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SENATE BILL DRS35002-MDz-6* (11/01)

Short Title: State Agencies Must Use eProcurement/PED. (Public)

Sponsors: Senators Randleman, Clark, and Waddell (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE STATE AGENCIES TO USE ELECTRONIC PROCUREMENT AND
3 CONTRACT MANAGEMENT SYSTEMS DEVELOPED BY THE DEPARTMENT OF
4 ADMINISTRATION, AS RECOMMENDED BY THE JOINT LEGISLATIVE PROGRAM
5 EVALUATION OVERSIGHT COMMITTEE.

6 The General Assembly of North Carolina enacts:
7

8 PART I. SUBSTANTIVE CHANGES

9 SECTION 1.1. G.S. 143-48.3 reads as rewritten:

10 "§ 143-48.3. ~~Electronic procurement.~~ **procurement and contract management.**

11 (a) Development of Digital Standards and Systems. – The Department of Administration
12 shall develop and maintain electronic or digital standards and systems for procurement. ~~The~~
13 procurement of goods and services and for contract management. In developing and deploying
14 these standards and systems, the Department of Administration shall do all of the following:

15 (1) ~~consult~~ Consult with the Office of the State Controller, the Department of
16 Information Technology, the Department of State Auditor, the Department of
17 State Treasurer, The University of North Carolina General Administration, the
18 Community Colleges System Office, and the Department of Public Instruction.

19 (2) Comply with the State government-wide technical architecture for information
20 technology, as required by the State Chief Information Officer.

21 (3) Utilize the Department of Information Technology as an Application Service
22 Provider, which shall operate these electronic standards and systems, through
23 State ownership or commercial leasing, in accordance with the requirements
24 and operating standards developed by the Department of Administration and
25 the financial reporting and accounting procedures of the Office of the State
26 Controller.

27 (4) Ensure that any contract management system developed pursuant to this
28 subsection includes the capacity to ensure at least all of the following:

29 a. That payments are made in accordance with the applicable contract
30 terms and conditions.

31 b. That key documents related to contracts can be stored, searched, and
32 retrieved from the system by appropriate personnel.

33 c. That customizable management reports can be generated by State
34 agencies that are parties to contracts or that have contract oversight
35 responsibilities.



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1 (5) Provide State agencies with advance notice of new standards or systems
2 developed pursuant to this section sufficient to allow those agencies to
3 smoothly transition to using the new standards or systems. That notice shall
4 include a clear statement about the date when affected agencies will be required
5 to use the new standard or system.

6 ~~(a1) The Department of Administration shall comply with the State government wide~~
7 ~~technical architecture for information technology, as required by the State Chief Information~~
8 ~~Officer.~~

9 (b) Training in Use of Digital Standards and Systems. – The Department of
10 Administration, in conjunction with the Office of the State Controller and the Department of
11 Information Technology may, upon request, provide to all State agencies, universities, and
12 community colleges, training in the use of the electronic procurement system.

13 ~~(c) The Department of Administration shall utilize the Department of Information~~
14 ~~Technology as an Application Service Provider for an electronic procurement system. The~~
15 ~~Department of Information Technology shall operate this electronic procurement system, through~~
16 ~~State ownership or commercial leasing, in accordance with the requirements and operating~~
17 ~~standards developed by the Department of Administration and the financial reporting and~~
18 ~~accounting procedures of the Office of the State Controller.~~

19 (d) This Relation to Other Law. – Except as provided in subdivision (g)(2) of this section,
20 this section does not otherwise do any of the following:

21 (1) ~~modify~~ Modify existing law relating to procurement between The University of
22 North Carolina, UNC Health Care, community colleges, and the Department of
23 Administration.

24 (2) Modify or repeal any complete or partial exemption to this Article.

25 ~~(e) The Board of Governors of The University of North Carolina shall exempt North~~
26 ~~Carolina State University and The University of North Carolina at Chapel Hill from the electronic~~
27 ~~procurement system authorized by this Article until May 1, 2003. Each exemption shall be subject~~
28 ~~to the Board of Governors' annual review and reconsideration. Exempted constituent institutions~~
29 ~~shall continue working with the North Carolina E-Procurement Service as that system evolves and~~
30 ~~shall ensure that their proposed procurement systems are compatible with the North Carolina~~
31 ~~E-Procurement Service so that they may take advantage of this service to the greatest degree~~
32 ~~possible. Before an exempted institution expands any electronic procurement system, that~~
33 ~~institution shall consult with the Joint Legislative Commission on Governmental Operations and~~
34 ~~the Joint Legislative Oversight Committee on Information Technology. By May 1, 2003, the~~
35 ~~General Assembly shall evaluate the efficacy of the State's electronic procurement system and the~~
36 ~~inclusion and participation of entities in the system.~~

37 (f) Opt-In for Certain Entities. – Any State ~~entity~~ University or community college
38 operating a functional electronic procurement system established prior to September 1, 2001, may
39 until May 1, 2003, continue to operate that system independently or may opt into the North
40 Carolina E-Procurement Service. Each entity subject to this section shall notify the Department of
41 Information Technology by January 1 of each year of its intent to participate in the North Carolina
42 E-Procurement Service or any other service operated pursuant to this section.

