chief deputy or chief
44 administrative assistant position under G.S. 126-5(c)(4), or (iii) a
45 confidential assistant or confidential secretary position under
46 G.S. 126-5(c)(2).
- 47 (4) Denial of the veteran's preference in initial State employment provided by
48 Article 13 of this Chapter, for an eligible veteran as defined by G.S. 126-81.
- 49 (5) Denial of employment in violation of G.S. 126-14.2, where an initial
50 determination found probable cause to believe that there has been a violation
51 of G.S. 126-14.2.

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

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

9 ~~(e) Any issue for which appeal to the Office of Administrative Hearings through the~~
10 ~~filing of a contested case under Article 3 of Chapter 150B of the General Statutes has not been~~
11 ~~specifically authorized by this section shall not be grounds for a contested case under Chapter~~
12 ~~126.~~

13 **"§ 126-34.2. Alternative dispute resolution.**

14 In its discretion, the Commission may adopt alternative dispute resolution procedures for
15 the resolution of matters constituting and not constituting grounds for a grievance under this
16 Article. Any matters not constituting grounds for an appeal under G.S. 126-34.02 shall not be
17 heard by the Office of Administrative Hearings as a contested case.

18 ~~(a) Notwithstanding the provisions of Articles 6 and 7 of this Chapter, or the other~~
19 ~~provisions of this Article, with the consent of the parties, a matter for which a State employee, a~~
20 ~~former State employee, or an applicant for State employment has filed a contested case under~~
21 ~~Article 3 of Chapter 150B of the General Statutes may be handled in accordance with~~
22 ~~alternative dispute resolution procedures adopted by the State Personnel Commission.~~

23 ~~(b) In its discretion, the State Personnel Commission may adopt alternative dispute~~
24 ~~resolution procedures for the resolution of matters not constituting grounds for a contested case~~
25 ~~under G.S. 126-34.1.~~

26 ~~(c) Nothing in this section shall be construed to limit the right of any person to file in~~
27 ~~the Office of Administrative Hearings a contested case under Article 3 of Chapter 150B of the~~
28 ~~General Statutes.~~

29 **"§ 126-34.3. Judicial review of fee awards.**

30 With respect to a decision of the Office of Administrative Hearings assessing or refusing to
31 assess reasonable witness fees or a reasonable attorneys' fee, the decision shall be subject to
32 judicial review in accordance with G.S. 126-34.02(a). The reviewing court may reverse or
33 modify the decision of the Office of Administrative Hearings if the decision is unreasonable or
34 the award is inadequate. An employee who obtains a reversal or modification of the Office of
35 Administrative Hearings' decision in an appeal under this section shall be entitled to recover
36 court costs and a reasonable attorneys' fee for representation in connection with the appeal.

37 **"§ 126-35. Just cause; disciplinary actions for State employees.**

38 ~~(a) No career State employee subject to the State Personnel Act shall be discharged,~~
39 ~~suspended, or demoted for disciplinary reasons, except for just cause. In cases of such~~
40 ~~disciplinary action, the employee shall, before the action is taken, be furnished with a statement~~
41 ~~in writing setting forth in numerical order the specific acts or omissions that are the reasons for~~
42 ~~the disciplinary action and the employee's appeal rights. The employee shall be permitted 15~~
43 ~~days from the date the statement is delivered to appeal to the head of the ~~department~~ agency~~
44 ~~through the agency grievance procedure for a final agency decision. However, an employee~~
45 ~~may be suspended without warning for causes relating to personal conduct detrimental to State~~
46 ~~service, pending the giving of written reasons, in order to avoid undue disruption of work or to~~
47 ~~protect the safety of persons or property or for other serious reasons. ~~The employee, if he is not~~~~
48 ~~satisfied with the final decision of the head of the department, or if he is unable, within a~~
49 ~~reasonable period of time, to obtain a final decision by the head of the department. ~~If the~~~~
50 ~~employee is not satisfied with the final agency decision or is unable, within a reasonable period~~
51 ~~of time, to obtain a final agency decision, the employee may appeal to the Office of~~

1 Administrative Hearings. Such appeal shall be filed not later than 30 days after receipt of notice
2 of the ~~department head's~~final agency decision. The State Personnel Commission may adopt,
3 subject to the approval of the Governor, rules that define just cause.

4 (b) ~~Notwithstanding any other provision of this Chapter, a reduction in pay or position~~
5 ~~which is not imposed for disciplinary reasons shall not be considered a disciplinary action~~
6 ~~within the meaning of this Article. Disciplinary actions, for the purpose of this Article, are~~
7 ~~those actions taken in accordance with the disciplinary procedures adopted by the State~~
8 ~~Personnel Commission and specifically based on unsatisfactory job performance, unacceptable~~
9 ~~personal conduct or a combination of the two.~~

10 (c) ~~For the purposes of contested case hearings under Chapter 150B, an involuntary~~
11 ~~separation (such as a separation due to a reduction in force) shall be treated in the same fashion~~
12 ~~as if it were a disciplinary action.~~

13 (d) ~~In contested cases conducted pursuant to Chapter 150B of the General Statutes, the~~
14 ~~burden of showing that a career State employee subject to the State Personnel Act was~~
15 ~~discharged, suspended, or demoted for just cause rests with the department or agency~~
16 ~~employer."~~

17 ~~"§ 126-36. Appeal of unlawful State employment practice.~~

18 (a) ~~Any State employee or former State employee who has reason to believe that~~
19 ~~employment, promotion, training, or transfer was denied the employee or that demotion, layoff,~~
20 ~~transfer, or termination of employment was forced upon the employee in retaliation for~~
21 ~~opposition to alleged discrimination or because of the employee's age, sex, race, color, national~~
22 ~~origin, religion, creed, political affiliation, or handicapping condition as defined by~~
23 ~~G.S. 168A-3 except where specific age, sex or physical requirements constitute a bona fide~~
24 ~~occupational qualification necessary to proper and efficient administration, shall have the right~~
25 ~~to appeal directly to the Office of Administrative Hearings.~~

26 (b) ~~Subject to the requirements of G.S. 126-34, any State employee or former State~~
27 ~~employee who has reason to believe that the employee has been subjected to any of the~~
28 ~~following shall have the right to appeal directly to the Office of Administrative Hearings:~~

- 29 (1) ~~Harassment in the workplace based upon age, sex, race, color, national~~
30 ~~origin, religion, creed, or handicapping condition, whether the harassment is~~
31 ~~based upon the creation of a hostile work environment or upon a quid pro~~
32 ~~quo.~~
33 (2) ~~Retaliation for opposition to harassment in the workplace based upon age,~~
34 ~~sex, race, color, national origin, religion, creed, or handicapping condition,~~
35 ~~whether the harassment is based upon the creation of a hostile work~~
36 ~~environment or upon a quid pro quo."~~

37 ~~"§ 126-36.1. Appeal to Office of Administrative Hearings by applicant for employment.~~

38 ~~Any applicant for State employment who has reason to believe that employment was denied~~
39 ~~in violation of G.S. 126-16 shall have the right to appeal directly to the Office of~~
40 ~~Administrative Hearings."~~

