

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003**

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**SENATE BILL 1327**

Short Title: Non-State Entities Reporting Requirements.

(Public)

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Sponsors: Senator Kerr.

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Referred to: State Government, Local Government, and Veterans' Affairs.

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May 26, 2004

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**SECTION 1.** G.S. 143-6.1 is repealed.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 or collected by the State. 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, or any other organization or group acting as a unit that is not a State agency, department, or institution.

(b) For the purposes of this section, the term "grantee" means a non-State entity other than a unit of local government that receives a grant of State funds from a State agency, department, or institution. The term "subgrantee" means a non-State entity other than a unit of local government that receives a grant of State funds from a grantee or from another subgrantee.

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

(d) The Office of State Budget and Management shall adopt rules to ensure the uniform administration of State grants by all grantor State agencies and grantees or subgrantees. The rules shall establish policies and procedures for disbursements of

1 grants and for State agency oversight, monitoring, and evaluation of grantees and  
2 subgrantees. Such policies and procedures shall:

3 (1) Ensure funds are spent in accordance with the purposes for which they  
4 were granted and hold the grantees and subgrantees accountable for  
5 the legal and appropriate expenditure of State grant funds.

6 (2) Provide for adequate oversight and monitoring to prevent the misuse  
7 of State funds.

8 (3) Establish mandatory periodic reporting requirements for grantees and  
9 subgrantees, including methods of reporting, to provide financial and  
10 program performance information.

11 (4) Require grantees and subgrantees to maintain reports, records, and  
12 other information to properly account for the expenditure of all State  
13 grant funds and to make such reports, records, and other information  
14 available to the grantor State agency for oversight, monitoring, and  
15 evaluation purposes.

16 (5) Require grantees and subgrantees to ensure that work papers in the  
17 possession of their auditors are available to the grantor State agency  
18 for the purpose of ensuring compliance with the rules adopted pursuant  
19 to this subsection, and to ensure that the work papers are available to  
20 the State Auditor for the purposes set out in subsection (h) of this  
21 section.

22 (6) Require grantees to be responsible for managing and monitoring each  
23 project, program, or activity supported by State grant funds, and each  
24 subgrantee project, program, or activity supported by State grant  
25 funds.

26 (7) Provide procedures for the suspension of further disbursements or use  
27 of State funds for noncompliance with these rules or other  
28 inappropriate use of the funds.

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

32 (f) The Office of State Budget and Management shall consult with the Office of  
33 the State Auditor in establishing the rules required by subsection (d) of this section.

34 (g) The Office of State Budget and Management shall have the power to suspend  
35 disbursement of State funds to grantees or subgrantees and prevent further use of funds  
36 already disbursed for noncompliance with rules adopted pursuant to subsection (d) of  
37 this section or for other inappropriate use of State funds.

38 (h) Audit Oversight. – The State Auditor has audit oversight, pursuant to Article  
39 5A of Chapter 147 of the General Statutes, of every grantee or subgrantee that receives,  
40 uses, or expends State funds. A grantee or subgrantee must, upon request, furnish to the  
41 State Auditor for audit all books, records, and other information necessary for the State  
42 Auditor to account fully for the use and expenditure of State funds. The grantee or  
43 subgrantee must furnish any additional financial or budgetary information requested by

1 the State Auditor including audit work papers in the possession of any auditor of a  
2 grantee or subgrantee.

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

9 (j) All reports, records, financial statements, and other information furnished to  
10 the State Auditor pursuant to this section, and any audits or reports prepared by the State  
11 Auditor pursuant to this section, are public records pursuant to G.S. 132.1 except audit  
12 work papers furnished by an auditor of a grantee or subgrantee.

13 (k) All reports, records, financial statements, and other information furnished to a  
14 grantor State agency pursuant to this section, and any audits or reports prepared by a  
15 grantor State agency pursuant to this section, are public records pursuant to G.S. 132.1  
16 except audit work papers furnished by an auditor of a grantee or subgrantee.

17 (l) The Attorney General is authorized to bring a civil action in the Superior  
18 Court of Wake County to enforce the provisions of subsections (a) or (g) of this section  
19 and to recover any State funds expended in violation of subsections (a) or (g), or rules  
20 adopted pursuant to subsection (d) of this section."

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

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

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

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

29 **SECTION 5.** There is appropriated from the General Fund the sum of  
30 twenty-five thousand dollars (\$25,000) for the 2004-2005 fiscal year to the Office of  
31 State Budget and Management for the purpose of developing the rules and policies  
32 required by this act, including a review of the practices of other states in the  
33 management of grants of State funds made to non-State entities.

34 **SECTION 6.** G.S. 143-6.2(d), (e), and (f), as enacted by this act, are  
35 effective when they become law. The remainder of this act becomes effective July 1,  
36 2005, and applies to appropriations and grants made for fiscal years beginning on or  
37 after that date.