

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015**

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**SENATE BILL 14  
House Committee Substitute Favorable 2/20/15  
Third Edition Engrossed 3/3/15**

Short Title: Acad. Standards/Rules Review/Coal Ash/Funds.

(Public)

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Sponsors:

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Referred to:

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February 2, 2015

A BILL TO BE ENTITLED

1  
2 AN ACT TO PROVIDE FUNDS FOR THE OPERATING EXPENSES OF THE ACADEMIC  
3 STANDARDS REVIEW COMMISSION; TO REQUIRE THAT THE ACADEMIC  
4 STANDARDS REVIEW COMMISSION POST CERTAIN PUBLIC RECORDS ON ITS  
5 WEB SITE; TO PROVIDE THAT A STATE OFFICER MAY SERVE ON THE  
6 ECONOMIC DEVELOPMENT PARTNERSHIP BOARD; TO CLARIFY COAL ASH  
7 MANAGEMENT COMMISSION APPROPRIATIONS; TO CLARIFY WHEN A  
8 DOWNSTREAM INUNDATION MAP MUST BE PREPARED BY A LICENSED  
9 PROFESSIONAL ENGINEER; TO EXTEND THE DEADLINE FOR THE SUBMISSION  
10 OF EMERGENCY ACTION PLANS FOR DAMS NOT ASSOCIATED WITH COAL  
11 COMBUSTION RESIDUALS SURFACE IMPOUNDMENTS TO DECEMBER 31, 2015;  
12 TO LIMIT THE USE OF FUNDS APPROPRIATED TO THE DEPARTMENT OF  
13 HEALTH AND HUMAN SERVICES FOR HEALTH INFORMATION EXCHANGE;  
14 AND TO REQUIRE A PERFORMANCE AUDIT OF MEDICAID ELIGIBILITY  
15 DETERMINATIONS BY COUNTY DEPARTMENTS OF SOCIAL SERVICES.

16 The General Assembly of North Carolina enacts:

17 **SECTION 2.** Of the funds appropriated to the Department of Public Instruction for  
18 the 2014-2015 fiscal year, the Department shall transfer the sum of two hundred seventy-five  
19 thousand dollars (\$275,000) to the Department of Administration to support the operations of  
20 the Academic Standards Review Commission established in S.L. 2014-78. From these funds,  
21 an amount equal to the total of all costs incurred by the Department of Administration prior to  
22 the enactment of this act to support the operations of the Commission shall be credited to the  
23 Department. Expenditure of the remainder of these funds shall be made upon authorization by  
24 the Commission, only for the following:

- 25 (1) Administrative assistance, including professional and clerical staff and any  
26 contracts for professional, clerical, and consultant services. Consultant  
27 services may include contracts with qualified experts on academic standards  
28 that may be used as an alternative to the Common Core Standards, including  
29 other state academic standards.
- 30 (2) Technical assistance, including meeting rooms, telephones, office space,  
31 equipment, and supplies provided by the Department of Administration in  
32 accordance with Section 2(f) of S.L. 2014-78.
- 33 (3) Per diem, subsistence, and travel allowances provided to Commission  
34 members in accordance with G.S. 138-5, 138-6, or 120-3.1, as appropriate.



1           **SECTION 3.** The funds transferred to the Department of Administration in Section  
2 2 of this act shall not revert at the end of the 2014-2015 fiscal year but shall remain available  
3 for expenditure in accordance with that section until the Commission terminates on December  
4 31, 2015, or upon the filing of its final report, whichever occurs first. Any unexpended,  
5 unencumbered balance of these funds shall revert to the General Fund on June 30, 2016.

6           **SECTION 4.** The General Assembly finds that considerable resources have already  
7 been expended to allow teachers and members of the public to make known their opinions and  
8 concerns surrounding adoption of academic standards. Specifically, the General Assembly  
9 finds that (i) on March 20, 2014, a Legislative Research Commission committee heard more  
10 than two hours of comment from stakeholders and interested members of the public on the  
11 subject; and (ii) on October 20, 2014, the Department of Public Instruction surveyed every  
12 public school teacher in the State on the subject. Accordingly, funds transferred pursuant to  
13 Section 2 of this act shall not be used by the Academic Standards Review Commission to  
14 conduct any survey related to the adoption of academic standards or to contract for the  
15 performance of such a survey by any third party.

