

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017**

**SESSION LAW 2017-206
HOUSE BILL 770**

AN ACT TO MAKE CLARIFYING CHANGES TO ENSURE ESSA COMPLIANCE; CLARIFY PROPERTY TAX COMMISSION SALARIES; CLARIFY ADMINISTRATIVE COSTS FOR THE HEALTHY FOOD SMALL RETAILER PROGRAM; CLARIFY SINGLE-STREAM FUNDING FOR LME/MCOS; CHANGE THE MEMBERSHIP OF THE NORTH CAROLINA MEDICAL BOARD; PROHIBIT ATTORNEYS SERVING AS TRUSTEES FROM REPRESENTING NOTEHOLDERS OR BORROWERS WHILE INITIATING A FORECLOSURE PROCEEDING; MAKE CHANGES TO REPORTING REQUIREMENTS TO THE GENERAL ASSEMBLY; AND MAKE CHANGES TO THE NORTH CAROLINA STATE LOTTERY COMMISSION.

The General Assembly of North Carolina enacts:

PART I. CLARIFYING CHANGES TO ENSURE ESSA COMPLIANCE

SECTION 1.(a) G.S. 115C-83.15 reads as rewritten:

"§ 115C-83.15. School achievement, growth, performance scores, and grades.

...
(b) Calculation of the School Achievement Score. – In calculating the overall school achievement score earned by schools, the State Board of Education shall total the sum of points earned by a school as follows:

- (1) For schools serving any students in kindergarten through eighth grade, the State Board shall assign points on the following measures available for that school:
 - a. One point for each percent of students who score at or above proficient on annual assessments for mathematics in grades three through eight. For the purposes of this Part, an annual assessment for mathematics shall include any mathematics course with an end-of-course test.
 - b. One point for each percent of students who score at or above proficient on annual assessments for reading in grades three through eight.
 - c. One point for each percent of students who score at or above proficient on annual assessments for science in grades five and eight.
 - d. One point for each percent of students who progress in achieving English language proficiency on annual assessments in grades three through eight.
- (2) For schools serving any students in ninth through twelfth grade, the State Board shall assign points on the following measures available for that school:
 - a. One point for each percent of students who score at or above proficient on either the Algebra I or Integrated Math I end-of-course test or, for students who completed Algebra I or

Integrated Math I before ninth grade, another mathematics course with an end-of-course test.

- b. One point for each percent of students who score at or above proficient on the English II end-of-course test.
- c. One point for each percent of students who score at or above proficient on the Biology end-of-course test.
- d. One point for each percent of students who complete Algebra II or Integrated Math III with a passing grade.
- e. One point for each percent of students who achieve the minimum score required for admission into a constituent institution of The University of North Carolina on a nationally normed test of college readiness.
- f. One point for each percent of students enrolled in Career and Technical Education courses who meet the standard when scoring at Silver, Gold, or Platinum levels on a nationally normed test of workplace readiness.
- g. One point for each percent of students who graduate within four years of entering high school.
- h. One point for each percent of students who progress in achieving English language proficiency.

In calculating the overall school achievement score earned by schools, the State Board of Education shall (i) use a composite approach to weigh the achievement elements based on the number of students measured by any given achievement element and (ii) proportionally adjust the scale to account for the absence of a school achievement element for award of scores to a school that does not have a measure of one of the school achievement elements annually assessed for the grades taught at that school. The overall school achievement score shall be translated to a 100-point scale and used for school reporting purposes as provided in G.S. 115C-12(9)c1., 115C-218.65, 115C-238.66, and 116-239.8.

(c) ~~Calculation of the School Growth Score as a Measure of School Quality and Student Success Score.~~ – Using EVAAS, the State Board shall calculate the overall growth score earned by ~~schools as a measure of school quality and student success.~~ schools. In calculating the total growth score earned by schools, the State Board of Education shall weight student growth on the achievement ~~indicators~~ measures as provided in subsection (b) of this section that have available growth ~~values~~ values; provided that for schools serving students in grades nine through 12, the growth score shall only include growth values for measures calculated under sub-subdivisions a. and b. of subdivision (2) of subsection (b) of this section. The numerical values used to determine whether a school has met, exceeded, or has not met expected growth shall be translated to a 100-point scale and used for school reporting purposes as provided in G.S. 115C-12(9)c1., 115C-218.65, 115C-238.66, and 116-239.8.

