April 23, 2014

TO THE MEMBERS OF THE LEGISLATIVE RESEARCH COMMISSION:

Attached for your consideration is the report to the 2014 Regular Session of the 2013 General Assembly. This report was prepared by the Legislative Research Commission's Committee on Unmanned Aircraft Systems, pursuant to G.S. 120-30.17(1).

Representative Mitchell S. Setzer  Representative John A. Torbett
Co-Chair  Co-Chair

Co-Chairs
Committee on Unmanned Aircraft Systems
Legislative Research Commission
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REPORT TO THE
2014 SESSION
of the
2013 GENERAL ASSEMBLY
OF NORTH CAROLINA

APRIL, 2014
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Committee on Unmanned Aircraft Systems-LRC
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TRANSMITTAL LETTER

May 13, 2014

TO THE MEMBERS OF THE 2014 REGULAR SESSION
OF THE 2013 GENERAL ASSEMBLY

The Legislative Research Commission herewith submits to you for your consideration its report and recommendations to the 2014 Regular Session of the 2013 General Assembly. The report was prepared by the Legislative Research Commission's Committee on Unmanned Aircraft Systems, pursuant to G.S. 120-30.17(1).

Respectfully submitted,

Senator Thomas M. Apodaca
Representative Timothy K. Moore

Co-Chairs
Legislative Research Commission
LEGISLATIVE RESEARCH COMMISSION
MEMBERSHIP

2013 – 2014

Senator Thomas M. Apodaca
Co-Chair

Senator Phil Berger, Ex Officio
Senator Dan Blue
Senator Harry Brown
Senator Martin L. Nesbitt, Jr.

Representative Timothy K. Moore
Co-Chair

Representative Thom Tillis, Ex Officio
Representative John M. Blust
Representative Justin P. Burr
Representative Becky Carney
Representative Mike D. Hager
PREFACE

The Legislative Research Commission, established by Article 6B of Chapter 120 of the General Statutes, is the general purpose study group in the Legislative Branch of State Government. The Commission is co-chaired by the President Pro Tempore of the Senate and the Speaker of the House of Representatives and has five additional members appointed from each house of the General Assembly. Among the Commission's duties is that of making or causing to be made, upon the direction of the General Assembly, "such studies of and investigation into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner" (G.S. 120-30.17(1)).

The Legislative Research Commission authorized the study of Unmanned Aircraft Systems, under authority of G.S. 120-30.17(1). The Committee was chaired by Representative Mitchell S. Setzer and Representative John A. Torbett, Co-Chairs of the Committee. The full membership of the Committee is listed under Committee Membership. A committee notebook containing the committee minutes and all information presented to the committee will be filed in the Legislative Library by the end of the 2013-2014 biennium.
COMMITTEE PROCEEDINGS

The Legislative Research Commission's Committee on Unmanned Aircraft Systems met four times after the 2013 Regular Session. The Committee's Charge can be found here. The electronic documents accompanying the presentations can be found here. The following is a brief summary of the Committee's proceedings. Detailed minutes and information from each Committee meeting are available in the Legislative Library.

January 21, 2014

The Committee held its first meeting on Tuesday, January 21, 2014, at 1:00 p.m. in Room 1228/1327 of the Legislative Building, with Co-Chair Rep. Mitchell Setzer presiding.

Committee Counsel Bill Patterson reviewed the Committee Charge and explained the limit on the number of meetings and the deadlines for the Committee's report to the Legislative Research Commission.

The Committee received a presentation by Chris Estes, State Chief Information Officer, who provided an introduction to Unmanned Aircraft Systems in North Carolina.

Kyle Snyder, Director, NextGen Air Transportation Center (NGAT), Institute of Transportation Research and Education, gave the Committee an overview of NGAT’s North Carolina UAS program.

Committee Counsel Susan Sitze presented a summary of existing State laws that are potentially relevant to activities conducted with the use of UAS.

February 17, 2014

The Committee held its second meeting on Monday, February 17, 2014, at 1:00 p.m. in Room 544 of the Legislative Office Building, with Co-Chair Rep. John Torbett presiding.