16           **SECTION 5.** Notwithstanding any other provision of law, the Academic Standards  
17 Review Commission is subject to the Public Records Act, Chapter 132 of the General Statutes,  
18 and the Open Meetings Law, Article 33C of Chapter 143 of the General Statutes. Additionally,  
19 the Commission shall have the duty to comply with all of the following:

- 20           (1) All minutes, agendas, handouts, and presentations created during the course  
21 of the Commission's work, and any audio recordings of the Commission's  
22 meetings, shall be published on the Commission's Web site.
- 23           (2) All official meetings, as that term is defined in G.S. 143-318.10, of the  
24 Commission shall be streamed live over the Internet in a manner that allows  
25 members of the public to listen to the proceedings.

26           **SECTION 6.** In implementing Section 2 of this act, the State Board of Education  
27 shall make reductions to the operating budget of the Department of Public Instruction and shall  
28 make no reduction to funding or positions for:

- 29           (1) The North Carolina Center for Advancement of Teaching.
- 30           (2) The Eastern North Carolina School for the Deaf, the North Carolina School  
31 for the Deaf, and the Governor Morehead School.
- 32           (3) Communities in Schools of North Carolina, Inc.
- 33           (4) Teach for America, Inc.
- 34           (5) Beginnings For Parents of Children Who Are Deaf or Hard of Hearing, Inc.

35           **SECTION 7.** G.S. 62-302.1(d) reads as rewritten:

36 **"§ 62-302.1. Regulatory fee for combustion residuals surface impoundments.**

37           ...

38           (d) Use of Proceeds. – A special fund in the Office of State Treasurer and the Coal Ash  
39 Management Commission is created. The fees collected pursuant to this section and all other  
40 funds received by the Coal Ash Management Commission shall be deposited in the Coal  
41 Combustion Residuals Management Fund. The Fund shall be placed in an interest-bearing  
42 account, and any interest or other income derived from the Fund shall be credited to the Fund.  
43 ~~Moneys in the Fund shall only be spent pursuant to appropriation by the General Assembly.~~  
44 Subject to appropriation by the General Assembly, twenty-six and one-half percent (26.5%) of  
45 the moneys in the Fund shall be used by the Coal Ash Management Commission and the  
46 remainder shall be used by the Department of Environment and Natural Resources. The  
47 Commission shall be subject to the provisions of the State Budget Act, except that no  
48 unexpended surplus of the Coal Combustion Residuals Management Fund shall revert to the  
49 General Fund. All funds credited to the Fund shall be used only to pay the expenses of the Coal  
50 Ash Management Commission and the Department of Environment and Natural Resources in  
51 providing oversight of coal combustion residuals."

1           **SECTION 8.** Sections 15(c) through 15(e) of S.L. 2014-122 read as rewritten:

2           "**SECTION 15.(c)** ~~Twenty-five~~Up to twenty-five receipt-supported positions are created in  
3 the Department of Environment and Natural Resources to carry out the duties in Part 2I of  
4 Article 9 of Chapter 130A of the General Statutes. There is appropriated from the Coal  
5 Combustion Residuals Management Fund the sum of one million seven hundred fifty thousand  
6 dollars (\$1,750,000) to the Department of Environment and Natural Resources to support the  
7 positions for the 2014-2015 fiscal year.