...."

SECTION 1.(b) G.S. 115C-83.16 reads as rewritten:

"§ 115C-83.16. School performance indicators for the purpose of compliance with federal law.

(a) The State Board of Education shall use the school performance scores and grades as calculated under G.S. 115C-83.15 to satisfy the federal requirement under the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act (ESSA), P.L. 114-95, to meaningfully differentiate the performance of schools on an annual basis. ~~The State Board shall weigh the measures in accordance with the requirements of G.S. 115C-83.15.~~ For the purpose of compliance with federal law, the indicators shall be defined as follows:

- (1) For schools serving any students in kindergarten through eighth grade, the State Board shall define the indicators as follows:
 - a. Academic indicators. –
 1. The academic achievement indicator shall include the following measures:
 - I. Proficiency on annual assessments for mathematics in grades three through eight.
 - II. Proficiency on annual assessments for reading in grades three through eight.
 2. The other academic indicator shall include the following measures:
 - I. Proficiency on annual assessments for science in grade five.
 - II. Proficiency on annual assessments for science in grade eight.
 3. The English language proficiency indicator shall be the percentage of students who progress in achieving English language proficiency on annual assessments in grades three through eight.
 - b. School quality and student success indicator. – The measure of school quality and student success shall be the growth score earned by schools.
- (2) For schools serving any students in ninth through twelfth grade, the State Board shall define the indicators as follows:
 - a. Academic indicators. –
 1. The academic achievement indicator shall include the following measures:
 - I. Proficiency on either the Algebra I or Integrated Math I end-of-course test or, for students who completed Algebra I or Integrated Math I before ninth grade, another mathematics course with an end-of-course test.
 - II. Proficiency on the English II end-of-course test.
 - III. The growth score earned by schools.
 - ~~2. The other academic indicator shall include the following measures:~~
 - ~~I. Proficiency on the Biology end-of-course test.~~
 - ~~II. The percentage of students who complete Algebra II or Integrated Math III with a passing grade.~~
 - ~~III. The percentage of students who achieve the minimum score required for admission into a constituent institution of The University of North Carolina on a nationally normed test of college readiness.~~
 - ~~IV. The percentage of students enrolled in Career and Technical Education courses who meet the standard when scoring at Silver, Gold, or Platinum levels on a nationally normed test of workplace readiness.~~
 3. The graduation rate indicator shall be the percentage of students who graduate within four years of entering high school.

4. The English language proficiency indicator shall be the percentage of students who progress in achieving English language proficiency.
- b. School quality and student success indicator. – ~~The measure of school quality and student success shall be the growth score earned by schools.~~ The school quality and student success indicator shall be made up of the following measures:
 1. Proficiency on the Biology end-of-course test.
 2. The percentage of students who complete Algebra II or Integrated Math III with a passing grade.
 3. The percentage of students who achieve the minimum score required for admission into a constituent institution of The University of North Carolina on a nationally normed test of college readiness.
 4. The percentage of students enrolled in Career and Technical Education courses who meet the standard when scoring at Silver, Gold, or Platinum levels on a nationally normed test of workplace readiness.

(b). Notwithstanding subsection (a) of this section and only for the purpose of conforming with ESSA, the State Board may label measures as indicators different from those described in subsection (a) of this section; provided that each measure shall be calculated in accordance with the requirements of G.S. 115C-83.15."

SECTION 1.(c) This section is effective when it becomes law and applies beginning with the 2017-2018 school year.

PART II. CLARIFY PROPERTY TAX COMMISSION SALARIES

SECTION 2.(a) G.S. 105-288(d) reads as rewritten:

"§ 105-288. Property Tax Commission.

...

(d) Expenses. – The members of the Property Tax Commission shall receive travel and subsistence expenses in accordance with G.S. 138-5 and a salary as provided for by the Commission when hearing cases, meeting to decide cases, and attending training or continuing education classes on property taxes or judicial procedure. The members of the Property Tax Commission whose salaries or any portion of whose salaries are paid from State funds shall not receive travel and subsistence expenses, in accordance with G.S. 138-5(f), but shall receive a salary as provided for by the Commission under this subsection. The Secretary of Revenue shall supply all the clerical and other services required by the Commission. All expenses of the Commission and the Department of Revenue in performing the duties enumerated in this Article shall be paid as provided in G.S. 105-501."