The Committee received the following presentations at this meeting:

- Chief Brandon Zuidema, Garner Police Department, and Region VII Director of the North Carolina Association of Chiefs of Police, expressed the Association's concern that premature or overly restrictive regulation could prevent legitimate and valuable uses of UAS technology by law enforcement, and conveyed the Association's request that the Committee defer any action on proposed legislation to regulate UAS.
- State Highway Patrol Sergeant M.A. “Mat” Tribula, Unit Commander/Chief Pilot, Aircraft Operations, expressed the Patrol's concern that UAS operation
in North Carolina will endanger the safety of its piloted aircraft because there is no way to warn the pilot of a potential UAS collision hazard.

- Jason Barton, KSI Video, gave the Committee a presentation describing the way in which private industry manages and archives data obtained by means of UAS.
- Barry Summers, attending as a member of the public from Asheville, requested the opportunity to address the Committee and was recognized to do so. Mr. Summers asked that the Committee consider how State regulation of UAS may be affected by federal regulation or by federal authorization for the U.S. military to use military grade UAS in domestic airspace, and to address the 4th Amendment issues involved in the use of UAS by law enforcement.

Before adjourning, the Committee discussed the issues raised by these presentations, and Rep. Torbett encouraged the members to come to the Committee's next meeting prepared to discuss any suggestions they may have for recommendations to be included in the Committee's report.

March 17, 2014

The Committee held its third meeting on Monday, March 17, 2014, at 1:00 p.m. in Room 1128/1327 of the Legislative Building, with Co-Chair Rep. Mitchell Setzer presiding.

Ted Lindsley, CEO, Olaeris, spoke to the Committee remotely from Thailand via Skype. Mr. Lindsley's presentation addressed potential economic benefits to North Carolina in supporting the development of commercial UAS use and his company's goal of building the nation's first statewide UAS network in North Carolina. Mr. Lindsley encouraged the Committee to support approval of the governance plan for UAS and sufficient budget for the NGAT Center at N.C. State University.

The Committee received a presentation from Young Kim, General Manager, BOSH Precision Agriculture, who described the potential economic benefits of using UAS to boost productivity in the agriculture industry.

Chris Estes, State Chief Information Officer, presented the Committee with a summary of his March 2014 report to the Joint Legislative Oversight Committee on Information Technology.

Committee Counsel Susan Sitze summarized the provisions of a draft bill to regulate the use of UAS in North Carolina.

Kyle Snyder, Director, NextGen Air Transportation Center, Institute of Transportation Research (ITRE), North Carolina State University, told the Committee that agencies were asking for more time concerning UAS regulations.
Sarah Preston, Policy Director, American Civil Liberties Union of North Carolina, presented a statement to the Committee supporting legislation to require law enforcement agencies to obtain a warrant before using UAS to collect evidence against an individual.

Before adjourning, the Committee discussed the issues raised in the presentations and the use of current laws with small modifications as needed to address UAS.

**April 23, 2014**

The Committee held its fourth and final meeting on Wednesday, April 23, 2014, at 2:00 p.m., with Co-Chair Rep. John A. Torbett presiding. The Committee approved the final report.
FINDINGS AND RECOMMENDATIONS

The Committee on Unmanned Aircraft Systems finds that unmanned aircraft systems have the potential to be a valuable tool in many areas, including law enforcement, public safety, agriculture, and business. Additionally, the development and manufacture of unmanned aircraft systems could prospectively bring industry and jobs to the State. However, the Committee also recognizes the possibility for inappropriate and criminal usage of unmanned aircraft systems, and finds that there should be some guidance and regulation governing the lawful operation of unmanned aircraft systems.

Therefore, the Committee recommends the enactment of Legislative Proposal #1.
COMMITTEE MEMBERSHIP

2013-2014

House of Representatives Members:

Representative Mitchell S. Setzer, Co-Chair
Representative John A. Torbett, Co-Chair

Representative Nathan Baskerville
Representative John Faircloth
Representative Carl Ford
Representative Jim Fulghum, M.D.
Representative Pricey Harrison
Representative Tim D. Moffitt
Representative Michael Speciale
Representative Joe P. Tolson
Representative Chris Whitmire
COMMITTEE CHARGE

**Unmanned Aircraft Systems** - The LRC Study Committee on Unmanned Aircraft Systems shall study both the safety and privacy of its citizens, as well as the economic benefits of enabling unmanned aircraft systems ("UAS"), UAS sub-systems, and peripheral support industries and sciences to develop governmental needs and provide commercial growth in the private and academic sectors in the State. This study shall examine:

1. The integration of unmanned aircraft into the national airspace (NAS).
2. The diverse operational uses for UAS in the areas of search and rescue, natural disaster mitigation, law enforcement operations, surveying, environmental monitoring and infrastructure monitoring.
3. Potential economic benefits to the State through the development of UAS.
4. Potential privacy concerns and considerations related to the deployment and use of UAS.
5. Potentially viable commercial applications for UAS-enabled technology in the future.
6. Any other issues pertinent to this study.

