

JLPEOC Bill Drafts

December 12, 2016

PDF Page Number	Topic (With Link to PED Source)	Bill Summary	Bill Drafter	PED Contact
First Time Bill is Before the Committee				
2-4	K-12 Funding	This bill creates a Task Force on Education Finance Reform to study and develop a weighted student formula funding model for K-12 public schools.	Matt Pagett	Sean Hamel
5-7	Auditor Follow-Up	This bill requires the State Auditor to follow up with an underperforming state agency and report any failure to take corrective action to the General Assembly and to annually report all findings of deficiencies to the General Assembly.	David Unwin	Kiernan McGorty
8-20	eProcurement	This bill implements the State Auditor's recommendation that most state agencies be required to use the same electronic procurement and contract management systems.	Ben Stanley	Kiernan McGorty
Bill Has Been Before the Committee Previously and Voted for Introduction in a Prior Session				
21-26	Service Contracts	This bill requires 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 bill requires the development and implementation of a plan to determine whether services provided by state agencies could be more effectively provided by private providers and requires the operation of a contract management system for state agency service contracts.	Ben Stanley	Chuck Hefren
27-29	Retiree Health	This bill establishes the Joint Legislative Committee on the Unfunded Liability of the Retiree Health Benefit Fund.	Amy Jo Johnson	Kiernan McGorty
30-33	Board of Review	This bill enhances the independence and efficiency of the Board of Review by transferring to the BOR a dedicated legal and support staff serving under the control of the chair, implementing data tracking, and establishing certain reporting requirements.	Phyllis Pickett	Kiernan McGorty
34-36	Legislative Subsistence/Travel	This bill increases the legislator subsistence allowance to the 2017 maximum per diem rate set by the U.S. General Services Administration and increases the legislator travel allowance to the 2016 standard mileage rate set by the Internal Revenue Service.	Kory Goldsmith	John Turcotte
37-39	Pilot Standards	This bill requires the School of Government to develop standards for state agencies to use when designing pilot projects mandated by the General Assembly. The bill requires OSBM to adopt rules implementing the standards and requires all pilot projects mandated by the General Assembly to use those standards.	Kory Goldsmith	Kiernan McGorty

Bill Sponsors Needed: Please contact Kiernan McGorty (kiernan.mcgorty@ncleg.net; 919-301-1393) if you would like to be listed as a sponsor of any of the above bills.



2017-MT-5: Ed. Finance Reform Task Force/PED Report.

2017-2018 General Assembly

Committee:	Joint Legislative Program Evaluation Oversight Committee	Date:	December 12, 2016
Introduced by:		Prepared by:	Matt M. Pagett Staff Attorney
Analysis of:	2017-MT-5		

SUMMARY: *Bill Draft 2017-MT-5 would implement Recommendation 1 of the Program Evaluation Division Report entitled Allotment-Specific and System-Level Issues Adversely Affect North Carolina's Distribution of K-12 Resources, Report Number 2016-11 (November 2016) by creating a Task Force on Education Finance Reform. As recommended by the report, the bill draft would require the Task Force to (i) study and develop a weighted student formula funding model for K-12 public schools in North Carolina and (ii) submit a report with proposed legislation to the Joint Legislative Education Oversight Committee.*

CURRENT LAW: North Carolina's K-12 public schools are currently funded by a series of allotments distributed to provide specific resources and described in various state laws and agency policies.

BILL ANALYSIS: The bill draft would do the following:

- Create the Joint Legislative Task Force on Education Finance Reform. The Task Force would be composed of 18 legislators, 9 appointed by the President Pro Tempore of the Senate and 9 appointed by the Speaker of the House. The Speaker and the President Pro Tempore would each select a member to serve as a cochair. The appointments would be made no later than September 1, 2017.
- Direct the Task Force, in consultation with the State Board of Education and the Department of Public Instruction, to study various weighted student formula funding models and develop a weighted student formula funding model to replace all or some of the current allotment system in North Carolina.
- Direct the Task Force to do the following:
 - Review the State's current public school allotment system and study various weighted student formula funding models.
 - Determine the base funding needed per student under a weighted student formula model in North Carolina.
 - Identify and define the student characteristics to be used for weighting under that model.
 - Determine the effect of local characteristics for weighting under that model.
 - Decide which funding elements should not be replaced under that model.
 - Study any other relevant issue.
- Require the Task Force to begin meeting no later than October 1, 2017, and to submit a final report, with draft legislation, to the Joint Legislative Education Oversight Committee by July 1, 2018.

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

Kory Goldsmith
Director



Legislative Drafting
919-733-6660

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017**

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BILL DRAFT 2017-MT-5 [v.8] (11/17)

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

12/06/2016 03:51:14 PM

Short Title: Ed. Finance Reform Task Force/PED Report.

(Public)

Sponsors:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE JOINT LEGISLATIVE TASK FORCE ON EDUCATION
FINANCE REFORM, AS RECOMMENDED BY THE JOINT LEGISLATIVE PROGRAM
EVALUATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. There is created the Joint Legislative Task Force on Education Finance Reform (Task Force).

SECTION 2. The Task Force shall consist of nine members of the Senate appointed by the President Pro Tempore of the Senate and nine members of the House of Representatives appointed by the Speaker of the House of Representatives. The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each appoint a cochair of the Task Force from among its membership. These appointments shall be made no later than September 1, 2017.

SECTION 3. In consultation with the State Board of Education and the Department of Public Instruction, the Task Force shall study various weighted student formula funding models and develop a new funding model for the elementary and secondary public schools of North Carolina based on a weighted student formula. As a part of this process, the Task Force shall do all of the following:

- (1) Review the State's current public school allotment system and undertake an in-depth study of various types of weighted student formula funding models. In its study the Task Force is encouraged to consider models used by other states.
- (2) Determine the base amount of funds that must be distributed on a per-student basis to cover the cost of educating a student in the State.
- (3) Identify the student characteristics eligible for weighted funding and the associated weights for each of these characteristics.
- (4) Resolve the extent to which the base amount of funds to be distributed would be adjusted based on the characteristics of each local school administrative unit.
- (5) Decide which funding elements, if any, would remain outside the base of funds to be distributed under a weighted student formula.
- (6) Study any other issue the Task Force considers relevant.

SECTION 4. The Task Force shall meet upon the call of its cochairs. A quorum of the Task Force is a majority of its members. No action may be taken except by a majority vote at a meeting at which a quorum is present. The Task Force, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4.