SECTION 2.(b) This section is effective when it becomes law and applies retroactively to expenses of the Property Tax Commission incurred on or after April 1, 2017.

PART III. CLARIFY ADMINISTRATIVE COSTS FOR THE HEALTHY FOOD SMALL RETAILER PROGRAM

SECTION 3.(a) Section 12.5(a) of S.L. 2017-57 reads as rewritten:

"SECTION 12.5.(a) The funds appropriated by this act for the Healthy Food/Small Retailer program shall be used to continue a program to reimburse small food retailers for expenditures related to enhancing access to healthy foods in areas that qualify as food desert zones according to the Economic Research Service of the United States Department of Agriculture. For the purposes of this section, a small food retailer is defined as a business that is a small retail outlet, including corner stores, convenience stores, cooperatives, and bodegas, of no more than 3,000 heated square feet that sells a limited selection of foods and

other products. Funds may be used to reimburse small food retailers for the purchase and installation of refrigeration equipment, display shelving, and other equipment necessary for stocking nutrient-dense foods, including fresh vegetables and fruits, whole grains, nuts, seeds, beans and legumes, low-fat dairy products, lean meats, and seafood. The Department may retain up to ten percent (10%) of the funds allocated pursuant to this section for administrative costs associated with the healthy food small retailer program."

SECTION 3.(b) This section becomes effective July 1, 2017.

PART IV. CLARIFY SINGLE-STREAM FUNDING FOR LME/MCOS

SECTION 4.(a) Section 11F.2(b) of S.L. 2017-57 reads as rewritten:

"SECTION 11F.2.(b) The DMH/DD/SAS is directed to reduce its allocation for single-stream funding by thirty-one million four hundred eighty-seven thousand three hundred sixty-six dollars (\$31,487,366) in recurring funds and by fifty-five million four hundred fifty-four thousand nine hundred twenty-three dollars (\$55,454,923) in nonrecurring funds for the 2017-2018 fiscal year and by thirty-six million two thousand eight hundred fifty-four dollars (\$36,002,854) in recurring funds and by fifty-four million six hundred five thousand eight hundred twenty-three dollars (\$54,605,823) in nonrecurring funds for the 2018-2019 fiscal year.

The DMH/DD/SAS shall allocate these recurring and nonrecurring reductions for single-stream funding among the LME/MCOs as follows:

	FY 2017-2018	FY 2018-2019
Alliance Behavioral Healthcare		
Recurring	(\$6,836,920) (\$7,468,941)	
(\$9,448,259) (\$10,226,331)		
Nonrecurring	(\$8,231,710) (\$8,478,129)	
(\$9,149,477) (\$9,357,813)		
Cardinal Innovations Healthcare		
Recurring	(\$6,786,444) (\$7,413,799)	(\$9,326,550)
(\$10,120,076)		
Nonrecurring	(\$14,078,868) (\$14,500,322)	(\$15,685,591)
(\$16,075,545)		
Eastpointe		
Recurring	(\$1,256,185) (\$1,372,311)	(\$1,978,540)
(\$2,116,105)		
Nonrecurring	(\$5,463,292) (\$5,626,836)	(\$5,576,099)
(\$5,721,407)		
Partners Behavioral Health Management		
Recurring	(\$5,172,345) (\$2,739,719)	(\$5,314,232)
(\$2,912,599)		
Nonrecurring	(\$8,104,130) (\$6,686,675)	(\$7,477,787)
(\$6,356,282)		
Sandhills Center		
Recurring	(\$6,795,867) (\$7,424,094)	(\$7,996,922)
(\$8,607,466) Nonrecurring	(\$8,534,756) (\$8,790,246)	(\$8,250,223) (\$8,431,511)
Trillium Health Resources		

Recurring (<u>\$33,869</u>)	(\$3,056,342) <u>(\$3,338,878)</u>	(\$79,709)
Nonrecurring (<u>\$3,126,486</u>)	(\$5,488,067) <u>(\$5,652,353)</u>	(\$3,067,562)
Vaya Health		
Recurring (<u>\$1,986,408</u>)	(\$1,583,263) <u>(\$1,729,624)</u>	(\$1,858,642)
Nonrecurring (<u>\$5,536,779</u>)	(\$5,554,100) <u>(\$5,720,363)</u>	(\$5,399,084)
TOTALS		
Recurring (\$36,002,854)		(\$31,487,366)
Nonrecurring (\$54,605,823)		(\$55,454,923)

By March 1, 2018, the Secretary of Health and Human Services shall submit to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division a proposal for any adjustments to the specified recurring reductions among the LME/MCOs for future fiscal years. The proposal must include a detailed explanation supporting any proposed changes.