Additionally, the committee shall study issues concerning legal and constitutional limitations of UAS technology. These shall include:

2. Whether the common law warrant exceptions developed from the 4th Amendment to the United States Constitution extend to the use of UAS including:
   a. Imminent harm to life or property.
   b. Felony pursuit.
   c. Imminent description of evidence, etc.
3. The scope of data that may be collected.
4. Penalties for unauthorized data collection.
5. Admissibility and limitations of evidence collected by UAS technology.
6. Data retention and destruction of unauthorized information collected by UAS technology.
7. Reporting requirements identifying who used the technology pursuant to a warrant, the offense specified in the warrant, and the nature of the property or person searched.
8. Potential extenuating circumstances where legal clarity is needed.
Appendix C

STATUTORY AUTHORITY

NORTH CAROLINA GENERAL STATUTES
ARTICLE 6B.

Legislative Research Commission.

§ 120-30.17. Powers and duties.
The Legislative Research Commission has the following powers and duties:

(1) Pursuant to the direction of the General Assembly or either house thereof, or of the chairmen, to make or cause to be made such studies of and investigations into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner.

(2) To report to the General Assembly the results of the studies made. The reports may be accompanied by the recommendations of the Commission and bills suggested to effectuate the recommendations.

(3), (4) Repealed by Session Laws 1969, c. 1184, s. 8.

(5), (6) Repealed by Session Laws 1981, c. 688, s. 2.

(7) To obtain information and data from all State officers, agents, agencies and departments, while in discharge of its duty, pursuant to the provisions of G.S. 120-19 as if it were a committee of the General Assembly.

(8) To call witnesses and compel testimony relevant to any matter properly before the Commission or any of its committees. The provisions of G.S. 120-19.1 through G.S. 120-19.4 shall apply to the proceedings of the Commission and its committees as if each were a joint committee of the General Assembly. In addition to the other signatures required for the issuance of a subpoena under this subsection, the subpoena shall also be signed by the members of the Commission or of its committee who vote for the issuance of the subpoena.

(9) For studies authorized to be made by the Legislative Research Commission, to request another State agency, board, commission or committee to conduct the study if the Legislative Research Commission determines that the other body is a more appropriate vehicle with which to conduct the study. If the other body agrees, and no legislation specifically provides otherwise, that body shall conduct the study as if the original authorization had assigned the study to that body and shall report to the General Assembly at the same time other studies to be conducted by the Legislative Research Commission are to be reported. The other agency shall conduct the transferred study within the funds already assigned to it.
A BILL TO BE ENTITLED

AN ACT TO REGULATE THE USE OF UNMANNED AIRCRAFT SYSTEMS AS RECOMMENDED BY THE LEGISLATIVE RESEARCH COMMISSION'S COMMITTEE ON UNMANNED AIRCRAFT SYSTEMS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 15A of the General Statutes is amended by adding a new Article to read:

"Article 16B.

§ 15A-300.1. Restrictions on use of unmanned aircraft systems.

(a) The following definitions apply to this section:

(1) Manned aircraft. – An aircraft, as defined in G.S. 63-1, that is operated with a person in or on the aircraft.

(2) Unmanned aircraft. – An aircraft, as defined in G.S. 63-1, that is operated without the possibility of human intervention from within or on the aircraft.

(3) Unmanned aircraft system. – An unmanned aircraft and associated elements, including communication links and components that control the unmanned aircraft that are required for the pilot in command to operate safely and efficiently in the national airspace system.

(b) Except as otherwise provided in this section, no person, entity, or State agency shall use an unmanned aircraft system to do any of the following:

(1) Conduct surveillance of:

a. An individual or a dwelling owned by an individual and that dwelling's curtilage, without the individual's written consent.
b. A farm, dairy, ranch or other agricultural industry without the written consent of the owner of the farm, dairy, ranch or other agricultural industry.