8           **SECTION 15.(d)** Five receipt-supported positions are created in the Division of  
9 Emergency Management of the Department of Public Safety to carry out the duties in  
10 G.S. 130A-309.202. ~~The funds remaining in the Coal Combustion Residuals Management Fund~~  
11 ~~after the appropriation to the Department of Environment and Natural Resources are~~  
12 ~~appropriated to the Department of Public Safety for the 2014-2015 fiscal year. There is~~  
13 appropriated from the Coal Combustion Residuals Management Fund the sum of six hundred  
14 thirty thousand dollars (\$630,000) to the Department of Public Safety to support the positions  
15 for the 2014-2015 fiscal year. These positions shall be used to provide assistance to the Coal  
16 Ash Management Commission established by G.S. 130A-309.202, as enacted by Section 3(a)  
17 of this act. The positions shall be assigned in the following manner: one of the positions shall  
18 be the executive director of the staff, two positions shall be assigned as analysts, one position  
19 shall be assigned as a technician, and one position shall be assigned as administrative. The  
20 Division of Emergency Management in the Department of Public Safety shall consult with the  
21 Chair of the Commission in hiring the staff for the Coal Ash Management Commission. The  
22 Division of Emergency Management in the Department of Public Safety shall provide support  
23 to the Commission until the staff of the Commission is hired, including the designation of an  
24 individual to serve as an interim executive director of the staff.

25           **SECTION 15.(e)** If the moneys in the Coal Combustion Residuals Management Fund are  
26 insufficient to support the appropriations set out in subsection 15(c) and subsection 15(d) of  
27 this section for the 2014-2015 fiscal year, then each appropriation is hereby reduced on a  
28 proportional basis.

29           ~~**SECTION 15.(e)**~~**SECTION 15.(f)** Subsection (a) of this section becomes effective July 1,  
30 2014, and expires April 1, 2030, and applies to jurisdictional revenues earned on or after July 1,  
31 2014, and before April 1, 2030. The remainder of this section becomes effective July 1, 2014."

32           **SECTION 9.(a)** G.S. 143-215.31(a1) reads as rewritten:

33           "(a1) The owner of a dam classified by the Department as a high-hazard dam or an  
34 intermediate-hazard dam shall develop an Emergency Action Plan for the dam as provided in  
35 this subsection;

- 36           (1) The owner of the dam shall submit a proposed Emergency Action Plan for  
37 the dam within 90 days after the dam is classified as a high-hazard dam or an  
38 intermediate-hazard dam to the Department and the Department of Public  
39 Safety for their review and approval. The Department and the Department of  
40 Public Safety shall approve the Emergency Action Plan if they determine  
41 that it complies with the requirements of this subsection and will protect  
42 public health, safety, and welfare; the environment; and natural resources.
- 43           (2) The Emergency Action Plan shall include, at a minimum, all of the  
44 following:
- 45           a. A description of potential emergency conditions that could occur at  
46 the dam, including security risks.
  - 47           b. A description of actions to be taken in response to an emergency  
48 condition at the dam.
  - 49           c. Emergency notification procedures to aid in warning and evacuations  
50 during an emergency condition at the dam.

- 1 d. A downstream inundation map depicting areas affected by a dam  
2 failure and sudden release of the impoundment. A downstream  
3 inundation map prepared pursuant to this section does not require  
4 preparation by a licensed professional engineer or a person under the  
5 responsible charge of a licensed professional engineer unless the dam  
6 is associated with a coal combustion residuals surface impoundment,  
7 as defined by G.S. 130A-309.201."

8 **SECTION 9.(b)** Section 8(b) of S.L. 2014-122 reads as rewritten:

9 "**SECTION 8.(b)** Notwithstanding G.S. 143-215.31, as amended by Section 8(a) of this  
10 act, the owners of all high-hazard dams and intermediate-hazard dams associated with coal  
11 combustion residuals surface impoundments, as defined by G.S. 130A-309.201, in operation on  
12 the effective date of this act shall submit their proposed Emergency Action Plans to the  
13 Department of Environment and Natural Resources and the Department of Public Safety no  
14 later than March 1, 2015. Notwithstanding G.S. 143-215.31, as amended by Section 8(a) of this  
15 act, the owners of all high-hazard dams and intermediate-hazard dams not associated with coal  
16 combustion residuals surface impoundments, as defined by G.S. 130A-309.201, in operation on  
17 the effective date of this act shall submit their proposed Emergency Action Plans to the  
18 Department of Environment and Natural Resources and the Department of Public Safety no  
19 later than December 31, 2015."