During each year of the 2017-2019 fiscal biennium, each LME/MCO shall offer at least the same level of service utilization as during the 2014-2015 fiscal year across the LME/MCO's catchment area. This requirement shall not be construed to require LME/MCOs to authorize or maintain the same level of services for any specific individual whose services were paid for with single-stream funding. Further, this requirement shall not be construed to create a private right of action for any person or entity against the State of North Carolina or the Department of Health and Human Services or any of its divisions, agents, or contractors and shall not be used as authority in any contested case brought pursuant to Chapter 108C or 108D of the General Statutes."

SECTION 4.(b) This section becomes effective July 1, 2017.

PART V. CHANGE MEMBERSHIP OF MEDICAL BOARD

SECTION 5.(a) G.S. 90-2 reads as rewritten:

"§ 90-2. Medical Board.

(a) There is established the North Carolina Medical Board to regulate the practice of medicine and surgery for the benefit and protection of the people of North Carolina. The Board shall consist of 13 members.

(1) Seven of the members shall be duly licensed physicians recommended by the Review Panel and appointed by the Governor as set forth in G.S. 90-3.

(2) ~~The remaining six~~ Four members shall all be appointed by the Governor as follows:

a. One shall be a duly licensed physician who is a doctor of osteopathy or a full-time faculty member of one of the medical schools in North Carolina who utilizes integrative medicine in that person's clinical practice or a member of The Old North State Medical Society. This Board position shall not be subject to recommendations of the Review Panel pursuant to G.S. 90-3.

b. ~~Three shall be public members, and these Board positions~~ One shall be a public member, and this Board position shall not be subject to ~~recommendations~~ recommendation of the Review Panel pursuant

to G.S. 90-3. ~~A public member shall not be a health care provider nor the spouse of a health care provider. For the purpose of Board membership, "health care provider" means any licensed health care professional, agent or employee of a health care institution, health care insurer, health care professional school, or a member of any allied health profession. For purposes of this section, a person enrolled in a program as preparation to be a licensed health care professional or an allied health professional shall be deemed a health care provider. For purposes of this section, any person with significant financial interest in a health service or profession is not a public member.~~

c. One shall be a physician assistant as defined in G.S. 90-18.1 as recommended by the Review Panel pursuant to G.S. 90-3.

d. One shall be a nurse practitioner as defined in G.S. 90-18.2 as recommended by the Review Panel pursuant to G.S. 90-3.

(3). Two public members appointed by the General Assembly in accordance with G.S. 120-121, one upon recommendation of the Speaker of the House of Representatives and one upon the recommendation of the President Pro Tempore of the Senate.

(a1) Each appointing and nominating authority shall endeavor to see, insofar as possible, that its appointees and nominees to the Board reflect the composition of the State with regard to gender, ethnic, racial, and age composition.

(b) No member shall serve more than two complete three-year terms in a lifetime, except that each member shall serve until a successor is chosen and qualifies.

(b1). A public member appointed pursuant to sub-subdivision (a)(2)b. and subdivision (a)(3) of this section shall not be a health care provider nor the spouse of a health care provider. For the purpose of Board membership, "health care provider" means any licensed health care professional, agent, or employee of a health care institution, health care insurer, health care professional school, or a member of any allied health profession. For purposes of this section, a person enrolled in a program as preparation to be a licensed health care professional or an allied health professional shall be deemed a health care provider. For purposes of this section, any person with significant financial interest in a health service or profession is not a public member.

(c) Repealed by Session Laws 2003-366, s. 1, effective October 1, 2003.

(d) Any member of the Board may be removed from office by the Governor for good cause shown. Any vacancy in the physician, physician assistant, or nurse practitioner membership of the Board shall be filled for the period of the unexpired term by the Governor from a list submitted by the Review Panel pursuant to G.S. 90-3 except as provided in G.S. 90-2(a)(2)a. Any vacancy in the public membership of the Board shall be filled by the ~~Governor~~ appropriate appointing authority for the unexpired term.