43 (g) Applicability. – This section, and the standards and systems developed pursuant to it,
44 apply to State agencies as follows:

45 (1) State agencies subject to this Article. – A State agency that is subject to this
46 Article that enters into a service contract, contract for the purchase of goods, or
47 other contract, shall use the standards and systems developed pursuant to this
48 section.

49 (2) State agencies exempt from this Article. – A State agency that is otherwise
50 exempt from this Article shall nonetheless provide to the Department of
51 Administration timely information related to each contract entered into by the

1 agency for inclusion in systems developed pursuant to this section. Such an
2 agency is not required by this section to change its procurement or contract
3 management process in any other way.

4 (h) Definition of State Agency. – For purposes of subsections (g) and (i) of this section, the
5 term "State agency" means a unit of the executive, legislative, or judicial branch of State
6 government, such as a department, an institution, a division, a commission, a board, a council, but
7 does not include The University of North Carolina, a constituent institution of The University of
8 North Carolina, a community college, or a unit of local government.

9 (i) Certain Contracts Prohibited. – A State agency shall not enter into any new contract, or
10 renew an existing contract, for the performance of any electronic contract procurement or contract
11 management service or function if the agency has received notice pursuant to subdivision (a)(5) of
12 this section that the Department of Administration has deployed a new system that will perform
13 the service or function in question."

14 **SECTION 1.2.** Nothing in this act shall be construed to require the breach of any
15 contract that exists on the effective date of this act.

16 17 **PART II. CONFORMING CHANGES**

18 **SECTION 2.1.** G.S. 18C-150 reads as rewritten:

19 **"§ 18C-150. Procurements.**

20 The Commission shall be exempt from Article 3 of Chapter 143 of the General Statutes
21 Statutes, except as provided in G.S. 143-48.3(g)(2), but may use the services of the Department of
22 Administration in procuring goods and services for the Commission. However, the Commission
23 shall include in all contracts to be awarded by the Commission under this section a standard clause
24 which provides that the State Auditor and internal auditors of the Commission may audit the
25 records of the contractor during and after the term of the contract to verify accounts and data
26 affecting fees and performance. The Commission shall not award a cost plus percentage of cost
27 contract for any purpose. For purposes of this provision, "cost plus percentage of cost contract" is
28 defined as a contract under which the contractor receives payment for indeterminate costs plus a
29 stated percentage or amount of profit based upon such costs. This provision shall not apply to
30 Commission contracts that require costs to be predetermined and approved by the Commission
31 and a total not to exceed the amount specified in each contract to be paid to the contractor."

32 **SECTION 2.2.** G.S. 53-320(d) reads as rewritten:

33 "(d) The Commissioner may enter into agreements with any bank supervisory agency
34 supervising (i) a State trust institution engaging in trust business outside this State or (ii) an
35 out-of-state trust institution maintaining a trust office or representative trust office in this State to
36 engage the services of the agency's examiners at a reasonable rate of compensation or to provide
37 the services of the Commissioner's examiners to the agency at a reasonable rate of compensation.
38 Article 3 of Chapter 143 of the General Statutes does not apply to agreements authorized by this
39 ~~subsection-subsection,~~ except as provided in G.S. 143-48.3(g)(2). However, the Commissioner
40 shall: (i) submit all proposed agreements or contracts for supplies, materials, printing, equipment,
41 and contractual services that exceed one million dollars (\$1,000,000) authorized by this subsection
42 to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3;
43 and (ii) include in all agreements or contracts to be awarded by the Commissioner under this
44 subsection a standard clause which provides that the State Auditor and internal auditors of the
45 Commissioner may audit the records of the contractor during and after the term of the agreement
46 or contract to verify accounts and data affecting fees and performance. The Commissioner shall
47 not award a cost plus percentage of cost agreement or contract for any purpose."

48 **SECTION 2.3.** G.S. 53-326(d) reads as rewritten:

49 "(d) The Commissioner may enter into agreements with bank supervisory agencies
50 supervising (i) a State trust institution engaging in trust business in a foreign country or (ii) a
51 foreign trust institution maintaining a trust office or representative trust office in this State to

1 engage the services of the bank supervisory agency's examiners at a reasonable rate of
2 compensation or to provide the services of the Commissioner's examiners to the bank supervisory
3 agency at a reasonable rate of compensation. Article 3 of Chapter 143 of the General Statutes does
4 not apply to agreements authorized by this ~~section~~section, except as provided in
5 G.S. 143-48.3(g)(2). However, the Commissioner shall: (i) submit all proposed agreements or
6 contracts for supplies, materials, printing, equipment, and contractual services that exceed one
7 million dollars (\$1,000,000) authorized by this subsection to the Attorney General or the Attorney
8 General's designee for review as provided in G.S. 114-8.3; and (ii) include in all agreements or
9 contracts to be awarded by the Commissioner under this subsection a standard clause which
10 provides that the State Auditor and internal auditors of the Commissioner may audit the records of
11 the contractor during and after the term of the agreement or contract to verify accounts and data
12 affecting fees and performance. The Commissioner shall not award a cost plus percentage of cost
13 agreement or contract for any purpose."

