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SENATE DRS45293-MN-5A (01/08)

Short Title: NC Accountability.

(Public)

Sponsors: Senators Stein and B. Jackson (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE STATE AGENCIES AND CERTAIN NON-STATE ENTITIES TO
3 DEVELOP, IMPLEMENT, AND MAINTAIN INFORMATION SYSTEMS THAT
4 PROVIDE UNIFORM, PROGRAM-LEVEL ACCOUNTABILITY INFORMATION
5 REGARDING THE PROGRAMS OPERATED BY THOSE AGENCIES.

6 The General Assembly of North Carolina enacts:

7 **PART I. TAXPAYER INVESTMENT ACCOUNTABILITY INFORMATION**
8 **FRAMEWORK.**

9 **SECTION 1.** Chapter 143 of the General Statutes is amended by adding a new
10 Article to read:

11 "Article 2E.

12 "Accountability for Taxpayer Investment Act.

13 "**§ 143-47.30. Definitions.**

14 The following definitions apply in this Article:

- 15 (1) Benchmarks. – A broad societal indicator used for gauging ultimate
16 outcomes of programs, such as U.S. Census data. Multiple programs among
17 several agencies may be benchmarked to the same indicator.
18 (2) Board. – The Taxpayer Investment Accountability Board established by this
19 Article.
20 (3) Efficiency. – The verifiable total direct and indirect cost per output and per
21 outcome.
22 (4) Evidence-based. – Having had multiple-site random controlled trials across
23 heterogeneous populations that demonstrate that a program or practice is
24 effective for the populations.
25 (5) Non-State entity. – Any of the following that is not a State agency and that
26 must be discretely presented as a component unit in the State
27 Comprehensive Annual Financial Report by the Governmental Accounting
28 Standards Board: an individual, a firm, a partnership, an association, a
29 corporation, or any other organization or group acting as a unit. The term
30 does not include a local government unit or any other non-State entity that is
31 subject to the audit and other requirements of the Local Government
32 Commission.
33 (6) Outcome. – The verifiable quantitative effects or results attributable to a
34 program compared to a performance standard.
35 (7) Output. – The verifiable number of units of services or activities provided by
36 a program.



- 1 (8) Performance standards. – The metrics based upon best practices, generally
2 recognized standards, or comparisons with relevant peer entities in other
3 states or regions for gauging achievement of efficiency, output, and
4 outcomes.
- 5 (9) Program. – An activity or set of activities intended to achieve an outcome
6 that benefits the public.
- 7 (10) Promising practices. – Practices that present, based upon preliminary
8 information, potential for becoming research-based.
- 9 (11) Principal executive officer. – Executive head of a State agency or non-State
10 entity.
- 11 (12) Research-based. – Having some research demonstrating effectiveness that
12 does not yet meet the standard for being evidence-based.
- 13 (13) State agency. – Any department, institution, board, commission, committee,
14 division, bureau, board, council, or other entity for which the State has
15 oversight responsibility, including The University of North Carolina, the
16 Community College System, and any mental or specialty hospital.
- 17 (14) Taxpayer. – Any person subject to taxation by the State or by a unit of local
18 government.

19 **"§ 143-47.31. Purpose; scope.**

- 20 (a) The purpose of this Article is to require uniform, program-level accountability
21 information in State government.
- 22 (b) This Article applies to any State agency in the executive branch of State
23 government. This Article also applies to any non-State entity that receives State funds.

24 **"§ 143-47.32. Taxpayer Investment Accountability Board – creation, membership,**
25 **staffing and support; meetings; compensation.**

- 26 (a) There is established the Taxpayer Investment Accountability Board. The members
27 of the Board shall be as follows:
- 28 (1) The Director of the Office of State Budget and Management, or the
29 Director's designee.
- 30 (2) The State Controller, or the Controller's designee.
- 31 (3) The State Chief Information Officer, or the Officer's designee.
- 32 (4) The Director of the Office of State Human Resources, or the Director's
33 designee.
- 34 (5) The State Auditor, or the Auditor's designee, who shall serve as a nonvoting
35 member.
- 36 (b) The Director of the Office of State Budget and Management shall be the Chair of
37 the Board.
- 38 (c) The management division of the Office of State Budget and Management shall
39 provide staff and adequate meeting space to the Board and shall provide any other type of
40 support required by the Board.
- 41 (d) The Board shall meet at least four times a year and may meet as often as necessary
42 on call of the Chair. A majority of the members of the Board constitutes a quorum for the
43 transaction of business. The affirmative vote of a majority of the members present at a meeting
44 of the Board is required for action to be taken by the Board.
- 45 (e) The Board members shall receive no salary or other monetary compensation for
46 servng on the Board.

