

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003

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SENATE BILL 1008  
Rules and Operations of the Senate Committee Substitute Adopted 4/30/03  
House Committee Substitute Favorable 7/18/04

Short Title: Non-State Entities Reporting Requirements.

(Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO CLARIFY AND STRENGTHEN THE REPORTING REQUIREMENTS  
OF NON-STATE ENTITIES RECEIVING STATE FUNDS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 143-6.1 is repealed.

**SECTION 2.** Article 1 of Chapter 143 of the General Statutes is amended by  
adding a new section to read:

**"§ 143-6.2. Use of State funds by non-State entities.**

(a) Disbursement and Use of State Funds. – Every non-State entity that receives, uses, or expends any State funds shall use or expend the funds only for the purposes for which they were appropriated by the General Assembly. State funds include federal funds that flow through the State. For the purposes of this section, the term "non-State entity" means a firm, corporation, partnership, association, unit of local government, public authority, or any other person, organization, group, or governmental entity that is not a State agency, department, or institution. For the purposes of this section, "unit of local government" has the meaning set out in G.S. 159-7(15) and "public authority" has the meaning set out in G.S. 159-7(10).

(b) For the purposes of this section, the term "grantee" means a non-State entity that receives a grant of State funds from a State agency, department, or institution but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission. The term "subgrantee" means a non-State entity that receives a grant of State funds from a grantee or from another subgrantee but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission. The terms "State grant funds" and "State grants" do not include any payment made by the Medicaid program, the Teachers' and State Employees' Comprehensive Major Medical Plan, or other similar medical programs.

1       (c) Compliance by Non-State Entities. – If the Director of the Budget finds that a  
2 non-State entity has spent or encumbered State funds for an unauthorized purpose, the  
3 Director shall take appropriate administrative action to ensure that no further  
4 irregularities occur and shall report to the Attorney General any facts that pertain to an  
5 apparent violation of a criminal law or an apparent instance of malfeasance,  
6 misfeasance, or nonfeasance in connection with the use of State funds.

7       (d) The Office of State Budget and Management shall adopt rules to ensure the  
8 uniform administration of State grants by all grantor State agencies and grantees or  
9 subgrantees. The rules shall establish policies and procedures for disbursements of  
10 grants and for State agency oversight, monitoring, and evaluation of grantees and  
11 subgrantees. Such policies and procedures shall:

- 12       (1) Ensure that the purpose and reporting requirements of each grant are  
13 specified to the grantee.
- 14       (2) Ensure that grantees specify the purpose and reporting requirements  
15 for grants made to subgrantees.
- 16       (3) Ensure that funds are spent in accordance with the purposes for which  
17 they were granted.
- 18       (4) Hold the grantees and subgrantees accountable for the legal and  
19 appropriate expenditure of State grant funds.
- 20       (5) Provide for adequate oversight and monitoring to prevent the misuse  
21 of State funds.
- 22       (6) Establish mandatory periodic reporting requirements for grantees and  
23 subgrantees, including methods of reporting, to provide financial and  
24 program performance information. The mandatory periodic reporting  
25 requirements shall require grantees and subgrantees to file with the  
26 State Auditor copies of reports and statements that are filed with State  
27 agencies pursuant to this subsection.
- 28       (7) Require grantees and subgrantees to maintain reports, records, and  
29 other information to properly account for the expenditure of all State  
30 grant funds and to make such reports, records, and other information  
31 available to the grantor State agency for oversight, monitoring, and  
32 evaluation purposes.
- 33       (8) Require grantees and subgrantees to ensure that work papers in the  
34 possession of their auditors are available to the State Auditor for the  
35 purposes set out in subsection (h) of this section.
- 36       (9) Require grantees to be responsible for managing and monitoring each  
37 project, program, or activity supported by State grant funds and each  
38 subgrantee project, program, or activity supported by State grant  
39 funds.
- 40       (10) Provide procedures for the suspension of further disbursements or use  
41 of State grant funds for noncompliance with these rules or other  
42 inappropriate use of the funds.
- 43       (11) Provide procedures for use in appropriate circumstances for  
44 reinstatement of disbursements that have been suspended for

1           noncompliance with these rules or other inappropriate use of State  
2           grant funds.