14 **SECTION 2.4.** G.S. 53-391 reads as rewritten:

15 **"§ 53-391. Employment of counsel, accountants, and other experts; compensation.**

16 The Commissioner, for the purpose of exercising any power under the provisions of this
17 Subpart, may (i) employ any liquidating agents, attorneys, accountants, consultants, and clerks
18 necessary to properly conduct the business of or liquidate and distribute the assets of a State trust
19 company; (ii) fix the compensation for the agents, attorneys, accountants, consultants, and clerks;
20 and (iii) pay the compensation of those persons out of the assets of the State trust company.
21 Provided, that all expenditures described in this section shall be approved by the resident or
22 presiding judge in the county in which the action is pending. Payments made by the Commissioner
23 pursuant to this section shall not be subject to the requirements of Article 3 of Chapter 143 of the
24 ~~General Statutes~~Statutes, except as provided in G.S. 143-48.3(g)(2). As used in this Subpart, the
25 term "Commissioner" includes the Commissioner's duly appointed agents. The Commissioner
26 shall: (i) submit all proposed agreements or contracts for supplies, materials, printing, equipment,
27 and contractual services that exceed one million dollars (\$1,000,000) authorized by this section to
28 the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3;
29 and (ii) include in all agreements or contracts to be awarded by the Commissioner under this
30 section a standard clause which provides that the State Auditor and internal auditors of the
31 Commissioner may audit the records of the contractor during and after the term of the agreement
32 or contract to verify accounts and data affecting fees and performance. The Commissioner shall
33 not award a cost plus percentage of cost agreement or contract for any purpose."

34 **SECTION 2.5.** G.S. 53-401 reads as rewritten:

35 **"§ 53-401. Provisions for conservator; duties and powers.**

36 Whenever the Commissioner deems it necessary in order to conserve the assets of a State trust
37 company for the benefit of clients or creditors, the Commissioner may appoint a conservator for
38 the State trust company and require of the conservator a bond with any surety the Commissioner
39 deems necessary and proper in an amount deemed sufficient by the Commissioner. The
40 conservator, under the direction of the Commissioner, shall take possession of the fiduciary
41 records and other books, records, and assets of every description of the State trust company placed
42 under conservatorship and take actions necessary to conserve those assets pending further
43 disposition of its business as provided by law. Except as provided in G.S. 53-405, the conservator
44 shall have all rights, powers, and privileges, subject to the approval of the Commissioner, now
45 possessed by or given to the Commissioner under the provisions of Subpart B and Subpart D of
46 this Part. All expenses of the conservator shall be paid out of the assets of the State trust company
47 under conservatorship and shall be a lien thereon which shall be prior to any other lien provided
48 by law. The compensation of the conservator shall be determined by the Commissioner and shall
49 be based on the time and experience of the conservator and the complexity of the conservatorship.
50 Compensation of the conservator shall not be subject to the requirements of Article 3 of Chapter
51 143 of the ~~General Statutes~~Statutes, except as provided in G.S. 143-48.3(g)(2). However, the

1 Commissioner shall: (i) submit all proposed agreements or contracts for supplies, materials,
2 printing, equipment, and contractual services that exceed one million dollars (\$1,000,000)
3 authorized by this section to the Attorney General or the Attorney General's designee for review as
4 provided in G.S. 114-8.3; and (ii) include in all agreements or contracts to be awarded by the
5 Commissioner under this section a standard clause which provides that the State Auditor and
6 internal auditors of the Commissioner may audit the records of the conservator during and after
7 the term of the agreement or contract to verify accounts and data affecting fees and performance.
8 The Commissioner shall not award a cost plus percentage of cost agreement or contract for any
9 purpose."

10 **SECTION 2.6.** G.S. 58-10-285(d) reads as rewritten:

11 "(d) The Commissioner may contract, at the expense of the person filing the application,
12 with any attorneys, actuaries, economists, accountants, consultants, or other professional advisors
13 not otherwise a part of the Commissioner's staff to assist the Commissioner in reviewing the
14 application. These contracts are personal professional service contracts exempt from Articles 3
15 and 3C of Chapter 143 of the General ~~Statutes.~~Statutes, except that these contracts shall comply
16 with the requirements of G.S. 143-48.3(g)(2)."

17 **SECTION 2.7.** G.S. 58-10-315(e) reads as rewritten:

18 "(e) The Commissioner may retain, at the expense of the person filing the application, any
19 attorneys, actuaries, economists, accountants, consultants, or other professional advisors not
20 otherwise a part of the Commissioner's staff to assist the Commissioner in reviewing the
21 application. These contracts are personal professional service contracts exempt from Articles 3
22 and 3C of Chapter 143 of the General ~~Statutes.~~Statutes, except that these contracts shall comply
23 with the requirements of G.S. 143-48.3(g)(2)."