41 ~~"§ 126-36.2. Appeal to Office of Administrative Hearings by career State employee~~
42 ~~denied notice of vacancy or priority consideration.~~

43 ~~Any career State employee who has reason to believe that he was denied promotion due to~~
44 ~~the failure of the agency, department, or institution that had a job vacancy to:~~

- 45 (1) ~~Post notice of the job vacancy pursuant to G.S. 126-7.1(a) or;~~
46 (2) ~~Give him priority consideration pursuant to G.S. 126-7.1(c) may appeal~~
47 ~~directly to the Office of Administrative Hearings.~~

48 ~~"§ 126-37. Administrative Law Judge's final decision.~~

49 (a) ~~Appeals involving a disciplinary action, alleged discrimination or harassment, and~~
50 ~~any other contested case arising under this Chapter shall be conducted in the Office of~~
51 ~~Administrative Hearings as provided in Article 3 of Chapter 150B; provided that no grievance~~

1 may be appealed unless the employee has complied with G.S. 126-34. The administrative law
2 judge is hereby authorized to reinstate any employee to the position from which the employee
3 has been removed, to order the employment, promotion, transfer, or salary adjustment of any
4 individual to whom it has been wrongfully denied or to direct other suitable action to correct
5 the abuse which may include the requirement of payment for any loss of salary which has
6 resulted from the improperly discriminatory action of the appointing authority.

7 (b) ~~Repealed by 1993 (Reg. Sess., 1994), c. 572, s. 1.~~

8 (b1) ~~Repealed by Session Laws 2011-398, s. 44, effective January 1, 2012, and~~
9 ~~applicable to contested cases commenced on or after that date.~~

10 (b2) ~~The final decision is subject to judicial review pursuant to Article 4 of Chapter 150B~~
11 ~~of the General Statutes. Appeals in which it is found that discrimination prohibited by Article 6~~
12 ~~of this Chapter has occurred or in any case where a binding decision is required by applicable~~
13 ~~federal standards shall be heard as all other appeals.~~

14 (c) ~~If the local appointing authority is other than a board of county commissioners, the~~
15 ~~local appointing authority must give the county notice of the appeal taken pursuant to~~
16 ~~subsection (a) of this section. Notice must be given to the county manager or the chairman of~~
17 ~~the board of county commissioners by certified mail within 15 days of the receipt of the notice~~
18 ~~of appeal. The county may intervene in the appeal within 30 days of receipt of the notice. If the~~
19 ~~action is appealed to superior court the county may intervene in the superior court proceeding~~
20 ~~even if it has not intervened in the administrative proceeding. The decision of the superior court~~
21 ~~shall be binding on the county even if the county does not intervene.~~

22 ~~"§ 126-38. Time limit for appeals.~~

23 ~~Any employee appealing any decision or action shall file a petition for a contested case~~
24 ~~with the Office of Administrative Hearings as provided in G.S. 150B-23(a) no later than 30~~
25 ~~days after receipt of notice of the decision or action which triggers the right of appeal.~~

26 ~~"§ 126-39. Scope of this Article.~~

27 ~~Except for positions subject to competitive service and except for appeals brought under~~
28 ~~G.S. 126-16, 126-25, and 126-36, this Article applies to all State employees who are career~~
29 ~~State employees at the time of the act, grievance, or employment practice complained of.~~

30 ~~"§ 126-40: Repealed by Session Laws 1985, c. 746, s. 16.~~

31 ~~"§ 126-41. Attorney and witness fees.~~

32 ~~The decision of the Commission assessing or refusing to assess reasonable witness fees or a~~
33 ~~reasonable attorney's fee as provided in G.S. 126-4(11) is a final agency decision appealable~~
34 ~~under Article 4 of Chapter 150B of the General Statutes. The reviewing court may reverse or~~
35 ~~modify the decision of the Commission if the decision is unreasonable or the award is~~
36 ~~inadequate. The reviewing court shall award court costs and a reasonable attorney's fee for~~
37 ~~representation in connection with the appeal to an employee who obtains a reversal or~~
38 ~~modification of the Commission's decision in an appeal under this section.~~

39 ~~"§ 126-42. Reserved for future codification purposes."~~

40 ~~SECTION 6.2. G.S. 126-7.2 is repealed.~~

41 ~~SECTION 6.3. G.S. 126-14.1(c) reads as rewritten:~~

42 ~~"(c) A State employee subject to the Personnel Act, probationary State employee, or~~
43 ~~temporary State employee, who without probable cause falsely accuses a person of violating~~
44 ~~this section shall be subject to discipline or change in employment status in accordance with the~~
45 ~~provisions of G.S. 126-35, 126-37, and 126-38G.S. 126-34.02 and may, as otherwise provided~~
46 ~~by law, be subject to criminal penalties for perjury or civil liability for libel, slander, or~~
47 ~~malicious prosecution."~~

48 ~~SECTION 6.4. G.S. 7A-29(a) reads as rewritten:~~

49 ~~"(a) From any final order or decision of the North Carolina Utilities Commission not~~
50 ~~governed by subsection (b) of this section, the Department of Health and Human Services~~
51 ~~under G.S. 131E-188(b), the North Carolina Industrial Commission, the North Carolina State~~

1 Bar under G.S. 84-28, the Property Tax Commission under G.S. 105-290 and G.S. 105-342, the
2 Commissioner of Insurance under G.S. 58-2-80, the State Board of Elections under
3 G.S. 163-127.6, the Office of Administrative Hearings under G.S. 126-34.02, or the Secretary
4 of Environment and Natural Resources under G.S. 104E-6.2 or G.S. 130A-293, appeal as of
5 right lies directly to the Court of Appeals."

6 **SECTION 6.5.** This Part is effective when it becomes law and applies to
7 grievances filed on or after that date.

9 **PART VII. OTHER MODERNIZING AND CONFORMING CHANGES**

10 **SECTION 7.1.** G.S. 126-16 reads as rewritten:

11 **"§ 126-16. Equal opportunity for employment and compensation by State departments
12 and agencies and local political subdivisions.**

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

21 **SECTION 7.2.** G.S. 126-16.1 reads as rewritten:

22 **"§ 126-16.1. Equal employment opportunity training.**

23 Each State agency, department, and institution and The University of North Carolina shall
24 enroll each newly appointed supervisor or manager within one year of appointment in the Equal
25 Employment Opportunity training offered or approved by the Office of State Personnel.

26 ~~Each State agency, each State department, and The University of North Carolina shall:~~

- 27 (1) ~~Enroll each newly appointed supervisor or manager within one year of~~
28 ~~appointment in the Equal Employment Opportunity Institute operated by the~~
29 ~~Division of Equal Opportunity Services of the Office of State Personnel.~~
30 ~~Current managers and supervisors are encouraged to enroll/participate in the~~
31 ~~Institute.~~
32 (2) ~~Be responsible for providing supplies and resource materials for managers~~
33 ~~and supervisors who are enrolled from that department, agency or~~
34 ~~university."~~

35 **SECTION 7.3.** G.S. 126-19 reads as rewritten:

36 **"§ 126-19. Equal employment opportunity plans; reports; maintenance of services by
37 State Personnel Director.**

38 (a) Each member of the Council of State under G.S. 143A-11, each of the principal
39 departments enumerated in G.S. 143B-6, The University of North Carolina, the judicial branch,
40 and the legislative branch, shall develop and submit on an annual basis an Equal Employment
41 Opportunity plan which shall include goals and programs that provide positive measures to
42 assure equitable and fair representation of North Carolina's citizens. The plans developed by the
43 judicial branch and by the Legislative Services Office on behalf of the legislative branch shall
44 be submitted to the General Assembly on or before June 1 of each year. All other such plans
45 shall be submitted to the State Personnel Director for review and approval on or before March
46 1, of each year.