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1 The Task Force may contract for professional, clerical, or consultant services, as provided by G.S.
2 120-32.02. If the Task Force hires a consultant, the consultant shall not be a state employee or a
3 person currently under contract with the State to provide services. Members of the Task Force
4 shall receive per diem, subsistence, and travel allowance as provided in G.S. 120-3.1. The
5 expenses of the Task Force shall be considered expenses incurred for the joint operation of the
6 General Assembly.

7 **SECTION 4.** The Legislative Services Officer shall assign professional and clerical
8 staff to assist the Task Force in its work. The Director of Legislative Assistants of the House of
9 Representatives and the Director of Legislative Assistants of the Senate shall assign clerical
10 support to the Task Force.

11 **SECTION 6.** Meetings of the Task Force shall begin no later than October 1, 2017.
12 The Task Force shall submit a final report on the results of its study and development, including
13 proposed legislation, to the Joint Legislative Education Oversight Committee on or before July 1,
14 2018, by filing a copy of the report with the Office of the President Pro Tempore of the Senate, the
15 Office of the Speaker of the House of Representatives, the Joint Legislative Education Oversight
16 Committee, and the Legislative Library. The Task Force shall terminate on July 1, 2018, or upon
17 the filing of its final report, whichever comes first.

18 **SECTION 7.** This act is effective when it becomes law.



Bill Draft 2017-MUZ-3: Office of State Auditor/Corrective Action/PED.

2017-2018 General Assembly

Committee:	Joint Legislative Program Evaluation Oversight Committee	Date:	December 12, 2016
Introduced by:		Prepared by:	David Unwin Staff Attorney
Analysis of:	Bill Draft 2017-MUZ-3		

OVERVIEW: *Bill Draft 2017-MUZ-3 requires the State Auditor to follow up with an underperforming State agency and report any failure to take corrective action to the General Assembly. The draft also requires the State Auditor to annually report all findings of deficiencies to the General Assembly.*

CURRENT LAW: The State Auditor has a duty to independently examine whether State agencies are properly managing State funds and to identify any deficiencies in its audit reports. However, the Auditor does not have a general duty to follow up or make legislative recommendations.

BILL ANALYSIS: Section 1 of the draft adds two new G.S. sections. The first section imposes the following requirements on the Auditor:

- If the Auditor identifies any deficiencies, the Auditor shall include recommendations in the audit report on how the State agency should correct the deficiencies.
- Six months later, the Auditor shall conduct a follow-up audit to determine whether the State agency has made significant progress in correcting the deficiencies.
- If the Auditor finds that the State agency has not made significant progress, the Auditor shall report its findings to the chairs of both appropriations committees and shall make one or more recommendations for legislative action:
 - Invite the State agency to appear before a legislative committee to explain how it is resolving the deficiencies.
 - Enact legislation modifying the State agency's authority to implement the deficient process or program.
 - Change the amount of State funds appropriated to the State agency for the deficient process or program.
 - Other specified lawful action.

The second section requires the Auditor to annually report all findings of deficiencies to the General Assembly beginning January 1, 2018. The report shall distinguish between findings resulting in financial loss to the State, findings of noncompliance with State law regarding the expenditure of public funds, and other findings.

EFFECTIVE DATE: Except as otherwise noted in this summary, this act would become effective when it becomes law.

Kory Goldsmith
Director



Legislative Drafting
919-733-6660

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017**

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BILL DRAFT 2017-MUZ-3 [v.12] (10/26)

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

12/05/2016 03:14:57 PM

Short Title: Office of State Auditor/Corrective Action/PED.

(Public)

Sponsors:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE OFFICE OF THE STATE AUDITOR TO CONDUCT A FOLLOW-UP AUDIT ON AN UNDERPERFORMING STATE AGENCY, TO REPORT TO THE GENERAL ASSEMBLY A STATE AGENCY'S FAILURE TO TAKE CORRECTIVE ACTION, AND TO REPORT ANNUALLY ON ALL FINDINGS OF DEFICIENCIES, AS RECOMMENDED BY THE JOINT LEGISLATIVE PROGRAM EVALUATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. Article 5A of Chapter 147 of the General Statutes is amended by adding two new sections to read:

"§ 147-64.6E. Corrective action.

(a) Recommendations. – If the Auditor finds that a State agency is not following one of the practices listed in G.S. 147-64.6(b), the Auditor shall include as part of the audit report one or more recommendations to the State agency to correct the deficiencies.

(b) Follow-Up Audit. – Six months after submitting the recommendations to the State agency, the Auditor shall conduct a follow-up audit to determine whether the State agency has made significant progress in correcting the identified deficiencies.

(c) Report to the General Assembly. – If the Auditor finds that the State agency has failed to make significant progress in correcting the deficiencies, the Auditor shall submit a report to the Chairs of the Senate Appropriations/Base Budget Committee and to the Chairs of the House Appropriations Committee. In the report, the Auditor shall include the results of both the initial audit and the follow-up audit and shall make recommendations for legislative action including one or more of the following:

- (1) Invite the State agency to appear before a legislative committee to provide information regarding the cited deficiencies and actions the agency has taken to correct the deficiencies.
- (2) Enact legislation modifying the authority of the State agency to implement the process or program that is the source of the deficiency.
- (3) Change the amount of State funds appropriated to the agency to implement the process or program that is the source of the deficiency.
- (4) Other specified lawful action.

"§ 147-64.6F. Annual report; findings of deficiencies.



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(a) Beginning January 1, 2018, and annually thereafter, the State Auditor shall publish a report identifying all findings of deficiencies identified during the prior calendar year. The report shall be published on the Auditor's website and the Auditor shall deliver copies of the report to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Chairs of the Senate Appropriations/Base Budget Committee and to the Chairs of the House Appropriations Committee.

(b) The report shall identify the findings of deficiencies as follows:

(1) Those resulting in financial loss to the State.

(2) Those involving a failure to comply with State law regarding the expenditure of public funds.

(3) All other findings."

SECTION 2. This act is effective when it becomes law.



2017-MDz-6: State Agencies Must Use eProcurement/PED

2016-2017 General Assembly

Committee:	Joint Legislative Program Evaluation Oversight Committee	Date:	December 12, 2016
Analysis of:	Bill Draft 2017-MDz-6	Prepared by:	Ben Stanley Staff Attorney

SUMMARY: *Bill Draft 2017-MDz-6 implements a recommendation of the North Carolina State Auditor that most State agencies be required to use the same electronic procurement and contract management systems.*

CURRENT LAW: G.S. 143-48.3 requires the Department of Administration to develop and maintain standards for electronic procurement but is somewhat ambiguous about which State agencies are required to use those standards. G.S. 143-48.3 does not address the related area of contract management standards.