24 **SECTION 2.8.** G.S. 58-10-350(3) reads as rewritten:

25 **"§ 58-10-350. Commissioner use of consultants and other professionals.**

26 The Commissioner may contract with consultants and other professionals to expedite and
27 complete the application process, audits, and other regulatory activities required pursuant to this
28 Part. Such contracts for financial, legal, audits, and other services shall not be subject to any of the
29 following:

- 30 (1) G.S. 114-2.3.
- 31 (2) G.S. 147-17.
- 32 (3) Articles 3, 3C, and 8 of Chapter 143 of the General Statutes, except for
33 G.S. 143-48.3(g)(2), together with rules and procedures adopted under those
34 Articles concerning procurement, contracting, and contract review."

35 **SECTION 2.9.** G.S. 58-33-30 reads as rewritten:

36 **"§ 58-33-30. License requirements.**

37 ...

38 (e) Examination. –

39 ...

- 40 (4) The answers of the applicant to the examination shall be provided by the
41 applicant under the Commissioner's supervision. The Commissioner shall give
42 examinations at such times and places within this State as the Commissioner
43 considers necessary reasonably to serve the convenience of both the
44 Commissioner and applicants: Provided that the Commissioner may contract
45 directly with persons for the processing of examination application forms and
46 for the administration and grading of the examinations required by this section;
47 the Commissioner may charge a reasonable fee in addition to the registration
48 fee charged under G.S. 58-33-125, to offset the cost of the examination contract
49 authorized by this subsection; and such contracts shall not be subject to Article
50 3 of Chapter 143 of the General ~~Statutes.~~Statutes, except as provided in
51 G.S. 143-48.3(g)(2). However, the Commissioner shall: (i) submit all proposed

1 agreements or contracts for supplies, materials, printing, equipment, and
2 contractual services that exceed one million dollars (\$1,000,000) authorized by
3 this subdivision to the Attorney General or the Attorney General's designee for
4 review as provided in G.S. 114-8.3; and (ii) include in all contracts to be
5 awarded by the Commissioner under this subdivision a standard clause which
6 provides that the State Auditor and internal auditors of the Commissioner may
7 audit the records of the contractor during and after the term of the contract to
8 verify accounts and data affecting fees and performance. The Commissioner
9 shall not award a cost plus percentage of cost contract for any purpose.

- 10 (5) The Commissioner shall collect in advance the examination and registration
11 fees provided in G.S. 58-33-125 and in subsection (4) of this section. The
12 Commissioner shall make or cause to be made available to all applicants, for a
13 reasonable fee to offset the costs of production, materials that he considers
14 necessary for the applicants' proper preparation for examinations. The
15 Commissioner may contract directly with publishers and other suppliers for the
16 production of the preparatory materials, and contracts so let by the
17 Commissioner shall not be subject to Article 3 of Chapter 143 of the General
18 ~~Statutes.~~ Statutes, except as provided in G.S. 143-48.3(g)(2). However, the
19 Commissioner shall: (i) submit all proposed contracts for supplies, materials,
20 printing, equipment, and contractual services that exceed one million dollars
21 (\$1,000,000) authorized by this subdivision to the Attorney General or the
22 Attorney General's designee for review as provided in G.S. 114-8.3; and (ii)
23 include in all contracts to be awarded by the Commissioner under this
24 subdivision a standard clause which provides that the State Auditor and internal
25 auditors of the Commissioner may audit the records of the contractor during
26 and after the term of the contract to verify accounts and data affecting fees and
27 performance. The Commissioner shall not award a cost plus percentage of cost
28 contract for any purpose.

29"

30 **SECTION 2.10.** G.S. 58-33-125(e) reads as rewritten:

31 "(e) A resident licensee may obtain a duplicate photo-bearing license at times and places
32 within this State that the Commissioner considers necessary and reasonable to serve the
33 convenience of both the Commissioner and the licensee. The Commissioner may contract directly
34 with persons for processing of duplicate photo-bearing licenses, and the contract shall not be
35 subject to Article 3 of Chapter 143 of the General ~~Statutes.~~ Statutes, except as provided in
36 G.S. 143-48.3(g)(2). The Commissioner may charge a reasonable fee for duplicating a
37 photo-bearing license in an amount that offsets the costs to the Department of duplicating the
38 license, including costs associated with any contract entered into pursuant to this subsection.
39 However, the Commissioner shall: (i) submit all proposed contracts for supplies, materials,
40 printing, equipment, and contractual services that exceed one million dollars (\$1,000,000)
41 authorized by this subsection to the Attorney General or the Attorney General's designee for
42 review as provided in G.S. 114-8.3; and (ii) include in all contracts to be awarded by the
43 Commissioner under this subsection a standard clause which provides that the State Auditor and
44 internal auditors of the Commissioner may audit the records of the contractor during and after the
45 term of the contract to verify accounts and data affecting fees and performance. The
46 Commissioner shall not award a cost plus percentage of cost agreement or contract for any
47 purpose."

48 **SECTION 2.11.** G.S. 58-33-130(a) reads as rewritten:

49 "(a) The Commissioner may adopt rules to provide for a program of continuing education
50 requirements for the purpose of enhancing the professional competence and professional

1 responsibility of adjusters and motor vehicle damage appraisers. The rules may include criteria
2 for:

- 3 (1) The content of continuing education courses;
- 4 (2) Accreditation of continuing education sponsors and programs;
- 5 (3) Accreditation of videotape or other audiovisual programs;
- 6 (4) Computation of credit;
- 7 (5) Special cases and exemptions;
- 8 (6) General compliance procedures; and
- 9 (7) Sanctions for noncompliance.