47 (b) ~~The State Personnel Commission shall submit a report to the General Assembly~~
48 ~~concerning the status of Equal Employment Opportunity plans and programs for all State~~
49 ~~departments, agencies, universities, which are required by this Chapter to report to the State~~
50 ~~Personnel Director, on or before June 1 of each year. If any plan has been disapproved, the~~
51 ~~report shall contain reasons for disapproval. The status report submitted to the General~~

1 Assembly by the State Personnel Director and the plans submitted to the General Assembly by
2 the judicial branch and the Legislative Services Office on behalf of the legislative branch shall
3 contain the total number of persons employed in each job category, the race, sex, salary, and
4 other demographics relative to persons hired and promoted during the reporting period, analysis
5 of the data, and an indication as to which goals were achieved.

6 (c) The State Personnel Director shall ~~at least maintain current~~ will provide services of
7 Equal Employment Opportunity technical assistance, training, oversight, monitoring,
8 evaluation, support programs, and reporting to assure that State government's work force is
9 diverse at all occupational levels. These services shall be provided by qualified personnel. ~~at all~~
10 ~~occupational levels reflect North Carolina's population. To the extent reasonably possible, these~~
11 ~~services shall be provided by qualified personnel who have continuous experience in the field~~
12 ~~of Equal Employment Opportunity and affirmative action and who are sensitive to~~
13 ~~circumstances and experiences of individuals from diverse backgrounds and cultures, and~~
14 ~~recognize that efficient and effective government requires the talents, skills, and abilities of all~~
15 ~~available human resources."~~

16 **SECTION 7.4.** G.S. 126-25 reads as rewritten:

17 **"§ 126-25. Remedies of employee objecting to material in file.**

18 (a) An employee, former ~~employee-employee,~~ or applicant for employment who objects
19 to material in ~~his~~ the employee's file may place in his or her file a written statement relating to
20 the material ~~he~~ the employee considers to be inaccurate or misleading.

21 (b) An employee, former ~~employee-employee,~~ or applicant for employment who objects
22 to material in ~~his~~ the employee's file because he or she considers it inaccurate or misleading
23 may seek the removal of such material from ~~his~~ the file in accordance with a grievance
24 procedure established by that department. If the agency determines that material in the
25 employee's file is inaccurate or misleading, the agency shall remove or amend the inaccurate
26 material to ensure that the file is accurate. Nothing in this subsection shall be construed to
27 permit an employee to appeal the contents of a performance appraisal or written disciplinary
28 action. ~~the grievance procedure of that department, including appeal to the State Personnel~~
29 ~~Commission. When a department, division, bureau, commission, or other agency agrees or is~~
30 ~~ordered by the State Personnel Commission or by the General Court of Justice of this State to~~
31 ~~remove inaccurate or misleading material from an employee's file, which information was~~
32 ~~placed in the file by the supervisor or other agent of management, it shall destroy the original~~
33 ~~and all copies of the material removed and may not retain any inaccurate or misleading~~
34 ~~information derived from the material removed."~~

35 **SECTION 7.5.** G.S. 126-6.2 reads as rewritten:

36 **"§ 126-6.2. Reports.**

37 (a) Beginning January 1, 1998, and quarterly thereafter, the head of each State agency,
38 department, or institution employing State employees subject to the State Personnel Act shall
39 report to the Office of State Personnel on the following:

40 (1) The costs associated with the defense or settlement of administrative
41 grievances and lawsuits filed by current or former State employees and
42 applicants for State employment, including the costs of settlements,
43 attorneys' fees, litigation expenses, damages, or awards incurred by the
44 respective State agencies, departments, and institutions. The report shall
45 include an explanation of the fiscal impact of these costs upon the operations
46 of the State agency, department, or institution.

47 (2) Any other human resources functions or actions as may be requested by the
48 Director of the Office of State Personnel in order for the Office to evaluate
49 the efficiency, productivity, and compliance of a State agency, department,
50 or institution with policies, including, but not limited to, the compensation of
51 State employees, voluntary shared-leave programs, equal employment

1 ~~opportunity plans and programs, and work options programs. The~~
2 ~~modification of position descriptions resulting in changes in position~~
3 ~~qualifications to allow the use of educational, experience, or other~~
4 ~~equivalencies in the hiring or promotion of State employees where such~~
5 ~~equivalencies were not previously used in the position descriptions. The~~
6 ~~report shall include an explanation of the reasons for the changes in the~~
7 ~~position descriptions and the bases for the use of the equivalencies.~~

8 (b) Beginning May 1, 1998, and annually thereafter, the State Personnel Commission
9 shall report to the Joint Legislative Commission on Governmental Operations on the costs
10 associated with the defense or settlement of lawsuits ~~and on the use of position qualification~~
11 ~~equivalencies, as compiled in accordance with lawsuits, and upon request, on the results of any~~
12 ~~other reports regarding human resources action or functions pursuant to subsection (a) of this~~
13 ~~section.~~

14 (e) ~~Beginning May 1, 1998, and then annually thereafter, the State Personnel~~
15 ~~Commission, through the Office of State Personnel, shall report to the Joint Legislative~~
16 ~~Commission on Governmental Operations on outcomes with respect to State employee hirings,~~
17 ~~promotions, disciplinary actions, and compensation, based upon demographics."~~

18 **SECTION 7.6.** G.S. 126-14.4 is repealed.

19 **SECTION 7.7.** G.S. 126-79 is repealed.

20 **SECTION 7.8.** G.S. 126-8.3(c) reads as rewritten:

21 "(c) ~~The State Personnel Commission, the State Board of Education, and the State Board~~
22 ~~of Community Colleges—Colleges and all State agencies, departments, and institutions shall~~
23 ~~annually report to the Office of State Personnel on the voluntary shared leave program. For the~~
24 ~~prior fiscal year, the report shall include the total number of days or hours of vacation leave and~~
25 ~~sick leave donated and used by voluntary shared leave recipients and the total cost of the~~
26 ~~vacation leave and sick leave donated and used. The State Personnel Commission, the State~~
27 ~~Board of Education, and the State Board of Community Colleges shall provide a report for each~~
28 ~~fiscal year as required by this section to the Joint Legislative Commission on Governmental~~
29 ~~Operations and to the Fiscal Research Division on or before October 15 each year."~~

30 **SECTION 7.9.(a)** G.S. 126-7(b) is repealed.