20 **SECTION 9.(c)** The Department of Environment and Natural Resources shall  
21 study whether, under certain circumstances, downstream inundation maps prepared pursuant to  
22 G.S. 143-215.31 should be prepared by a licensed professional engineer or a person under the  
23 responsible charge of a licensed professional engineer. The Department shall consult with the  
24 State Board of Examiners for Engineers and Surveyors in the conduct of this study. The  
25 Department shall report the results of this study to the Environmental Review Commission no  
26 later than March 31, 2016.

27 **SECTION 10.** G.S. 143B-431.01(d)(2)(c) reads as rewritten:

28 "(d) Limitations. – Prior to contracting with a North Carolina nonprofit corporation  
29 pursuant to this section and in order for the North Carolina nonprofit corporation to receive  
30 State funds, the following conditions shall be met:

31 ...

- 32 (2) The nonprofit corporation adheres to the following governance provisions  
33 related to its governing board:

34 ...

- 35 c. No State officer or employee may serve on the board.

36 ...."

37 **SECTION 11.(a)** Notwithstanding any other provision of law to the contrary, the  
38 sum of two million dollars (\$2,000,000) appropriated to the Department of Health and Human  
39 Services, Division of Central Management and Support, for the health information exchange  
40 for the 2014-2015 fiscal year shall be nonrecurring. The Department shall not, under any  
41 circumstances, use any portion of this two million dollars (\$2,000,000) in nonrecurring funds  
42 for any purpose not expressly authorized under section 12A.2 of S.L. 2014-100, as amended by  
43 this act.

44 **SECTION 11.(b)** Section 12A.2 of S.L. 2014-100 reads as rewritten:

45 ~~**SECTION 12A.2.(a)** It is the intent of the General Assembly:~~

- 46 (1) ~~To maximize receipt of federal funds for administration and support of the~~  
47 ~~statewide health information exchange network (HIE Network).~~  
48 (2) ~~To allow the North Carolina Health Information Exchange (NC HIE), the~~  
49 ~~nonprofit corporation responsible for overseeing and administering the HIE~~  
50 ~~Network, to receive the State's share of available federal funds for~~  
51 ~~administration and support of the HIE Network in order to reduce the~~

operating costs of the HIE Network by an amount sufficient to allow for the elimination or reduction of the participation fee the NC HIE currently imposes on hospitals required to connect to the HIE Network pursuant to G.S. 90-413.3A.

- (3) Beginning with the 2015-2016 fiscal year, to make the Department of Health and Human Services, Division of Central Management and Support, responsible for using State funds to draw down available matching federal funds for administration and support of the HIE Network.

**SECTION 12A.2.(b)** From the nonrecurring funds appropriated in this act to the Department of Health and Human Services, Division of Central Management and Support, for the health information exchange for the 2014-2015 fiscal year, the Department shall allocate to the North Carolina Health Information ~~Exchange~~, Exchange (NC HIE), a nonprofit corporation, an amount determined by the Department and the State Chief Information Officer (SCIO) to be sufficient to represent the State share for the maximum amount of approved federal matching funds for allowable Medicaid administrative costs related to the HIE Network, reasonably necessary to fund the following monthly operating expenses incurred or encumbered by the NCHIE during the period commencing February 1, 2015, and ending June 30, 2015:

- (1) Software vendor maintenance, hosting, and licensing costs due under the technology vendor contract currently in effect between NCHIE and Orion.
- (2) NCHIE payroll costs.
- (3) Contract labor costs and other expenses to sustain the current operations of the NC HIE and to complete the process of connecting to the HIE Network the 23 hospitals that, as of February 2015, had initiated the connection process. For the purpose of this section, "HIE Network" is as defined in G.S. 90-413.3.

**SECTION 12A.2.(b1)** The NC HIE shall not use any portion of the funds allocated to the NC HIE pursuant to subsection (b) of this section for expenses incurred or encumbered prior to February 1, 2015, or for any other purpose not expressly authorized under subsection (b) of this section.

**SECTION 12A.2.(b2)** In addition to the allocations authorized under subsection (b) of this section, the Department may use these nonrecurring funds for the following purposes:

- (1) To make debt payments on behalf of the NC HIE which are determined by the Department and the SCIO to be reasonably necessary to sustain the operations of the software vendor.
- (2) To conduct the assessment required under Section 12A.2(c)(2) of this act.

