

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009**

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**SENATE BILL 1218\***

Short Title: Nonprofit Grants/Increase Accountability. (Public)

Sponsors: Senators Hartsell and Clodfelter.

Referred to: Appropriations/Base Budget.

May 19, 2010

1 A BILL TO BE ENTITLED  
2 AN ACT TO IMPROVE THE OVERSIGHT OF STATE GRANTS TO NON-STATE  
3 ENTITIES AND TO INCREASE THE ACCOUNTABILITY OF GRANTEES WHO  
4 RECEIVE STATE GRANTS, AS RECOMMENDED BY THE JOINT LEGISLATIVE  
5 PROGRAM EVALUATION OVERSIGHT COMMITTEE.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 143C-6-23 reads as rewritten:

8 **"§ 143C-6-23. State grant funds: administration; oversight and reporting requirements.**

9 (a) Definitions. – The following definitions apply in this section:

- 10 (1) "Grant" and "grant funds" means State funds disbursed as a grant by a State  
11 agency; however, the terms do not include any payment made by the  
12 Medicaid program, the State Health Plan for Teachers and State Employees,  
13 or other similar medical programs.
- 14 (2) "Grantee" means a non-State entity that receives State funds as a grant from  
15 a State agency but does not include any non-State entity subject to the audit  
16 and other reporting requirements of the Local Government Commission.
- 17 (3) "Subgrantee" means a non-State entity that receives State funds as a grant  
18 from a grantee or from another subgrantee but does not include any  
19 non-State entity subject to the audit and other reporting requirements of the  
20 Local Government Commission.

21 (b) Conflict of Interest Policy. – Every grantee shall file with the State agency  
22 disbursing funds to the grantee a copy of that grantee's policy addressing conflicts of interest  
23 that may arise involving the grantee's management employees and the members of its board of  
24 directors or other governing body. The policy shall address situations in which any of these  
25 individuals may directly or indirectly benefit, except as the grantee's employees or members of  
26 its board or other governing body, from the grantee's disbursing of State funds, and shall  
27 include actions to be taken by the grantee or the individual, or both, to avoid conflicts of  
28 interest and the appearance of impropriety. The policy shall be filed before the disbursing State  
29 agency may disburse the grant funds.

30 (c) No Overdue Tax Debts. – Every grantee shall file with the State agency or  
31 department disbursing funds to the grantee a written statement completed by that grantee's  
32 board of directors or other governing body stating that the grantee does not have any overdue  
33 tax debts, as defined by G.S. 105-243.1, at the federal, State, or local level. The written  
34 statement shall be made under oath and shall be filed before the disbursing State agency or  
35 department may disburse the grant funds. A person who makes a false statement in violation of  
36 this subsection is guilty of a criminal offense punishable as provided by G.S. 143C-10-1.



1 (d) Office of State Budget Rules Must Require Uniform Administration of State Grants.  
2 – The Office of State Budget and Management shall adopt rules to ensure the uniform  
3 administration of State grants by all grantor State agencies and grantees or subgrantees. The  
4 Office of State Budget and Management shall consult with the Office of the State Auditor and  
5 the Attorney General in establishing the rules required by this subsection. The rules shall  
6 establish policies and procedures for disbursements of State grants and for State agency  
7 oversight, monitoring, and evaluation of grantees and subgrantees. The policies and procedures  
8 shall:

- 9 (1) Ensure that the purpose and reporting requirements of each grant are  
10 specified to the grantee.  
11 (2) Ensure that grantees specify the purpose and reporting requirements for  
12 grants made to subgrantees.  
13 (2a) Require each contract that awards a grant to include all of the following:  
14 a. Concrete, measurable benchmarks against which to measure success.  
15 The benchmarks shall address the expected quantifiable outputs and  
16 outcomes.  
17 b. Identification of program performance measures that will be used to  
18 compare quantifiable outputs and outcomes against the benchmarks  
19 established in contracts pursuant to this subdivision.  
20 c. For purposes of this subdivision the term "output" means quantified  
21 activities performed by the grantee and the term "outcome" means  
22 what happens as a result of the grantee's activities.  
23 (3) Ensure that State funds are spent in accordance with the purposes for which  
24 they were granted.  
25 (4) Hold the grantees and subgrantees accountable for the legal and appropriate  
26 expenditure of grant funds.  
27 (5) Provide for adequate oversight and monitoring to prevent the misuse of grant  
28 funds.  
29 (5a) Establish the criteria for grants from which oversight costs may be withheld  
30 by a State agency pursuant to subsection (f1) of this section.  
31 (5b) Provide procedures for the determination of the amount of a grant that may  
32 be withheld for administrative costs pursuant to subsection (f1) of this  
33 section.  
34 (6) Establish mandatory periodic reporting requirements for grantees and  
35 subgrantees, including methods of reporting, to provide financial ~~and~~  
36 ~~program performance~~ information. The mandatory periodic reporting  
37 requirements shall require grantees and subgrantees to file with the State  
38 Auditor copies of reports and statements that are filed with State agencies  
39 pursuant to this subsection. Compliance with the mandatory periodic  
40 reporting requirements of this subdivision shall not require grantees and  
41 subgrantees to file with the State Auditor the information described in  
42 subsections (b) and (c) of this section.  
43 (6a) Establish mandatory periodic reporting requirements for grantees and  
44 subgrantees, including reporting on benchmarks set out in the contract  
45 awarding the grant pursuant to subdivision (2a) of this subsection by means  
46 of performance measures identified in the contract. Performance reporting  
47 shall be reviewed by the State agency overseeing the grant on an ongoing  
48 basis. The State agency overseeing the grant shall submit an annual  
49 performance report to the Office of State Budget and Management.  
50 (7) Require grantees and subgrantees to maintain reports, records, and other  
51 information to properly account for the expenditure of all grant funds and to

1 make such reports, records, and other information available to the grantor  
2 State agency for oversight, monitoring, and evaluation purposes.

3 (8) Require grantees and subgrantees to ensure that work papers in the  
4 possession of their auditors are available to the State Auditor for the  
5 purposes set out in subsection (i) of this section.

6 (9) Require grantees to be responsible for managing and monitoring each  
7 project, program, or activity supported by grant funds and each subgrantee  
8 project, program, or activity supported by grant funds.

9 (9a) Require a State agency that oversees a grant program to develop a  
10 monitoring plan for that program. The State agency shall provide a  
11 description of its monitoring plan and any additional information regarding  
12 that plan to the Office of State Budget and Management.

13 (10) Provide procedures for the suspension of further disbursements or use of  
14 grant funds for noncompliance with these rules or other inappropriate use of  
15 the funds.

16 (11) Provide procedures for use in appropriate circumstances for reinstatement of  
17 disbursements that have been suspended for noncompliance with these rules  
18 or other inappropriate use of grant funds.

19 (12) Provide procedures for the recovery and return to the grantor State agency of  
20 unexpended grant funds from a grantee or subgrantee if the grantee or  
21 subgrantee is unable to fulfill the purposes of the grant.

22 (e) Rules Are Subject to the Administrative Procedure Act. – Notwithstanding the  
23 provisions of G.S. 150B-2(8a)b. rules adopted pursuant to subsection (d) of this section are  
24 subject to the provisions of Chapter 150B of the General Statutes.

25 (f) Suspension and Recovery of Funds to Grant Recipients for Noncompliance. – The  
26 Office of State Budget and Management, after consultation with the administering State  
27 agency, shall have the power to suspend disbursement of grant funds to grantees or  
28 subgrantees, to prevent further use of grant funds already disbursed, and to recover grant funds  
29 already disbursed for noncompliance with rules adopted pursuant to subsection (d) of this  
30 section. In addition, the Office of the Controller shall electronically stop payments to a grantee  
31 upon notification by the Office of State Budget and Management to suspend disbursement of  
32 funds to the grantee.