10 The Commissioner may contract directly with persons for the administration of the program
11 provided for by this section, and those contracts shall not be subject to Article 3 of Chapter 143 of
12 the General ~~Statutes~~.Statutes, except as provided in G.S. 143-48.3(g)(2). However, the
13 Commissioner shall: (i) submit all proposed contracts for supplies, materials, printing, equipment,
14 and contractual services that exceed one million dollars (\$1,000,000) authorized by this subsection
15 to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3;
16 and (ii) include in all contracts to be awarded by the Commissioner under this subsection a
17 standard clause which provides that the State Auditor and internal auditors of the Commissioner
18 may audit the records of the contractor during and after the term of the contract to verify accounts
19 and data affecting fees and performance. The Commissioner shall not award a cost plus percentage
20 of cost agreement or contract for any purpose. The Commissioner may charge a reasonable fee to
21 course providers to offset the cost of the program, including costs associated with contracts
22 authorized by this subsection. The fee authorized by this subsection shall be in addition to the fees
23 specified in G.S. 58-33-133. As used in this section and in G.S. 58-33-132, "administrator" means
24 any person with whom the Commissioner has contracted under this subsection."

25 **SECTION 2.12.** G.S. 58-56A-10(f) reads as rewritten:

26 "(f) The Commissioner may contract with consultants and other professionals with relevant
27 expertise as necessary and appropriate to conduct investigation, hearing, and appeals activities as
28 provided in this section. Such contracts shall not be subject to ~~G.S. 114-2.3~~,G.S. 114-2.3
29 ~~G.S. 147-17~~, or G.S. 147-17. Except as provided in G.S. 143-48.3(g)(2), such contracts shall also
30 not be subject to Articles 3, 3C, and 8 of Chapter 143 of the General Statutes, together with rules
31 and procedures adopted under those Articles concerning procurement, contracting, and contract
32 review."

33 **SECTION 2.13.** G.S. 58-58-50(r) reads as rewritten:

34 "(r) The Department shall have full authority to enter into contracts or other agreements
35 with the National Association of Insurance Commissioners or any other state, entity, or person to
36 fulfill the requirements of this section. ~~Such~~Except as provided in G.S. 143-48.3(g)(2), contracts
37 shall not be subject to Articles 3, 3C, and 8 of Chapter 143 of the General Statutes or any rules and
38 procedures adopted under those Articles concerning procurement, contracting, and contract
39 review."

40 **SECTION 2.14.** G.S. 58-65-131(e) reads as rewritten:

41 "(e) Filing Conversion Plan; Costs of Review. – A corporation shall file a plan for
42 conversion with the Commissioner and submit a copy to the Attorney General at least 120 days
43 before the proposed date of conversion. The corporation or the new corporation shall reimburse
44 the Department of Insurance and the office of the Attorney General for the actual costs of
45 reviewing, analyzing, and processing the plan. The Commissioner and the Attorney General may
46 contract with experts, consultants, or other professional advisors to assist in reviewing the plan.
47 These contracts are personal professional service contracts exempt from Articles 3 and 3C of
48 Chapter 143 of the General ~~Statutes~~.Statutes, except that these contracts shall comply with the
49 requirements of G.S. 143-48.3(g)(2). Contract costs for these personal professional services shall
50 not exceed an amount that is reasonable and appropriate for the review of the plan."

51 **SECTION 2.15.** G.S. 58-71-40(d) reads as rewritten:

1 "(d) When a license is issued under this section, the Commissioner shall issue a picture
2 identification card, of design, size, and content approved by the Commissioner, to the licensee.
3 Each licensee must carry this card at all times when working in the scope of the licensee's
4 employment. A licensee whose license terminates or is terminated shall surrender the
5 identification card to the Commissioner within 10 working days after the termination. The
6 Commissioner may contract directly with persons for the processing and issuance of picture
7 identification cards required by this section and may charge a reasonable fee in addition to the
8 license fee charged under G.S. 58-71-55 in an amount that offsets the cost of the service, including
9 the costs associated with the contract authorized by this subsection. Contracts entered into
10 pursuant to this subsection shall not be subject to Article 3 of Chapter 143 of the General ~~Statutes.~~
11 Statutes, except as provided in G.S. 143-48.3(g)(2). However, the Commissioner shall: (i) submit
12 all proposed contracts for supplies, materials, printing, equipment, and contractual services that
13 exceed one million dollars (\$1,000,000) authorized by this subsection to the Attorney General or
14 the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all
15 contracts to be awarded by the Commissioner under this subsection a standard clause which
16 provides that the State Auditor and internal auditors of the Commissioner may audit the records of
17 the contractor during and after the term of the contract to verify accounts and data affecting fees
18 and performance. The Commissioner shall not award a cost plus percentage of cost agreement or
19 contract for any purpose."

