

PROGRAM EVALUATION DIVISION NORTH CAROLINA GENERAL ASSEMBLY

Summary of Draft Legislation

Overnight Respite Services

An October 2014 report found a legislatively mandated pilot of overnight respite services in four adult day care facilities was perceived as successful by stakeholders, but its design and implementation only met two of the ten components of a well-designed pilot program and only one facility consistently provided the service. The report also found the prohibition from using state or Medicaid funding for the pilot hindered its effectiveness and no stakeholder organizations maintain data on the demand for the service. Session Law 2015-52 extended the pilot until 2017 and required a follow-up evaluation of the pilot program by PED. Later in the 2015 session, however, the Appropriations Act made overnight respite in qualifying adult day care facilities a permanent service, repealing the pilot upon the adoption of licensure rules or in June 2017, whichever is earliest, and additionally allowed facilities to collect state and Medicaid funding for the service. This draft legislation amends Session Law 2015-52 to eliminate the PED follow-up study of the pilot program. The bill draft also requires DHHS to report to the Joint Legislative Oversight Committee on Health and Human Services on the status of the overnight respite licensure process. In addition, the draft legislation directs the University of North Carolina's School of Government to develop pilot standards and the Office of State Budget and Management (OSBM) to adopt and implement rules with which future General Assembly-directed pilot projects must comply in order to provide meaningful information for the Legislature.

State Real Property

A June 2015 report found the Department of Administration does not effectively control and manage the State's portfolio of real property and lacks a process to systematically identify surplus real property. The report also pointed to discrepancies in the state property database and insufficient access controls that jeopardize the completeness, accuracy, and security of North Carolina's inventory of real property. This draft legislation is the product of the subcommittee on real property implementing various recommendations from PED regarding how state-owned real property is managed and identified for disposal. Specifically, the bill draft requires more active management of state-owned real property; a process to identify surplus state-owned real property; continuous measurement and reporting of utilization of state-owned real property; ongoing updating of state-owned real property inventories; and optimization of the use of state-owned property.

Supplemental Benefits

An August 2015 report found employee insurance committees, which are housed within individual agencies and universities, are ineffective and have failed to manage the selection of supplemental insurance products. The separation of these committees from NCFlex results in overlapping and duplicative supplemental insurance offerings and makes product comparison and selection challenging for state employees. Weak oversight and management of supplemental insurance elections and payroll deductions by agencies and universities presents risks to employees and the

State. At JLPEOC's November 23, 2015 meeting, the Committee requested two draft bills related to supplemental insurance for state employees.

Bill 1: The first bill draft implements the recommendations of the PED report by eliminating the separate structures of pre-tax benefits offered through NCFlex and post-tax benefits offered through employee insurance committees at each agency and university in favor of a single committee that would select and oversee supplemental insurance for state employees. This committee would have a product selection and oversight function, with the Office of State Human Resources staffing the committee. The bill draft would require the committee to competitively bid products, meet quarterly, survey state employees at least every five years, and collect loss ratio data from insurance companies selected to provide a benefit or product. The committee would also assume responsibility for establishing processes for terminating payroll deduction for legacy insurance products no longer associated with a valid contract. Finally, the bill draft would permit agencies and universities to form advisory committees to make recommendations on product selection, design, and administration.

Bill 2: An alternative bill draft option requested by JLPEOC would amend statutes governing the selection and operation of employee insurance committees at agencies and universities with the intent of improving the existing committees as opposed to centralizing all supplemental insurance offerings under a single committee. The bill draft would place additional requirements on the employee insurance committees, including requiring the committees to competitively select insurance products at least every three years, meet quarterly, utilize the Department of Administration's interactive purchasing system for procurement, and report annually to the Office of State Human Resources.

Oversight of Service Contracts

A January 2016 report determined that state agencies are not ensuring the procurement of contracted services achieves the best value. Specifically, the evaluation determined that state agencies awarded contracts valued at \$511 million through non-competitive practices. In addition, state agencies are not documenting the basis for their decisions to contract with private providers, and agency procurements for high-value contracted services do not consistently include necessary attributes. This draft legislation would require state agencies to submit business cases for high-value services to the Department of Administration's Division of Purchase and Contract (P&C) for review and approval in accordance with established criteria and would direct P&C to implement a system to monitor state agency-administered contracted services.

Economic Development Tiers

A December 2015 report determined that the economic development tiers system was not effective because it does not provide the greatest benefit to the most distressed counties and because components of its formula distort identification of economic distress. Furthermore, it has been 30 years since the General Assembly undertook a comprehensive study of ways to assist communities with chronic economic distress. This draft legislation would require non-economic development programs to discontinue using the tiers system by July 1, 2017. In addition, the Department of Commerce would be directed to discontinue use of the tiers system and develop new award/assistance criteria by July 1, 2018. Finally, a legislative commission would be formed to reexamine the State's strategy for identifying and assisting economically distressed communities.



Bill Draft 2015-TH-14: SOG Pilot Project Standards/Overnight Respite.

2015-2016 General Assembly

Committee: Joint Legislative Program Evaluation
Oversight Committee

Date: February 8, 2016

Introduced by:

Prepared by: Kelly Tornow

Analysis of: Bill Draft
2015-TH-14

Committee Counsel

SUMMARY: *Draft 2015-TH-14 would require the School of Government to develop standards for State agencies to use when designing and implementing pilot projects mandated by the General Assembly. The draft would also require the Office of State Budget and Management to adopt rules implementing the standards, and require all pilot projects mandated by the General Assembly to use those standards after June 1, 2018.*

In addition, the draft would repeal the PED study of overnight respite services and would require DHHS to report on overnight respite services.

CURRENT LAW & BILL ANALYSIS:

Sections 1 and 2: SOG Pilot Project Standards

The current statutes do not provide for a set of pilot design standards that must be applied to all pilot projects enacted by the General Assembly.

Draft 2015-TH-14 would require the School of Government (SOG) to conduct research on pilot standards and make a preliminary report on its research to the Joint Legislative Program Evaluation Oversight Committee (JLPEOC), the Director of the Program Evaluation Division, and the Office of State Budget and Management (OSBM) by December 1, 2016. The JLPEOC would be required to provide feedback to the SOG on the preliminary report.

The SOG would then be required to convene a working group, including members of State agencies and constituent institutions, to develop proposed standards for State agencies to use when designing and implementing pilot projects mandated by the General Assembly. The proposed standards would be presented to the JLPEOC and OSBM by December 1, 2017.

Effective July 1, 2016, \$150,000 in non-reverting funds for the 2016-2017 fiscal year would be appropriated to the School of Government for the development of the pilot standards.

A new statute would be created requiring OSBM to adopt rules to implement the proposed standards and report to the JLPEOC upon adoption of the rules. All pilot projects initially enacted by the General Assembly after June 1, 2018, would be required to complete pilots in accordance with the rules. The SOG would be required to propose updates to the rules to be adopted by OSBM as necessary.

Sections 3 and 4: Overnight Respite Services

Currently, Section 1 of S.L. 2015-52 requires PED to collect information from the pilot program on overnight respite services and to report to the JLPEOC on certain criteria to assist in determining

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Draft

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whether providing overnight respite services in an adult day care setting is a worthwhile service. Section 2 of S.L. 2015-52 extends the pilot program until June 30, 2017. Section 12G.3 of the 2015 Appropriations Act enacts the new statute G.S. 131D-6.1, which expands overnight respite services to all adult day care facilities and provides for a licensing process for offering overnight respite services. The section also repeals the pilot program on June 30, 2017, or the date the overnight respite licensure process established pursuant to G.S. 131D-6.1 is implemented, whichever is earlier.

Draft 2015-TH-14 would repeal the PED study of the pilot program for overnight respite services. The draft would also require the Department of Health and Human Services, Division of Health Service Regulation, to report to the Joint Legislative Oversight Committee on Health and Human Services on the status of the overnight respite licensure process established pursuant to G.S. 131D-6.1. An interim report would have to be made by September 1, 2016, and a final report would be required no later than September 1, 2017.

EFFECTIVE DATE: Except as otherwise noted in this summary, this act would become effective when it becomes law and apply to rules adopted on or after that date.

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015**

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BILL DRAFT 2015-TH-14 [v.8] (01/14)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

2/4/2016 10:28:55 AM

Short Title: SOG Pilot Project Standards/Overnight Respite.

(Public)

Sponsors: (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE THE SCHOOL OF GOVERNMENT AT THE UNIVERSITY OF
3 NORTH CAROLINA TO COORDINATE A WORKING GROUP CHARGED WITH
4 DEVELOPING STANDARDS FOR STATE AGENCIES TO USE WHEN DESIGNING
5 AND IMPLEMENTING PILOT PROJECTS MANDATED BY THE GENERAL
6 ASSEMBLY, TO REQUIRE THE OFFICE OF STATE BUDGET AND MANAGEMENT
7 TO ADOPT RULES IMPLEMENTING THOSE STANDARDS, TO REPEAL THE
8 PROGRAM EVALUATION DIVISION STUDY OF OVERNIGHT RESPITE
9 SERVICES, AND TO REQUIRE THE DEPARTMENT OF HEALTH AND HUMAN
10 SERVICES TO REPORT ON OVERNIGHT RESPITE SERVICES TO THE JOINT
11 LEGISLATIVE OVERSIGHT COMMITTEE ON HEALTH AND HUMAN SERVICES,
12 AS RECOMMENDED BY THE JOINT LEGISLATIVE PROGRAM EVALUATION
13 OVERSIGHT COMMITTEE.

14 The General Assembly of North Carolina enacts:

15 **SECTION 1.(a)** The School of Government at the University of North Carolina at
16 Chapel Hill (SOG) shall conduct research on existing evaluation standards and identify
17 approaches for designing projects that collect appropriate and adequate data for sound
18 evaluation of pilot projects. The SOG shall submit a preliminary report summarizing the
19 research findings to the Joint Legislative Program Evaluation Oversight Committee, the
20 Director of the Program Evaluation Division, and the Office of State Budget and Management
21 by December 1, 2016. The Joint Legislative Program Evaluation Oversight Committee shall
22 provide feedback to the School on the preliminary report.

23 **SECTION 1.(b)** The SOG shall coordinate a working group charged with
24 developing standards for State agencies to use when designing and implementing pilot projects
25 mandated by the General Assembly. The working group shall include representatives from
26 State agencies and the constituent institutions of The University of North Carolina. The
27 working group shall submit a report describing the proposed standards to the Joint Legislative
28 Program Evaluation Oversight Committee, the Director of the Program Evaluation Division,
29 and the Office of State Budget and Management by December 1, 2017.

30 **SECTION 1.(c)** The Legislative Services Commission, through the Legislative
31 Services Officer, may allow the working group to hold meetings in the State Legislative
32 Building or the Legislative Office Building.

33 **SECTION 1.(d)** There is appropriated from the General Fund to the School of
34 Government at the University of North Carolina at Chapel Hill the sum of one hundred fifty



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thousand dollars (\$150,000) for the 2016-2017 fiscal year for the purpose of implementing the requirements of this act. These funds shall not revert at the end of the 2016-2017 fiscal year but shall remain available during the 2017-2018 fiscal year for expenditure in accordance with this act.

SECTION 2. Article 10 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-162.3. Pilot project standards.