BILL ANALYSIS: Section 1.1 of the draft amends G.S. 143-48.3 to do all of the following:

- Require that the Department of Administration develop and maintain not only standards but also systems for not only contract procurement but also contract management.
- Require that any contract management system developed by the Department includes the capacity to perform certain enumerated contract management functions.
- Require the Department to provide to State agencies advance notice of newly-developed standards or systems so that the agencies can smoothly transition to using them.
- Require State agencies (other than the University system) to use the system as follows:
 - State agencies that are subject to Article 3 of Chapter 143 of the General Statutes that enter into any contract must use the contract procurement and contract management standards and systems developed by the Department of Administration.
 - State agencies that are exempt from Article 3 of Chapter 143 of the General Statutes must nonetheless provide timely information to the Department of Administration related to each contract entered into by the agency for inclusion in the contract procurement and management systems developed by the Department of Administration.
- Prohibit State agencies (other than the University system) from entering into or renewing contracts for the performance of any service that will be performed by a Department of Administration system.

Section 1.2 of the draft provides that nothing in the act is to be construed to require the breach of any contract that exists on the effective date of the act.

Section 2.1 through **Section 2.29** enact various conforming changes to the General Statutes.

EFFECTIVE DATE: Section 3 of the bill provides that the bill becomes effective October 1, 2017.

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017**

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BILL DRAFT 2017-MDz-6 [v.12] (11/01)

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

12/07/2016 09:15:31 AM

Short Title: State Agencies Must Use eProcurement/PED.

(Public)

Sponsors:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO REQUIRE STATE AGENCIES TO USE ELECTRONIC PROCUREMENT AND CONTRACT MANAGEMENT SYSTEMS DEVELOPED BY THE DEPARTMENT OF ADMINISTRATION, AS RECOMMENDED BY THE JOINT LEGISLATIVE PROGRAM EVALUATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

PART I. SUBSTANTIVE CHANGES

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

"§ 143-48.3. Electronic procurement, procurement and contract management.

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

- (1) consult–Consult with the Office of the State Controller, the Department of Information Technology, the Department of State Auditor, the Department of State Treasurer, The University of North Carolina General Administration, the Community Colleges System Office, and the Department of Public Instruction.
- (2) Comply with the State government-wide technical architecture for information technology, as required by the State Chief Information Officer.
- (3) Utilize the Department of Information Technology as an Application Service Provider, which shall operate these electronic standards and systems, through State ownership or commercial leasing, in accordance with the requirements and operating standards developed by the Department of Administration and the financial reporting and accounting procedures of the Office of the State Controller.
- (4) Ensure that any contract management system developed pursuant to this subsection includes the capacity to ensure at least all of the following:
 - a. That payments are made in accordance with the applicable contract terms and conditions.
 - b. That key documents related to contracts can be stored, searched, and retrieved from the system by appropriate personnel.



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- 1 c. That customizable management reports can be generated by State
2 agencies that are parties to contracts or that have contract oversight
3 responsibilities.
- 4 (5) Provide State agencies with advance notice of new standards or systems
5 developed pursuant to this section sufficient to allow those agencies to
6 smoothly transition to using the new standards or systems. That notice shall
7 include a clear statement about the date when affected agencies will be
8 required to use the new standard or system.
- 9 ~~(a1) — The Department of Administration shall comply with the State government wide~~
10 ~~technical architecture for information technology, as required by the State Chief Information~~
11 ~~Officer.~~
- 12 (b) Training in Use of Digital Standards and Systems. — The Department of
13 Administration, in conjunction with the Office of the State Controller and the Department of
14 Information Technology may, upon request, provide to all State agencies, universities, and
15 community colleges, training in the use of the electronic procurement system.
- 16 ~~(c) — The Department of Administration shall utilize the Department of Information~~
17 ~~Technology as an Application Service Provider for an electronic procurement system. The~~
18 ~~Department of Information Technology shall operate this electronic procurement system, through~~
19 ~~State ownership or commercial leasing, in accordance with the requirements and operating~~
20 ~~standards developed by the Department of Administration and the financial reporting and~~
21 ~~accounting procedures of the Office of the State Controller.~~
- 22 (d) This Relation to Other Law. — Except as provided in subdivision (g)(2) of this section,
23 this section does not otherwise do any of the following:
- 24 (1) ~~modify~~ Modify existing law relating to procurement between The University of
25 North Carolina, UNC Health Care, community colleges, and the Department of
26 Administration.
- 27 (2) Modify or repeal any complete or partial exemption to this Article.
- 28 ~~(e) — The Board of Governors of The University of North Carolina shall exempt North~~
29 ~~Carolina State University and The University of North Carolina at Chapel Hill from the electronic~~
30 ~~procurement system authorized by this Article until May 1, 2003. Each exemption shall be subject~~
31 ~~to the Board of Governors' annual review and reconsideration. Exempted constituent institutions~~
32 ~~shall continue working with the North Carolina E-Procurement Service as that system evolves and~~
33 ~~shall ensure that their proposed procurement systems are compatible with the North Carolina~~
34 ~~E-Procurement Service so that they may take advantage of this service to the greatest degree~~
35 ~~possible. Before an exempted institution expands any electronic procurement system, that~~
36 ~~institution shall consult with the Joint Legislative Commission on Governmental Operations and~~
37 ~~the Joint Legislative Oversight Committee on Information Technology. By May 1, 2003, the~~
38 ~~General Assembly shall evaluate the efficacy of the State's electronic procurement system and the~~
39 ~~inclusion and participation of entities in the system.~~
- 40 (f) Opt-In for Certain Entities. — Any State entity ~~University~~ or community college
41 ~~operating a functional electronic procurement system established prior to September 1, 2001, may~~
42 ~~until May 1, 2003, continue to operate that system independently or may opt into the North~~
43 ~~Carolina E-Procurement Service. Each entity subject to this section shall notify the Department of~~
44 ~~Information Technology by January 1 of each year of its intent to participate in the North Carolina~~
45 ~~E-Procurement Service. Service or any other service operated pursuant to this section.~~
- 46 (g) Applicability. — This section, and the standards and systems developed pursuant to it,
47 apply to State agencies as follows:
- 48 (1) State Agencies Subject to this Article. — A State agency that is subject to this
49 Article that enters into a service contract, contract for the purchase of goods, or
50 other contract, shall use the standards and systems developed pursuant to this
51 section.