47 **"§ 143-47.33. Taxpayer Investment Accountability Board – information framework.**

- 48 (a) The Board shall design and establish a framework for providing the citizens of
49 North Carolina uniform, program-level accountability information in State government. As part
50 of the framework, the Board shall adopt comprehensive standards, policies, and procedures,
51 including recurring oversight procedures, to implement the framework's use.

- 1 **(b)** The framework shall provide a way for each State agency and each non-State
2 agency to provide the following information in a uniform manner on a Web site:
- 3 **(1)** The mission, responsibilities, and activities of the State agency or non-State
4 entity.
 - 5 **(2)** An inventory of programs administered by the State agency or non-State
6 entity, consisting of a title and a summary description of each program.
 - 7 **(3)** For each program, a clear description of the problem the program is seeking
8 to remedy or the public service the program is seeking to provide.
 - 9 **(4)** For each program, a description of the sources of program resources, total
10 resources invested, activities and processes, outputs, and outcomes. This
11 information may include an identification of impediments to the program's
12 success and a description of the ways the State agency or non-State entity
13 plans to address them.
 - 14 **(5)** Revenues by source and expenditures by purchasing category aligned with
15 each program individually.
 - 16 **(6)** For each program, a statement identifying the program as evidence-based,
17 research-based, based on promising practices, or, if none of these apply, a
18 statement describing the basis for the program and the reasons why the
19 program is expected or perceived to be successful.
 - 20 **(7)** Performance measures for each program sufficient for a citizen to determine
21 the outcome, output, and efficiency of the program, including a description
22 of any benchmarks used in evaluating the program.
 - 23 **(8)** Organization charts and manager-to-employee ratios in the format specified
24 by the Office of State Human Resources under G.S. 143-47.38. In addition
25 to a comprehensive chart, the Board shall require each State agency and
26 non-State entity to have separate charts for each organizational division and
27 in turn for each subordinate division or work unit in sufficient detail that a
28 citizen may determine the organizational location of every employee
29 position.
 - 30 **(9)** A listing of employees. The Board may require the listing to contain the
31 following fields for each employee: last name; first name; job title; and, as
32 appropriate, organizational division and program. The Board may also
33 require the directory to have a search feature to enable searching or listing
34 by field.
 - 35 **(10)** At least one telephone number that complies with the requirements of
36 G.S. 143-162.1 that members of the public may use to contact the State
37 agency or non-State entity for service or information.
 - 38 **(11)** A list of the reports required by law to be prepared and submitted by the
39 State agency or non-State entity, organized by recipient and by due date.
 - 40 **(12)** Any additional information deemed necessary or appropriate by the Board.
- 41 **(c)** The standards, policies, and procedures adopted by the Board shall include all of the
42 following:
- 43 **(1)** Policies and standards to determine when a non-State entity may limit the
44 information required under this Article to those programs and activities for
45 which the non-State entity received State funds.
 - 46 **(2)** A policy allowing State agencies and non-State entities to withhold or redact
47 information about individual employees, including telephone listings, when
48 the disclosure of the information would foreseeably result in harm to the
49 employee, when required by law or a court order, or for other good cause
50 described in the policy.

1 (d) The Board shall design the framework to ensure that the information required in
2 subsection (b) of this section is accessible through the main State government Web site. The
3 framework shall require each State agency and non-State entity to include in its information
4 system a Web-based dashboard that uses a uniform format and reports all required performance
5 information in a graphical format. The format shall be sufficient to inform a citizen how the
6 State is investing money consistent with purposes described in subsection (b) of this section.

7 (e) The Board shall provide an explanation in clear, simple language of key terms to be
8 used by State agencies.

9 **"§ 143-47.34. Taxpayer Accountability Board – opportunity for State agency and**
10 **non-State entity comments on proposed framework.**

11 After the Board completes its initial framework design and draft of implementing standards,
12 policies, and procedures, the Board shall cause the framework design and draft standards,
13 policies, and procedures to be posted on the Web site of the Office of State Budget and
14 Management. The Board shall then notify each State agency and each non-State agency subject
15 to this Article of the posting. The notification may be sent to (i) the principal executive officer
16 of a State agency or the principal executive officer of a non-State entity, (ii) the State agency's
17 rule-making coordinator, or (iii) another individual designated by the State agency or non-State
18 entity. The Board shall allow a period of at least 30 days after the notice required in this
19 subsection is sent for a State agency or non-State entity to comment, and the Board shall review
20 and consider all comments received before finalizing the framework and the standards, policies,
21 and procedures. The Board in its discretion may allow other opportunities for comment.