(a) Pilot Project Standards. – The Office of State Budget and Management shall adopt rules to implement standards proposed by the School of Government to guide evaluation of State agency pilot projects and shall report to the Joint Legislative Program Evaluation Oversight Committee upon adoption of the rules as provided in this subsection. The standards proposed by the School of Government shall, at a minimum, offer a range of options for designing evaluations of pilot projects that take into consideration the agency's available resources and time.

(b) Requirement. – Unless specifically exempted by law, all departments, agencies, bureaus, divisions, and institutions of the State shall conduct and complete pilot projects required by law by the General Assembly, in accordance with the rules adopted by the Office of State Budget and Management in subsection (a) of this section.

(c) Updates. – The School of Government may prepare proposed updates to the rules established for pilot projects in subsection (a) of this section as it deems necessary. Proposed updates shall be presented to the Office of State Budget and Management for review and adoption. The Office of State Budget and Management shall report to the Joint Legislative Program Evaluation Oversight Committee on any changes to the rules as provided in this subsection. The School of Government shall publish proposed updates to the rules on its Web site at least 90 days before the proposed rules are submitted to the Office of State Budget and Management.

(d) As used in this section "School of Government" shall mean the School of Government at the University of North Carolina at Chapel Hill."

SECTION 3. Section 1 of S.L. 2015-52 is repealed.

SECTION 4. The Department of Health and Human Services, Division of Health Service Regulation, shall report on the status of the overnight respite licensure process established pursuant to G.S. 131D-6.1. An interim report shall be made to the Joint Legislative Oversight Committee on Health and Human Services no later than September 1, 2016, and a final report no later than September 1, 2017. Each report shall include all of the following information:

- (1) Status of the licensure process and the development of rules.
- (2) Status of adding adult day care overnight respite as a service category under the Home and Community Care Block Grant.
- (3) Status of amending the innovations waiver and the North Carolina Community Alternatives Program for Disabled Adults (CAP/DA) waiver to allow the provision of facilities licensed to provide overnight respite in adult day health services.
- (4) Forecasted and actual utilization rates for overnight respite.
- (5) Any other findings and recommendations.

SECTION 5. Section 1(d) of this act becomes effective July 1, 2016. The requirements of G.S. 143-162.3(b), as enacted by this act, shall apply to pilot projects initially enacted by the General Assembly on or after June 1, 2018. The remainder of this act is effective when it becomes law and applies to rules adopted on or after that date.



2015-MD-106: State-Owned Real Property Management/PED

2016-2017 General Assembly

Committee:	Joint Legislative Program Evaluation Oversight Committee	Date:	February 8, 2016
Analysis of:	Bill Draft 2015-MD-106	Prepared by:	Ben Stanley Staff Attorney

SUMMARY: *Bill Draft 2015-MD-106 implements various recommendations of the Program Evaluation Division regarding the way in which State-owned real property is managed and disposed of, as set forth in its report entitled "North Carolina Should Dispose of Unneeded Real Property and Improve Portfolio Management to Reduce Costs, Report Number 2015-04 (June 2015)." Broadly speaking, these changes would require more active management of State-owned real property, ongoing identification and disposal of surplus State-owned real property, ongoing measurement and reporting of utilization of State-owned real property, ongoing updating of State-owned real property inventories, and ensuring that State-owned property is not available before leases are approved or renewed.*

CURRENT LAW: G.S. 146-27 provides that the sale or lease of most State-owned real property is to be conducted by the Department of Administration and approved by the Governor and Council of State. The process of selling a particular piece of State-owned real property can be commenced as a result of the Department of Administration's own initiative, a State agency request, or in response to a legal requirement that the property be sold. There is, however, currently no statutory mechanism in place for regular identification and disposal of State-owned real property that is no longer needed for State purposes. Nor is there any statutory mechanism in place for an agency to continuously monitor and report on its utilization of State-owned real property.

The State Budget Act (Chapter 143C of the General Statutes) requires agencies to biennially submit estimates of their capital needs for the following six years to the Office of State Budget and Management and to the Fiscal Research Division of the General Assembly. It also requires the Director of the Budget, who is the Governor, to biennially submit a six-year State capital improvements plan to the General Assembly.

Chapters 143 and 143C of the General Statutes require the Department of Administration to maintain inventories of State-owned or State-leased real property.

Chapters 143 and 146 of the General Statutes authorize the Department of Administration to compel State agencies to use available State-owned or State-leased space instead of acquiring or leasing new space.

BILL ANALYSIS: The statute enacted by **Section 1(a)** of the draft sets forth new duties of the Department of Administration and other State agencies with respect to how those agencies manage State-owned real property. Specifically, this section requires that the Department of Administration do the following:

- No later than December 1, 2018, and every five years thereafter, develop and implement a State facilities plan to comprehensively manage, acquire, and dispose of the facilities and spaces required to fully support State government operations.

- Develop a performance management system to measure the State's achievement of the priorities and objectives set forth in comprehensive State facilities plans.
- No later than December 1, 2016, develop procedures to be used by State agencies to measure the utilization of State-owned and State-leased buildings and structures.
- No later than December 1, 2016, develop space planning standards to be used by State agencies to determine workspace size and to govern the use of shared space. The Department is required to annually perform audits of State agencies to determine their adherence to these standards and to send formal letters of admonishment to any agency that fails to justify any deviation from those standards.
- Incorporate information received from other State agencies about real property use into the State-owned real property inventories maintained by the Department and notify each agency when that agency's information has been updated in the inventories.
- Establish a definition of surplus State-owned real property and a system that continuously identifies and disposes of surplus real property.
- Make reports to the Joint Legislative commission on Governmental Operations, to the Fiscal Research Division of the General Assembly, and to the Program Evaluation Division of the General Assembly.

This section also requires that each State agency do the following:

- No later than July 1, 2018, and annually thereafter, submit to the Department of Administration statutorily required information regarding the agency's use of real property. These submissions may be audited by the State Auditor.
- Verify the accuracy of the information about the agency maintained in the real property inventories maintained by the Department of Administration.
- No later than July 1, 2018, and every five years thereafter, develop a five-year real property management plan and submit the plan to the Department of Administration for review.

Section 1(b) of the draft requires the Department of Administration to develop a plan to analyze the utilization of all State-owned or State-leased facilities. No later than June 1, 2017, the plan must be reported to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research and Program Evaluation Divisions of the General Assembly.

Section 1(c) of the draft requires the Department of Administration to make one unannounced visit to a facility owned by or allocated to each State agency no later than June 1, 2017. The purpose of the visit is to obtain utilization information about the property visited, to provide guidance to the agency about employing the real property utilization measures developed by the Department of Administration, and to obtain information to be used to refine those measures.

Section 1(d) of the draft is a conforming statutory change.

Section 2(a) of the draft amends the statutes that govern what information is required to be included in the databases of State-owned real property maintained by the Department of Administration. This section requires greater specificity in the information maintained than do current statutes.

Section 2(b) of the draft repeals a section in the State Budget Act that would be duplicative in light of the statutory changes made in Section 2(a). **Sections 2(c)** is a conforming statutory change.

Section 2(d) of the draft requires that no later than December 1, 2016, the Department of Administration report to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division of the General Assembly, and the Program Evaluation Division of the General Assembly on the changes

made to the real property inventories maintained by the Department in response to the statutory changes enacted in Section 2(a) of the draft.

Section 3(a) of the draft amends the statute that governs the actions of the Department of Administration when an agency requests to acquire additional land. Specifically, it requires that in investigating the availability of land already owned by the State that might meet the requirements of the requesting agency, the Department review the real property utilization information contained in the real property databases maintained by the Department. **Section 3(b)** of the draft makes a similar change.

Section 3(c) of the draft requires that upon the expiration of certain enumerated leases, the Department of Administration shall reallocate the State functions, personnel, and other resources that current reside at the affected locations to suitable State-owned space. If suitable State-owned space is not available, **Section 3(d)** of the draft authorizes renewals of affected leases but only if the Department consults with the Joint Legislative Commission on Governmental Operations at least 60 days prior to the renewal.

Section 3(e) of the draft provides that prior to July 1, 2018, no State agency may request to enter into or renew a lease unless at the time it makes the request, it certifies to the Department of Administration that it has searched existing State-owned real property, contacted other State agencies to identify existing unused State-owned property, and found none that would be suitable for the agency's needs.

EFFECTIVE DATE: **Section 3(a)** and **(b)** of the draft are effective July 1, 2018. **Section 6** of the bill provides that the remainder of the bill is effective when it becomes law.

BACKGROUND: The bill draft is based on the Program Evaluation Division report entitled *North Carolina Should Dispose of Unneeded Real Property and Improve Portfolio Management to Reduce Costs*, Report Number 2015-04 (June 2015).

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015**

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BILL DRAFT 2015-MDz-106 [v.26] (07/08)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

1/7/2016 10:41:02 AM

Short Title: State-Owned Real Property Management/PED.

(Public)

Sponsors: Senator Gunn (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE THE DEPARTMENT OF ADMINISTRATION TO ACTIVELY
3 MANAGE THE STATE'S PORTFOLIO OF REAL PROPERTY; TO REQUIRE
4 MEASUREMENT OF THE CURRENT UTILIZATION OF STATE-OWNED
5 FACILITIES; TO ENSURE THE ACCURACY OF THE REAL PROPERTY
6 INVENTORIES MAINTAINED BY THE DEPARTMENT OF ADMINISTRATION;
7 AND TO ENSURE THAT THE USE OF STATE-OWNED SPACE IS MAXIMIZED
8 BEFORE LEASES ARE ENTERED INTO OR RENEWED, AS RECOMMENDED BY
9 THE PROGRAM EVALUATION DIVISION OF THE GENERAL ASSEMBLY.

10 Whereas, State law designates the Department of Administration as the State agency
11 responsible for managing North Carolina's portfolio of real property; and

12 Whereas, the Department of Administration's management duties include oversight
13 of the acquisition, disposition, allocation, and reallocation of land, buildings, and space in
14 buildings by and between State agencies and institutions; and

15 Whereas, in a report entitled "North Carolina Should Dispose of Unneeded Real
16 Property and Improve Portfolio Management to Reduce Costs (June 2015)," the Program
17 Evaluation Division of the General Assembly concluded that the State should dispose of
18 unneeded real property and that it could reduce costs through more active portfolio
19 management; and

20 Whereas, this legislation establishes a multiyear process to improve the State's real
21 property data collection, quality assurance, and reporting standards; and

22 Whereas, this legislation requires the Department of Administration to develop a
23 consolidated database of real property assets to facilitate active oversight and control of the
24 State's portfolio of real property based on strategic State priorities; and

25 Whereas, this legislation requires greater transparency in the control and
26 management of State-owned real property by requiring more robust reporting; and

27 Whereas, the General Assembly will monitor the implementation of this legislation;
28 and

29 Whereas, if the General Assembly deems implementation of this legislation to be
30 insufficient, it may explore alternative options for organizing and implementing the
31 management of State-owned real property; and

32 Whereas, the alternatives explored may include outsourcing and consolidation of
33 State agencies that currently have a role in State-owned real property management into a single
34 agency; Now, therefore,



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The General Assembly of North Carolina enacts:

**PART I. REQUIRE THE DEPARTMENT OF ADMINISTRATION TO ACTIVELY
MANAGE THE STATE'S PORTFOLIO OF REAL PROPERTY**

SECTION 1.(a) Article 36 of Chapter 143 of the General Statutes is amended by adding the following new sections to read:

"§ 143-341.2. Proactive management of State-owned and State-leased real property portfolio.

