

## Article 13.

### Joint Legislative Commission on Governmental Operations.

#### **§ 120-71. Purpose.**

The rapid increase in the functions and costs of State government and the complexity of agency operations deeply concern the General Assembly. Members of the General Assembly have the ultimate responsibility for making public policy decisions and deciding on appropriations of public moneys. Knowledge of the public service needs being met, having evidence as to whether previous policy and appropriations have resulted in expected program benefits, and data on how State government reorganization has affected agency operations are most important.

Legislative examination and review of public policies, expenditures and reorganization implementation as an integral part of legislative duties and responsibilities should be strengthened. For the purpose of performing such continuing examination and evaluation of State agencies, [and] their actual effectiveness in programming and in carrying out procedures under reorganization, the General Assembly herein provides for the continuing review of operations of State government. (1975, c. 490.)

#### **§ 120-72. Definition.**

For the purposes of this Article, "program evaluation" is defined as: an examination of the organization, programs, and administration of State government to ascertain whether such functions (i) are effective, (ii) continue to serve their intended purposes, (iii) are efficient, and (iv) require modification or elimination. (1975, c. 490.)

#### **§ 120-73. Commission established.**

There is hereby established the Joint Legislative Commission on Governmental Operations, hereinafter called the Commission, which shall conduct evaluative studies of the programs, policies, practices and procedures of the various departments, agencies, and institutions of State government. (1975, c. 490.)

#### **§ 120-74. Appointment of members; terms of office.**

The Commission shall consist of 42 members. The President pro tempore of the Senate, the Speaker pro tempore of the House, the Deputy President pro tempore of the Senate, the Majority Leader of the House of Representatives, and the Majority Leader of the Senate and the Speaker of the House shall serve as ex officio members of the Commission. The Speaker of the House of Representatives shall appoint 21 members from the House, at least five of whom are members of the minority party. The President pro tempore of the Senate shall appoint 21 members from the Senate, at least five of whom are members of the minority party. A quorum of the Commission shall be a majority of its members. Vacancies created by resignation or otherwise shall be filled by the original appointing authority. Members shall serve two-year terms beginning and ending on January 15 of the odd-numbered years. Members shall not be disqualified from completing a term of service on the Commission because they fail to run or are defeated for reelection. Resignation or removal from the General Assembly shall constitute resignation or removal from membership on the Commission. (1975, c. 490; 1977, c. 988, s. 1; 1979, c. 932, s. 9; 1981, c. 859, s. 85; 1985, c. 757, s. 142(a)-(c); 1991, c. 72, s. 1; 1995, c. 542, s. 24.1(a); 1997-495, s. 92; 1999-405, s. 1; 1999-431, s. 3.5(a); 2001-486, s. 2.6; 2011-291, s. 1.2(c); 2021-90, s. 20(a).)

**§ 120-75. Organization of the Commission; subcommittees.**

(a) The President pro tempore of the Senate and the Speaker of the House of Representatives shall serve as cochairs of the Commission. Either of the cochairs may call a meeting of the Commission.

(b) Notwithstanding G.S. 120-19.7, the cochairs of the Commission may designate subcommittees to conduct hearings, call witnesses, and inquire into any matters properly before the Commission. The cochairs of the Commission shall appoint members of a subcommittee. The President Pro Tempore of the Senate shall appoint the Senate cochair, and the Speaker of the House of Representatives shall appoint the House cochair of a subcommittee. Either cochair of a subcommittee may call a meeting of the subcommittee. A quorum of a subcommittee shall be a majority of its members. A member of the House of Representatives or the Senate may be appointed to a subcommittee, even if the member has not been appointed to the Commission. A duly constituted subcommittee shall have all the powers of the Commission and may utilize staff to the Commission. Members of a subcommittee shall receive subsistence and travel expenses as provided in G.S. 120-78. Members of a subcommittee serve at the pleasure of the appointing officer. The cochairs may dissolve a subcommittee of the Commission at any time. (1975, c. 490; 1977, c. 988, s. 2; 1981, c. 859, s. 86; 1991, c. 72, s. 2; 2021-90, s. 20(b).)