(2) Photograph an individual, without the individual's written consent, for the purpose of publishing or otherwise publicly disseminating the photograph.

(c) Notwithstanding the provisions of subsection (b) of this section, the use of unmanned aircraft systems by law enforcement agencies of the State, or a political subdivision of the State, is not prohibited in the following instances:

(1) To counter a high risk of a terrorist attack by a specific individual or organization if the United States Secretary of Homeland Security determines that credible intelligence indicates that there is such a risk.

(2) To conduct surveillance that would not require a warrant if conducted by a manned aircraft.

(3) If the law enforcement agency first obtains a search warrant authorizing the use of an unmanned aircraft system.

(4) If the law enforcement agency possesses reasonable suspicion that, under particular circumstances, swift action is needed to prevent imminent danger to life or serious damage to property, to forestall the imminent escape of a suspect or the destruction of evidence, or to facilitate the search for a missing person.

(5) To photograph gatherings of the public on public or private land.

(d) Any person who is the subject of unwarranted surveillance, or whose photograph is taken in violation of the provisions of this section, shall have a civil cause of action against the person, entity or State agency that conducts the surveillance, or that uses an unmanned aircraft system to photograph for the purpose of publishing or otherwise disseminating the photograph.

(e) Evidence obtained or collected in violation of this section is not admissible as evidence in a criminal prosecution in any court of law in this State.

SECTION 2. Chapter 14 of the General Statutes is amended by adding a new article to read:

**Article 2F. CRIMES BY UNMANNED AIRCRAFT SYSTEMS.**

"§ 14-7.45. Crimes committed by use of unmanned aircraft systems.

All crimes committed by use of an unmanned aircraft system, as defined in G.S. 15A-300.1, while in flight over this State shall be governed by the laws of this State; and the question of whether the conduct by an unmanned aircraft system while in flight over this State constitutes a crime by the owner of the unmanned aircraft system shall be determined by the laws of this State."

SECTION 3. Article 36 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-280.3. Interference with manned aircraft by unmanned aircraft systems.

(a) Any person who willfully damages, disrupts the operation of, or otherwise interferes with a manned aircraft through use of an unmanned aircraft system, while the
manned aircraft is taking off, landing, in flight, or otherwise in motion, is guilty of a
Class H felony.

(b) The following definitions apply to this section:

(1) Manned aircraft. – As defined in G.S. 15A-300.1.
(2) Unmanned aircraft system. – As defined in G.S. 15A-300.1"

SECTION 4. Article 52 of Chapter 14 of the General Statutes is amended by
adding a new section to read:

"§ 14-401.24. Unlawful possession and use of unmanned aircraft systems.

(a) It shall be a Class I felony for any person to possess or use an unmanned
aircraft or unmanned aircraft system that has a weapon attached.
(b) It shall be a Class 3 misdemeanor for any person to fish or to hunt using an
unmanned aircraft system.
(c) The following definitions apply to this section:

(1) To fish. – As defined in G.S. 113-130.
(2) To hunt. – As defined in G.S. 113-130.
(3) Unmanned aircraft. – As defined in G.S. 15A-300.1.
(4) Unmanned aircraft system. – As defined in G.S. 15A-300.1
(5) Weapon. – Those weapons specified in G.S. 14-269, 14-269.2, 14-
284.1, or 14-288.8, and any other object capable of inflicting serious
bodily injury or death when used as a weapon.
(d) This section shall not prohibit possession or usage of an unmanned aircraft or
unmanned aircraft system that is authorized by federal law or regulation."

SECTION 5. (a) Chapter 63 of the General Statutes is amended by adding a
new article to read:

"Article 10.

"OPERATION OF UNMANNED AIRCRAFT SYSTEMS.

"§ 63-95. Training required for operation of unmanned aircraft systems.

(a) As used in this Article, the term "Division" means the Division of Aviation of
the Department of Transportation.

(b) The Division shall develop a knowledge and skills test for operating an
unmanned aircraft system that complies with all applicable State and federal
regulations, and shall provide for administration of the test. The Division may permit a
person, including an agency of this State, an agency of a political subdivision of this
State, an employer, or a private training facility to administer the test developed
pursuant to this subsection, provided the test is the same as that administered by the
Division and complies with all applicable State and federal regulations.