31 **SECTION 7.9.(b)** Article 2 of Chapter 126 of the General Statutes is amended by
32 adding a new section to read:

33 "**§ 126-7.3. Annual compensation surveys.**

34 To guide the Governor and the General Assembly in making decisions regarding the
35 compensation of State employees, the Office of State Personnel shall conduct annual
36 compensation surveys. The Commission shall present the results of the compensation survey to
37 the Appropriations Committees of the House of Representatives and the Senate no later than
38 two weeks after the convening of the legislature in odd-numbered years and May 1st of
39 even-numbered years."

40 **SECTION 7.10.** G.S. 126-86 reads as rewritten:

41 "**§ 126-86. Civil actions for injunctive relief or other remedies.**

42 Any State employee injured by a violation of G.S. 126-85 who is not subject to Article 8 of
43 this Chapter may maintain an action in superior court for damages, an injunction, or other
44 remedies provided in this Article against the person or agency who committed the violation
45 within one year after the occurrence of the alleged violation of this Article; provided, however,
46 any claim arising under Article 21 of Chapter 95 of the General Statutes may be maintained
47 pursuant to the provisions of that Article only and may be redressed only by the remedies and
48 relief available under that Article."

49 **SECTION 7.11.** This Part is effective when it becomes law.

50
51 **PART VIII. REORGANIZATION THROUGH REDUCTION PROGRAM**

1 **SECTION 8.1.** The Office of State Personnel, in conjunction with the Office of
2 State Budget and Management (OSBM), may develop the Reorganization Through Reduction
3 Program (RTR). The RTR shall be one option available for reorganization and restructuring of
4 the departments and offices listed in G.S. 126-5(d)(1), as amended by Section 4.1 of this act.
5 The RTR is authorized to serve as an employee volunteer separation program to accomplish
6 reorganization and restructuring needs in the specified departments and offices through policies
7 approved by the State Personnel Commission (SPC). The SPC policy shall detail the following:

- 8 (1) The approach to be used in identifying the organizational units.
- 9 (2) The process for identifying employees who may volunteer.
- 10 (3) The availability of severance and other related assistance.

11 **SECTION 8.2.** Severance and any other payments made pursuant to the
12 implementation of the RTR program will not exceed funds appropriated for that purpose.

13 **SECTION 8.3.** This Part is effective when it becomes law and expires June 30,
14 2014. The Office of State Personnel and the Office of State Budget and Management shall
15 report to the Joint Legislative Commission on Governmental Operations on January 31, 2014,
16 April 30, 2014, and September 1, 2014.

17 18 **PART IX. RENAMING/STATE HUMAN RESOURCES COMMISSION AND OFFICE** 19 **OF STATE HUMAN RESOURCES**

20 **SECTION 9.1.(a)** Chapter 126 of the General Statutes, the State Personnel Act, is
21 hereby renamed and may be cited as the "North Carolina Human Resources Act."

22 **SECTION 9.1.(b)** The following entities and positions created by Chapter 126 of
23 the General Statutes are hereby renamed by this act:

- 24 (1) The State Personnel Commission is renamed the "North Carolina Human
25 Resources Commission."
- 26 (2) The Office of State Personnel is renamed the "North Carolina Office of State
27 Human Resources."
- 28 (3) The State Personnel Director is renamed the "Director of the North Carolina
29 Office of State Human Resources."

30 **SECTION 9.1.(c)** Modification of References. – The Revisor of Statutes shall
31 delete any references in the General Statutes to the State Personnel Act, State Personnel
32 Commission, the State Personnel Director, and the Office of State Personnel (or any derivatives
33 thereof) and substitute references to the North Carolina Human Resources Act, the State
34 Human Resources Commission, the Director of the Office of State Human Resources, and the
35 Office of Human Resources (or the appropriate derivative thereof) to effectuate the renaming
36 set forth in this section wherever conforming changes are necessary. The affected statutes may
37 include, but are not limited to, the statutes tabulated below:

38 – Referring to the State Personnel Act:

- 39 1. G.S. 7A-171 Duty hours, salary, and travel expenses within county.
- 40 2. G.S. 7A-751 Agency head; powers and duties; salaries of Chief
41 Administrative Law Judge and other administrative law
42 judges.
- 43 3. G.S. 7A-760 Number and status of employees; staff assignments; role
44 of State Personnel Commission.
- 45 4. G.S. 18C-120 Selection of the Director; powers and duties.
- 46 5. G.S. 18C-173 Limits on compensation increases.
- 47 6. G.S. 58-2-10 Salary of Commissioner.
- 48 7. G.S. 58-71-5 Commissioner of Insurance to administer Article; rules
49 and regulations; employees; evidence of Commissioner's
50 actions.
- 51 8. G.S. 58-86-15 Director.

1	9.	G.S. 62-12	Organization of Commission; adoption of rules and regulations therefor.
2			
3	10.	G.S. 88B-6	Board office, employees, funds, budget requirements.
4	11.	G.S. 90-270.4	Exemptions to this Article.
5	12.	G.S. 95-2	Election of Commissioner; term; salary; vacancy.
6	13.	G.S. 97-78	Salaries and expenses; administrator, executive secretary, deputy commissioners, and other staff assistance; annual report.
7			
8			
9	14.	G.S. 106-11	Salary of Commissioner of Agriculture.
10	15.	G.S. 113A-258	Clean Water Management Trust Fund: Executive Director and staff.
11			
12	16.	G.S. 114-7	Salary of the Attorney General.
13	17.	G.S. 115C-20	Office and salary.
14	18.	G.S. 115D-5	Administration of institutions by State Board of Community Colleges; personnel exempt from State Personnel Act; extension courses; tuition waiver; in-plant training; contracting, etc., for establishment and operation of extension units of the community college system; use of existing public school facilities.
15			
16			
17			
18			
19			
20	19.	G.S. 116-11	Powers and duties generally.
21	20.	G.S. 116-30.4	Position management.
22	21.	G.S. 120-36.1	Fiscal Research Division of Legislative Services Commission established.
23			
24	22.	G.S. 120-79	Commission staffing.
25	23.	G.S. 122A-4	North Carolina Housing Finance Agency.
26	24.	G.S. 122D-5	Officers and employees; administration of Chapter.
27	25.	G.S. 122E-4	North Carolina Housing Partnership created; compensation; organization.
28			
29	26.	G.S. 126-1.1	Career State employee defined.
30	27.	G.S. 126-2	State Personnel Commission.
31	28.	G.S. 126-5	Employees subject to Chapter; exemptions.
32	29.	G.S. 126-6.2	Reports.
33	30.	G.S. 126-30	Fraudulent disclosure and willful nondisclosure on application for State employment; penalties.
34			
35	31.	G.S. 126-34.1	Grounds for contested case under the State Personnel Act defined.
36			
37	32.	G.S. 126-35	Just cause; disciplinary actions for State employees.
38	33.	G.S. 126-56	Status of employees of other governments.
39	34.	G.S. 126-75	Work options for State employees.
40	35.	G.S. 135-5.1	Optional retirement program for The University of North Carolina.
41			
42	36.	G.S. 135-48.23	Executive Administrator.
43	37.	G.S. 136-4	Chief Engineer.
44	38.	G.S. 138-4	Governor to set salaries of administrative officers; exceptions; longevity pay.
45			
46	39.	G.S. 138A-3	Definitions.
47	40.	G.S. 140-5.15	Director of Museum of Art; appointment; dismissal; powers and duties; staff.
48			
49	41.	G.S. 143-166.41	Special separation allowance.
50	42.	G.S. 143-641	Powers and duties of the Commission.