20 **SECTION 2.16.** G.S. 58-82A-2.1(c) reads as rewritten:

21 "(c) When a license is issued under this section, the Commissioner shall issue to the
22 licensee an identification card approved by the Commissioner. Each licensee must carry this card
23 at all times when working in the scope of the licensee's employment. A licensee whose license
24 terminates or is terminated shall surrender the identification card to the Commissioner, when
25 requested by the Commissioner. The Commissioner may contract directly with persons for the
26 processing and issuance of identification cards required by this section and may charge a
27 reasonable fee in addition to the license fee in an amount that offsets the cost of the service,
28 including the costs associated with the contract authorized by this subsection. Contracts entered
29 into under this subsection shall not be subject to Article 3 of Chapter 143 of the General
30 ~~Statutes.~~Statutes, except as provided in G.S. 143-48.3(g)(2)."

31 **SECTION 2.17.** G.S. 63A-24(a)(1) reads as rewritten:

32 "(1) Except as provided in G.S. 143-48.3(g)(2), Article 3 of Chapter 143 of the
33 General Statutes does not apply to contracts for services listed in 49 U.S.C. §
34 2210(a)(16) or contracts for special user projects. That Article also does not
35 apply to other contracts for projects, but, with respect to these other contracts,
36 the powers and duties established in that Article shall be exercised by the
37 Authority and the Secretary of Administration, and other State officers,
38 employees, or agencies shall have no duties or responsibilities concerning the
39 contracts. However, the Authority shall: (i) submit all proposed contracts for
40 supplies, materials, printing, equipment, and contractual services that exceed
41 one million dollars (\$1,000,000) authorized by this subdivision to the Attorney
42 General or the Attorney General's designee for review as provided in
43 G.S. 114-8.3; and (ii) include in all contracts to be awarded by the Authority
44 under this subdivision a standard clause which provides that the State Auditor
45 and internal auditors of the Authority may audit the records of the contractor
46 during and after the term of the contract to verify accounts and data affecting
47 fees and performance. The Authority shall not award a cost plus percentage of
48 cost agreement or contract for any purpose."

49 **SECTION 2.18.** G.S. 108A-55(b) reads as rewritten:

50 "(b) Payments shall be made only to intermediate care facilities, hospitals and nursing
51 homes licensed and approved under the laws of the State of North Carolina or under the laws of

1 another state, or to pharmacies, physicians, dentists, optometrists or other providers of
2 health-related services authorized by the Department. Payments may also be made to such fiscal
3 intermediaries and to the capitation or prepaid health service contractors as may be authorized by
4 the Department. Arrangements under which payments are made to capitation or prepaid health
5 services contracts are not subject to the provisions of Chapter 58 of the General Statutes or of
6 Article 3 of Chapter 143 of the General ~~Statutes~~Statutes, except as provided in
7 G.S. 143-48.3(g)(2). However, the Department shall: (i) submit all proposed contracts for
8 supplies, materials, printing, equipment, and contractual services that exceed one million dollars
9 (\$1,000,000) authorized by this subsection to the Attorney General or the Attorney General's
10 designee for review as provided in G.S. 114-8.3; and (ii) include in all agreements or contracts to
11 be awarded by the Department under this subsection a standard clause which provides that the
12 State Auditor and internal auditors of the Department may audit the records of the contractor
13 during and after the term of the contract to verify accounts and data affecting fees and
14 performance. The Department shall not award a cost plus percentage of cost agreement or contract
15 for any purpose."

16 **SECTION 2.19.** G.S. 114-9.4(b) reads as rewritten:

17 "(b) If the Attorney General makes the determination described in subsection (a) of this
18 section, the Attorney General shall request proposals from private attorneys to represent the State
19 agency on a contingency fee basis and draft a written request for proposals from private attorneys,
20 unless the Attorney General determines that requesting proposals is not feasible under the
21 circumstances and sets forth the basis for this determination in writing. A request for proposals
22 under this provision is not subject to Article 3 of Chapter 143 of the General ~~Statutes~~Statutes,
23 except as provided in G.S. 143-48.3(g)(2). Until the conclusion of the legal proceeding or other
24 matter for which the services of the private attorney were sought, all proposals received shall be
25 maintained by the Attorney General and shall not be deemed a public record within the meaning of
26 Chapter 132 of the General Statutes. All proposals maintained under this subsection shall be made
27 available to the State Auditor for oversight purposes, upon request."

28 **SECTION 2.20.** G.S. 115D-67.4 reads as rewritten:

29 **"§ 115D-67.4. Fees collected by the Center; purchases using Center funds.**

30 Notwithstanding any other provision of law, all fees collected by the Applied Textile
31 Technology Center for services to the textile industry, except for regular curriculum and
32 continuing education tuition receipts, shall be retained by the Center and used for the operations of
33 the Center. Purchases made by the Center using these funds are not subject to the provisions of
34 Article 3 of Chapter 143 of the General ~~Statutes~~Statutes, except as provided in
35 G.S. 143-48.3(g)(2). However, the Center shall: (i) submit all proposed agreements or contracts
36 for supplies, materials, printing, equipment, and contractual services that exceed one million
37 dollars (\$1,000,000) authorized by this section to the Attorney General or the Attorney General's
38 designee for review as provided in G.S. 114-8.3; and (ii) include in all agreements or contracts to
39 be awarded by the Center under this section a standard clause which provides that the State
40 Auditor and internal auditors of the Center may audit the records of the contractor during and after
41 the term of the contract to verify accounts and data affecting fees and performance. The Center
42 shall not award a cost plus percentage of cost agreement or contract for any purpose."