(2) State Agencies Exempt from this Article. – A State agency that is otherwise exempt from this Article shall nonetheless provide to the Department of Administration timely information related to each contract entered into by the agency for inclusion in systems developed pursuant to this section. Such an agency is not required by this section to change its procurement or contract management process in any other way.

(h) Definition of State Agency. – For purposes of subsections (g) and (i) of this section, the term 'State agency' means 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, but does not include The University of North Carolina, a constituent institution of The University of North Carolina, a community college, or a unit of local government.

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

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

PART II. CONFORMING CHANGES

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

"§ 18C-150. Procurements.

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

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

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

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

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

SECTION 2.4. G.S. 53-391 reads as rewritten:**"§ 53-391. Employment of counsel, accountants, and other experts; compensation.**

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

SECTION 2.5. G.S. 53-401 reads as rewritten:**"§ 53-401. Provisions for conservator; duties and powers.**

Whenever the Commissioner deems it necessary in order to conserve the assets of a State trust company for the benefit of clients or creditors, the Commissioner may appoint a conservator for the State trust company and require of the conservator a bond with any surety the Commissioner deems necessary and proper in an amount deemed sufficient by the Commissioner. The conservator, under the direction of the Commissioner, shall take possession of the fiduciary records and other books, records, and assets of every description of the State trust company placed under conservatorship and take actions necessary to conserve those assets pending further disposition of its business as provided by law. Except as provided in G.S. 53-405, the conservator shall have all rights, powers, and privileges, subject to the approval of the Commissioner, now possessed by or given to the Commissioner under the provisions of Subpart B and Subpart D of this Part. All expenses of the conservator shall be paid out of the assets of the State trust company under conservatorship and shall be a lien thereon which shall be prior to any other lien provided

by law. The compensation of the conservator shall be determined by the Commissioner and shall be based on the time and experience of the conservator and the complexity of the conservatorship. Compensation of the conservator shall not be subject to the requirements of Article 3 of Chapter 143 of the General Statutes, except as provided in G.S. 143-48.3(g)(2). However, the Commissioner shall: (i) submit all proposed agreements or contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars (\$1,000,000) authorized by this section to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all agreements or contracts to be awarded by the Commissioner under this section a standard clause which provides that the State Auditor and internal auditors of the Commissioner may audit the records of the conservator during and after the term of the agreement or contract to verify accounts and data affecting fees and performance. The Commissioner shall not award a cost plus percentage of cost agreement or contract for any purpose."

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

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

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

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

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

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

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

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

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

"§ 58-33-30. License requirements.

...

- (e) Examination. –

...

- (4) The answers of the applicant to the examination shall be provided by the applicant under the Commissioner's supervision. The Commissioner shall give examinations at such times and places within this State as the Commissioner considers necessary reasonably to serve the convenience of both the Commissioner and applicants: Provided that the Commissioner may contract directly with persons for the processing of examination application forms and for the administration and grading of the examinations required by this section; the Commissioner may charge a reasonable fee in addition to the registration

fee charged under G.S. 58-33-125, to offset the cost of the examination contract authorized by this subsection; and such contracts shall not be subject to Article 3 of Chapter 143 of the General ~~Statutes~~. Statutes, except as provided in G.S. 143-48.3(g)(2). However, the Commissioner shall: (i) submit all proposed agreements or contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars (\$1,000,000) authorized by this subdivision to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all contracts to be awarded by the Commissioner under this subdivision a standard clause which provides that the State Auditor and internal auditors of the Commissioner may audit the records of the contractor during and after the term of the contract to verify accounts and data affecting fees and performance. The Commissioner shall not award a cost plus percentage of cost contract for any purpose.

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

...."

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

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

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

"(a) The Commissioner may adopt rules to provide for a program of continuing education requirements for the purpose of enhancing the professional competence and professional responsibility of adjusters and motor vehicle damage appraisers. The rules may include criteria for:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(h) Purchases. – Notwithstanding the provisions of Articles 3, 3A, and 3C of Chapter 143 of the General Statutes to the contrary, the board of directors shall establish policies and

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

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

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

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

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

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

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

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

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

the contract to verify accounts and data affecting fees and performance. The Authority shall not award a cost plus percentage of cost agreement or contract for any purpose."

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

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

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

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

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

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

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

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

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

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

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

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

23
24 **PART III. EFFECTIVE DATE**

25 **SECTION 3.** This act becomes effective October 1, 2017.
26



2017-MDz-4: Enhance Oversight of Service Contracts/PED

2016-2017 General Assembly

Committee:	Joint Legislative Program Evaluation Oversight Committee	Date:	December 12, 2016
Analysis of:	Bill Draft 2017-MDz-4	Prepared by:	Ben Stanley Staff Attorney

SUMMARY: *Bill Draft 2017-MDz-4 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 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: **Section 1** of the draft enacts two new statutory sections. The first new section enacted by this section is G.S. 143-50.2. Subsection (a) of G.S. 143-50.2 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 G.S. 143-50.2 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 G.S. 143-50.2 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 G.S. 143-50.2 defines various terms that are used elsewhere in the new statute.

The Second statute created by **Section 1** of the draft, G.S. 143-50.3, requires the Department of Administration to conduct a review every five years of the business case justification for each State agency service.

Section 2 of the draft requires the Office of State Budget and Management to develop 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, 2017. The plan is required to provide for the inclusion of 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, 2017. **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) and is identical to the Third Edition of House Bill 976/Senate Bill 789 from the 2015 Regular Session.

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017**

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BILL DRAFT 2017-MDz-4 [v.2] (10/19)

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

10/25/2016 10:15:57 AM

Short Title: Enhance Oversight of Service Contracts/PED.

(Public)

Sponsors:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ENHANCE OVERSIGHT OF STATE SERVICE CONTRACTS, AS
RECOMMENDED BY THE JOINT LEGISLATIVE PROGRAM EVALUATION
OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. Article 3 of Chapter 143 of the General Statutes is amended by adding
two new sections to read:

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

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

- (1) A detailed description of the manner in which the service is currently provided.**
- (2) The unit and total cost of performing the service during the most recently completed fiscal year.**
- (3) A description of the metrics to be used to evaluate the service, the current level of performance for each metric, and the expected level of performance for each metric once the selection has been made.**
- (4) Identification of resources required to effectively procure the service, if applicable.**
- (5) An assessment of the availability of private providers who could provide the service.**
- (6) Justification for a waiver from competitive bidding requirements, if applicable.**
- (7) Justification for use of multiple private providers to perform the service, if applicable.**
- (8) Information security requirements that a private provider would need to satisfy, if applicable.**
- (9) Identification of roles, organizational placement, responsibilities, and qualifications of key project team members, including demonstrated competency incorporating government-vendor partnerships into the procurement process, if applicable.**
- (10) Identification of funding requirements and funding sources for the proposed contract period, if applicable.**



* 2 0 1 7 - M D Z - 4 - V - 2 *

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

(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.