**§ 120-76. Powers and duties of the Commission.**

The Commission shall have the following powers:

- (1) To conduct program evaluation studies of the various components of State agency activity as they relate to:
  - a. Service benefits of each program relative to expenditures;
  - b. Achievement of program goals;
  - c. Use of indicators by which the success or failure of a program may be gauged; and
  - d. Conformity with legislative intent.
- (2) To study legislation which would result in new programs with statewide implications for feasibility and need. These studies may be jointly conducted with the Fiscal Research Division of the Legislative Services Commission.
- (3) To study on a continuing basis the implementation of State government reorganization with respect to:
  - a. Improvements in administrative structure, practices and procedures;
  - b. The relative effectiveness of centralization and decentralization of management decisions for agency operation;
  - c. Opportunities for effective citizen participation; and
  - d. Broadening of career opportunities for professional staff.
- (4) To make such studies and reports of the operations and functions of State government as it deems appropriate or upon petition by resolution of either the Senate or the House of Representatives.
- (5) To produce routine written reports of findings for general legislative and public distribution. Special attention shall be given to the presentation of findings to the appropriate committees of the Senate and the House of Representatives. If findings arrived at during a study have a potential impact on either the finance or appropriations deliberations, such findings shall immediately be presented to the committees. Such reports shall contain recommendations for appropriate

executive action and when legislation is considered necessary to effect change, draft legislation for that purpose may be included. Such reports as are submitted shall include but not be limited to the following matters:

- a. Ways in which the agencies may operate more economically and efficiently;
  - b. Ways in which agencies can provide better services to the State and to the people; and
  - c. Areas in which functions of State agencies are duplicative, overlapping, or failing to accomplish legislative objectives, or for any other reason should be redefined or redistributed.
- (6) To devise a system, in cooperation with the Fiscal Research Division of the Legislative Services Commission, whereby all new programs authorized by the General Assembly incorporate an evaluation component. The results of such evaluations may be made to the Appropriations Committees at the beginning of each regular session.
- (7) To evaluate and approve or deny requests from the Department of Transportation regarding the funding of federally eligible construction projects as provided in the fourth paragraph of G.S. 136-44.2.
- (8) The Joint Legislative Commission on Governmental Operations shall be consulted by the Governor before the Governor does any of the following:
- a. Repealed by Session Laws 2007-117, s. 2, effective July 1, 2007.
  - b. Authorizes expenditures in excess of the total requirements of a purpose or program as enacted by the General Assembly and as provided by G.S. 143C-6-4.
  - c. Proceeds to reduce programs subsequent to a reduction of ten percent (10%) or more in the federal fund level certified to a department and any subsequent changes in distribution formulas.
  - d. Takes extraordinary measures under Article III, Section 5(3) of the Constitution to effect necessary economies in State expenditures required for balancing the budget due to a revenue shortfall, including, but not limited to, the following: loans among funds, personnel freezes or layoffs, capital project reversions, program eliminations, and use of reserves. However, if the Committee fails to meet within 10 calendar days of a request by the Governor for its consultation, the Governor may proceed to take the actions he feels are appropriate and necessary and shall then report those actions at the next meeting of the Commission.
  - e. Approves a new capital improvement project funded from gifts, grants, receipts, special funds, self-liquidating indebtedness, and other funds or any combination of funds for the project not specifically authorized by the General Assembly. The budget for each capital project must include projected revenues in an amount not less than projected expenditures.
- (9) Repealed by Session Laws 2015-241, s. 31.16(b), effective July 1, 2015.
- (10) Repealed by Session Laws 2015-264, s. 69(a), effective October 1, 2015.
- (11) To evaluate the North Carolina Utilities Commission, by doing the following:
- a. Reviewing the actions of the North Carolina Utilities Commission, including the review of its interim and final orders, to the end that the

members of the General Assembly may better judge whether these actions serve the best interest of the citizens of North Carolina, individual and corporate.

- b. Inquiring into the role of the North Carolina Utilities Commission, the Public Staff, and the several utility companies in the development of alternate sources of energy.
  - c. Submitting evaluations to the General Assembly, from time to time, of the performance of the North Carolina Utilities Commission, the Public Staff, and the various utilities operating in the State. A proposed draft of such evaluations shall be submitted to the North Carolina Utilities Commission, the Public Staff, and the affected public utilities prior to submission to the General Assembly, and the affected entity shall be given an opportunity to be heard before the Commission prior to the completion of the evaluation and its submission to the General Assembly.
- (12) To make reports and recommendations to the General Assembly, from time to time, on matters relating to the powers and duties set out in this section.
- (13) To review and evaluate changes in federal law and regulations, relevant court decisions, and changes in technology affecting any of the duties of the Commission.
- (14) To review and evaluate changes in federal law and regulation, or changes brought about by court actions, as well as changes in technology affecting any of the duties of the Commission, to determine whether the State's laws require modification as a result of those changes.
- (15) With regard to seafood and aquaculture:
- a. To monitor and study the seafood industry in North Carolina, including studies of the feasibility of increasing the State's production, processing, and marketing of seafood.
  - b. To study the potential for increasing the role of aquaculture in all regions of the State.
  - c. To evaluate the feasibility of creating a central permitting office for fishing and aquaculture matters.
  - d. To evaluate actions of the Division of Marine Fisheries of the Department of Environmental Quality, the Wildlife Resources Commission of the Department of Environmental Quality and of any other State or local government agency as such actions relate to the seafood and aquaculture industries.
  - e. To make recommendations regarding regulatory matters relating to the seafood and aquaculture industries including, but not limited to evaluating the necessity to substantially increase penalties for trespass and theft of shellfish and other aquaculture products.
  - f. To review and evaluate changes in federal law and regulations, relevant court decisions, and changes in technology affecting the seafood and aquaculture industries.

