

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017

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HOUSE BILL 646  
Committee Substitute Favorable 4/19/17  
Committee Substitute #2 Favorable 4/21/17  
Senate Judiciary Committee Substitute Adopted 6/13/18

Short Title: Amend PED Statutes.

(Public)

Sponsors:

Referred to:

April 11, 2017

A BILL TO BE ENTITLED

AN ACT TO AMEND THE PROGRAM EVALUATION STATUTES TO MAKE IT EXPLICIT THAT THE DIVISION MAY EVALUATE NON-STATE ENTITIES THAT RECEIVE OR EXPEND ANY STATE FUNDS, ADD ADMINISTRATION OF MEASURABILITY ASSESSMENTS AS A FUNCTION OF THE DIVISION, REMOVE THE REQUIREMENT THAT REQUESTS FOR EVALUATIONS MUST BE SUBMITTED BY A MEMBER OF THE GENERAL ASSEMBLY, CREATE STANDARDIZED EVALUATION REPORTS, AND REVISE THE POWERS AND DUTIES OF THE JOINT LEGISLATIVE PROGRAM EVALUATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

**SECTION 1.** Article 7C of Chapter 120 of the General Statutes reads as rewritten:

"Article 7C.

"Program Evaluation.

**"§ 120-36.11. Program Evaluation Division ~~established~~; definitions.**

(a) Division. – The Program Evaluation Division of the ~~General Assembly is established~~ Legislative Services Commission is established as a staff agency of the General Assembly. The purpose of the Division is to assist the General Assembly in fulfilling its responsibility to oversee government functions by providing an independent, objective source of information to be used in evaluating whether public services programs or activities of a State agency, or programs or activities of a non-State entity conducted or provided using State funds, are operated and delivered in an the most effective and efficient manner and in accordance with law.

(b) Director. – The Director of the Program Evaluation Division is appointed by the Legislative Services Commission and serves at the pleasure of the Commission. The Director is responsible for hiring and dismissing employees of the Division and directing the activities of the Division. The Director may not hire or dismiss an employee without the approval of the Legislative Services Officer.

(c) Definitions. – The following definitions apply in this Article:

(1) Committee. – The Joint Legislative Program Evaluation Oversight Committee.

(2) Director. – The Director of the Program Evaluation Division.

(3) Division. – The Program Evaluation Division.



- 1           (4) Non-State entity. – Defined in G.S. 143C-1-1(d)(18) and receives or expends  
 2           any State funds.  
 3           (5) State agency. – Defined in G.S. 143C-1-1(d)(24).  
 4           (6) State funds. – Defined in G.S. 143C-1-1(d)(25).

5 **"§ 120-36.12. DutiesFunctions of Program Evaluation Division.**

6           ~~The Program Evaluation Division of the Legislative Services Commission has the following~~  
 7 ~~powers and duties:~~functions:

- 8           (1) To examine a program or an activity of a State agency and evaluate the merits  
 9           of the a program or an activity and the agency's effectiveness in conducting  
 10           the program or activity of a State agency, or a program or an activity of a  
 11           non-State entity conducted or provided using State funds.  
 12           (2) To develop quantitative indicators for measuring the activities performed and  
 13           services provided by a State agency and the extent to which the activities and  
 14           services are achieving desired results to be used in an evaluation of a program  
 15           or an activity of a State agency, or a program or an activity of a non-State  
 16           entity conducted or provided using State funds.  
 17           (3) To develop unit cost measures to determinedetermine, in consultation with the  
 18           Fiscal Research Division, the cost of activities performed and services  
 19           provided by a State agency programs or activities of a State agency, or  
 20           programs or activities of a non-State entity conducted or provided using State  
 21           funds.  
 22           (4) To determine if a program or an activity of a State agency complies with the  
 23           agency's mission, as established by law.  
 24           (5) To make unannounced visits to a State agencyagency or Non-State entity  
 25           when needed to evaluate a program or an activity of the agency.State agency  
 26           or non-State entity.  
 27           (6) To make recommendations to improve the efficiency and effectiveness of a  
 28           State agency.submit an evaluation report to the Committee, as provided in  
 29           G.S. 120-36.14.  
 30           (7) To determine the extent to which a State agencyagency or non-State entity has  
 31           implemented any of the Division's recommendations of the Committee  
 32           concerning the agency.State agency or non-State entity.  
 33           (8) To require a State agency to submit a written response to a proposed or final  
 34           recommendation of the Division and to submit a written explanation of the  
 35           extent to which the agency has implemented the Division's recommendations.  
 36           (9) To make periodic reports of the activities and recommendations of the  
 37           Division and Committee and of any savings achieved by the implementation  
 38           of its Division or Committee recommendations.  
 39           (10) To receive reports alleging improper activities or matters of public concern  
 40           listed in G.S. 126-84. The individual making the report may, at the individual's  
 41           discretion, remain anonymous. Any report received under this subdivision, in  
 42           whatever form, is confidential, shall not be a "public record" as defined by  
 43           G.S. 132-1G.S. 132-1, and becomes available to the public only as provided  
 44           in G.S. 120-131.  
 45           (11) To administer measurability assessments pursuant to Chapter 143E of the  
 46           General Statutes.