"§ 143-50.3. Periodic review of certain service contracts.

The Department of Administration shall establish a schedule for each State agency to review the business case justification for each agency service, regardless of whether the provider of that service is the State agency itself or a private provider, to verify that the current provider is the most cost-effective provider available. Each State agency shall document the results of its review on the business case justification template developed pursuant to G.S. 143-50.2(a). The schedule shall provide for the review of agency services to occur no less than every five years, but the Department of Administration shall have broad authority to modify the schedule and extend the time for review in appropriate circumstances."

SECTION 2.(a) The Office of State Budget and Management shall develop and submit a plan to determine whether services provided by State agencies could be both more effectively and appropriately provided by private providers, as that term is defined in G.S. 143-50.2(d)(2), as enacted by Section 1 of this act. No later than December 1, 2017, 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.
- (4) If the Office of State Budget and Management determines that a service is not appropriate for performance by a private provider, the plan shall describe the basis for that determination.

SECTION 2.(b) Each State agency shall fully cooperate with the Office of State Budget and Management in the development and submission 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).
 - (5) The results of any reviews of the State agency's procurement processes conducted by the contract management system.
- (c) For purposes of this section, the term "service contract" shall have the same meaning as in G.S. 143-50.2(d)."

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

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

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

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

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

SECTION 6. Section 1 of this act becomes effective October 1, 2017. The remainder of this act is effective when it becomes law.



Bill Draft 2017-MRz-5: Study Unfunded Liability/Retiree Health Fund.

2017-2018 General Assembly

Committee:	Joint Legislative Program Evaluation Oversight Committee	Date:	December 12, 2016
Analysis of:	2017-MRz-5	Prepared by:	Amy Jo Johnson Staff Attorney

SUMMARY: *This draft bill establishes the Joint Legislative Committee on the Unfunded Liability of the Retiree Health Benefit Fund.*

This bill draft is nearly identical to the draft recommended by the Joint Legislative Program Evaluation Oversight Committee on January 11, 2016, and introduced as Senate Bill 808 and House Bill 1027 in the 2016 Regular Session. Reporting dates have been updated.

BILL ANALYSIS: The draft bill establishes the Joint Legislative Committee on the Unfunded Liability of the Retiree Health Benefit Fund, which is charged with examining options for reducing the unfunded liability of the Retiree Health Benefit Fund. The Committee consists of five members of the Senate, five members of the House of Representatives, and three ex officio, non-voting members: the State Treasurer, the Executive Administrator of the State Health Plan, and a representative of the State Health Plan Board of Trustees other than the State Treasurer. The Committee is directed to examine the following options for reducing the unfunded liability of the Retiree Health Benefit Plan:

- (1) Increasing the assets in the Retiree Health Benefit Fund through appropriation by the General Assembly.
- (2) Increasing the costs of retiree benefits borne by the federal government, by means such as the automatic enrollment of Medicare-eligible retirees in Medicare Advantage or the offering of financial incentives to early retirees to obtain insurance through the health insurance exchange created under the Affordable Care Act.
- (3) Reducing the State's future liability by transitioning the State's retiree health benefit from a defined benefit approach to a defined contribution model.
- (4) Reducing the number of persons eligible for retiree benefits by increasing the service time requirements for the benefit or by eliminating the benefit for certain groups.
- (5) Requiring employees to contribute to the Retiree Health Benefit Fund, as they do to the Teachers' and State Employees' Retirement System.
- (6) Increasing the amount that retirees pay for their health benefits by means such as increasing premiums or out-of-pocket costs.
- (7) Any other proposals for reducing the unfunded liability of the Fund identified by the Committee.

The Committee is directed to issue a final report of its findings and recommendations, including any legislation to the 2018 Regular Session of the General Assembly upon its convening, and will terminate upon filing its final report or upon the convening of the 2018 General Assembly, whichever is earlier.

EFFECTIVE DATE: The draft bill is effective when it becomes law.

Kory Goldsmith
Director



Legislative Drafting
919-733-6660

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017**

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BILL DRAFT 2017-MRz-5 [v.2] (11/21)

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

11/22/2016 08:46:13 AM

Short Title: Study Unfunded Liability/Retiree Health Fund.

(Public)

Sponsors:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A JOINT COMMITTEE TO STUDY THE UNFUNDED LIABILITY OF THE RETIREE HEALTH BENEFIT FUND, AS RECOMMENDED BY THE JOINT LEGISLATIVE PROGRAM EVALUATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1.(a) There is established the Joint Legislative Committee on the Unfunded Liability of the Retiree Health Benefit Fund. The Committee shall consist of 13 members as follows:

- (1) Five members of the Senate appointed upon the recommendation of the President Pro Tempore of the Senate, with one of those members serving as a cochair.
- (2) Five members of the House of Representatives appointed upon the recommendation of the Speaker of the House of Representatives, with one of those members serving as a cochair.
- (3) The State Treasurer, or the State Treasurer's designee, serving ex officio as a nonvoting member.
- (4) The Executive Administrator of the State Health Plan, serving ex officio as a nonvoting member.
- (5) A representative of the Board of Trustees of the State Health Plan for Teachers and State Employees selected by the Board, serving ex officio as a nonvoting member.

Vacancies on the Committee shall be filled by the same appointing authority making the initial appointment.

The Committee, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Committee may meet at any time upon the joint call of the cochairs. The Committee may meet in the Legislative Building or the Legislative Office Building. The Committee may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02.

The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Committee in its work. The House of Representatives and the Senate's Directors of Legislative Assistants shall assign clerical staff to the Committee and the expenses relating to the clerical employees shall be borne by the Committee. Members of the Committee shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate.