1	43. G.S. 143A-9	Appointment of officers and employees; salaries of
2		department heads.
3	44. G.S. 143A-10	Governor; continuation of powers and duties; staff.
4	45. G.S. 143B-5	Governor; continuation of powers and duties.
5	46. G.S. 143B-9	Appointment of officers and employees.
6	47. G.S. 143B-10	Powers and duties of heads of principal departments.
7	48. G.S. 143B-74.2	U.S.S. North Carolina Battleship Commission –
8		employees.
9	49. G.S. 143B-131.9	Roanoke Island Commission staff.
10	50. G.S. 143B-146.7	Consequences for personnel at low-performing schools.
11	51. G.S. 143B-426.11	Powers of Agency.
12	52. G.S. 143B-426.38	Organization and operation of office.
13	53. G.S. 147-33	Compensation and expenses of Lieutenant Governor.
14	54. G.S. 147-33.76	Qualification, appointment, and duties of the State Chief
15		Information Officer.
16	55. G.S. 147-33.77	Office of Information Technology Services; organization
17		and operation.
18	56. G.S. 147-35	Salary of Secretary of State.
19	57. G.S. 147-64.1	Salary of State Auditor.
20	58. G.S. 147-64.10	Powers of appointment.
21	59. G.S. 147-65	Salary of State Treasurer.
22	60. G.S. 153A-77	Authority of boards of commissioners in certain counties
23		over commissions, boards, agencies, etc.
24	61. G.S. 153A-92	Compensation.
25	– Referring to the State Personnel Commission:	
26	1. G.S. 7A-343.1	Distribution of copies of the appellate division reports.
27	2. G.S. 7A-760	Number and status of employees; staff assignments; role
28		of State Personnel Commission.
29	3. G.S. 20-187.3	Quotas prohibited.
30	4. G.S. 53C-2-3	The Office of the Commissioner of Banks.
31	5. G.S. 58-32-10	Powers and duties of Commission.
32	6. G.S. 90B-10	Exemption from certain requirements.
33	7. G.S. 96-29	Openings listed by State agencies.
34	8. G.S. 97-77	North Carolina Industrial Commission created; members
35		appointed by Governor; terms of office; chairman.
36	9. G.S. 108A-9	Duties and responsibilities.
37	10. G.S. 108A-12	Appointment.
38	11. G.S. 108A-13	Salary.
39	12. G.S. 108A-14	Duties and responsibilities.
40	13. G.S. 115C-12	Powers and duties of the Board generally.
41	14. G.S. 115C-12.2	Voluntary shared leave.
42	15. G.S. 115C-84.2	School calendar.
43	16. G.S. 115C-272	Residence, oath of office, and salary of superintendent.
44	17. G.S. 115C-285	Salary.
45	18. G.S. 115C-316	Salary and vacation.
46	19. G.S. 115D-25.3	Voluntary shared leave.
47	20. G.S. 120-123	Service by members of the General Assembly on certain
48		boards and commissions.
49	21. G.S. 122C-121	Area director.
50	22. G.S. 122C-154	Personnel.
51	23. G.S. 126-1	Purpose of Chapter; application to local employees.

1	24. G.S. 126-2	State Personnel Commission.
2	25. G.S. 126-4	Powers and duties of State Personnel Commission.
3	26. G.S. 126-5	Employees subject to Chapter; exemptions.
4	27. G.S. 126-6.2	Reports.
5	28. G.S. 126-7	Annual Compensation Survey.
6	29. G.S. 126-7.1	Posting requirement; State employees receive priority
7		consideration; reduction-in-force; Work First hiring.
8	30. G.S. 126-8	Minimum leave granted State employees.
9	31. G.S. 126-8.3	Voluntary shared leave.
10	32. G.S. 126-8.5	Discontinued service retirement allowance and severance
11		wages for certain State employees.
12	33. G.S. 126-9	County or municipal employees may be made subject to
13		rules adopted by local governing body.
14	34. G.S. 126-10	Personnel services to local governmental units.
15	35. G.S. 126-11	Local personnel system may be established; approval and
16		monitoring; rules and regulations.
17	36. G.S. 126-14.2	Political hirings limited.
18	37. G.S. 126-14.3	Open and fair competition.
19	38. G.S. 126-14.4	Remedies.
20	39. G.S. 126-19	Equal employment opportunity plans; reports;
21		maintenance of services by State Personnel Director.
22	40. G.S. 126-23	Certain records to be kept by State agencies open to
23		inspection.
24	41. G.S. 126-25	Remedies of employee objecting to material in file.
25	42. G.S. 126-26	Rules and regulations.
26	43. G.S. 126-30	Fraudulent disclosure and willful nondisclosure on
27		application for State employment; penalties.
28	44. G.S. 126-34.2	Alternative dispute resolution.
29	45. G.S. 126-35	Just cause; disciplinary actions for State employees.
30	46. G.S. 126-58	Administration.
31	47. G.S. 126-74	Work Options Program established.
32	48. G.S. 126-75	Work options for State employees.
33	49. G.S. 126-76	Promoting Work Options Program.
34	50. G.S. 126-77	Authority of agencies to participate.
35	51. G.S. 126-78	Administration.
36	52. G.S. 126-79	Report required.
37	53. G.S. 126-82	State Personnel Commission to provide for preference.
38	54. G.S. 138A-24	Contents of statement.
39	55. G.S. 143-27.2	Discontinued service retirement allowance and severance
40		wages for certain State employees.
41	56. G.S. 143-554	Right of employee appeal.
42	57. G.S. 143-583	Model program; technical assistance; reports.
43	58. G.S. 143-584	State agency safety and health committees.
44	59. G.S. 143B-10	Powers and duties of heads of principal departments.
45	60. G.S. 148-118.8	Appointment, salary, and authority of Executive Director
46		and inmate grievance examiners.
47	61. G.S. 150B-2	Definitions.
48	– Referring to the State Personnel Director:	
49	1. G.S. 20-79.5	Special registration plates for elected and appointed State
50		government officials.
51	2. G.S. 95-127	Definitions.