(a) Duties of the Department of Administration. – The Department of Administration shall have the following powers and duties:

- (1) Development of Comprehensive State Facilities Plan. – No later than December 1, 2018, and every five years thereafter, the Department of Administration shall develop and implement a plan to comprehensively manage, acquire, and dispose of the facilities and spaces required to fully support State government operations. The plan shall do all of the following:**
 - a. Identify the type, quantity, and location of facilities and spaces required to fully support State government operations.**
 - b. Include an in depth analysis of existing State-owned facilities' locations, capability, utilization, and condition.**
 - c. Establish strategic priorities and objectives that allow the Department of Administration to manage the performance of the State's portfolio of real property in a way that maximizes the utilization of State-owned facilities and minimizes operating and maintenance costs.**
 - d. Take into consideration the information provided to the Department in five-year real property management plans submitted by State agencies pursuant to subsection (b)(4) of this section.**
 - e. Provide a mechanism for allocating available facilities or space to State agencies that need it in a manner that reduces the need to acquire new space through purchase, lease, or other means.**
- (2) Development of Performance Management System. – The Department of Administration shall establish a performance management system to measure the State's achievement of the priorities and objectives set forth in plans developed pursuant to subdivision (1) of this section. The system shall set measurable goals and deadlines and shall be designed to focus on optimization and efficiency of the State's portfolio of real property. The system shall be used to report the information required by subsubsubdivision (7)c.1 of this section.**
- (3) Development of Utilization Measures. – No later than December 1, 2016, the Department of Administration shall develop and distribute to State agencies procedures to be used to measure the utilization of State-owned and State-leased real property. The procedures developed pursuant to this subdivision shall be all of the following:**
 - a. Based on the percentage of usable square feet in a facility that is used for State agency functions or for storage, or on other trade industry standards of utilization measurement.**
 - b. Adjusted as appropriate for each facility type.**
 - c. Designed to yield an easily understandable index or ratio of facility utilization.**
 - d. Developed in consultation with State agencies.**

- (4) Development and Enforcement of Space Planning Standards. – No later than December 1, 2016, the Department of Administration shall develop and distribute to State agencies space planning standards to be used to determine workspace size and to govern the use of shared space. The standards developed pursuant to this subdivision shall be based on the Federal GSA's Office of Real Property Management Performance Measurement Division Workspace Utilization and Allocation Benchmark report. The Department shall annually perform audits of a portion of State agencies to determine each agency's adherence to the space planning standards developed pursuant to this subdivision and shall send formal letters of admonishment to any agency that fails to justify, in the sole discretion of the Department, any deviation from those standards.
- (5) Updating of Real Property Inventories. – The Department of Administration shall do all of the following to ensure that the information contained in the inventories maintained pursuant to G.S. 143-341(4) is kept current:
- a. Immediately incorporate information received from State agencies pursuant to subdivision (b)(1) of this section into the inventories.
 - b. Immediately notify State agencies when the incorporation of information into the inventories required by subsubdivision a. of this subdivision is complete.
- (6) Development of Surplus Property Identification and Disposal System. – The Department of Administration shall establish a surplus real property disposal system that limits the duration that unneeded property is retained by the State. As part of the system, the Department shall adopt rules defining surplus State-owned real property and establishing a system for continuously identifying and disposing of that property, subject to the approvals required by Chapter 146 of the General Statutes, which shall take into consideration all of the following:
- a. The value each facility or parcel of land brings to the performance of the mission of the State or State agency and the fulfillment of its goals and objectives.
 - b. A general measure of the facility's condition calculated as a ratio of repair needs to replacement value.
 - c. The degree to which the property is utilized, measured in accordance with the procedures developed pursuant to subdivision (3) of this subsection.
 - d. The extent to which the property meets the purpose for which it was intended.
 - e. The extent to which the State or State agency is likely to need to continue to provide the service or function currently provided at the property.
 - f. Consideration of the best and most cost-effective manner in which these future needs can be met.
- (7) Reporting. – The Department of Administration shall make the following reports:
- a. No later than December 1, 2018, and every five years thereafter, the Department shall report the following to the Joint Legislative Commission on Governmental Operations, to the Fiscal Research Division of the General Assembly, and to the Program Evaluation Division of the General Assembly:

1. The plan developed pursuant to subdivision (1) of this subsection.
 2. A summary of the performance measurement procedures developed pursuant to subdivision (2) of this subsection.
 - b. If any State agency fails to submit the information required by subdivision (b)(1) of this section, the Department shall report the failure to the chairs of the Joint Legislative Commission on Governmental Operations and to the chairs of the Joint Legislative Program Evaluation Oversight Committee within 30 days.
 - c. No later than December 1, 2019, and each year thereafter, the Department shall report to the Joint Legislative Commission on Governmental Operations, to the Fiscal Research Division of the General Assembly, and to the Program Evaluation Division of the General Assembly on the State's portfolio of real property. This report shall include at least the following information:
 1. The status of achieving the goals and objectives set forth in the most recent plan developed pursuant to subdivision (1) of this section.
 2. Trends in the inventory of leased and owned buildings and real property, including changes in value, square footage, and operation and maintenance costs.
 3. Trends in the inventory of State-owned land, including changes in acreage and value.
 4. Allocation of leased and owned space by facility type, by agency, and by county.
 5. Benchmarks for comparable private sector leases across the regions of the State for both rural and urban locations, as appropriate.
 6. An analysis of utilization targets and a list of owned and leased real property identified as unused or underutilized.
 7. A list of the following information for the period beginning after submission of the most recent report pursuant to this subsubdivision:
 - I. State-owned properties identified as unused or underutilized.
 - II. State-owned properties sold.
 - III. State-owned properties in the process of being disposed of.
 - IV. Properties reallocated between State agencies.
- (b) Duties of Other State Agencies. – Each State agency shall have the following powers and duties:
- (1) Collection and Reporting of Information on Property Use. – No later than July 1, 2018, and each year thereafter, each State agency shall submit to the Department of Administration all of the information described in G.S. 143-341(4)b.1. through 15. for each building, facility, or space in any building or facility that the agency occupies. This shall be in addition to any reports required pursuant to G.S. 143-341(4)h.
 - (2) Verification of Information in Real Property Inventories. – Within 60 days of receiving notice from the Department of Administration pursuant to subsubdivision (a)(5)b. of this section, each State agency shall report to the Department one of the following, as applicable:

a. That the information submitted to the Department of Administration pursuant to subdivision (1) of this subsection is accurately reflected in the real property inventories.

b. A list of discrepancies between the information submitted to the Department of Administration pursuant to subdivision (1) of this subsection and the corresponding information in the real property inventories.

(3) Auditor May Audit Submissions. – The State Auditor may audit submissions made to the Department of Administration pursuant to subdivision (1) of this subsection and may recover any costs incurred in performing such an audit from the State Land Fund, in accordance with G.S. 146-72.

(4) Development of Five-Year Property Management Plan. – No later than July 1, 2018, and every five years thereafter, each State agency shall develop a five-year real property management plan and shall submit the plan to the Department of Administration for review. Each plan shall do all of the following:

a. Identify the type, quantity, and location of facilities and spaces required to fully support agency operations.

b. Include an in-depth analysis of existing facilities' locations, capabilities, utilization, and condition.

c. Establish agency-specific strategic priorities and objectives for each asset under its control.

(c) Exception for Property Not Subject to Department of Administration Oversight. – None of the requirements of this section shall apply to facilities that are not subject to the real property oversight of the Department of Administration under G.S. 143-341. A State agency that is entirely exempt from the real property oversight of the Department of Administration shall not be required to submit any information pursuant to subsection (b) of this section. A State agency that is partially exempt from the real property oversight of the Department of Administration shall submit information pursuant to subsection (b) of this section for those properties that are subject to the real property oversight of the Department of Administration."

SECTION 1.(b) No later than June 1, 2017, the Department of Administration shall report to the Joint Legislative Commission on Governmental Operations, to the Fiscal Research Division of the General Assembly, and to the Program Evaluation Division of the General Assembly a plan to analyze the utilization of all State-owned or State-leased facilities, other than those that are not subject to the real property oversight of the Department of Administration. The plan shall be consistent with G.S. 143-341.2, as enacted by subsection (a) of this section. Prior to the submission of this report, the Department shall report quarterly to the Joint Legislative Commission on Governmental Operations, to the Fiscal Research Division of the General Assembly, and to the Program Evaluation Division on the status of the plan's development.

SECTION 1.(c) No later than June 1, 2017, the Department of Administration shall perform an unannounced visit to a random facility owned by or allocated to each State agency that is subject in whole or in part to the real property oversight authority of the Department of Administration. Facilities selected pursuant to this subsection shall not include any facility to which federal or State law would prohibit entry by Department personnel. Each State agency shall fully cooperate with the Department of Administration with respect to these visits. The Department of Administration shall use the visits required by this subdivision to do all of the following:

(1) Obtain utilization information about the properties visited.

(2) Provide guidance and training to State agencies on the proper methods for employing the utilization measures developed pursuant to G.S. 143-

341.2(a)(3), as enacted by subsection (a) of this section. This guidance and training shall include instructions on tailoring the utilization measures for use with specific facility types.

- (3) Refine the utilization measures developed pursuant to G.S. 143-341.2(a)(3), as enacted by Section 1(a) of this act.

SECTION 1.(d) G.S. 146-72 reads as rewritten:

"§ 146-72. Purpose.

The State Land Fund may, in accordance with rules and regulations adopted by the Governor and approved by the Council of State, be used for the following purposes:

- (1) To pay any expenses incurred in carrying out the duties and responsibilities created by the provisions of this Chapter.
- (2) For the acquisition of land, when appropriation is made for that purpose by the General Assembly.
- (3) To pay any expenses incurred by the State Auditor in carrying out the duties and responsibilities created by G.S. 143-341.2(b)(3)."

PART II. ENSURE THE ACCURACY OF THE REAL PROPERTY INVENTORIES MAINTAINED BY THE DEPARTMENT OF ADMINISTRATION PURSUANT TO G.S. 143-341(4)

SECTION 2.(a) G.S. 143-341(4) reads as rewritten:

"§ 143-341. Powers and duties of Department.

The Department of Administration has the following powers and duties:

...

- (4) Real Property Control:

- a. To prepare and keep current a complete and accurate inventory of all land owned or leased by the State or by any State agency. This inventory shall show the location, location, including the latitude and longitude of the center of the property, acreage, description, source of title and current use of all land (including swamplands or marshlands) owned by the State or by any State agency, and the agency to which each tract is currently allocated. Surveys may be made where necessary to obtain information for the purposes of this inventory. Accurate plats or maps of all such land may be prepared, or copies obtained where such maps or plats are available.
- b. To prepare and keep current a complete and accurate inventory database of all buildings owned or leased (in whole or in part) by the State or by any State agency. This inventory database shall show the location, amount of floor space and floor plans of every building owned or leased by the State or by any State agency, and the agency to which each building, or space therein, is currently allocated. Floor serve as the State inventory and shall include all of the following information and floor plans of every such building shall be prepared or copies obtained where such floor plans are available, where needed for use in the allocation of space therein, therein:
 1. The building's location, including the latitude and longitude of the center of the building.
 2. A description of the operations supported by the building.
 3. The agency or agencies that occupy the building.
 4. Ownership information for the building.