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1 **SECTION 1.(b)** The Joint Legislative Committee on the Unfunded Liability of the
2 Retiree Health Benefit Fund shall examine the following options for reducing the unfunded
3 liability of the Fund:

- 4 (1) Increasing the assets in the Retiree Health Benefit Fund through appropriation
5 by the General Assembly.
- 6 (2) Increasing the costs of retiree benefits borne by the federal government, by
7 means such as the automatic enrollment of Medicare-eligible retirees in
8 Medicare Advantage or the offering of financial incentives to early retirees to
9 obtain insurance through the health insurance exchange created under the
10 Affordable Care Act.
- 11 (3) Reducing the State's future liability by transitioning the State's retiree health
12 benefit from a defined benefit approach to a defined contribution model.
- 13 (4) Reducing the number of persons eligible for retiree benefits by increasing the
14 service time requirements for the benefit or by eliminating the benefit for
15 certain groups.
- 16 (5) Requiring employees to contribute to the Retiree Health Benefit Fund, as they
17 do to the Teachers' and State Employees' Retirement System.
- 18 (6) Increasing the amount that retirees pay for their health benefits by means such
19 as increasing premiums or out-of-pocket costs.
- 20 (7) Any other proposals for reducing the unfunded liability of the Fund identified
21 by the Committee.

22 **SECTION 1.(c)** The Joint Legislative Committee on the Unfunded Liability of the
23 Retiree Health Benefit Fund shall issue a final report of its findings and recommendations,
24 including any legislation necessary to implement those recommendations, to the 2018 Regular
25 Session of the General Assembly upon its convening. The Committee shall terminate upon filing
26 its final report or upon the convening of the 2018 General Assembly, whichever is earlier.

27 **SECTION 2.** This act is effective when it becomes law.



Bill Draft 2017-LR-13: BOR/Independent Staff/Data Tracking.

2017-2018 General Assembly

Committee: Program Evaluation Oversight
Introduced by:
Analysis of: 2017-LR-13

Date: December 1, 2016
Prepared by: Phyllis B. Pickett
Staff Attorney

OVERVIEW: *The legislation enhances the independence and efficiency of the Board of Review by (i) transferring to the BOR a dedicated legal and support staff serving under the control of the Chair, (ii) implementing data tracking to support operations of the Board and (iii) establishing certain reporting requirements.*

BILL ANALYSIS:

Section 1. -- Amends G.S. 96-15.3 to provide the Board of Review (BOR) with independent legal and support staff serving under the supervisory control of the Chair of the BOR, who is also granted budgetary control of the related personnel funding.

Further, the draft provides that the Department of Commerce, Division of Employment Security (DES), will assist the BOR in the collection and tracking of data necessary to support appeals operations and make continuous improvements to those operations. The following data will be tracked: (i) reversals of BOR determinations by the Superior Court; (ii) referrals from staff attorneys for dismissals, short affirms, and long decisions; (iii) cases remanded back to lower authority appeals or referred back to staff attorneys for modification; and (iv) deviations between the recommendations made by staff attorneys and the determinations of the BOR.

Section 2. -- Transfers, effective July 1, 2017, two attorney and four administrative positions over to the control of the BOR, including the appropriations related to those positions in the amount of four hundred fifteen thousand dollars (\$415,000) for the 2017-2018 fiscal year. (If that funding is insufficient, then additional funds are to be transferred, as necessary.) The Department must report on the transfer to the Chairs of the Joint Legislative Oversight Committee on Unemployment Insurance and the Chairs of the Joint Natural and Economic Resources Committee of the Senate and House of Representatives Appropriations Committees.

Section 3. -- Provides that the BOR will adopt policies, procedures, and standards for higher level appeals by October 1, 2017.

Section 4. -- Sets November 1, 2017, as the date by which the BOR will have commenced tracking data.

Section 5. -- Makes the act effective when it becomes law.

Kory Goldsmith
Director



Legislative Drafting
919-733-6660

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017**

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D

BILL DRAFT 2017-LR-13 [v.1] (11/30)

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

11/30/2016 11:33:05 AM

Short Title: BOR/Independent Staff/Data Tracking.

(Public)

Sponsors:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ENHANCE THE INDEPENDENCE AND EFFICIENCY OF THE BOARD OF REVIEW, AS RECOMMENDED BY THE JOINT LEGISLATIVE PROGRAM EVALUATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. Effective July 1, 2017, G.S. 96-15.3 reads as rewritten:

"§ 96-15.3. Board of Review.

(a) Purpose. – The Board of Review (BOR) is created within the Division. The purpose of the BOR is to determine appeals policies and procedures and to hear appeals arising from the decisions and determinations of the Division. The Department of Commerce must assign staff to the BOR. Division and to develop, document, and adopt the policies, procedures, and standards necessary to ensure consistency and continuity of higher level appeals operations. The BOR and its staff must perform their job shall perform its duties and responsibilities independent of the Governor, the General Assembly, the Department, and the Division and in accordance with any written guidance promulgated and issued by the U.S. Department of Labor.

(b) ~~Members.~~ Members and Staff. – The BOR consists of three members appointed by the Governor and subject to confirmation by the General Assembly as provided in subsection (c) of this section. One member must be classified as representative of employees, one member must be classified as representative of employers, and one member must be classified as representative of the general public. The member appointed to represent the general public will serve as chair of the BOR and must be a licensed attorney in this State.

Members of the BOR serve staggered four-year terms. A term begins on July 1 of the year of appointment and ends on June 30 of the fourth year. No individual may serve more than two terms on the BOR. In calculating the number of terms served, a partial term that is less than 24 months in length will not be included. The General Assembly must set the annual salaries of the BOR in the current Operations Appropriations Act.

The BOR shall be supported by adequate legal and support staff in order to carry out its purposes. To ensure its independence, the staff of the BOR shall report to the chair of the BOR. The BOR staff shall perform its duties and responsibilities independent of the Governor, the General Assembly, the Department, and the Division and in accordance with any written guidance promulgated and issued by the U.S. Department of Labor.

(c) Confirmation. – Appointments of members to serve on the BOR are subject to confirmation by the General Assembly by joint resolution. The Governor must submit the name of the individual the Governor wants to appoint to the BOR to the General Assembly for



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confirmation on or before May 1 of the year of the expiration of the term. If the General Assembly does not confirm the appointment by May 30, the office will be considered vacant and must be filled in accordance with subsection (d) of this section. The Governor may not resubmit the name of the nominee whom the General Assembly did not confirm for the office. If the Governor fails to timely submit a nomination, the General Assembly will appoint to fill the succeeding term as provided in subsection (e) of this section.