1	3.	G.S. 126-3	Office of State Personnel established and responsibilities outlined; administration and supervision; appointment, compensation and tenure of Director.
2			
3			
4	4.	G.S. 126-4	Powers and duties of State Personnel Commission.
5	5.	G.S. 126-5	Employees subject to Chapter; exemptions.
6	6.	G.S. 126-8.5	Discontinued service retirement allowance and severance wages for certain State employees.
7			
8	7.	G.S. 126-9	County or municipal employees may be made subject to rules adopted by local governing body.
9			
10	8.	G.S. 126-19	Equal employment opportunity plans; reports; maintenance of services by State Personnel Director.
11			
12	9.	G.S. 126-74	Work Options Program established.
13	10.	G.S. 143-27.2	Discontinued service retirement allowance and severance wages for certain State employees.
14			
15	11.	G.S. 143-345.23	Suggestion and review process; role of agency coordinator and agency evaluator.
16			
17	– Referring to the Office of State Personnel:		
18	1.	G.S. 7A-102	Assistant and deputy clerks; appointment; number; salaries; duties.
19			
20	2.	G.S. 7A-343.1	Distribution of copies of the appellate division reports.
21	3.	G.S. 15-203	Duties of the Secretary of Public Safety; appointment of probation officers; reports; requests for extradition.
22			
23	4.	G.S. 88B-6	Board office, employees, funds, budget requirements.
24	5.	G.S. 90B-10	Exemption from certain requirements.
25	6.	G.S. 116-14	President and staff.
26	7.	G.S. 116-30.1	Special responsibility constituent institutions.
27	8.	G.S. 116-30.4	Position management.
28	9.	G.S. 116-37	University of North Carolina Health Care System.
29	10.	G.S. 116-40.6	East Carolina University Medical Faculty Practice Plan.
30	11.	G.S. 122C-120.1	Job classifications; director and finance officer.
31	12.	G.S. 122C-121	Area director.
32	13.	G.S. 122C-154	Personnel.
33	14.	G.S. 126-1	Purpose of Chapter; application to local employees.
34	15.	G.S. 126-3	Office of State Personnel established and responsibilities outlined; administration and supervision; appointment, compensation and tenure of Director.
35			
36			
37	16.	G.S. 126-6.2	Reports.
38	17.	G.S. 126-7.1	Posting requirement; State employees receive priority consideration; reduction-in-force; Work First hiring.
39			
40	18.	G.S. 126-10	Personnel services to local governmental units.
41	19.	G.S. 126-11	Local personnel system may be established; approval and monitoring; rules and regulations.
42			
43	20.	G.S. 126-16.1	Equal employment opportunity training.
44	21.	G.S. 126-22	Personnel files not subject to inspection under § 132-6.
45	22.	G.S. 126-74	Work Options Program established.
46	23.	G.S. 128-15.3	Discrimination against handicapped prohibited in hiring; recruitment, etc., of handicapped persons.
47			
48	24.	G.S. 135-4	Creditable service.
49	25.	G.S. 138A-3	Definitions.
50	26.	G.S. 143-49	Powers and duties of Secretary.
51	27.	G.S. 143-64.70	Personal service contracts – reporting requirements.

1 and imaging procedures provided in hospital outpatient settings and ambulatory surgical
2 facilities.

3 (b) The Department of Health and Human Services shall make available to the public
4 on its internet Web site the most current price information it receives from hospitals and
5 ambulatory surgical facilities pursuant to G.S. 131E-214.7. The Department shall provide this
6 information in a manner that is easily understood by the public and meets the following
7 minimum requirements:

8 (1) Information for each hospital shall be listed separately and hospitals shall be
9 listed in groups by category as determined by the North Carolina Medical
10 Care Commission in rules adopted pursuant to G.S. 131E-214.7.

11 (2) Information for each hospital outpatient department and each ambulatory
12 surgical facility shall be listed separately.

13 (c) Any data disclosed to the Department by a hospital or ambulatory surgical facility
14 pursuant to the Health Care Cost Reduction and Transparency Act of 2013 shall be and will
15 remain the sole property of the facility that submitted the data. Any data or product derived
16 from the data disclosed pursuant to this act, including a consolidation or analysis of the data,
17 shall be and will remain the sole property of the State. The Department shall not allow
18 proprietary information it receives pursuant to this act to be used by any person or entity for
19 commercial purposes.

20 **§ 131E-214.7. Disclosure of prices for most frequently reported DRGs, CPTs, and**
21 **HCPCSs.**

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

23 (1) Ambulatory surgical facility. – A facility licensed under Part 4 of Article 6
24 of this Chapter.

25 (2) Commission. – The North Carolina Medical Care Commission.

26 (3) Hospital. – A medical care facility licensed under Article 5 of this Chapter or
27 under Article 2 of Chapter 122C of the General Statutes.

28 (4) Health insurer. – As defined in G.S. 108A-55.4, provided that "health
29 insurer" shall not include self-insured plans and group health plans as
30 defined in section 607(1) of the Employee Retirement Income Security Act
31 of 1974.

32 (5) Public or private third party. – Includes the State, the federal government,
33 employers, health insurers, third-party administrators, and managed care
34 organizations.

35 (b) Beginning with the quarter ending June 30, 2014, and quarterly thereafter, each
36 hospital shall provide to the Department of Health and Human Services, utilizing electronic
37 health records software, the following information about the 100 most frequently reported
38 admissions by DRG for inpatients as established by the Commission:

39 (1) The amount that will be charged to a patient for each DRG if all charges are
40 paid in full without a public or private third party paying for any portion of
41 the charges.

42 (2) The average negotiated settlement on the amount that will be charged to a
43 patient required to be provided in subdivision (1) of this subsection.

44 (3) The amount of Medicaid reimbursement for each DRG, including claims and
45 pro rata supplemental payments.

46 (4) The amount of Medicare reimbursement for each DRG.

47 (5) For the five largest health insurers providing payment to the hospital on
48 behalf of insureds and teachers and State employees, the range and the
49 average of the amount of payment made for each DRG. Prior to providing
50 this information to the Department, each hospital shall redact the names of

1 the health insurers and any other information that would otherwise identify
2 the health insurers.

3 A hospital shall not be required to report the information required by this subsection for any
4 of the 100 most frequently reported admissions where the reporting of that information
5 reasonably could lead to the identification of the person or persons admitted to the hospital in
6 violation of the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA)
7 or other federal law.

8 (c) The Commission shall adopt rules on or before March 1, 2014, to ensure that
9 subsection (b) of this section is properly implemented and that hospitals report this information
10 to the Department in a uniform manner. The rules shall include all of the following:

11 (1) The 100 most frequently reported DRGs for inpatients for which hospitals
12 must provide the data set out in subsection (b) of this section.

13 (2) Specific categories by which hospitals shall be grouped for the purpose of
14 disclosing this information to the public on the Department's Internet Web
15 site.

16 (d) Beginning with the quarter ending September 30, 2014, and quarterly thereafter,
17 each hospital and ambulatory surgical facility shall provide to the Department, utilizing
18 electronic health records software, information on the total costs for the 20 most common
19 surgical procedures and the 20 most common imaging procedures, by volume, performed in
20 hospital outpatient settings or in ambulatory surgical facilities, along with the related CPT and
21 HCPCS codes. Hospitals and ambulatory surgical facilities shall report this information in the
22 same manner as required by subdivisions (b)(1) through (5) of this section, provided that
23 hospitals and ambulatory surgical facilities shall not be required to report the information
24 required by this subsection where the reporting of that information reasonably could lead to the
25 identification of the person or persons admitted to the hospital in violation of the federal Health
26 Insurance Portability and Accountability Act of 1996 (HIPAA) or other federal law.

27 (e) The Commission shall adopt rules on or before June 1, 2014, to ensure that
28 subsection (d) of this section is properly implemented and that hospitals and ambulatory
29 surgical facilities report this information to the Department in a uniform manner. The rules
30 shall include the list of the 20 most common surgical procedures and the 20 most common
31 imaging procedures, by volume, performed in a hospital outpatient setting and those performed
32 in an ambulatory surgical facility, along with the related CPT and HCPCS codes.