5. The size of the building in terms of both gross and usable square feet.
6. A description of the building.
7. The building's condition assessment, including the estimated cost to make needed repairs and renovations as well as the date that the last condition assessment was completed.
8. The building's annual operating costs.
9. The building's annual maintenance costs.
10. The number of usable workspaces contained in the building.
11. The number of full-time equivalent positions assigned to the building by each agency occupant..
12. The amount of the building that is utilized, measured in accordance with the procedures developed pursuant to G.S. 143-341.2(a)(3).
13. Maintenance record, including replacement and maintenance schedules for all major mechanical systems.
14. Parking and employee facilities.
15. Any other information deemed relevant by the Department of Administration.
- b1. The Department of Administration shall develop procedures that ensure that the data included in the inventories required by subsubdivisions a. and b. of this subdivision is collected and displayed in a consistent manner across State agencies and land and building types.
- b2. The Department of Administration shall use the North Carolina Identity Management service, or a similar successor program, when updating the inventories required by subsubdivisions a. and b. of this subdivision.
- b3. Nothing in this subsubdivision shall be construed to require the release or display of floor plans except upon request by a unit of the executive, legislative, or judicial branch of State government, such as a department, an institution, a division, a commission, a board, a council, or The University of North Carolina."

SECTION 2.(b) G.S. 143C-8-2 is repealed.

SECTION 2.(c) G.S. 143C-8-1(b)(1) reads as rewritten:

"(1) An inventory-A database of facilities owned by State agencies-agencies, maintained pursuant to G.S. 143-341(4)."

SECTION 2.(d) No later than December 1, 2016, the Department of Administration shall report to the Joint Legislative Commission on Governmental Operations, to the Fiscal Research Division of the General Assembly, and to the Program Evaluation Division of the General Assembly on the changes to the real property databases operated pursuant to G.S. 143-341(4) in response to the amendments to that section made by subsection (a) of this section.

PART III. ENSURE THAT THE USE OF STATE-OWNED SPACE IS MAXIMIZED BEFORE LEASES ARE ENTERED INTO OR RENEWED

SECTION 3.(a) G.S. 146-23 reads as rewritten:

"§ 146-23. Agency must file statement of needs; Department must investigate.

Any State agency desiring to acquire land, whether by purchase, condemnation, lease, or rental, shall file with the Department of Administration an application setting forth its needs,

and shall furnish such additional information as the Department may request relating thereto. Upon receipt of such application, the Department of Administration shall promptly investigate all aspects of the requested acquisition, including the existence of actual need for the requested property on the part of the requesting agency; the availability of land already owned by the State or by any State agency which might meet the requirements of the requesting agency; the availability, value, and status of title of other land, whether for purchase, condemnation, lease, or rental, which might meet the requirements of the requesting agency; and the availability of funds to pay for land if purchased, condemned, leased, or rented. In investigating the availability of land already owned by the State or by any State agency which might meet the requirements of the requesting agency, the Department of Administration shall review the utilization information maintained in the real property inventories pursuant to G.S. 143-341(4). The Department of Administration may make acquisitions at the request of the Governor and Council of State upon compliance with the investigation herein required."

SECTION 3.(b) G.S. 143-341(4)d1. reads as rewritten:

"§ 143-341. Powers and duties of Department.

The Department of Administration has the following powers and duties:

(4) Real Property Control:

d1. To require all State departments, institutions, and agencies to use State-owned office space instead of negotiating or renegotiating leases for rental of office space. In investigating the availability of office space already owned by the State or by a State agency which might meet the requirements of the requesting agency, the Department of Administration shall review the utilization information maintained in the real property database pursuant to this subdivision. Any lease entered into contrary to the provisions of this paragraph is voidable in the discretion of the Governor and the Council of State.

The Department of Administration shall report to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division no later than May 1 of each year on leased office space.

...."

SECTION 3.(c) Upon the expiration of the relevant leases, the Department of Administration shall reallocate the State functions, personnel, and other resources that currently reside at the following locations to suitable State-owned space:

- (1) Department of Commerce – Division of Employment Security.
- (2) Department of Commerce – Rural Electrification Authority.
- (3) Department of Environment and Natural Resources – Waste Management.
- (4) Department of Labor – OSHA.
- (5) Department of Public Safety – Office for Substance Abuse.
- (6) Department of Public Safety – Inmate Grievance Resolution Board.
- (7) Department of Transportation – Right-of-Way Appraisal Office.

SECTION 3.(d) If suitable State-owned space is not available to reallocate any of the functions required to be reallocated to State-owned space by subsection (c) of this section, the Department of Administration may renew the applicable lease, or enter into a new lease, but only after consulting with the Joint Legislative Commission on Governmental Operations at least 60 days prior to the renewal.

1 **SECTION 3.(e)** Prior to July 1, 2018, no State agency shall request to enter into or
2 renew any lease unless at the time it makes the request, it certifies to the Department of
3 Administration that it has searched existing State-owned real property, contacted other State
4 agencies to identify existing unused State-owned property, and found none that would be
5 suitable for the agency's needs.

6 **SECTION 3.(f)** Subsections (a) and (b) of this section become effective July 1,
7 2018. The remainder of this section becomes effective when this act becomes law.

8
9 **PART IV. EFFECTIVE DATE**

10
11 **SECTION 4.** Except as otherwise provided, this act becomes effective when it
12 becomes law.



Bill Draft 2015-LR-141D: Reform/Centralize State Insurance Benefits

2015-2016 General Assembly

Committee:	Joint Legislative Program Evaluation Oversight	Date:	February 8, 2016
Analysis of:	DRAFT BILL ~ 2015-LR-141D	Prepared by:	Phyllis B. Pickett Principal Legislative Analyst

SUMMARY: *The draft bill centralizes the management of State employee supplemental insurance benefits under the newly created State Employee Insurance Selection Committee for coordinated oversight of insurance benefits in order to reduce overlap and duplication and improve value through the competitive bidding, and volume purchasing, of insurance products.*

CURRENT LAW:

Under G.S. 58-31-60, the head of each State agency employee payroll unit offering payroll deduction insurance products to employees must appoint an Employee Insurance Committee (EIC) to: (i) review insurance products currently offered through payroll deduction to determine if those products meet the needs and desires of employees in the unit; (ii) select the types of products that address the needs and desires of the employees in the unit; and (iii) competitively select the best insurance products determined by the EIC to reflect the needs and desires of the employees of the unit. EIC members serve staggered terms, with each committee composed of five to nine members, most of whom have been employed in the unit for at least one year. (A committee on employee benefits elected or appointed by the faculty representative body of a constituent institution of The University of North Carolina is deemed to constitute and function as an employee insurance committee in accordance with this section.) G.S. 58-31-60 establishes payroll deduction slots and defines the relationship between the insurance companies, the payroll unit, and the employees. The payroll unit head must assure the independence of the EIC and that no member has a conflict of interest. It is a Class 3 misdemeanor for a supervisor of an EIC member to attempt to influence the autonomy of the EIC or for anyone to open a sealed insurance product proposal or disclose or exhibit the contents of a sealed proposal, prior to the public opening of the proposal.

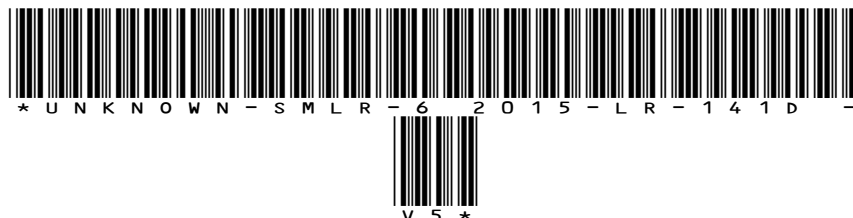
BILL ANALYSIS:

SECTION 1 of the draft bill repeals G.S. 58-31-60, the current authority for de-centralized State agency employee insurance committees.

SECTION 2 addresses G.S. 116-17.2, which provides an exemption for The University of North Carolina (UNC), by repealing that statute as part of the centralization effort.

SECTION 3 amends the State Human Resources Act to centralize, under the new State Employee Insurance Selection Committee, the review, selection and oversight of supplemental insurance products.

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Director



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Existing G.S. 126-95 is amended to clarify that the State's flexible compensation plan may include offerings for products and benefits that are supplemental or additional to any statutory benefits on a pre-tax or post-tax basis and to remove the exemption for UNC. The Office of State Human Resources (OSHR) is responsible for administration of the plan, in coordination with its other duties.

Under new G.S.126-96, the State Employee Insurance Selection Committee (Committee) is established. It consists of the following five members or their designee: the State Treasurer, the State Controller, the Director of the Budget, the Director of the Office of State Human Resources (OSHR Director), and the President of The University of North Carolina System. The Committee must meet at least quarterly, and may meet as often as necessary. The OSHR Director chairs the Committee. Three members of the Committee constitute a quorum. Actions must be taken by majority vote of the Committee members and it shall maintain minutes documenting each meeting.

The Committee is responsible for selecting and overseeing the insurance products and benefits offered pursuant to G.S. 126-95 and, in its discretion, any other products that meet the needs and desires of State employees. Specifically, the Committee is charged with:

- Requesting proposals from vendors to provide insurance products and benefits to State employees within detailed specifications.
- Procuring insurance products and benefits through a competitive bid process and the use of volume purchasing.
- Overseeing all contracts for insurance products and other benefits and ensure that the terms and conditions of the contracts are met.
- Providing oversight of all budgets and expenditures of funds used for the purposes of insurance and benefits administration, communication, education, and similar functions.
- Reviewing existing contracts for insurance products to create a centralized system of insurance benefits by establishing processes for terminating payroll deduction for insurance products not associated with a valid contract. Further, the Committee may elect to continue payroll deduction for any product if the Committee determines it is in the best interest of an officer or employee to have continuity of coverage or to maintain affordability.
- Receiving input from State agency and university health benefits representatives on how to improve insurance and benefits offerings and administration.
- Surveying a representative sample of State employees at least every five years to receive input on insurance product and employee benefit design, vendor performance, and State administration of supplemental insurance.

OSHR is responsible for staffing the Committee and administering all insurance products and employee benefits.

Contracts for insurance products, employee benefits, and other related services must be bid competitively on a regular basis. No contract may have more than a five-year term, which shall include a three-year initial term and may include one or two one-year extensions. Any company selected to provide a benefit or product must provide loss ratio data for State employee premiums on an annual basis for the life of the contract.

An affirmative attestation must be made by each Committee member or designee that they are not associated with any agent or insurer offering an insurance product proposal. If the member cannot make that attestation, then the member must recuse his or her self from further review and decision-making regarding product selection. Each attestation or recusal shall be recorded in the Committee minutes.

All State agencies must cooperate with the Committee the centralization by submitting for review all written contracts still in effect, by assisting OSHR in communicating with State employees about benefits and products, and by providing any other information or taking any other action requested to carry out the Committee's charge. The Department of Justice will provide legal assistance to the Committee for the review of insurance contracts entered into by an employee insurance committee authorized previously and take any action necessary concerning those contracts.