- g. To review existing and proposed State law and rules affecting the seafood and aquaculture industries and to determine whether any modification of law or rules is in the public interest.
- (16) To receive reports alleging improper activities or matters of public concern listed in G.S. 126-84. The individual making the report may, at the individual's discretion, remain anonymous. Any report received under this subdivision, in whatever form, is confidential, shall not be a public record, as defined by G.S. 132-1, and becomes available to the public only as provided in G.S. 120-131. (1975, c. 490; 1981, c. 859, s. 87; 1996, 2nd Ex. Sess., c. 18, s. 7.4(a); 1997-443, s. 7.8(e); 2005-276, s. 6.7(a); 2006-203, s. 62; 2007-117, s. 2; 2011-291, s. 1.2(d); 2015-241, ss. 14.30(u), 31.16(b); 2015-264, s. 69(a); 2022-6, s. 15.1(a).)

**§ 120-76.1. Prior consultation with the Commission; reporting requirements.**

(a) Consultation by Governor. – Notwithstanding the provisions of G.S. 120-76(8) or any other provision of law requiring prior consultation by the Governor with the Commission, whenever an expenditure is required because of an emergency that poses an imminent threat to public health or public safety, and is either the result of a natural event, such as a hurricane or a flood, or an accident, such as an explosion or a wreck, the Governor may take action without consulting the Commission if the action is determined by the Governor to be related to the emergency. The Governor shall report to the Commission on any expenditures made under this subsection no later than 30 days after making the expenditure and shall identify in the report the emergency, the type of action taken, and how it was related to the emergency.

(b) Consultation by Agencies, Boards, and Commission. – Any agency, board, commission, or other entity required under G.S. 120-76(8) or any other provision of law to consult with the Commission prior to taking an action shall submit a detailed report of the action under consideration to the Chairs of the Commission, the Commission Assistant, and the Fiscal Research Division of the General Assembly. If the Commission does not hold a meeting to hear the consultation within 90 days of receiving the submission of the detailed report, the consultation requirement is satisfied. With regard to capital improvement projects of The University of North Carolina, if the Commission does not hold a meeting to hear the consultation within 30 days of receiving the submission of the detailed report, the consultation requirement of G.S. 120-76(8)e. is satisfied.

(c) Exemptions. – Consultations regarding the establishment of new fees and charges and the increase of existing fees and charges are governed by G.S. 12-3.1, and this section does not apply to those consultations. (1996, 2nd Ex. Sess., c. 18, s. 7.4(a); 2005-276, s. 6.7(a); 2007-322, s. 10; 2011-291, s. 1.2(e).)

**§ 120-77. Additional powers.**

(a) The Commission, while in the discharge of official duties, shall have access to any paper or document, and may compel the attendance of any State official or employee before the Commission or secure any evidence under the provisions of G.S. 120-19. In addition, the provisions of G.S. 120-19.1 through 120-19.4 shall apply to the proceedings of the Commission as if it were a joint committee of the General Assembly.

(b) Each cochair of the Commission shall designate one Commission staff member who shall have access to the BEACON/HR payroll system. (1975, c. 490; 1977, c. 344, s. 1; 2022-6, s. 15.2.)

**§ 120-78. Compensation and expenses of Commission members.**

Members of the Commission, who are also members of the General Assembly, shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1 for General Assembly members. The Commission shall be funded by the Legislative Services Commission from appropriations made to the General Assembly for that purpose. (1975, c. 490; 1977, c. 988, s. 3; 1991, c. 72, s. 3.)

**§ 120-79. Commission staffing.**

(a) The Commission shall use available secretarial employees of the General Assembly, or may employ, and may remove, such professional and clerical employees as the Commission deems proper. The chairmen may assign and direct the activities of the employees of the Commission, subject to the advice of the Commission.

(b) The employees of the Commission shall receive salaries that shall be fixed by the Legislative Services Commission and shall receive travel and subsistence allowances fixed by G.S. 138-6 and 138-7 when such travel is approved by either chairman, subject to the advice of the Commission. The employees of the Commission shall not be subject to the Executive Budget Act or to the North Carolina Human Resources Act.

(c) Repealed by Session Laws 2021-180, s. 27.2(a), effective July 1, 2021.

(d) The Commission shall assure that sufficient funds are available within its appropriations before employing professional and clerical employees. (1975, c. 490; 1981, c. 859, ss. 88, 89; 2013-382, s. 9.1(c); 2021-180, s. 27.2(a).)

**§§ 120-80 through 120-84. Reserved for future codification purposes.**