**SECTION 12A.2.(c)** By March 1, 2015, the NC HIE shall report to the Joint Legislative Oversight Committee on Health and Human Services, the Joint Legislative Oversight Committee on Information Technology, and the Fiscal Research Division. May 1, 2015, the Department shall submit both of the following to the House Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the Joint Legislative Oversight Committees on Health and Human Services and Information Technology, and the Fiscal Research Division:

- (1) A report on its use of (i) all State appropriations allocated to or on behalf of the NC HIE pursuant to this section and (ii) federal matching funds received by the NC HIE for costs related to the HIE Network. The report shall include a detailed, audited report of all State and federal funds received by the NC HIE and all expenditures from these funds.
- (2) In conjunction with the Office of the SCIO and the North Carolina Government Data Analytics Center, an assessment of the existing functionality, structure, and operation of the HIE Network.

1        **SECTION 12A.2.(d)** By September 1, 2015, the Department, in conjunction with the  
2 Office of the SCIO and the North Carolina Government Data Analytics Center, shall submit  
3 both of the following to the Joint Legislative Oversight Committees on Health and Human  
4 Services and Information Technology:

- 5            (1) An assessment of the best business model and operational structure for  
6 administering a statewide health information exchange network in this State.  
7            (2) A recommendation as to whether the NC HIE should continue to oversee  
8 and administer this State's HIE Network."

9        **SECTION 11.5.(a)** The State Auditor shall conduct a performance audit of county  
10 departments of social services' administration of the North Carolina Medicaid program. The  
11 audit shall examine the county departments of social services' accuracy in determining  
12 eligibility for Medicaid and their compliance with the requirements of the Centers for Medicare  
13 and Medicaid Services and State law. The audit shall also consider the impact of the  
14 Department of Health and Human Services' policy decisions related to re-enrollment eligibility  
15 determinations. In conducting the audit, the auditor shall ensure:

- 16            (1) A representative sample of counties, including both urban and rural counties,  
17 is audited.  
18            (2) A statistically significant number of cases are audited in each county in the  
19 sample.

20        **SECTION 11.5.(b)** The audit required by Section 11.5(a) shall include the State  
21 Auditor's examination of at least all of the following:

- 22            (1) The accuracy of Medicaid application eligibility determinations.  
23            (2) The timeliness of Medicaid application determinations.  
24            (3) The accuracy of Medicaid re-enrollment eligibility determinations.  
25            (4) The timeliness of Medicaid re-enrollment eligibility determinations.  
26            (5) The accuracy of presumptive Medicaid application determinations.  
27            (6) The timeliness of presumptive Medicaid application determinations.  
28            (7) The controls and oversight county departments of social services have in  
29 place to ensure accurate and timely processing of Medicaid applications and  
30 re-enrollment.

31        **SECTION 11.5.(c)** The State Auditor shall submit a preliminary report on the  
32 performance audit required by this section to the Joint Legislative Oversight Committee on  
33 Health and Human Services and to the Fiscal Research Division by June 1, 2015, and shall  
34 complete the performance audit by February 1, 2016. The Department of Health and Human  
35 Services and county departments of social services shall give the State Auditor full access to all  
36 data necessary to complete the audit and the report.

37        **SECTION 11.5.(d)** Of the funds appropriated to the Department of Health and  
38 Human Services, Division of Medical Assistance, for fiscal year 2014-15 in S.L. 2014-100,  
39 Section 12H.10(c), for a personal care services (PCS) study, the amount of three hundred  
40 thousand dollars (\$300,000) shall be transferred to the North Carolina Office of the State  
41 Auditor and used for the audit required by this section.

42        **SECTION 12.** Sections 7 and 8 of this act become effective July 1, 2014. Section 9  
43 of this act is effective retroactively to September 20, 2014. Section 11 of this act is effective  
44 when it becomes law or June 30, 2015, whichever is earlier. The remainder of this act is  
45 effective when it becomes law.