An ad-hoc advisory committee of five to seven members may be formed at any time by a State agency head or university chancellor to make recommendations to the Committee concerning insurance product selection and design, employee insurance needs, and insurance administration.

EFFECTIVE DATE:

SECTION 4 provides that the act becomes effective July 1, 2016.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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BILL DRAFT 2015-LR-141D [v.5] (12/03)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

2/5/2016 11:48:19 AM

Short Title: Reform/Centralize State Insurance Benefits.

(Public)

Sponsors: (Primary Sponsor).

Referred to:

A BILL TO BE ENTITLED
AN ACT TO REFORM THE MANAGEMENT OF STATE EMPLOYEE SUPPLEMENTAL
INSURANCE BENEFITS BY CREATING THE STATE EMPLOYEE INSURANCE
SELECTION COMMITTEE TO OVERSEE AND MANAGE ALL SUPPLEMENTAL
INSURANCE BENEFITS INCLUDING NC FLEX OFFERINGS; REDUCING
OVERLAP AND DUPLICATION OF SUPPLEMENTAL BENEFIT OFFERINGS AND
ADMINISTRATION; AND, IMPROVING VALUE THROUGH COMPETITIVE
BIDDING AND VOLUME PURCHASING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-31-60 is repealed.

SECTION 2. G.S. 116-17.2 is repealed.

SECTION 3. Article 16 of Chapter 126 of the General Statutes reads as rewritten:

"Article 16.

"Flexible Compensation ~~Plan~~ Plan and Insurance Product Selection.

"§ 126-95. Flexible compensation plan.

(a) The Director of the Budget may provide eligible officers and employees of State departments, institutions, and ~~agencies not covered by the provisions of G.S. 116-17.2~~ agencies, and The University of North Carolina and its constituent institutions, a program of dependent care assistance as available under section 129 and related sections of the Internal Revenue Code of 1986, as amended. The Director of the Budget may authorize State departments, institutions, and agencies to enter into annual agreements with employees who elect to participate in the program to provide for a reduction in salary. With the approval of the Director of the Budget, savings in the employer's share of contributions under the Federal Insurance Contributions Act on account of the reduction in salary may be used to pay some or all of the administrative expenses of the program. Should the Director of the Budget decide to contract with a third party to administer the terms and conditions of a program of dependent care assistance, the Director of the Budget may select a contractor only upon a thorough and completely competitive procurement process.

(b) Notwithstanding any other provisions of law relating to the salaries of officers and employees of departments, institutions, and agencies of State government, the Director of the Budget may provide a plan of flexible compensation to eligible officers and employees of State departments, institutions, and agencies ~~not covered by the provisions of G.S. 116-17.2~~ for benefits available under section 125 and related sections of the Internal Revenue Code of 1986, as amended. This plan shall not replace, substitute for, or duplicate any benefits provided to



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employees and officers under Article 1A of Chapter 120 of the General Statutes and Articles 1, 3B, 4, and 6 of Chapter 135 of the General Statutes. The plan may, however, include offerings for products and benefits that are supplemental or additional to these statutory ~~benefits~~ benefits on a pre-tax or post-tax basis. If a plan of flexible compensation is offered, then a TRICARE supplement shall be offered. In providing a plan of flexible compensation, the Director of the Budget may authorize State departments, institutions, and agencies to enter into agreements with their employees for reductions in the salaries of employees electing to participate in the plan of flexible compensation provided by this section. With the approval of the Director of the Budget, savings in the employer's share of contributions under the Federal Insurance Contributions Act on account of the reduction in salary may be used to pay some or all of the administrative expenses of the program. Should the Director of the Budget decide to contract with a third party to administer the terms and conditions of a plan of flexible compensation as provided by this section, it may select such a contractor only upon a thorough and completely advertised competitive procurement process.

(b1) The flexible compensation plan authorized by this section shall be administered by the Office of State Human Resources in coordination with its other duties under this Article.

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

"§ 126-96. State Employee Insurance Selection Committee.

(a) Committee Created. -- The State Employee Insurance Selection Committee (hereinafter "Committee") is established. The Committee shall consist of the following five members, or each member's respective designee:

- (1) The State Treasurer.
- (2) The State Controller.
- (3) The Director of the Budget.
- (4) The Director of the Office of State Human Resources.
- (5) The President of The University of North Carolina System.

The Committee shall meet at least quarterly, and may meet as often as necessary, to carry out its purpose and duties. The Director of the Office of State Human Resources serves as the chair of the Committee. Three members of the Committee constitute a quorum. Actions by the Committee shall be taken upon a majority vote of the members. The Committee shall maintain minutes documenting every meeting.

(b) Committee Charge. -- The Committee is responsible for selecting and overseeing the insurance products and benefits offered pursuant to G.S. 126-95 and, in its discretion, any other product that meet the needs and desires of State employees as determined by the Committee. The Committee shall do all of the following:

- (1) Request proposals from vendors to provide insurance products and benefits to State employees within detailed specifications.
- (2) Procure insurance products and benefits through a competitive bid process and the use of volume purchasing.
- (3) Oversee all contracts for insurance products and other benefits and ensure that the terms and conditions of the contracts are met.
- (4) Provide oversight of all budgets and expenditures of funds used for the purposes of insurance and benefits administration, communication, education, and similar functions.
- (5) Review existing contracts for insurance products to create a centralized system of insurance benefits by establishing processes for terminating payroll deduction for insurance products not associated with a valid contract. The Committee may elect to continue payroll deduction for any product if

the Committee determines it is in the best interest of an officer or employee to have continuity of coverage or to maintain affordability.

(6) Receive input from State agency and university health benefits representatives on how to improve insurance and benefits offerings and administration.

(7) Survey a representative sample of State employees at least every five years to receive input on insurance product and employee benefit design, vendor performance, and State administration of supplemental insurance.

(c) Staffing. -- The Office of State Human Resources is responsible for staffing the Committee and administering all insurance products and employee benefits.

(d) Contracts and Bidding. -- Contracts for insurance products, employee benefits, and other related services shall be bid competitively on a regular basis. No contract may have more than a five-year term, which shall include a three-year initial term and may include one or two one-year extensions. Each company selected to provide a benefit or product under this section shall provide to the Committee loss ratio data for State employee premiums on an annual basis for the life of the contract.

(e) Attestation Required. -- Each Committee member or designee shall affirmatively attest they have no association with any agent or insurer offering an insurance product proposal, and if the member cannot make such an attestation, the member shall recuse themselves from further review and decision-making regarding product selection. The attestations or recusals shall be recorded in the minutes of the Committee.

(f) Cooperation Required. -- Each State agency, department, and institution, and The University of North Carolina and its constituent institutions shall cooperate with the Committee to centralize administration of insurance benefits by (i) submitting to the Committee for review all written contracts still in effect that were entered into by the former employee insurance committees under G.S. 58-31-60, (ii) assisting OSHR in communicating with State employees about benefits and products, as necessary, and (iii) providing any other information or taking any other action requested to carry out the Committee's charge.

(g) Legal Assistance. -- The Department of Justice shall provide legal assistance to the Committee for the review of insurance contracts entered into by an employee insurance committee authorized previously under G.S. 58-31-60 and to take any action necessary concerning those contracts.

(h) Advisory Committees. -- In the discretion of the agency head or chancellor, each State agency or university may constitute an ad-hoc advisory committee to make recommendations to the Committee concerning insurance product selection and design, employee insurance needs, and insurance administration. The ad-hoc advisory committee shall consist of no less than five and no more than seven members.

(i) Definitions. -- The following definitions apply in this section:

(1) Company. -- As defined by G.S. 58-1-5(3).

(2) Insurance product or product. --An insurance product other than the State Health Plan authorized by Article 3B of Chapter 135 of the General Statutes.

(3) State employee. -- Any employee of a State agency, department, or institution, or of The University of North Carolina and its constituent institutions."

SECTION 4. This act becomes effective July 1, 2016.

§ 116-17.2. Flexible Compensation Plan.

Notwithstanding any other provisions of law relating to the salaries of employees of The University of North Carolina, the Board of Governors of The University of North Carolina is authorized to provide a plan of flexible compensation to eligible employees of constituent institutions for benefits available under Section 125 and related sections of the Internal Revenue Code of 1986 as amended. This plan shall not include those benefits provided to employees under Articles 1, 3B, and 6 of Chapter 135 of the General Statutes nor any vacation leave, sick leave, or any other leave that may be carried forward from year to year by employees as a form of deferred compensation. If a plan of flexible compensation is offered, then a TRICARE supplement shall be offered. In providing a plan of flexible compensation, the Board of Governors may authorize constituent institutions to enter into agreements with their employees for reductions in the salaries of employees electing to participate in the plan of flexible compensation provided by this section. With the approval of the Director of the Budget, savings in the employer's share of contributions under the Federal Insurance Contributions Act on account of the reduction in salary may be used to pay some or all of the administrative expenses of the program. Should the Board of Governors decide to contract with a third party to administer the terms and conditions of a plan of flexible compensation as provided by this section, it may select such a contractor only upon a thorough and completely advertised competitive procurement process. (1989 (Reg. Sess., 1990), c. 1059, s. 3; 1991 (Reg. Sess., 1992), c. 1044, s. 14(h); 1993, c. 561, s. 42; 1993 (Reg. Sess., 1994), c. 769, s. 7.28A; 1997-443, s. 33.20(a); 1999-237, s. 28.27(a); 2013-292, s. 3.)

§ 58-1-5. Definitions.

In this Chapter, unless the context clearly requires otherwise:

- (1) "Alien company" means a company incorporated or organized under the laws of any jurisdiction outside of the United States.
- (1a) "Commercial aircraft" means aircraft used in domestic, flag, supplemental, commuter, or on-demand operations, as defined in Federal Aviation Administration Regulations, 14 C.F.R. § 119.3, as amended.
- (2) "Commissioner" means the Commissioner of Insurance of North Carolina or an authorized designee of the Commissioner.
- (3) "Company" or "insurance company" or "insurer" includes any corporation, association, partnership, society, order, individual or aggregation of individuals engaging or proposing or attempting to engage as principals in any kind of insurance business, including the exchanging of reciprocal or interinsurance contracts between individuals, partnerships and corporations. "Company" or "insurance company" or "insurer" does not mean the State of North Carolina or any county, city, or other political subdivision of the State of North Carolina.
- (4) "Department" means the Department of Insurance of North Carolina.
- (5) "Domestic company" means a company incorporated or organized under the laws of this State.
- (6) "Foreign company" means a company incorporated or organized under the laws of the United States or of any jurisdiction within the United States other than this State.
- (7) "NAIC" means the National Association of Insurance Commissioners.
- (8) Repealed by Session Laws 1999-219, s. 5.5.
- (9) "Person" means an individual, partnership, firm, association, corporation, joint-stock company, trust, any similar entity, or any combination of the foregoing acting in concert.
- (10) The singular form includes the plural, and the masculine form includes the feminine wherever appropriate. (1899, c. 54, s. 1; Rev., s. 4678; C.S., s. 6261; 1945, c. 383; 1971, c. 510, s. 1; 1987, c. 864, s. 34; 1995, c. 193, s. 1; 1999-219, s. 5.5; 2001-334, s. 18.2.)



Bill Draft 2015-MH-159: Revise Employee Insurance Committee Req'ts.