43 **SECTION 2.21.** G.S. 115D-89.4(b) reads as rewritten:

44 "(b) The purchase of goods and services by the State Board of Proprietary Schools shall be
45 exempt from the requirements of Article 3 of Chapter 143 of the General ~~Statutes~~Statutes, except
46 as provided in G.S. 143-48.3(g)(2)."

47 **SECTION 2.22.** G.S. 116-37(h) reads as rewritten:

48 "(h) Purchases. – Notwithstanding the provisions of Articles 3, 3A, and 3C of Chapter 143
49 of the General Statutes to the contrary, the board of directors shall establish policies and
50 regulations governing the purchasing requirements of the University of North Carolina Health
51 Care System. These policies and regulations shall provide for requests for proposals, competitive

1 bidding, or purchasing by means other than competitive bidding, contract negotiations, and
2 contract awards for purchasing supplies, materials, equipment, and services which are necessary
3 and appropriate to fulfill the clinical, educational, research, and community service missions of the
4 University of North Carolina Health Care System. The board of directors shall submit all initial
5 policies and regulations adopted pursuant to this subsection to the Division of Purchase and
6 Contract for review upon adoption by the board. Any subsequent changes to these policies and
7 regulations adopted by the board shall be submitted to the Division of Purchase and Contract for
8 review. Any comments by the Division of Purchase and Contract shall be submitted to the Chief
9 Executive Officer and to the President of The University of North Carolina. Nothing in this
10 section shall be construed to exempt the board of directors from compliance with
11 G.S. 143-48.3(g)(2)."

12 **SECTION 2.23.** G.S. 116-40.6(c) reads as rewritten:

13 "(c) Purchases. – Notwithstanding the provisions of Articles 3, 3A, and 3C of Chapter 143
14 of the General Statutes to the contrary, the Board of Trustees of East Carolina University shall
15 establish policies and regulations governing the purchasing requirements of the Medical Faculty
16 Practice Plan. These policies and regulations shall provide for requests for proposals, competitive
17 bidding, or purchasing by means other than competitive bidding, contract negotiations, and
18 contract awards for purchasing supplies, materials, equipment, and services which are necessary
19 and appropriate to fulfill the clinical and educational missions of the Medical Faculty Practice
20 Plan. Pursuant to such policies and regulations, purchases for the Medical Faculty Practice Plan
21 shall be effected by a purchasing office maintained by East Carolina University. The board of
22 trustees shall submit all initial policies and regulations adopted under this subsection to the
23 Division of Purchase and Contract for review upon adoption by the board. Any subsequent
24 changes to these policies and regulations adopted by the board shall be submitted to the Division
25 of Purchase and Contract for review. Any comments by the Division of Purchase and Contract
26 shall be submitted to the Chancellor of East Carolina University and to the President of The
27 University of North Carolina. Nothing in this section shall be construed to exempt the Board of
28 Trustees from compliance with G.S. 143-48.3(g)(2)."

29 **SECTION 2.24.** G.S. 135-48.34 reads as rewritten:

30 **"§ 135-48.34. Contracts not subject to Article 3 of Chapter 143 of the General Statutes.**

31 The design, adoption, and implementation of the preferred provider contracts, networks, and
32 optional alternative comprehensive health benefit plans, and programs available under the optional
33 alternative plans, as authorized under G.S. 135-48.2, are not subject to the requirements of Article
34 3 of Chapter 143 of the General Statutes, other than G.S. 143-48.3(g)(2), but are subject to the
35 requirements of G.S. 135-48.33."

36 **SECTION 2.25.** G.S. 136-89.194(g)(1) reads as rewritten:

37 "(g) Contract Exemptions. – The following provisions concerning the purchase of goods
38 and services by a State agency do not apply to the Turnpike Authority:

- 39 (1) Article 3 of Chapter 143 of the General ~~Statutes~~ Statutes, except as provided in
40 G.S. 143-48.3(g)(2). The Authority may use the services of the Department of
41 Administration in procuring goods and services that are not specific to
42 establishing and operating a toll revenue system. However, the Authority shall:
43 (i) submit all proposed contracts for supplies, materials, printing, equipment,
44 and contractual services that exceed one million dollars (\$1,000,000) authorized
45 by this subdivision to the Attorney General or the Attorney General's designee
46 for review as provided in G.S. 114-8.3; and, (ii) include in all proposed
47 contracts to be awarded by the Authority under this subdivision a standard
48 clause which provides that the State Auditor and internal auditors of the
49 Authority may audit the records of the contractor during and after the term of
50 the contract to verify accounts and data affecting fees and performance. The