(d) Vacancies. – For the purpose of this subsection, the General Assembly is not in session only (i) prior to convening of the regular session, (ii) during any adjournment of the regular session for more than 10 days, and (iii) after sine die adjournment of the regular session. A vacancy in an office of the BOR prior to the expiration of the term of office must be filled in accordance with this subsection:

(1) During legislative session. – If a vacancy in an office arises or exists when the General Assembly is in session, the Governor must submit the name of the individual to be appointed to fill the vacancy for the remainder of the unexpired term within 30 days after the vacancy arises to the General Assembly for confirmation by the General Assembly. If the General Assembly does not confirm the appointment within 30 days after the General Assembly receives the nomination, the office will be considered vacant and must be filled in accordance with this subsection. The Governor may not resubmit the name of the nominee whom the General Assembly did not confirm for the vacancy. If the Governor fails to timely submit a nomination, the General Assembly will appoint to fill the vacancy as provided in subsection (e) of this section.

(2) During legislative interim. – If a vacancy in an office arises or exists when the General Assembly is not in session, the Governor must appoint an individual to that office to serve on an interim basis pending confirmation by the General Assembly. The Governor must submit the name of the individual to be appointed to fill the vacancy for the remainder of the unexpired term to the General Assembly for confirmation within 14 days of the date the General Assembly convenes or reconvenes for the next regular session. If the Governor fails to timely submit a nomination, the General Assembly will appoint to fill the vacancy as provided in subsection (e) of this section.

(e) Legislative Appointments. – If the Governor fails to timely submit the name of an individual to be appointed to the BOR as provided in this section, then the General Assembly may appoint an individual to fill the vacancy in accordance with G.S. 120-121 and the provisions of this subsection. If the vacancy occurs in an odd-numbered year, the appointment is made upon the recommendation of the President Pro Tempore of the Senate. If the vacancy occurs in an even-numbered year, the appointment is made upon the recommendation of the Speaker of the House of Representatives.

(f) Data Tracking. – The Division shall assist the BOR in collecting and tracking data necessary to support appeals operations and make continuous improvements to those operations. At a minimum, the following data shall be tracked:

- (1) Reversals of BOR determinations by the Superior Court.
- (2) Referrals from staff attorneys for dismissals, short affirms, and long decisions.
- (3) Cases remanded back to lower authority appeals or referred back to staff attorneys for modification.
- (4) Deviations between the recommendations made by staff attorneys and the determinations of the BOR."

SECTION 2. Effective July 1, 2017, the Department of Commerce (Department), Division of Employment Security (DES), shall transfer, at minimum, two attorney and four administrative staff positions within DES to the control of the Board of Review (BOR) in accordance with G.S. 96-15.3(a), as enacted by this act. The Department shall set up a separate

1 fund code titled "Board of Review" within the DES budget code 24650. Of the funds appropriated
2 to DES for the administration of the unemployment insurance program as required by federal law
3 and guidelines, DES shall transfer to the new fund code for BOR at least the sum of four hundred
4 fifteen thousand dollars (\$415,000) for the 2017-2018 fiscal year to pay the staff costs of the
5 Board of Review. By October 1, 2017, the Department shall report on the transfer to the chairs of
6 the Joint Legislative Oversight Committee on Unemployment Insurance and the chairs of the Joint
7 Natural and Economic Resources Committee of the Senate and House of Representatives
8 Appropriations Committees.

9 **SECTION 3.** By October 1, 2017, the Board of Review shall adopt policies,
10 procedures, and standards for higher level appeals in accordance with G.S. 96-15.3, as enacted by
11 this act.

12 **SECTION 4.** By November 1, 2017, the Board of Review shall track data in
13 accordance with G.S. 96-15.3, as enacted by this act.

14 **SECTION 5.** Except as otherwise provided, this act is effective when it becomes law.



Bill Draft 2017-MMz-2: Legislator Subsistence/Travel Rates - PED.

2017-2018 General Assembly

Committee:	Joint Legislative Program Evaluation Committee	Date:	December 12, 2016
Introduced by:		Prepared by:	David Unwin
Analysis of:	2017-MMz-2		Staff Attorney

OVERVIEW: Draft 2017-MMz-2 would increase legislator subsistence allowance to match the 2017 fiscal year maximum per diem rate as set by the U.S. General Services Administration (GSA) and the maximum per diem rate as revised by the U.S. Department of Defense (DOD) on June 30, 2016 and would increase the legislator travel allowance to match the 2016 calendar year business standard mileage rate as set by the Internal Revenue Service (IRS).

CURRENT LAW: G.S. 120-3.1 currently matches legislator subsistence and travel allowance to 1994 maximum per diem and business standard mileage rates.

BILL ANALYSIS:

- Draft 2017-MMza-2 would increase legislator subsistence allowance to match the 2017 fiscal year maximum per diem rate as set by the GSA, which can be found at www.gsa.gov/perdiem. The maximum per diem rate for travel to Raleigh is \$170.00 total, or \$111.00 for lodging plus \$59.00 for meals and incidental expenses. A legislator authorized to travel to a location within the United States but outside North Carolina could receive \$51.00 for meals, which is the standard GSA rate, plus actual lodging expenses, the latter not to exceed the maximum per diem rate for that location. If the location is within the contiguous United States, the GSA rate would apply, and if the location is within the United States but outside the contiguous United States, the DOD rate would apply.
- Draft 2017-MMza-2 would increase legislator travel allowance to match the 2016 calendar year business standard mileage rate as set by the IRS, which can be found at www.irs.gov. The business standard mileage rate is 54 cents per mile.

EFFECTIVE DATE: The legislator subsistence and travel allowance increases would become effective upon the convening of the 2019 General Assembly.

BACKGROUND: Two constitutional issues affect the drafting of this bill. First, Article II, section 16 of the N.C. Constitution provides that an increase in legislator compensation or allowances shall become effective at the beginning of the regular session *following* the session in which the bill was enacted. Second, Article I, section 6 and Article II, section 1 of the N.C. Constitution, which vest the legislative power in the General Assembly alone, would invalidate a bill that adopted by reference a future law passed by a different body.

Kory Goldsmith
Director



Legislative Drafting
919-733-6660

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017**

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BILL DRAFT 2017-MMz-2 [v.14] (11/17)

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

11/30/2016 03:48:10 PM

Short Title: Legislator Subsistence/Travel Rates - PED.