33 (f) Upon request of a patient for a particular DRG, imaging procedure, or surgery
34 procedure reported in this section, a hospital or ambulatory surgical facility shall provide the
35 information required by subsection (b) or subsection (d) of this section to the patient in writing,
36 either electronically or by mail, within three business days after receiving the request.

37 **"§ 131E-214.8. Disclosure of charity care policy and costs.**

38 (a) Requirements. – A hospital or ambulatory surgical facility required to file Schedule
39 H, federal form 990, under the Code must provide the public access to its financial assistance
40 policy and its annual financial assistance costs reported on its Schedule H, federal form 990.
41 The information must be submitted annually to the Department in the time, manner, and format
42 required by the Department. The Department must post the information on its internet Web site.
43 The information must also be displayed in a conspicuous place in the organization's place of
44 business.

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

46 (1) Code. – Defined in G.S. 105-228.90.

47 (2) Financial assistance costs. – The information reported on Schedule H,
48 federal form 990, related to the organization's financial assistance at cost and
49 the amounts reported on that schedule related to the organization's bad debt
50 expense and the estimated amount of the organization's bad debt expense

1 attributable to patients eligible under the organization's financial assistance
2 policy.

3 (3) Financial assistance policy. – A policy that meets the requirements of section
4 501(r) of the Code."

5 **SECTION 10.2.** The State Health Plan for Teachers and State Employees shall
6 establish a workgroup to examine the best way to provide teachers and State employees greater
7 transparency in the costs of health services provided under the State Health Plan. The State
8 Health Plan for Teachers and State Employees shall report the findings and recommendations
9 of the workgroup to the Joint Legislative Oversight Committee on Health and Human Services
10 and the Joint Committee on Governmental Operations on or before December 31, 2013, and
11 annually thereafter through December 31, 2016.

12 **SECTION 10.3.** Not later than September 1, 2013, the Department of Health and
13 Human Services shall communicate the requirements of Section 2 of this act to all hospitals
14 licensed pursuant to Article 5 of Chapter 131E of the General Statutes, Article 2 of Chapter
15 122C of the General Statutes, and to all ambulatory surgical facilities licensed pursuant to Part
16 4 of Article 6 of Chapter 131E of the General Statutes.

17 **SECTION 10.4.** G.S. 131E-97.3(a) reads as rewritten:

18 "**§ 131E-97.3. Confidentiality of competitive health care information.**

19 (a) For the purposes of this section, competitive health care information means
20 information relating to competitive health care activities by or on behalf of hospitals and public
21 hospital authorities. Competitive health care information does not include any of the
22 information hospitals and ambulatory surgical facilities are required to report under
23 G.S. 131E-214.6. Competitive health care information shall be confidential and not a public
24 record under Chapter 132 of the General Statutes; provided that any contract entered into by or
25 on behalf of a public hospital or public hospital authority, as defined in G.S. 159-39, shall be a
26 public record unless otherwise exempted by law, or the contract contains competitive health
27 care information, the determination of which shall be as provided in subsection (b) of this
28 section."

29 **SECTION 10.5.** G.S. 131E-99 reads as rewritten:

30 "**§ 131E-99. Confidentiality of health care contracts.**

31 ~~The~~ Except for the information a hospital or an ambulatory surgical facility is required to
32 report under G.S. 131E-214.6, the financial terms and other competitive health care information
33 directly related to the financial terms in a health care services contract between a hospital or a
34 medical school and a managed care organization, insurance company, employer, or other payer
35 is confidential and not a public record under Chapter 132 of the General Statutes. Nothing in
36 this section shall prevent an elected public body which has responsibility for the hospital or
37 medical school from having access to this confidential information in a closed session. The
38 disclosure to a public body does not affect the confidentiality of the information. Members of
39 the public body shall have a duty not to further disclose the confidential information."

40 **SECTION 10.6.** Section 10.4 and Section 10.5 of this Part become effective
41 January 1, 2014. The remainder of this Part is effective when it becomes law.

42 **PART XI. CERTAIN CHARGES/PAYMENTS PROHIBITED**

43 **SECTION 11.1.** Article 16 of Chapter 131E of the General Statutes is amended by
44 adding a new section to read:

45 "**§ 131E-273. Certain charges/payments prohibited.**

46 It shall be unlawful for any provider of health care services to charge or accept payment for
47 any health care procedure or component of any health care procedure that was not performed or
48 supplied."
49

1 **SECTION 11.2.** This Part becomes effective December 1, 2013, and applies to
2 health care procedures and services rendered on or after that date. This Part shall not apply to
3 administrative actions or litigation filed before the effective date of this Part.
4

5 **PART XII. HOSPITAL DEBT COLLECTION**

6 **SECTION 12.1.** G.S. 105A-2(9) reads as rewritten:

7 "(9) State agency. – Any of the following:

8 a. A unit of the executive, legislative, or judicial branch of State
9 ~~government.~~government, except for the following:

10 1. Any school of medicine, clinical program, facility, or practice
11 affiliated with one of the constituent institutions of The
12 University of North Carolina that provides medical care to the
13 general public.

14 2. The University of North Carolina Health Care System and
15 other persons or entities affiliated with or under the control of
16 The University of North Carolina Health Care System.

17 b. A local agency, to the extent it administers a program supervised by
18 the Department of Health and Human Services or it operates a Child
19 Support Enforcement Program, enabled by Chapter 110, Article 9,
20 and Title IV, Part D of the Social Security Act.

21 c. A community college."

22 **SECTION 12.2.** This Part becomes effective January 1, 2014, and applies to tax
23 refunds determined by the Department of Revenue on or after that date.
24

25 **PART XIII. FAIR HEALTH CARE FACILITY BILLING AND COLLECTIONS** 26 **PRACTICES**

27 **SECTION 13.1** G.S. 131E-91 reads as rewritten:

28 "**§ 131E-91. ~~Itemized charges on discharged patient's bill~~Fair billing and collections**
29 **practices for hospitals and ambulatory surgical facilities.**

30 (a) All hospitals and ambulatory surgical facilities licensed pursuant to this Chapter
31 shall, upon request of the ~~patient~~patient, within 30 days of discharge,present an itemized list of
32 charges to all discharged ~~patients.~~patients detailing in language comprehensible to an ordinary
33 layperson the specific nature of the charges or expenses incurred by the patient. Patient bills
34 that are not itemized shall include notification to the patient of the right to request, free of
35 charge, an itemized bill. A patient may request an itemized list of charges at any time within
36 three years after the date of discharge or so long as the hospital or ambulatory surgical facility,
37 a collections agency, or another assignee of the hospital or ambulatory surgical facility asserts
38 the patient has an obligation to pay the bill. Each hospital and ambulatory surgical facility shall
39 establish a method for patients to inquire about or dispute a bill.

40 (b) If a patient has overpaid the amount due to the hospital or ambulatory surgical
41 facility, whether as the result of insurance coverage, patient error, health care facility billing
42 error, or other cause, and the overpayment is not in dispute or on appeal, the hospital or
43 ambulatory surgical facility shall provide the patient with a refund within 45 days of receiving
44 notice of the overpayment.