33 If the grant funds are a pass-through of funds granted by an agency of the United States,  
34 then the Office of State Budget and Management must consult with the granting agency of the  
35 United States and the State agency that is the recipient of the pass-through funds prior to taking  
36 the actions authorized by this subsection.

37 "(f1) Withholding From Certain Grants To Cover Agency Oversight Cost. – A State  
38 agency that oversees a grant may withhold up to two percent (2%) of the amount of the grant  
39 awarded each fiscal year to cover grant oversight costs pursuant to this subsection if the grant  
40 satisfies the criteria established by the Office of State Budget and Management. No State  
41 agency shall withhold funds under this subsection until the State agency submits a written  
42 request to the Office of State Budget and Management that sets out the oversight  
43 responsibilities of the agency with regard to the grant, the amount that the agency is requesting  
44 to withhold from the grant for the fiscal year, and receives approval from the Office of State  
45 Budget and Management to withhold funds to cover the oversight costs. An agency may  
46 withhold only the amount approved by the Office of State Budget and Management. The Office  
47 of State Budget and Management shall determine whether it is appropriate to allow the  
48 withholding under this section, and if so, the amount that may be withheld by the State agency.  
49 The Office of State Budget and Management shall notify the State agency in writing of the  
50 approval or disapproval of the request, and if approved, that amount that may be withheld.

1 If a State agency does receive approval under this section to withhold a percentage of the  
2 amount of the grant awarded, then the agency shall reserve one-half of one percent (.5%) of the  
3 amount authorized by State Budget and Management to be withheld by the agency and shall  
4 transfer those funds to the Office of State Budget and Management at the time the grant funds  
5 are disbursed. The Office of State Budget and Management shall use the funds transferred from  
6 the agency to cover costs related to statewide oversight of grants to non-state entities.

7 Funds shall not be withheld under this subsection for the purpose of covering oversight  
8 costs if the grant is a pass-through of funds granted by an agency of the United States and the  
9 terms of the federal grant prohibit the withholding of funds described by this subsection."

10 (g) Audit Oversight. – The State Auditor has audit oversight, with respect to grant funds  
11 received by the grantee or subgrantee, pursuant to Article 5A of Chapter 147 of the General  
12 Statutes, of every grantee or subgrantee that receives, uses, or expends grant funds. A grantee  
13 or subgrantee must, upon request, furnish to the State Auditor for audit all books, records, and  
14 other information necessary for the State Auditor to account fully for the use and expenditure  
15 of grant funds received by the grantee or subgrantee. The grantee or subgrantee must furnish  
16 any additional financial or budgetary information requested by the State Auditor, including  
17 audit work papers in the possession of any auditor of a grantee or subgrantee directly related to  
18 the use and expenditure of grant funds.

19 (h) Report on Grant Recipients That Failed to Comply. – Not later than May 1, 2007,  
20 and by May 1 of every succeeding year, the Office of State Budget and Management shall  
21 report to the Joint Legislative Commission on Governmental Operations and the Fiscal  
22 Research Division on all grantees or subgrantees that failed to comply with this section with  
23 respect to grant funds received in the prior fiscal year.

24 (i) State Agencies to Submit Grant List to Auditor. – No later than October 1 of each  
25 year, each State agency shall submit a list to the State Auditor, in the format prescribed by the  
26 State Auditor, of every grantee to which the agency disbursed grant funds in the prior fiscal  
27 year. The list shall include the amount disbursed to each grantee and other information as  
28 required by the State Auditor to comply with the requirements of this section."

29 **SECTION 2.** G.S. 143C-6-23(d) as amended by Section 1 of this act is amended  
30 by adding a new subdivision to read:

31 "(7a) Require grantees to submit cash-basis reporting within 90 days of the end of  
32 the State fiscal year."

33 **SECTION 3.** Section 2 of this act becomes effective July 1, 2012. The remainder  
34 of this act becomes effective July 1, 2010.