2015-2016 General Assembly

Committee: Joint Legislative Program Evaluation
Oversight Committee

Date: January 21, 2016

Introduced by:
Analysis of: 2015-MH-159

Prepared by: Jeff Cherry
Staff Attorney

SUMMARY: *Bill draft 2015-MH-159 provides an alternative to the recommendations of the Program Evaluation Division's August, 2015 report (the "PED report") that recommended the centralization of selection and management of state employee supplemental insurance benefits. Rather than consolidate the employee insurance committees within each agency, this draft amends the statutes governing the selection and operation of the committees with the intent of improving the selection and operations of the committees.*

CURRENT LAW: In 1985, the General Assembly enacted G.S. 58-31-60 (Competitive selection of payroll deduction insurance products paid for by State employees), which sets up a system of employee insurance committees within each state agency and university to select supplemental insurance products that are paid through payroll deduction. A PED report found the current system to be ineffective because the committees were inactive or virtually defunct at many agencies, offered duplicative supplemental insurance products in certain instances, and offered weak or nonexistent oversight of existing supplemental insurance products in many cases.

BILL ANALYSIS: **Section 1** of the bill draft makes the following changes to G.S. 58-31-60, the statute governing the selection of supplemental insurance products through employee insurance committees:

- Requires that the committees competitively select insurance products at least every three years (page 1, line 18).
- Adds oversight of vendors selected to offer supplemental insurance products as a purpose of the committees. (page 1, lines 22-23).
- Adds more specific language to the existing requirement that committees "fairly represent the work force" of the agency or university they represent to also require that the committees must fairly represent the "geographical distribution and other characteristics" of the work force (page 1, lines 33-34).
- Specifies that appointment of the committee by an agency or university head represents a fiduciary duty and in addition to existing requirement that appointees have no conflict of interest, the duty includes the appointment of committee members who can carry out the committee's responsibilities in a "thorough and diligent manner" (page 2, lines 1-3).
- Requires that committees meet at least quarterly to carry out their duties, and maintain minutes of each meeting (page 2, lines 14-16)

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Page 2

- Requires that the committees utilize the Department of Administration's electronic purchasing system (or a similar system) and the Department's procurement templates in soliciting insurance product proposals. (page 2, lines 40-44).
- Requires affirmative attestation from committee members that they have no association with any agent or insurer offering an insurance product proposal, or, in the alternative, recusal from further consideration of that product (page 2, line 48 to page 3, line 2).
- Adds an annual reporting requirement from each committee to the Office of State Human Resources regarding committee members and terms, insurance products offered, the vendors providing the products, premiums charged, and when the insurance products were last bid (page 3, lines 26-30).

EFFECTIVE DATE: The bill draft becomes effective July 1, 2016, and applies to the appointment or reappointment and operation of employee insurance committees on or after that date.

BACKGROUND: The bill draft is in response to the Program Evaluation Division report entitled *North Carolina Should Centralize Management of State Employee Supplemental Insurance Benefits*, Report Number 2015-07 (August, 2015).

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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BILL DRAFT 2015-MH-159 [v.10] (11/04)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

1/29/2016 9:37:31 AM

Short Title: Revise Employee Insurance Committee Req'ts.

(Public)

Sponsors: (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY SELECTION AND STRENGTHEN THE FUNCTIONING OF
3 EMPLOYEE INSURANCE COMMITTEES, AS RECOMMENDED BY THE JOINT
4 LEGISLATIVE PROGRAM EVALUATION OVERSIGHT COMMITTEE.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 58-31-60 reads as rewritten:

7 "**§ 58-31-60. Competitive selection of payroll deduction insurance products paid for by**
8 **State employees.**

9 (a) Employee Insurance Committee. – The head of each State government ~~employee~~
10 ~~payroll unit~~ agency offering payroll deduction insurance products to employees shall appoint an
11 Employee Insurance Committee for the following purposes:

- 12 (1) To review insurance products currently offered through payroll deduction to
13 the State employees in the Employee Insurance Committee's ~~payroll~~
14 ~~unit~~ agency to determine if those products meet the needs and desires of
15 employees in the Employee Insurance Committee's ~~payroll unit~~ agency.
16 (2) To select the types of insurance products that reflect the needs and desires of
17 employees in the Employee Insurance Committee's ~~payroll unit~~ agency.
18 (3) To competitively ~~select~~ select, no less frequently than every three years, the
19 best insurance products of the types determined by the Employee Insurance
20 Committee to reflect the needs and desires of the employees of that ~~payroll~~
21 ~~unit~~ agency.
22 (4) To ensure vendors selected by the Employee Insurance Committee comply
23 with the terms and conditions of established contracts.

24 As used in this section, "agency" includes an existing department, institution, commission,
25 committee, board, or bureau, and "insurance product" includes a prepaid legal services plan
26 registered under G.S. 84-23.1.

27 (b) Appointment of Employee Insurance Committee Members. – The members of the
28 Employee Insurance Committee shall be appointed by the head of the ~~payroll unit~~ agency. The
29 Committee shall consist of not less than five or more than nine individuals a majority of whom
30 have been employed in the ~~payroll unit~~ agency for at least one year. The committee members
31 shall, except where necessary initially to establish the rotation herein prescribed, serve
32 three-year terms with approximately one-third of the terms expiring annually. Committee
33 membership make-up shall fairly represent the geographical distribution and other
34 characteristics of the work force in the ~~payroll unit~~ agency and be selected without regard to any



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political or other affiliations. It shall be the fiduciary duty of the payroll-unit agency head to (i) appoint members of the Committee who are capable of carrying out the purposes and duties set forth in this section in a thorough and diligent manner; and (ii) assure that the Employee Insurance Committee is completely autonomous in its selection of insurance products and insurance companies and that no member of the Employee Insurance Committee has any conflict of interest in serving on the Committee. A committee on employee benefits elected or appointed by the faculty representative body of a constituent institution of The University of North Carolina shall be deemed constituted and functioning as an employee insurance committee in accordance with this section. Any decision rendered by the Employee Insurance Committee where the autonomy of the Committee or a conflict of interest is questioned shall be subject to appeal pursuant to the Administrative Procedure Act, or in the case of departments, boards and commissions which are specifically exempt from the Administrative Procedure Act, pursuant to the appeals procedure prescribed for such department, board or commission. The Committee shall meet as often as needed to carry out the purposes and duties set forth in this section, but no less frequently than quarterly. Each Committee shall maintain minutes documenting every meeting.

(c) Selection of Payroll Deduction Slots. – Each ~~payroll-unit agency~~ shall be entitled to not less than four payroll deduction slots to be used for payment of insurance premiums for products selected by the Employee Insurance Committee and offered to the employees of the ~~payroll-unit agency~~. The Employee Insurance Committee shall select only one company per payroll deduction slot. The Company selected by the Employee Insurance Committee shall be permitted to sell through payroll deduction only the products specifically approved by the Employee Insurance Committee. The assignment by the Employee Insurance Committee of a payroll deduction slot shall be for a period of not less than two years unless the insurance company shall be in violation of the terms of the written agreement specified in this subsection. The insurance company awarded a payroll deduction slot shall, pursuant to a written agreement setting out the rights and duties of the insurance company, be afforded an adequate opportunity to solicit employees of the ~~payroll-unit agency~~ by making such employees aware that a representative of the company will be available at a specified time and at a location convenient to the employees.

Notwithstanding any other provision of the General Statutes, once an employee has selected an insurance product for payroll deduction, that product may not be removed from payroll deduction for that employee without his or her specific written consent.

When an employee retires from State employment and payroll deduction under this section is no longer available, the insurance company may not terminate life insurance products purchased under the payroll deduction plan without the retiree's specific written consent solely because the premium is no longer deducted from payroll.

(c1) Procedure for Selection of Insurance Product Proposals. – Each Committee shall use the procedure set forth in this subsection to select insurance products.

(1) When soliciting insurance product proposals, the Committee shall ensure adequate notice and competition by utilizing the Department of Administration's electronic Interactive Purchasing System or a similar electronic purchasing system and shall utilize available procurement templates developed by the Department of Administration.

(2) All insurance product proposals shall be sealed. The Committee shall open all proposals in public and record them in the minutes of the Committee, at which time the proposals become public records open to public inspection.

(3) Each Committee member shall affirmatively attest they have no association with any agent or insurer offering an insurance product proposal, and if the member cannot make such an attestation, the member shall recuse themselves from further review and decision-making regarding product

1 selection. The attestations or recusals shall be recorded in the minutes of the
2 Committee.

3 (4) After the public opening, the Committee shall review the proposals,
4 examining the cost and quality of the products, the reputation and
5 capabilities of the insurance companies submitting the proposals, and other
6 appropriate criteria. The Committee shall determine which proposal, if any,
7 would meet the needs and desires of the employees of that Committee's
8 ~~payroll unit~~agency and shall award a payroll deduction slot to the company
9 submitting the proposal that meets those needs and desires. The Committee
10 may reject any or all proposals.

11 A company may seek to modify or withdraw a proposal only after the public opening and
12 only on the basis that the proposal contains an unintentional clerical error as opposed to an
13 error in judgment. A company seeking to modify or withdraw a proposal shall submit to the
14 Committee a written request, with facts and evidence in support of its position, prior to the
15 award of the payroll deduction slot, but not later than two days after the public opening of the
16 proposals. The Committee shall promptly review the request, examine the nature of the error,
17 and determine whether to permit or deny the request.

18 (d) Criminal Penalty. – It shall be a Class 3 misdemeanor for any State employee, who
19 has supervisory authority over any member of the Employee Insurance Committee, to attempt
20 to influence the autonomy of any Employee Insurance Committee either in the appointment of
21 members to such Committee or in the operation of such Committee; or for anyone to open a
22 sealed insurance product proposal or disclose or exhibit the contents of a sealed insurance
23 product proposal, prior to the public opening of the proposal. The Commissioner of Insurance
24 shall have the authority to investigate complaints alleging acts subject to the criminal penalty
25 and shall report his findings to the Attorney General of North Carolina.

26 (e) Report. – Each employee insurance committee shall report annually to the Office of
27 State Human Resources in a form and manner as the Office may direct, the names and terms of
28 its members, the insurance products offered to employees, the vendors providing those
29 products, the date when those products were last bid, and the premiums charged through
30 payroll deduction for those products."

31 **SECTION 2.** This act becomes effective July 1, 2016, and applies to the
32 appointment or reappointment and operation of Employee Insurance Committees on or after
33 that date.



2015-MDz-114: Enhance Oversight of Service Contracts/PED

2016-2017 General Assembly

Committee:	Joint Legislative Program Evaluation Oversight Committee	Date:	February 8, 2016
Analysis of:	Bill Draft 2015-MDz-114	Prepared by:	Ben Stanley Staff Attorney

SUMMARY: *Bill Draft 2015-MDz-114 implements various recommendations of the Program Evaluation Division regarding the way in which State agency service contracts are procured, as set forth in its report entitled "Enhanced Oversight of Service Contracts Can Help Ensure Cost-Effective Performance, 2016-01 (January 2016)." These recommendations would require State agencies to document the business case for changing the provider of an agency service and to obtain certain approvals before changing the provider of the service. The draft would also require the development and implementation of a plan to determine whether services provided by State agencies could be more effectively provided by private providers and would require the operation of a contract management system for State agency service contracts.*

CURRENT LAW: The Department of Administration is the State agency primarily responsible for oversight of State agency procurement of service contracts. G.S. 143-49(3) provides that the Secretary of Administration is to procure service contracts for State agencies "by sealed, competitive bidding or other suitable means authorized by the Secretary."