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

7           (e) Notwithstanding the provisions of G.S. 150B-2(8a)b, rules adopted pursuant  
8           to subsection (d) of this section are subject to the provisions of Chapter 150B of the  
9           General Statutes.

10          (f) The Office of State Budget and Management shall consult with the Office of  
11          the State Auditor and the Attorney General in establishing the rules required by  
12          subsection (d) of this section.

13          (g) The Office of State Budget and Management, after consultation with the  
14          administering agency, shall have the power to suspend disbursement of State grant  
15          funds to grantees or subgrantees, to prevent further use of State grant funds already  
16          disbursed, and to recover State grant funds already disbursed for noncompliance with  
17          rules adopted pursuant to subsection (d) of this section. If the grant funds are a  
18          pass-through of funds granted by an agency of the United States, then the Office of  
19          State Budget and Management must consult with the granting agency of the United  
20          States and the State agency that is the recipient of the pass-through funds prior to taking  
21          the actions authorized by this subsection.

22          (h) Audit Oversight. – The State Auditor has audit oversight, with respect to  
23          State grant funds received by the grantee or subgrantee, pursuant to Article 5A of  
24          Chapter 147 of the General Statutes, of every grantee or subgrantee that receives, uses,  
25          or expends State grant funds. A grantee or subgrantee must, upon request, furnish to the  
26          State Auditor for audit all books, records, and other information necessary for the State  
27          Auditor to account fully for the use and expenditure of State grant funds received by the  
28          grantee or subgrantee. The grantee or subgrantee must furnish any additional financial  
29          or budgetary information requested by the State Auditor, including audit work papers in  
30          the possession of any auditor of a grantee or subgrantee directly related to the use and  
31          expenditure of State grant funds.

32          (i) Not later than May 1, 2007, and by May 1 of every succeeding year, the  
33          Office of State Budget and Management shall report to the Joint Legislative  
34          Commission on Governmental Operations and the Fiscal Research Division on all  
35          grantees or subgrantees that failed to comply with this section during the prior fiscal  
36          year, including the amount of State funds that were disbursed to each of those grantees  
37          or subgrantees during that fiscal year and the amount of State funds that were withheld.

38          (j) Grantor State agencies shall submit a list to the State Auditor, in the format  
39          prescribed by the State Auditor, by October 31 each year of every grantee to which the  
40          agency disbursed State funds in the prior fiscal year, the amount disbursed, the amount  
41          disbursed to each grantee, and other such information as required by the State Auditor  
42          to comply with the requirements set forth in this section.

43          (k) Civil Actions. – Civil actions to recover State funds or to obtain other  
44          mandatory orders in the name of the State on relation of the Attorney General, or in the

1 name of the Office of State Budget and Management, shall be filed in the General Court  
2 of Justice in Wake County."

3 **SECTION 3.** G.S. 147-86.35(b) reads as rewritten:

4 "(b) Any non-State ~~corporation, organization, or institution~~ entity as that term is  
5 defined in G.S. 143-6.2 that receives, uses, or expends any funds from the Commission  
6 is subject to the applicable reporting requirements of ~~G.S. 143-6.1.~~G.S. 143-6.2."

7 **SECTION 4.** G.S. 143-722(b) reads as rewritten:

8 "(b) Any non-State ~~corporation, organization, or institution~~ entity as that term is  
9 defined in G.S. 143-6.2 that receives, uses, or expends any funds from the Commission  
10 is subject to the applicable reporting requirements of ~~G.S. 143-6.1.~~G.S. 143-6.2."

11 **SECTION 5.** G.S. 143-6.2(d), (e), and (f), as enacted by this act, are  
12 effective when they become law. The remainder of this act becomes effective July 1,  
13 2005, and applies to appropriations and grants made for fiscal years beginning on or  
14 after that date.