(c) No agent or agency of the State, or agent or agency of a political subdivision
of the State, may operate an unmanned aircraft system within the State without
completion of the test set forth in subsection (b) of this section."

"§ 63-96. License required for commercial operation of unmanned aircraft
systems.

(a) No person shall operate an unmanned aircraft system, as defined in G.S. 15A-
300.1, in this State for commercial purposes unless the person is in possession of a
license issued by the Division valid for the unmanned aircraft system being operated.
Application for such license shall be made in the manner provided by the Division.
Unless suspended or revoked, the license shall be effective for a period to be established by the Division not exceeding eight years.

(b) No person shall be issued a license under this section unless all of the following apply:

1. The person is at least 21 years of age.
2. The person possesses a valid driver’s license issued by any state or territory of the United States or the District of Columbia.
3. The person has passed the knowledge and skills test for operating an unmanned aircraft system as prescribed in G.S. 63-95(b).
4. The person has satisfied all other applicable requirements of this Article or federal regulation.

(c) A license to operate an unmanned aircraft system for commercial purposes shall not be issued to a person while the person’s license to operate an unmanned aircraft system is suspended, revoked, or cancelled in any state.

(d) The Division shall develop and administer a program to license operators of unmanned aircraft systems for commercial purposes. The program must include the following components:

1. A system for classifying unmanned aircraft systems based on characteristics determined to be appropriate by the Division.
2. A fee structure for licenses.
3. A license application process.
4. Technical guidance for complying with program requirements.
5. Criteria under which the Division may suspend or revoke a license.
6. Criteria under which the Division may waive licensure requirements for applicants currently holding a valid license to operate unmanned aircraft systems issued by another state or territory of the United States, the District of Columbia, or the United States.
7. A designation of the geographic area within which a licensee shall be authorized to operate an unmanned aircraft system.
8. Requirements pertaining to the collection, use and retention of data by licensees obtained through the operation of unmanned aircraft systems, to be established in consultation with the State Chief Information Officer.
9. Requirements for the marking of each unmanned aircraft system operated pursuant to a license issued under this section sufficient to permit identification of the owner of the system and the person licensed to operate it.
10. A system for providing agencies that conduct other operations within regulated airspace with the identity and contact information of licensees and the geographic areas within which the licensee is permitted to operate an unmanned aircraft system.

(e) A person who operates an unmanned aircraft system for commercial purposes other than as permitted under this section shall be guilty of a Class 3 misdemeanor.

(f) The Division may issue rules and regulations to implement the provisions of this section."
SECTION 5.(b) The Division of Aviation of the Department of Transportation shall develop and implement the knowledge and skills test required by G.S. 63-95, as enacted in subsection (a) of this section, no later than February 1, 2015, and shall report to the Joint Legislative Transportation Oversight Committee on the status of implementation by March 1, 2015.

SECTION 5.(c) The Division of Aviation of the Department of Transportation shall immediately begin developing the licensing system for commercial operation required by G.S. 63-96, as enacted in subsection (a) of this section, and shall ensure that the system complies with Federal Aviation Administration (FAA) guidelines on commercial operation, as those guidelines become available. Within 60 days of issuance of the FAA guidelines and authorization by the FAA for commercial operations to begin, the Division shall implement the licensing system required by G.S. 63-96, as enacted in subsection (a) of this section.

SECTION 5.(d) No operation of unmanned aircraft systems by agents or agencies of the State, or agents or agencies of a political subdivision of the State shall be authorized in this State until the knowledge and skills test required by G.S. 63-95, as enacted in subsection (a) of this section, has been implemented.

No operation of unmanned aircraft systems for commercial purposes shall be authorized in this State until the FAA has authorized commercial operations and the licensing system required by G.S. 63-96, as enacted in subsection (a) of this section, has been implemented.

SECTION 6.(a) Section 7.16(e) of S.L. 2013-360 is repealed.

SECTION 7. Sections 1 and 6 of this act become effective when the Division of Aviation of the Department of Transportation has implemented the knowledge and skills test required by G.S. 63-95 as enacted in Section 5 of this act, or February 1, 2015, whichever occurs first. Sections 2, 3, and 4 of this act become effective December 1, 2014, and apply to offenses committed on or after that date. The remainder of this act is effective when it becomes law.