45 (c) A hospital or ambulatory surgical facility shall not bill insured patients for charges
46 that would have been covered by their insurance had the hospital or ambulatory surgical facility
47 submitted the claim or other information required to process the claim within the allotted time
48 requirements of the insurer.

49 (d) Hospitals and ambulatory surgical facilities shall abide by the following reasonable
50 collections practices:

- 1 (1) A hospital or ambulatory surgical facility shall not refer a patient's unpaid
 2 bill to a collections agency, entity, or other assignee during the pendency of
 3 a patient's application for charity care or financial assistance under the
 4 hospital's or ambulatory surgical facility's charity care or financial assistance
 5 policies.
- 6 (2) A hospital or ambulatory surgical facility shall provide a patient with a
 7 written notice that the patient's bill will be subject to collections activity at
 8 least 30 days prior to the referral being made.
- 9 (3) A hospital or ambulatory surgical facility that contracts with a collections
 10 agency, entity, or other assignee shall require the collections agency, entity,
 11 or other assignee to inform the patient of the hospital's or ambulatory
 12 surgical facility's charity care and financial assistance policies when
 13 engaging in collections activity.
- 14 (4) A hospital or ambulatory surgical facility shall require a collections agency,
 15 entity, or other assignee to obtain the written consent of the hospital or
 16 ambulatory surgical facility prior to the collections agency, entity, or other
 17 assignee filing a lawsuit to collect the debt.
- 18 (5) For debts arising from the provision of care by a hospital or ambulatory
 19 surgical center, the doctrine of necessities as it existed at common law shall
 20 apply equally to both spouses, except where they are permanently living
 21 separate and apart, but shall in no event create any liability between the
 22 spouses as to each other. No lien arising out of a judgment for a debt owed a
 23 hospital or ambulatory surgical facility under this section shall attach to the
 24 judgment debtors' principal residence held by them as tenants by the
 25 entireties or that was held by them as tenants by the entireties prior to the
 26 death of either spouse where the tenancy terminated as a result of the death
 27 of either spouse.
- 28 (6) For debts arising from the provision of care by a hospital or ambulatory
 29 surgical center to a minor, there shall be no execution on or otherwise forced
 30 sale of the principal residence of the custodial parent or parents for a
 31 judgment obtained for the outstanding debt until such time as the minor is
 32 either no longer residing with the custodial parent or parents or until the
 33 minor reaches the age of majority, whichever occurs first.

34 (e) ~~The Commission shall adopt rules to ensure that this section is properly~~
 35 ~~implemented-implemented, and that patient bills which are not itemized include notification to~~
 36 ~~the patient of his right to request an itemized bill.~~ The Department shall not issue ~~nor~~ or renew a
 37 license under this ~~Chapter~~ Article unless the applicant has demonstrated that the requirements
 38 of this ~~section~~ subsection are being met.

39 **SECTION 13.2** Article 2A of Chapter 131E of the General Statutes is repealed.

40 **SECTION 13.3** Part 4 of Article 6 of Chapter 131E of the General Statutes is
 41 amended by adding a new section to read:

42 **"§ 131E-147.1. Fair billing and collections practices for ambulatory surgical facilities.**

43 All ambulatory surgical facilities licensed under this Part shall be subject to the fair billing
 44 and collections practices set out in G.S. 131E-91."

45 **SECTION 13.4** G.S. 58-3-245 reads as rewritten:

46 **"§ 58-3-245. Provider directories; directories; cost tools for insured.**

47 (a) Every health benefit plan utilizing a provider network shall maintain a provider
 48 directory that includes a listing of network providers available to insureds and shall update the
 49 listing no less frequently than once a year. In addition, every health benefit plan shall maintain
 50 a telephone system and may maintain an electronic or on-line system through which insureds
 51 can access up-to-date network information. The health benefit plan shall ensure that a patient is

1 provided accurate and current information on each provider's network status through the
2 telephone system and any electronic or online system. If the health benefit plan produces
3 printed directories, the directories shall contain language disclosing the date of publication,
4 frequency of updates, that the directory listing may not contain the latest network information,
5 and contact information for accessing up-to-date network information.

6 (b) Each directory listing shall include the following network information:

- 7 (1) The provider's name, address, telephone number, and, if applicable, area of
8 specialty.
- 9 (2) Whether the provider may be selected as a primary care provider.
- 10 (3) To the extent known to the health benefit plan, an indication of whether the
11 provider:
 - 12 a. Is or is not currently accepting new patients.
 - 13 b. Has any other restrictions that would limit an insured's access to that
14 provider.

15 (c) The directory listing shall include all of the types of participating providers. Upon a
16 participating provider's written request, the insurer shall also list in the directory, as part of the
17 participating provider's listing, the names of any allied health professionals who provide
18 primary care services under the supervision of the participating provider and whose services are
19 covered by virtue of the insurer's contract with the supervising participating provider and
20 whose credentials have been verified by the supervising participating provider. These allied
21 health professionals shall be listed as a part of the directory listing for the participating provider
22 upon receipt of a certification by the supervising participating provider that the credentials of
23 the allied health professional have been verified consistent with the requirements for the type of
24 information required to be verified under G.S. 58-3-230.

25 (d) A health care provider shall provide to a patient or prospective patient, upon
26 request, information on that provider's network status with a particular health benefit plan."

27 **SECTION 13.5.** This Part becomes effective October 1, 2013, and applies to
28 hospital and ambulatory surgical facility billings and collections practices occurring on or after
29 that date.
30

31 **PART XIV. PARTICIPATION IN NORTH CAROLINA HEALTH INFORMATION** 32 **EXCHANGE**

33 **SECTION 14.1.** Article 29A of Chapter 90 of the General Statutes is amended by
34 adding a new section to read:

35 **"§ 90-413.3A. Required participation in NC HIE for some providers.**

36 (a) The General Assembly makes the following findings:

- 37 (1) That controlling escalating health care costs of the Medicaid program is of
38 significant importance to the State, its taxpayers, and its Medicaid recipients.
- 39 (2) That the State needs timely access to claims and clinical information in order
40 to assess performance, pinpoint medical expense trends, identify beneficiary
41 health risks, and evaluate how the State is spending Medicaid dollars.
- 42 (3) That making this clinical information available through the North Carolina
43 Health Information Exchange will improve care coordination within and
44 across health systems, increase care quality, enable more effective
45 population health management, reduce duplication of medical services,
46 augment syndromic surveillance, allow more accurate measurement of care
47 services and outcomes, increase strategic knowledge about the health of the
48 population, and facilitate health cost-containment.

49 (b) Notwithstanding any other provision of law, based upon the findings set forth in
50 subsection (a) of this section, any hospital, as defined in G.S. 131E-76(c), that has an electronic

1 health record system shall connect to the NC HIE and submit individual patient demographic
2 and clinical data on services paid for with Medicaid funds."

3 **SECTION 14.2.** This Part becomes effective January 1, 2014.

4

5 **PART XV. EFFECTIVE DATE**

6 **SECTION 15.** Unless otherwise provided, this act is effective when it becomes
7 law.