22 **"§ 143-47.35. Taxpayer Accountability Board – report.**

23 The Board shall publish an annual report by January 1 of each year setting out the
24 standards, policies, and procedures to be used by agencies in providing and maintaining the
25 information required by this Article within the framework established by the Board. The Board
26 shall provide a copy of the report to each State agency and each non-State entity subject to this
27 Article and to the Program Evaluation and Fiscal Research Divisions of the General Assembly.

28 **"§ 143-47.36. Required State agency and non-State entity information.**

29 (a) Each State agency shall establish, implement, and maintain within that State agency
30 a system that provides the information required under G.S. 143-47.33 within the framework
31 established by the Board. Each non-State entity, as a condition of receiving State funds, shall
32 establish, implement, and maintain within that non-State entity a system that provides the
33 information required pursuant to G.S. 143-47.33 within the framework established by the
34 Board. The system shall comply with the framework design and the standards, policies, and
35 procedures established by the Board.

36 The information shall be updated on a timely basis. Each information system shall be
37 readily and easily accessible to the citizens of North Carolina.

38 (b) The principal executive officer of each State agency and the principal executive
39 officer of each non-State entity are responsible for ensuring that the State agency or non-State
40 entity, as appropriate, complies with the requirements of this Article.

41 (c) Except as permitted under a policy adopted by the Board under
42 G.S. 143-47.33(c)(2), each State agency and non-State entity subject to this Article shall also
43 list its employees in the directory available through the main State government Web site.

44 **"§ 143-47.37. Verification of compliance by State Auditor; statement of compliance.**

45 (a) Internal auditors in State agencies required to have auditors pursuant to Article 79 of
46 Chapter 143 of the General Statutes shall conduct annual audits for compliance with the
47 requirements of this Article. The internal auditor shall submit an audit report annually to the
48 State Auditor and the Director of the Office of State Budget and Management no later than
49 April 1.

50 (b) Every other State agency, and each non-State entity that must comply with this
51 Article, shall submit annually to the State Auditor and the Director of the Office of State

1 Budget and Management no later than July 1 of each year a statement that the State agency or
2 non-State entity has reviewed the information provided by it as required by G.S. 143-47.36 and
3 that it is in compliance with the Article requirements. The statement shall be signed by the
4 principal executive officer of each State agency or the principal executive officer of each
5 non-State entity, as applicable.

6 (c) The State Auditor may verify compliance with this Article by each State agency and
7 each non-State entity on an annual basis. Upon the determination of the State Auditor that a
8 State agency or non-State entity has failed to substantially comply with the provisions of this
9 Article, the State Auditor shall report the noncompliance to the Board, the Governor, the Joint
10 Legislative Commission on Governmental Operations, and the Fiscal Research Division of the
11 General Assembly.

12 **"§ 143-47.38. Availability of technical assistance from the Office of State Human**
13 **Resources, the Office of State Budget and Management, and the Office of**
14 **Information Technology.**

15 (a) The Office of State Human Resources shall adopt rules setting the standards and
16 format for the organization charts and manager-to-employee ratios required by G.S. 143-47.33.
17 The Office of State Human Resources also shall provide templates and technical assistance to
18 State agencies and non-State entities as needed to assure the uniformity required by this Article.

19 (b) The Office of State Budget and Management, the Office of the State Controller, and
20 the Office of Information Technology shall also provide technical assistance and software to
21 State agencies and non-State entities as needed to assure the uniformity required by this Article.

22 **"§ 143-47.39. Remedy for noncompliance.**

23 (a) Any taxpayer may bring a civil action in the superior court requesting the entry of a
24 judgment that a State agency or a non-State entity, as appropriate, has failed to comply with
25 this Article. Specific performance compelling the State agency or non-State entity to comply
26 with this Article shall be the available remedy. The taxpayer need not allege or prove special
27 damage different from that suffered by the public at large.

28 (b) Upon the presentation by the taxpayer plaintiff of a prima facie case that a State
29 agency or non-State entity has failed to comply with this Article, the burden shall be on the
30 State agency or non-State entity, as appropriate, to show that it is in compliance with this
31 Article.