(Public)

Sponsors:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO INCREASE LEGISLATOR SUBSISTENCE AND TRAVEL ALLOWANCES TO MATCH THE 2017 FISCAL YEAR GENERAL SERVICES ADMINISTRATION MAXIMUM PER DIEM RATE, THE DEPARTMENT OF DEFENSE MAXIMUM PER DIEM RATE AS REVISED ON JUNE 30, 2016, AND THE 2016 INTERNAL REVENUE SERVICE BUSINESS STANDARD MILEAGE RATE AS RECOMMENDED BY THE JOINT LEGISLATIVE PROGRAM EVALUATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. Effective upon the convening of the 2019 General Assembly, G.S. 120-3.1 reads as rewritten:

"§ 120-3.1. Subsistence and travel allowances for members of the General Assembly.

(a) In addition to compensation for their services, members of the General Assembly shall be paid the following allowances:

- (1) A weekly travel allowance for each week or fraction thereof that the General Assembly is in regular or extra session. The amount of the weekly travel allowance shall be calculated for each member by multiplying the actual round-trip mileage from that member's home to the City of Raleigh by the rate per mile which is the business standard mileage rate set by the Internal Revenue Service in ~~Rev. Proc. 93-51, December 27, 1993.~~ IR-2015-137, December 17, 2015.
- (2) A travel allowance at the rate which is the business standard mileage rate set by the Internal Revenue Service in ~~Rev. Proc. 93-51, December 27, 1993,~~ IR-2015-137, December 17, 2015, whenever the member travels, whether in or out of session, as a representative of the General Assembly or of its committees or commissions, with the approval of the Legislative Services Commission.
- (3) A subsistence allowance for meals and lodging at a daily rate equal to the 2017 fiscal year maximum per diem rate for federal employees traveling to Raleigh, North Carolina, as set out at 58 Federal Register 67959 (December 22, 1993), noticed by the General Services Administration at 81 Federal Register 54805 (August 17, 2016), while the General Assembly is in session and, except as otherwise provided in this subdivision, while the General Assembly is not in session when, with the approval of the Speaker of the House of Representatives



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in the case of Representatives or the President Pro Tempore of the Senate in case of Senators, the member is:

- a. Traveling as a representative of the General Assembly or of its committees or commissions, or
- b. Otherwise in the service of the State.

A member who is authorized to travel, whether in or out of session, within the United States outside North Carolina, may elect to receive, in lieu of the amount provided in the preceding paragraph, a subsistence allowance of ~~twenty-six dollars (\$26.00)~~ fifty-one dollars (\$51.00) a day for meals, plus actual expenses for lodging when evidenced by a receipt satisfactory to the Legislative Services Officer, the latter not to exceed either the 2017 fiscal year maximum per diem rate for federal employees traveling to the same place, as set out at 58 Federal Register 67950-67964 (December 22, 1993) and at 59 Federal Register 23702-23709 (May 6, 1994), noticed by the General Services Administration at 81 Federal Register 54805 (August 17, 2016) for locations within the contiguous United States or the maximum per diem rate as set out by the Department of Defense at 81 Federal Register 42673 (June 30, 2016) for locations within the United States but outside the contiguous United States.

- (4) A member may be reimbursed for registration fees as permitted by the Legislative Services Commission.

...."

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



Bill Draft 2017-MMz-1: SOG Pilot Project Standards/PED.

2017-2018 General Assembly

Committee:	Joint Legislative Program Evaluation Oversight Committee	Date:	December 12, 2016
Introduced by:		Prepared by:	David Unwin Staff Attorney
Analysis of:	2017-MMz-1		

OVERVIEW: *Draft 2017-MMza-1 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 would impose the rules on all pilot projects mandated by the General Assembly on or after June 1, 2019.*

CURRENT LAW & BILL ANALYSIS:

- The current statutes do not provide for a set of standards that must be applied to all pilot projects enacted by the General Assembly.
- Draft 2017-MMza-1 would require the School of Government (SOG) to conduct research on pilot project 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, 2017. 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 representatives from State agencies and the constituent institutions of The University of North Carolina, 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, the Director of the Program Evaluation Division, and OSBM by December 1, 2018.
- 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 on or after June 1, 2019 would be subject to these rules. The SOG would be allowed to propose updates to the rules to be adopted by OSBM.

EFFECTIVE DATE: This act would become effective when it becomes law and would apply to rules adopted on or after that date.

Kory Goldsmith
Director



Legislative Drafting
919-733-6660

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017**

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BILL DRAFT 2017-MMz-1 [v.6] (11/17)

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

11/30/2016 03:49:23 PM

Short Title: SOG Pilot Project Standards/PED.

(Public)

Sponsors:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE SCHOOL OF GOVERNMENT AT THE UNIVERSITY OF NORTH CAROLINA TO DEVELOP STANDARDS FOR STATE AGENCIES TO USE WHEN DESIGNING AND IMPLEMENTING PILOT PROJECTS MANDATED BY THE GENERAL ASSEMBLY, TO REQUIRE THE OFFICE OF STATE BUDGET AND MANAGEMENT TO ADOPT RULES IMPLEMENTING THOSE STANDARDS, TO REQUIRE ALL PILOT PROJECTS MANDATED BY THE GENERAL ASSEMBLY TO USE THOSE STANDARDS AS RECOMMENDED BY THE JOINT LEGISLATIVE PROGRAM EVALUATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The School of Government at the University of North Carolina at Chapel Hill (SOG) shall conduct research on existing evaluation standards and identify approaches for designing projects that collect appropriate and adequate data for sound evaluation of pilot projects. The SOG shall submit a preliminary report summarizing the research findings to the Joint Legislative Program Evaluation Oversight Committee, the Director of the Program Evaluation Division, and the Office of State Budget and Management by December 1, 2017. The Joint Legislative Program Evaluation Oversight Committee shall provide feedback to the SOG on the preliminary report.

SECTION 1.(b) The SOG shall coordinate a working group charged with developing standards for State agencies to use when designing and implementing pilot projects mandated by the General Assembly. The working group shall include representatives from State agencies and the constituent institutions of The University of North Carolina. The working group shall submit a report describing the proposed standards to the Joint Legislative Program Evaluation Oversight Committee, the Director of the Program Evaluation Division, and the Office of State Budget and Management by December 1, 2018.

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

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.



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

7 (b) Requirement. – Beginning June 1, 2019 and unless specifically exempted by law, all
8 departments, agencies, bureaus, divisions, and institutions of the State shall conduct and complete
9 pilot projects required by law by the General Assembly, in accordance with the rules adopted by
10 the Office of State Budget and Management in subsection (a) of this section.

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

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

20 **SECTION 3.** This act is effective when it becomes law.