47 **"§ 120-36.13. WorkBiennial work plan and requests for program evaluation.evaluations**  
 48 **and measurability assessments.**

49           (a) Plan. – The Joint Legislative Program Evaluation OversightEvery odd-numbered  
 50 year, the Committee, in consultation with the Director of the Program Evaluation Division, must  
 51 establish a Director, shall adopt a biennial work plan for the Division. The Committee shall

1 consider which programs or activities of a State agency, or programs and activities of a non-State  
 2 entity conducted or provided using State funds, should be evaluated by the Division and included  
 3 in the biennial work plan. The Committee shall also consider which proposed or existing State  
 4 programs should be subject to measurability assessments and included in the biennial work plan.  
 5 The Committee shall then review and adopt the biennial work plan. The Committee may amend  
 6 the biennial work plan to add a new evaluation or measurability assessment or remove a planned  
 7 evaluation or measurability assessment at any time during the biennium. The Division ~~must~~ shall  
 8 adhere to ~~this~~ the biennial work plan, unless the Joint Legislative Program Evaluation Oversight  
 9 Committee changes the biennial work plan to add a new evaluation or measurability assessment  
 10 or remove a planned evaluation. Any enacted legislation that directs the Program Evaluation  
 11 Division to conduct a study or an evaluation is included in the work plan by operation of law;  
 12 however, notwithstanding any other provision of law, if the enacted legislation did not have an  
 13 impact statement, as provided in G.S. 120-36.17, completed prior to its consideration by the  
 14 General Assembly, then the study or evaluation shall be included in the next work plan adopted  
 15 by the Committee and one year shall be added to any required reporting dates included in the  
 16 legislation, except that the impact statement is not required and the evaluation may be included  
 17 in the current work plan if the impact statement was not provided pursuant to the time  
 18 requirements in G.S. 120-36.17(b):evaluation or measurability assessment.

19 The biennial work plan constitutes an information request and a drafting request made by the  
 20 Committee cochairs to legislative employees under Article 17 of Chapter 120 of the General  
 21 Statutes. Any document prepared by a legislative employee pursuant to the biennial work plan  
 22 becomes available to the public only as provided in G.S. 120-131. Any document prepared by an  
 23 agency employee pursuant to a request under G.S. 120-131.1(a1) becomes available to the public  
 24 only as provided in G.S. 120-131.

25 (b) Request. – A request to the Program Evaluation Division for an evaluation of a  
 26 program or an activity of a State agency must be submitted by a member of the General  
 27 Assembly. The Director of the Division must review each request in accordance with the  
 28 following criteria and make a recommendation to the Joint Legislative Program Evaluation  
 29 Oversight Committee on whether to amend the Division's work plan to include the requested  
 30 evaluation. The Director shall assist the Committee cochairs in developing a proposed biennial  
 31 work plan based on suggestions for evaluations and measurability assessments submitted by  
 32 members of the Committee to the cochairs.

33 (1) The work required to conduct the requested evaluation.

34 (2) The effect that conducting the requested evaluation will have on the Division's  
 35 ability to complete its work plan.

36 (3) The significance of the requested evaluation compared to the evaluations to  
 37 be conducted under the work plan.

38 (4) Any overlap between the requested evaluation and other evaluations  
 39 previously conducted by the Division or another agency.