BILL ANALYSIS: Subsection (a) of the statute enacted by **Section 1** of the draft requires the Secretary of the Department of Administration, in consultation with the Office of State Budget and Management, to develop a business case justification template to be used by State agencies to document the business case for changing the provider of an agency service.

Subsection (b) of the statute prohibits an agency from changing the provider of an agency service until it has done all of the following:

- Documented the business case for changing the provider of the service on the business case justification template developed by the Secretary, in consultation with the Office of State Budget and Management.
- Obtained written approvals from the following officials upon a determination that there is an adequate business case for making the change:
 - ▶ For services with a total cost of \$5,000,000 or less, the State Purchasing Officer. The State Purchasing Officer may delegate this authority to the appropriate agency head if certain findings are made.
 - ▶ For services with a total cost exceeding \$5,000,000, the State Purchasing Officer and the Office of State Budget and Management.
- Consulted with the Joint Legislative Commission on Governmental Operations regarding the change.

Subsection (c) of the statute creates exceptions to the requirements described above. Specifically, those requirements do not apply if:

- The proposed new provider of the agency service is a county, municipality, or some other governmental entity (other than the State agency required or authorized to provide the service).
- The total cost of providing the agency service does not exceed one million dollars (\$1,000,000).
- The procurement of a contract to obtain the service would not be subject to the Secretary's authority to purchase or contract for services under G.S. 143-49(3).

Subsection (d) of the statute defines various terms that are used elsewhere in the new statute.

Section 2 of the draft requires the Office of State Budget and Management to develop and implement a plan to determine whether services provided by State agencies could be more effectively provided by private providers. The Office is required to report the plan to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division by December 1, 2016. The plan is required to include an examination of each service provided by each State agency and State agencies are required to cooperate with the Office of State Budget and Management in the development of the plan.

Section 3(a) of the draft requires the State Purchasing Officer to operate a contract management system and to require all State agencies to use the system to manage all service contracts entered by the agency. The system is required to include the capacity to ensure (i) that payments are made in accordance with applicable contract terms and conditions; (ii) that key documents related to contracts can be stored, searched, and retrieved from the system; and (iii) that customizable management reports can be generated by State agencies that are parties to contracts or that have contract oversight responsibilities.

This section also requires the State Purchase Officer to report annually to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division on service contracts entered into by State agencies.

Section 3(b) of the draft clarifies that State agencies are not required to use the new contract management system until notified that it is operational.

Sections 4 and 5 make conforming statutory changes.

EFFECTIVE DATE: **Section 1** of the draft is effective October 1, 2016. **Section 6** of the bill provides that the remainder of the bill is effective when it becomes law.

BACKGROUND: The bill draft is based on the Program Evaluation Division report entitled *Enhanced Oversight of Service Contracts Can Help Ensure Cost-Effective Performance*, Report Number 2016-01 (January 2016).

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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BILL DRAFT 2015-MDz-114 [v.9] (01/11)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

2/1/2016 11:53:40 AM

Short Title: Enhance Oversight of Service Contracts/PED.

(Public)

Sponsors: Unknown (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ENHANCE OVERSIGHT OF STATE SERVICE CONTRACTS, AS
3 RECOMMENDED BY THE JOINT LEGISLATIVE PROGRAM EVALUATION
4 OVERSIGHT COMMITTEE.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** Article 3 of Chapter 143 of the General Statutes is amended by
7 adding a new section to read:

8 "**§ 143-50.2. Oversight of certain service contracts.**

9 (a) Creation of Business Case Justification Template. – The Secretary of the
10 Department of Administration, in consultation with the Office of State Budget and
11 Management, shall develop a business case justification template to be used by State agencies
12 to document the business case for changing the provider of one or more agency services. The
13 template shall provide for inclusion of at least all of the following:

- 14 (1) A detailed description of the manner in which the service is currently
15 provided.
- 16 (2) The unit and total cost of performing the service during the most recently
17 completed fiscal year.
- 18 (3) A description of the metrics to be used to evaluate the service, the current
19 level of performance for each metric, and the expected level of performance
20 for each metric once the change has been made.
- 21 (4) Identification of resources required to effectively procure the service, if
22 applicable.
- 23 (5) An assessment of the availability of private providers who could provide the
24 service.
- 25 (6) Justification for a waiver from competitive bidding requirements, if
26 applicable.
- 27 (7) Justification for use of multiple private providers to perform the service, if
28 applicable.
- 29 (8) Information security requirements that a private provider would need to
30 satisfy, if applicable.
- 31 (9) Identification of roles, organizational placement, responsibilities, and
32 qualifications of key project team members, including demonstrated
33 competency incorporating government-vendor partnerships into the
34 procurement process, if applicable.



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- 1 (10) Identification of funding requirements and funding sources for the proposed
2 contract period, if applicable.
- 3 (11) A description of the transition process for changing the provider of the
4 service.
- 5 (b) Documentation and Approval of Provider Changes Required. – Notwithstanding any
6 other provision of law, a State agency shall not change the provider of an agency service until it
7 has done all of the following, regardless of whether the new provider of that service will be the
8 State agency itself or a private provider:
- 9 (1) Documented the business case for making the change on the business case
10 justification template developed pursuant to subsection (a) of this section.
- 11 (2) Obtained written approvals from all of the following, as applicable, upon a
12 determination that there is an adequate business case for making the change:
- 13 a. If the total cost of providing the service is five million dollars
14 (\$5,000,000) or less, the State Purchasing Officer. The State
15 Purchasing Officer may delegate the authority to make approvals
16 pursuant to this subdivision to the head of a State agency if the
17 State Purchasing Officer determines that at least all of the following
18 conditions are satisfied:
- 19 1. The State agency's procurement staff have demonstrated
20 competency with respect to the skills necessary to effectively
21 utilize government-vendor partnerships to achieve best value.
- 22 2. The results of recent Division of Purchase and Contract
23 compliance reviews of the agency's procurement processes
24 have been satisfactory.
- 25 b. If the total cost of providing the service exceeds five million dollars
26 (\$5,000,000):
- 27 a. The State Purchasing Officer.
- 28 b. The Office of State Budget and Management.
- 29 (3) Consulted with the Joint Legislative Commission on Governmental
30 Operations about the change. The requirement to consult shall be deemed
31 satisfied if the Commission does not have a meeting at which the matter is
32 heard within 15 days of receiving the required submission, unless the Chairs
33 of the Commission notify the agency during that period that they need
34 additional time to review the change, in which case G.S. 12-3(15)b. shall
35 govern when the requirement to consult shall be deemed to have been
36 satisfied.
- 37 (c) Exceptions. – Subsection (b) of this section shall not apply if any of the following
38 conditions are satisfied:
- 39 (1) The proposed new provider of the agency service is a county, municipality,
40 or some other governmental entity other than the State agency required or
41 authorized to provide the service.
- 42 (2) The total cost of providing the agency service does not exceed one million
43 dollars (\$1,000,000).
- 44 (3) The procurement of a contract to obtain the service would not be subject to
45 the Secretary of Administration's authority under G.S. 143-49(3) to purchase
46 or contract for services.
- 47 (d) Definitions. – The following definitions apply in this section:
- 48 (1) Agency Service. – A service that a State agency is required or authorized to
49 provide.
- 50 (2) Service Contract. – A contract between a State agency and a private provider
51 that is a new contract for one or more agency services, is for the renewal of

an existing contract for one or more agency services, or is an extension of an existing contract for one or more agency services.

(3) Private Provider. – A non-State entity other than a county, municipality, or other governmental entity.

(4) Total Cost. – If the proposed service provider is a private provider, the total amount of revenue that a service provider or combination of service providers would be estimated to receive during the first three years of providing the agency service. Otherwise, the total amount of funds that the State agency would be estimated to expend providing the agency service during the first three years of providing the service."

SECTION 2.(a) The Office of State Budget and Management shall develop and implement a plan to determine whether services provided by State agencies could be more effectively provided by private providers, as that term is defined in G.S. 143-50.2(d)(3), as enacted by Section 1 of this act. No later than December 1, 2016, the Office of State Budget and Management shall report the plan to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division of the General Assembly. The plan developed pursuant to this section shall do all of the following:

- (1) Provide for an examination of each service provided by each State agency.
- (2) Include an examination of methods for providing each service through contracts with non-State entities.
- (3) Include an analysis of the costs and benefits to the State of providing each service through contracts with non-State entities.

SECTION 2.(b) Each State agency shall fully cooperate with the Office of State Budget and Management in the development and implementation of the plan required by subsection (a) of this section.

SECTION 3.(a) Article 3 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-50.3. Contract management system.

(a) Operation of Contract Management System. – The State Purchasing Officer shall operate a contract management system and require each State agency to use the system to manage all service contracts entered by the agency. The system developed pursuant to this subsection shall include the capacity to ensure at least all of the following:

- (1) That payments are made in accordance with the applicable contract terms and conditions.
- (2) That key documents related to contracts can be stored, searched, and retrieved from the system by appropriate personnel.
- (3) That customizable management reports can be generated by State agencies that are parties to contracts or that have contract oversight responsibilities.

(b) Reporting. – No later than December 1 of each year, the State Purchasing Officer shall report to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division of the General Assembly on service contracts entered into by State agencies. Each report shall include the following information about each service contract entered into between State agencies and non-State entities during the previous fiscal year:

- (1) The description, value, and procurement method of the contract.
- (2) The amount of payments made under the contract during the previous fiscal year.
- (3) The total amount of payments made under the contract.
- (4) A description of the business case for entering the contract as submitted to the Department of Administration, and the date on which the business case was submitted and approved in accordance with G.S. 143-50.2(b).

1 (5) The results of any reviews of the State agency's procurement processes
2 conducted by the Contract Management Section.

3 (c) For purposes of this section, the term 'service contract' shall have the same meaning
4 as in G.S. 143-50.2(d)."

5 **SECTION 3.(b)** Notwithstanding G.S. 143-50.3(a), as enacted by Section 3(a) of
6 this act, a State agency shall not be required to use the contract management system established
7 pursuant to that section until the agency is notified by the Division of Purchase and Contract of
8 the Department of Administration that the system is operational. The Division shall notify each
9 State agency within 30 days of the contract management system becoming operational.

10 **SECTION 4.** G.S. 143-48.3 is amended by adding a new subsection to read:

11 "(g) The requirements of this section shall be construed consistently with G.S. 143-
12 50.3."

13 **SECTION 5.** G.S. 143-50.1(e) reads as rewritten:

14 "(e) The—Consistently with the requirements of G.S. 143-50.3, the Department of
15 Administration shall adopt procedures for the record keeping of the information provided by
16 State agencies and that has been received by the Secretary or the Secretary's designee pursuant
17 to G.S. 114-8.3(c). The Department shall keep the records, and shall include a log with
18 information that provides identification of individual contracts and where the contract
19 documents are located. The Secretary is authorized to require that entities reporting pursuant to
20 G.S. 114-8.39(c) provide additional information that may be required to identify the individual
21 contracts."