1 Authority shall not award a cost plus percentage of cost agreement or contract
2 for any purpose."

3 **SECTION 2.26.** G.S. 143B-139.4B(b) reads as rewritten:

4 "(b) The North Carolina Office of Rural Health shall oversee the establishment and
5 administration of a statewide telepsychiatry program that allows referring sites to utilize
6 consulting providers at a consultant site to provide timely psychiatric assessment and rapid
7 initiation of treatment for patients at the referring site experiencing an acute mental health or
8 substance abuse crisis. Notwithstanding the provisions of Article 3 of Chapter 143 of the General
9 Statutes or any other provision of law, the Office of Rural Health shall contract with East Carolina
10 University Center for Telepsychiatry and e-Behavioral Health to administer the telepsychiatry
11 program. Nothing in this subsection shall be construed to exempt the Office from complying with
12 the requirements of G.S. 143-48.3(g)(2). The contract shall include a provision requiring East
13 Carolina University Center for Telepsychiatry and e-Behavioral Health to work toward
14 implementing this program on a statewide basis by no later than January 1, 2014, and to report
15 annually to the Office of Rural Health on the following performance measures:

- 16 (1) Number of consultant sites and referring sites participating in the program.
- 17 (2) Number of psychiatric assessments conducted under the program, reported by
18 site or region.
- 19 (3) Length of stay of patients receiving telepsychiatry services in the emergency
20 departments of hospitals participating in the program, reported by disposition.
- 21 (4) Number of involuntary commitments recommended as a result of psychiatric
22 assessments conducted by consulting providers under the program, reported by
23 site or region and by year, and compared to the number of involuntary
24 commitments recommended prior to implementation of this program."

25 **SECTION 2.27.** G.S. 143B-431.01(b) reads as rewritten:

26 "(b) Contract. – The Department of Commerce is authorized to contract with a North
27 Carolina nonprofit corporation to perform one or more of the Department's functions, powers,
28 duties, and obligations set forth in G.S. 143B-431, except as provided in this subsection. ~~The~~
29 Except as provided in G.S. 143-48.3(g)(2), the contract entered into pursuant to this section
30 between the Department and the Economic Development Partnership of North Carolina is exempt
31 from Articles 3 and 3C of Chapter 143 of the General Statutes and G.S. 143C-6-23. If the
32 Department contracts with a North Carolina nonprofit corporation to promote and grow the travel
33 and tourism industries, then all funds appropriated to the Department for tourism marketing
34 purposes shall be used for a research-based, comprehensive marketing program directed toward
35 consumers in key markets most likely to travel to North Carolina and not for ancillary activities,
36 such as statewide branding and business development marketing. The Department may not
37 contract with a North Carolina nonprofit corporation regarding any of the following:

- 38 (1) The obligation or commitment of funds under this Article, such as the One
39 North Carolina Fund, the Job Development Investment Grant Program, the
40 Industrial Development Fund, or the Job Maintenance and Capital
41 Development Fund.
- 42 (2) The Division of Employment Security, including the administration of
43 unemployment insurance.
- 44 (3) The functions set forth in G.S. 143B-431(a)(2).
- 45 (4) The administration of funds or grants received from the federal government or
46 its agencies."

47 **SECTION 2.28.** G.S. 147-86.72(c)(2) reads as rewritten:

48 "(2) Notwithstanding provisions of Article 3 of Chapter 143 of the General Statutes,
49 engage the services of consultants on a contract basis for rendering professional
50 and technical assistance and advice. Nothing in this subdivision shall be

1 construed to exempt the Board of Trustees from complying with the
2 requirements of G.S. 143-48.3(g)(2)."

3 **SECTION 2.29.** G.S. 148-134 reads as rewritten:

4 "**§ 148-134. Preference for Division of Adult Correction of the Department of Public Safety**
5 **products.**

6 All departments, institutions, and agencies of this State that are supported in whole or in part
7 by the State shall give preference to Correction Enterprises products in purchasing articles,
8 products, and commodities that these departments, institutions, and agencies require and that are
9 manufactured or produced within the State prison system and offered for sale to them by
10 Correction Enterprises. No article or commodity available from Correction Enterprises shall be
11 purchased by any State department, institution, or agency from any other source unless the prison
12 product does not meet the standard specifications and the reasonable requirements of the
13 department, institution, or agency as determined by the Secretary of Administration or the
14 requisition cannot be complied with because of an insufficient supply of the articles or
15 commodities required. ~~The-Except as provided in G.S. 143-48.3(g)(2), the provisions of Article 3~~
16 of Chapter 143 of the General Statutes respecting contracting for the purchase of all supplies,
17 materials, and equipment required by the State government or any of its departments, institutions,
18 or agencies under competitive bidding shall not apply to articles or commodities ~~available~~
19 purchased from Correction Enterprises. The Section of Correction Enterprises of the Division of
20 Adult Correction shall be required to keep the price of such articles or commodities substantially
21 in accord with that paid by governmental agencies for similar articles and commodities of
22 equivalent quality."
23

24 **PART III. EFFECTIVE DATE**

25 **SECTION 3.** This act becomes effective October 1, 2017.