40 **"§ 120-36.14. ~~Content~~ Contents of an evaluation report of by the Program Evaluation**  
 41 **Division.**

42 (a) The Division shall complete an evaluation report for each evaluation required in the  
 43 biennial work plan. The Division shall submit the report to the Committee for review and  
 44 consideration. The Director shall notify the Committee cochairs when an evaluation report is  
 45 ready to become available to the public as provided in G.S. 120-131.

46 (b) A ~~An~~ evaluation report of an evaluation of a program or an activity of a State agency  
 47 prepared by the Program Evaluation Division of the General Assembly may include ~~shall~~, unless  
 48 otherwise specified by the Committee, include the following:

49 (1) The findings of the Division concerning the merits of the program or  
 50 activity:activity based on whether the program or activity:

51 a. Is conducted efficiently by the State agency or non-State entity.

- 1                    b.      Is effective, meeting objectives, and achieving intended results.  
2                    c.      Aligns with the State agency or non-State entity's mission.  
3                    d.      Operates in accordance with law.  
4                    e.      Does not duplicate another program or activity within the State  
5                    agency, within another State agency, or within another non-State  
6                    entity.
- 7                    (1a)   The quantitative indicators, including how the indicators were measured and  
8                    rated, used to determine whether the program or activity:  
9                    a.      Is conducted efficiently by the State agency or non-State entity.  
10                   b.      Is effective, meeting objectives, and achieving intended results.  
11                   (1b)   The cost of the program or activity broken out by activities performed and  
12                   services provided.
- 13                   (2)   Specific recommendations for making the program or activity more efficient  
14                   or effective.
- 15                   (2a)   Specific recommendations for consolidation or elimination of duplicative  
16                   programs or activities if duplication occurs within the State agency, within  
17                   another State agency, or within another non-State entity.
- 18                   ~~(3)   Any legislation needed to implement the Division's findings and~~  
19                   ~~recommendations concerning the program or activity.~~
- 20                   (4)   An estimate of the costs or savings expected from implementing the Division's  
21                   findings and recommendations concerning the program or activity.
- 22                   (c)   Upon request of the Division or Committee, a State agency or non-State entity shall  
23                   submit a written response to a recommendation of the Division or Committee and a written  
24                   explanation of the extent to which the State agency or non-State entity has implemented any of  
25                   the recommendations of the Committee.

26                   **"§ 120-36.15. Joint Legislative Program Evaluation Oversight Committee established.**

- 27                   (a)   Membership. – The Joint Legislative Program Evaluation Oversight Committee is  
28                   established. The Committee consists of 18 members as follows:
- 29                   (1)   Nine members of the Senate appointed by the President Pro Tempore of the  
30                   Senate. At least two of the members ~~must~~shall be a Cochair of the Senate  
31                   Appropriations Committee or a subcommittee of the Senate Appropriations  
32                   Committee. At least three of the members ~~must~~shall be members of the  
33                   minority party.
- 34                   (2)   Nine members of the House of Representatives appointed by the Speaker of  
35                   the House of Representatives. At least two of the members ~~must~~shall be a  
36                   Cochair of the House Appropriations Committee or a subcommittee of the  
37                   House Appropriations Committee. At least three of the members ~~must~~shall  
38                   be members of the minority party.
- 39                   (b)   Terms. – Terms on the Committee are for two years and begin on January 15 of each  
40                   odd-numbered year. Legislative members may complete a term of service on the Committee even  
41                   if they do not seek reelection or are not reelected to the General Assembly. Resignation or  
42                   removal from service in the General Assembly constitutes resignation or removal from service  
43                   on the Committee. A member continues to serve until a successor is appointed.
- 44                   (c)   Chairs and Quorum. – The President Pro Tempore of the Senate and the Speaker of  
45                   the House of Representatives ~~must~~shall each designate a cochair of the Committee. The  
46                   Committee meets upon the call of the cochairs. A quorum of the Committee is nine members.  
47                   The Committee may not act except by a majority vote at a meeting at which a quorum is present.
- 48                   (d)   Standard Procedure. – In performing its duties, the Committee has the powers of a  
49                   committee under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. Funding for the  
50                   Committee is provided by the Legislative Services Commission from appropriations made to the  
51                   General Assembly. Members of the Committee receive subsistence and travel expenses as

1 provided in G.S. 120-3.1. The Committee may contract for consultants or hire employees in  
2 accordance with G.S. 120-32.02. Upon approval of the Legislative Services Commission, the  
3 Legislative Services Officer ~~must~~shall assign professional and clerical staff to assist the  
4 Committee in its work.