(e) The North Carolina Medical Board shall have the power to acquire, hold, rent, encumber, alienate, and otherwise deal with real property in the same manner as any private person or corporation, subject only to approval of the Governor and the Council of State as to the acquisition, rental, encumbering, leasing, and sale of real property. Collateral pledged by the Board for an encumbrance is limited to the assets, income, and revenues of the Board."

SECTION 5.(b) For the term of the public member appointed by the Governor expiring in 2017, that member shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, in accordance with G.S. 120-121. For the term of the public member appointed by the Governor expiring in 2018, that member shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, in accordance with G.S. 120-121. As terms expire

thereafter or as vacancies occur prior to the expiration of a term, the members on the Medical Board shall be appointed in accordance with G.S. 90-2, as amended by this act.

SECTION 5.(c) This section is effective when it becomes law and applies to vacancies occurring after June 30, 2017.

PART VI. PROHIBIT ATTORNEYS SERVING AS TRUSTEES FROM REPRESENTING NOTEHOLDERS OR BORROWERS WHILE INITIATING A FORECLOSURE PROCEEDING

SECTION 6. G.S. 45-10 reads as rewritten:

"§ 45-10. Substitution of trustees in mortgages and deeds of trust.

(a) In addition to the rights and remedies now provided by law, the ~~holders or owners of a majority in amount of the indebtedness, notes, bonds, or other instruments evidencing a promise or promises to pay money and secured by mortgages, deeds of trust, or other instruments conveying real property, or creating a lien thereon,~~ noteholders may, in their discretion, substitute a trustee whether the trustee then named in the instrument is the original or a substituted trustee or a holder or owner of any or all of the obligations secured thereby, by the execution of a written document properly recorded pursuant to Chapter 47 of the North Carolina General Statutes. An attorney who serves as the trustee or substitute trustee shall not represent either the noteholders or the interests of the borrower while initiating a foreclosure proceeding. Notwithstanding this restriction, an attorney may serve as the trustee in a foreclosure proceeding while simultaneously representing the noteholders on unrelated matters and others within the attorney's firm may also continue to represent the noteholders on unrelated matters. Additionally, an attorney who has as trustee initiated a foreclosure proceeding may resign as trustee after the foreclosure is contested and act as counsel to the noteholders.

...

(d) In this section, the term "noteholders" means the holders or owners of a majority in the amount of the indebtedness, notes, bonds, or other instruments evidencing a promise to pay money and secured by mortgages, deeds of trust, or other instruments conveying real property, or creating a lien thereon."

PART VII. CHANGES TO REPORTING REQUIREMENTS TO THE GENERAL ASSEMBLY

SECTION 7.(a) Section 7.18(b) of S.L. 2008-107 is repealed.

SECTION 7.(b) Section 31.7(b) of S.L. 2015-241 reads as rewritten:

"SECTION 31.7.(b) Reporting. – The following reports are required:

- (1) By ~~October 1, 2015, October 15, 2017,~~ and every six months thereafter, each State agency shall report on the status of agency capital projects to the Joint Legislative Commission on Governmental Operations.
- (2) By ~~October 1, 2015, October 15, 2017,~~ and quarterly thereafter, each State agency shall report on the status of agency capital projects to the Fiscal Research Division of the General Assembly and to the Office of State Budget and Management."

PART VIII. NORTH CAROLINA STATE LOTTERY COMMISSION CHANGES

SECTION 8. G.S. 18C-112(a) reads as rewritten:

"(a) Of the members of the Commission appointed by the Governor, at least one member shall have a minimum of five years' experience in law enforcement. Notwithstanding subsection (e) of this section, a member serving in this slot may be an elected law enforcement official."

PART IX. EFFECTIVE DATE

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

In the General Assembly read three times and ratified this the 3rd day of August, 2017.

s/ Bill Rabon
Presiding Officer of the Senate

s/ Tim Moore
Speaker of the House of Representatives

VETO Roy Cooper
Governor

Became law notwithstanding the objections of the Governor at 7:28 p.m. this 30th day of August, 2017.

s/ Sarah Lang
Senate Principal Clerk