32 (c) No State agency or non-State entity shall be held in noncompliance with this Article
33 if it establishes that it has made a good-faith effort to comply with the provisions of this Article.

34 (d) In any action brought pursuant to this section in which a party successfully compels
35 compliance, the court shall allow the plaintiff to recover the plaintiff's reasonable attorneys'
36 fees. Any attorneys' fees assessed against a State agency or non-State entity under this section
37 shall be charged against the operating expenses of the State agency or non-State entity, as
38 appropriate.

39 (e) If the court determines that an action brought pursuant to this section was filed in
40 bad faith or was frivolous, the court shall assess reasonable attorneys' fees against the person
41 instituting the action and award it to the State agency or non-State entity, as appropriate, as part
42 of the costs."

43 **SECTION 2.** G.S. 150B-1(c) is amended by adding a new subdivision to read:

44 **"(9) The Taxpayer Investment Accountability Board established in**
45 **G.S. 143-47.32."**

46 **SECTION 3.** Each State agency or a non-State entity subject to this act shall, if
47 necessary, revise its information system to comply with this act. Each State agency, whether
48 implementing a new information system or revising an existing system to bring it into
49 compliance with the provisions of this act, shall use the State agency's existing resources
50 allocated for computers and computer maintenance to comply with this act.

1 **SECTION 4.(a)** The Taxpayer Information Accountability Board established under
2 G.S. 143-47.32, as enacted by Section 1 of this act, shall finalize the framework and associated
3 standards, policies, and procedures required under G.S. 143-47.33, as enacted by Section 1 of
4 this act, no later than March 1, 2016.

5 **SECTION 4.(b)** This act becomes effective with respect to the Department of
6 Health and Human Services and the Department of Public Instruction on January 1, 2017. This
7 act becomes effective with respect to all other State agencies and non-State entities subject to
8 this act on January 1, 2018. Each State agency and non-State entity subject to this act shall file
9 its first report under G.S. 143-47.37 by April 1 or July 1, as applicable, following the effective
10 date that applies to it.

11 **PART II. NORTH CAROLINA ACCOUNTABILITY REPORT.**

12 **SECTION 5.** G.S. 120-36.12 is amended by adding a new subdivision to read as
13 follows:

14 **"§ 120-36.12. Duties of Program Evaluation Division.**

15 The Program Evaluation Division of the Legislative Services Commission has the
16 following powers and duties:

17 ...

18 (11) To create and maintain the North Carolina Accountability Report, as
19 required by G.S. 120-36.19."

20 **SECTION 6.** Article 7C of Chapter 120 of the General Statutes is amended by
21 adding a new section to read as follows:

22 **"§ 120-36.19. North Carolina Accountability Report.**

23 (a) The Program Evaluation Division shall create and maintain the North Carolina
24 Accountability Report. The report shall be published in a publically available Web-based
25 format. The report shall list the inventory of programs in each State department and State
26 agency and a profile of each program. The profile shall (i) describe why it exists, how it is
27 funded, and what current issues exist and (ii) include references to pertinent information,
28 including technical studies, audit reports, Program Evaluation Division reports, and similar
29 research. The report shall be easily searchable and shall be indexed by categories defined by the
30 Program Evaluation Division.

31 (b) Each program profile shall contain an accountability rating based on the degree of
32 compliance with the standards established by the Taxpayer Investment Accountability Board
33 and a categorization of the program as one of the following:

34 (1) Evidence-based.

35 (2) Research-based.

36 (3) Based on promising practices.

37 (4) Presenting no evidence of effectiveness.

38 (c) The definitions in G.S. 143-47.30 apply to this section."

39 **SECTION 7.** The Program Evaluation Division shall complete the initial North
40 Carolina Accountability Report required under G.S. 120-36.19, as enacted by Section 6 of this
41 act, no later than July 1, 2018. The Division shall establish a schedule for ongoing review and
42 update of the Report.

43 **SECTION 8.** The Governor shall include in the Governor's Recommended Budget
44 for the 2019-2020 biennium the accountability rating established by the Program Evaluation
45 Division for each program and a list of programs by department or agency in the following
46 order: evidence-based, research-based, based on promising practices, and other programs.

47 **PART III. EFFECTIVE DATE.**

48 **SECTION 9.** Except as otherwise provided, this act is effective when it becomes
49 law.