5 **"§ 120-36.16. Powers and Duties of Joint Legislative Program Evaluation Oversight**  
6 **Committee.**

7 The ~~Joint Legislative Program Evaluation Oversight~~ Committee has the following powers  
8 and duties:

- 9 (1) ~~To receive and review requests for evaluations to be performed by the~~  
10 ~~Program Evaluation Division of the General Assembly.~~  
11 (2) To establish and adopt a biennial work plan for the ~~Program Evaluation~~  
12 ~~Division~~ that describes the evaluations to be performed by the  
13 ~~Division~~ and the measurability assessments to be administered by  
14 the Division pursuant to Chapter 143E of the General Statutes. The  
15 Committee ~~must~~shall consult with the Director of the ~~Program Evaluation~~  
16 ~~Division~~ in performing this duty.  
17 (2a) To receive status updates on the activities of the Division.  
18 (3) To ~~receive~~review evaluation reports preparedsubmitted by the ~~Program~~  
19 ~~Evaluation Division~~ and measurability assessments administered by  
20 the Division.  
21 (3a) To determine if any legislation or other action of the General Assembly is  
22 needed to implement the Division's recommendations.  
23 (4) To consult as necessary with an oversight committee or another committee  
24 established in this Chapter about an evaluation report concerning a program  
25 or an activity of a State agency, or a program or an activity of a non-State  
26 entity, that is within that committee's scope of study.  
27 (5) To recommend to the General Assembly any changes needed to implement a  
28 recommendation that is included in an evaluation report of the ~~Program~~  
29 ~~Evaluation Division~~ and is endorsed by or any changes needed to implement  
30 a recommendation of the Committee.

31 **~~"§ 120-36.17. Program Evaluation Division impact statement.~~**

32 (a) ~~Every bill and resolution introduced in the General Assembly proposing a study or~~  
33 ~~evaluation by the Program Evaluation Division shall have attached to it at the time of its~~  
34 ~~consideration by the General Assembly an impact statement prepared by the Division. The impact~~  
35 ~~statement shall identify and estimate, to complete all studies and reports required by the bill or~~  
36 ~~resolution, all of the following: (i) the number of personnel required; (ii) the total number of~~  
37 ~~hours required; and (iii) the estimated costs.~~

- 38 (1) ~~If, after review, the Division determines that no estimates are possible, the~~  
39 ~~impact statement shall contain a statement to that effect, setting forth the~~  
40 ~~reasons why no estimate can be given.~~  
41 (2) ~~The Division shall indicate whether the Division, based upon its current work~~  
42 ~~plan, has adequate and sufficient resources to undertake the study or~~  
43 ~~evaluation as part of the current annual work plan, and shall explain the basis~~  
44 ~~for its determination.~~  
45 (3) ~~If the Division determines that it would not be able to undertake the study or~~  
46 ~~evaluation as part of its current work plan, it shall indicate a time frame in~~  
47 ~~which it believes the study or evaluation could be accomplished.~~

48 (b) ~~The sponsor of each bill or resolution to which this section applies shall present a~~  
49 ~~copy of the bill or resolution with the request for an impact statement to the Program Evaluation~~  
50 ~~Division. Upon receipt of the request and the copy of the bill or resolution, the Program~~  
51 ~~Evaluation Division shall prepare the impact statement as promptly as possible, but shall transmit~~

1 it to the sponsor within two weeks after the request is made, unless the sponsor agrees to an  
2 extension of time. If the impact statement is not transmitted within two weeks, or by the end of  
3 any extension of time as provided under this subsection, then there shall be no impact statement  
4 required under this section.

5 (c) This impact statement shall be attached to the original of each proposed bill or  
6 resolution that is reported favorably by any committee of the General Assembly, but shall be  
7 separate from the bill or resolution and shall be clearly designated as an impact statement. An  
8 impact statement attached to a bill or resolution pursuant to this subsection is not a part of the  
9 bill or resolution and is not an expression of legislative intent proposed by the bill or resolution.

10 (d) If a committee of the General Assembly reports favorably a proposed bill or resolution  
11 that directs the Program Evaluation Division to conduct a study or evaluation, the chair of the  
12 committee shall obtain from the Program Evaluation Division, and attach to the bill or resolution,  
13 an impact statement as provided in this section."

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