22 **SECTION 6.** Section 1 of this act becomes effective October 1, 2016. The
23 remainder of this act is effective when it becomes law.



Bill Draft 2015-MCz-193A: Eliminate Use of Development Tiers.

2015-2016 General Assembly

Committee:	Date:	January 27, 2016
Introduced by:	Prepared by:	Dan Ettefagh
Analysis of:	2015-MCz-193A	Committee Counsel

SUMMARY: *The bill draft would require various State entities (i) to eliminate the use of the current development tier designations determined by the Department of Commerce and (ii) to develop new criteria, specific and relevant to each program, and report on the new criteria as a proposed replacement for the tier structure. The draft would also establish and fund the North Carolina Commission on Economic Development for Distressed Communities to develop a comprehensive plan to address chronic distress.*

CURRENT LAW: The Department of Commerce annually assigns tier rankings to each county in the State in order to measure relative economic health using four factors: (i) average rate of unemployment from lowest to highest for the most recent 12 months, (ii) median household income from highest to lowest for the most recent 12 months, (iii) percentage growth in population from highest to lowest for the most recent 36 months, and (iv) adjusted assessed property value per capita from highest to lowest for the most recent taxable year. Counties with an annual rank of 1-40 are tier 1, with an annual rank of 41-80 are tier 2, and with 81-100 are tier 3 unless the tier designation for the county is adjusted by certain statutory provisions, including adjustments for certain small counties, for development tier one areas, and for industrial parks.

The tier rankings are used by Commerce and other State entities for a variety of programs, including the North Carolina Development Farmland Preservation Trust Fund (DACS), the Spay and Neuter Program (DACS), the Abandoned Manufactured Home Cleanup Grants Program (DEQ), the State Wastewater Reserve (DEQ), the State Drinking Water Reserve (DEQ), the Public Safety Assistance Points Grant Program (911 Board – Department of Information Technology), Oral Health Preventive Services (DHHS), Medication Assistance (DHHS), Qualified Allocation Plan for Low Income Housing Tax Credits (NC Housing Finance Agency), and the Strategic Prioritization Funding Plan for Regional Impact Transportation Investment Projects (DOT).

BILL ANALYSIS: The draft would require State entities to eliminate and replace all programmatic use of the current tier structure. State entities other than the Department of Commerce would independently develop and report¹ on new program-relevant criteria specific to the goals and purposes of each program by 10/1/17 and would cease to use the tier designations by 7/1/17. Working with local, regional, and State economic development professionals, the Department of Commerce would develop and report on new program-relevant criteria specific to the goals and purposes of each program² by 1/1/18 and would

¹ Each entity would report to the Fiscal Research Division at the North Carolina General Assembly and to each entity's respective oversight committee.

² Programs for which Commerce uses the tier designations include, e.g., the Utility Account, JDIG, One NC Fund, JMAC, Main Street Solutions, community development block grounds, Green Business Fund, and Building Reuse and Economic Infrastructure Programs. See http://ncleg.net/PED/Reports/documents/EDTiers/ED_Tiers_Report.pdf.

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cease to use the tier designations by 7/1/18. During the process, Commerce would additionally submit the plan to the Rural Infrastructure Authority for formal approval.

The draft would also establish the North Carolina Commission on Economic Development for Distressed Communities, composed of 22 members. The membership would be composed of 10 appointees of the President Pro Tempore of the Senate, six of whom would be Senators, four of whom would be representatives of the general public from the 20 most distressed counties for the previous six years, and one of whom would be designed by the President Pro Tempore as cochair; 10 appointees of the Speaker of the House of Representatives, six of whom would be Representatives, four of whom would be representatives of the general public from the 20 most distressed counties for the previous six years, and one of whom would be designed by the Speaker as cochair; the Secretary of Commerce or designee and the President of the North Carolina Community College System or designee, both of which would be ex officio, nonvoting members. The Commission would reexamine strategies for identifying and assisting economically distressed communities to develop a comprehensive State strategy to address chronic distress and better target State aid by, among other things, determining how and at what level geographic levels economic distress should be measured, deciding what measures should be used to identify economic distress, reviewing existing development programs, identifying how to use State resources to alleviate distress, considering other models of economic development, recommending strategies for new and improved economic development, and creating a system to measure goal achievement, time lines, and action steps to reduce or eliminate economic distress. The draft would provide \$200,000 per year for FY 16-17 and FY17-18 to accomplish its mission, including hiring non-State personnel to assist, and the Department of Commerce shall provide facilities and administrative and professional staff to assist the Commission. The Commission will terminate on March 1, 2018, or upon the filing of its final report to the General Assembly, whichever occurs first.

EFFECTIVE DATE: The bill would be effective when it becomes law.

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015**

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BILL DRAFT 2015-MCz-193A [v.3] (01/08)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

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Short Title: Eliminate Use of Development Tiers.

(Public)

Sponsors: (Primary Sponsor).

Referred to:

A BILL TO BE ENTITLED
AN ACT TO ELIMINATE THE USE OF THE ECONOMIC DEVELOPMENT TIER
STRUCTURE.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The Departments and Authority listed in this section shall, no later than July 1, 2017, discontinue the use of the development tier designations determined pursuant to G.S. 143B-437.08 for all purposes and programs, including the North Carolina Development Farmland Preservation Trust Fund, the Spay and Neuter Program, the Abandoned Manufactured Home Cleanup Grants Program, the State Wastewater Reserve, the State Drinking Water Reserve, the Public Safety Assistance Points Grant Program, Oral Health Preventive Services, Medication Assistance, Qualified Allocation Plan for Low Income Housing Tax Credits, and the Strategic Prioritization Funding Plan for Regional Impact Transportation Investment Projects. This section applies to the following:

- (1) The Department of Agriculture and Consumer Services.
- (2) The Department of Environmental Quality.
- (3) The Department of Information Technology.
- (4) The Department of Health and Human Services.
- (5) The North Carolina Housing Finance Agency.
- (6) The Department of Transportation.

SECTION 1.(b) Each entity to which subsection (a) of this section applies shall independently develop criteria designed to achieve each program's objectives to be used in place of development tier designations and shall report by October 1, 2016, the developed criteria to the Fiscal Research Division and as follows:

- (1) The Departments of Agriculture and Consumer Services and Environmental Quality to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources.
- (2) The Department of Information Technology to the Joint Legislative Oversight Committee on Information Technology.
- (3) The Department of Health and Human Services to the Joint Legislative Oversight Committee on Health and Human Services.
- (4) The North Carolina Housing Finance Agency to the Joint Legislative Oversight Committee on General Government.

SECTION 2.(a) The Department of Commerce shall, no later than July 1, 2018, discontinue the use of the development tier designations determined pursuant to



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G.S. 143B-437.08 for all grant determinations, calculations of award amounts, calculations of local match amounts, and other purposes for all programs, including the Industrial Development Fund Utility Account, the Job Maintenance and Capital Development Investment Fund, the One North Carolina Fund, the North Carolina Green Business Fund, the Main Street Solutions Fund, the Building Reuse and Economic Infrastructure Program, the Job Development Investment Grant Program, and Community Development Block Grants.

SECTION 2.(b) The Department of Commerce shall develop criteria designed to achieve departmental programs' objectives to be used in place of development tier designations. In developing criteria, the Department shall engage local and regional economic development professionals and stakeholders, the State demographer, the Assistant Secretary for Workforce Solutions, the Assistant Secretary for Rural Economic Development, and others the Commission deems beneficial. Upon determining the newly developed criteria to be used, the Department shall submit the plan setting forth the developed criteria to the Rural Infrastructure Authority for formal approval, and, by January 1, 2018, shall report on the plan to the Fiscal Research Division and the Joint Legislative Oversight Committee on Economic Development and Global Engagement.

SECTION 3.(a) There is created the North Carolina Commission on Economic Development for Distressed Communities (Commission).

SECTION 3.(b) The Commission shall consist of 22 members as follows:

- (1) Ten members appointed by the President Pro Tempore of the Senate as follows:
 - a. Six persons who are members of the Senate at the time of appointment.
 - b. Four persons who are members of the general public representing local government and businesses from counties ranked, pursuant to G.S. 143B-437.08, as the 20 most distressed counties for the previous six years, without making adjustments for certain small counties provided in G.S. 143B-437.08(e).
- (2) Ten members appointed by the Speaker of the House of Representatives as follows:
 - a. Six persons who are members of the House of Representatives at the time of appointment.
 - b. Four persons who are members of the general public representing local government and businesses from counties ranked, pursuant to G.S. 143B-437.08, as the 20 most distressed counties for the previous six years, without making adjustments for certain small counties provided in G.S. 143B-437.08(e).
- (3) The Secretary of Commerce, or the Secretary's designee, shall serve as an ex officio, nonvoting member of the Commission.
- (4) The President of the North Carolina Community College System, or the President's designee, shall serve as an ex officio, nonvoting member of the Commission.

SECTION 3.(c) The Speaker of the House of Representatives shall designate one Representative as cochair, and the President Pro Tempore of the Senate shall designate one Senator as cochair. Vacancies on the Commission shall be filled by the same appointing authority that made the initial appointment. A quorum of the Commission shall be a majority of its members.

SECTION 3.(d) The Commission shall reexamine North Carolina's strategy for identifying and assisting economically distressed communities to develop a comprehensive State strategy to address chronic distress and target State aid to those communities. As part of this study, the Commission shall do at least the following:

- (1) Determine how and at what geographic levels economic distress should be measured.
- (2) Decide what measures, including, at a minimum, educational attainment and labor force participation rates, data sources, and time periods should be utilized to determine which areas of the State are experiencing economic distress.
- (3) Review the mission and resources of existing development programs and tools provided to assist distressed communities.
- (4) Identify how State resources can be directed to alleviate distress within North Carolina.
- (5) Consider the Appalachian Regional Commission model for identifying distressed areas and offering capacity-building strategies for use in the State.
- (6) Recommend strategies for new economic development programs and for improving access to existing economic development tools for businesses and individuals in distressed communities.
- (7) Create a measurement plan with goals, objectives, time frames, and action steps that will assess progress towards the overall goal of reducing or eliminating economic distress within North Carolina.

SECTION 3.(e) The Commission may meet at any time upon the joint call of the cochair and may contract for assistance from non-State personnel as the Commission deems necessary. The Department of Commerce shall provide facilities for meetings and shall assign administrative and professional staff to assist the Commission in its work. Members of the Commission shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate. All State departments and agencies and local governments and their subdivisions shall furnish the Commission with any information in their possession or available to them.

SECTION 3.(f) There is appropriated from the General Fund the sum of two hundred thousand dollars (\$200,000) for the 2016-2017 fiscal year and the sum of two hundred thousand dollars (\$200,000) for the 2017-2018 fiscal year to fund the Commission established in subsection (a) of this section. Funds remaining unexpended at the end of the 2016-2017 fiscal year shall not revert to the General Fund but shall remain available for use by the Commission in completing its work.

SECTION 3.(g) The Commission shall submit a final report of the results of its study and its recommendations for meeting the needs of North Carolina communities with chronic economic distress, including any proposed legislation, to the General Assembly no later than March 1, 2018. The Commission shall terminate on March 1, 2018, or upon the filing of its final report, whichever occurs first.

SECTION 4. This act is effective when it becomes law.