

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 575

Short Title: Higher Education Efficiency and Flexibility. (Public)

Sponsors: Senators Stevens and Tillman.

Referred to: Education/Higher Education.

April 14, 2011

A BILL TO BE ENTITLED

AN ACT TO PROVIDE EFFICIENCY AND FLEXIBILITY FOR THE NORTH CAROLINA
COMMUNITY COLLEGE SYSTEM AND THE UNIVERSITY OF NORTH
CAROLINA.

The General Assembly of North Carolina enacts:

PART 1. CAPITAL IMPROVEMENTS AT COMMUNITY COLLEGES

SECTION 1.1. G.S. 115D-9 reads as rewritten:

"§ 115D-9. Powers of State Board regarding certain fee negotiations, contracts, and capital improvements.

(a) The expenditures of any State funds for any capital improvements of existing institutions shall be subject to the prior approval of the State Board of Community Colleges and the Governor. The expenditure of State funds at any institution herein authorized to be approved by the State Board under G.S. 115D-4 shall be subject to the terms of the State Budget Act unless specifically otherwise provided in this Chapter.

(b) Notwithstanding G.S. 143-341(3), the State Board of Community Colleges may, with respect to design, construction, repair, or renovation of buildings, utilities, and other ~~State or non-State funded~~ State-funded property developments of the North Carolina Community College System requiring the estimated expenditure of public money of ~~one million dollars (\$1,000,000)~~ four million dollars (\$4,000,000) or less:

- (1) Conduct the fee negotiations for all design contracts and supervise the letting of all construction and design contracts.
- (2) Develop procedures governing the responsibilities of the North Carolina Community College System and its community colleges to perform the duties of the Department of Administration and the Director or Office of State Construction under G.S. 133-1.1(d) and G.S. 143-341(3).
- (3) Use existing plans and specifications for construction projects, where feasible. Prior to designing a project, the State Board shall consult with the Department of Administration on the availability of existing plans and specifications and the feasibility of using them for a project.

(c) The State Board may delegate its authority under subsection (b) of this section to a community college if the community college is qualified under guidelines adopted by the State Board and approved by the State Building Commission and the Director of the Budget.

(d) The North Carolina Community College System shall use the standard contracts for design and construction currently in use for State capital improvement projects by the Office of State Construction of the Department of Administration.



1 (e) A contract may not be divided for the purpose of evading the monetary limit under
2 this section.

3 (f) Notwithstanding any other provision of this Chapter, the Department of
4 Administration shall not be the awarding authority for contracts awarded under subsections (b)
5 or (c) of this section.

6 (g) The State Board shall annually report to the State Building Commission the
7 following:

8 (1) A list of projects governed by this section.

9 (2) The estimated cost of each project along with the actual cost.

10 (3) The name of each person awarded a contract under this section.

11 (4) Whether the person or business awarded a contract under this section meets
12 the definition of "minority business" or "minority person" as defined in
13 G.S. 143-128.2(g).

14 (h) The provisions of G.S. 143-341(3) shall not apply to a capital improvement project
15 funded with non-State funds if the State Board of Community Colleges determines that the
16 college has the expertise necessary to manage the project unless the assistance of the Office of
17 State Construction is requested."

18 **SECTION 1.2.** This Part is effective when it becomes law and applies to projects
19 initiated on or after that date.

20
21 **PART 2. CLARIFICATION REGARDING EQUIPMENT TITLED TO STATE BOARD OF**
22 **COMMUNITY COLLEGES**

23 **SECTION 2.1.** G.S. 115D-15 reads as rewritten:

24 **"§ 115D-15. Sale, exchange or lease of property; use of proceeds from donated property.**

25 (a) The board of trustees of any institution organized under this Chapter may, with the
26 prior approval of the North Carolina Community Colleges System Office, convey a
27 right-of-way or easement for highway construction or for utility installations or modifications.
28 When in the opinion of the board of trustees the use of any other real property owned or held
29 by the board of trustees is unnecessary or undesirable for the purposes of the institution, the
30 board of trustees, subject to prior approval of the State Board of Community Colleges, may
31 sell, exchange, or lease the property. The board of trustees may dispose of any personal
32 property owned or held by the board of trustees without approval of the State Board of
33 Community Colleges. Personal property titled to the State Board of Community Colleges
34 consistent with G.S. 115D-14 and G.S. 115D-58.5 may be transferred to another community
35 college at no cost and without the approval of the State Board of Community Colleges or the
36 Department of Administration, Division of Surplus Property.

37 Article 12 of Chapter 160A of the General Statutes shall apply to the disposal or sale of any
38 real or personal property under this subsection. Personal property also may be disposed of
39 under procedures adopted by the North Carolina Department of Administration. The proceeds
40 of any sale or lease shall be used for capital outlay purposes, except as provided in subsection
41 (b) of this section.

42"

43 **SECTION 2.2.** This Part becomes effective July 1, 2011.

44
45 **PART 3. GRANTING COMMUNITY COLLEGES ADDITIONAL FLEXIBILITY WITH**
46 **REGARD TO INVESTMENTS**

47 **SECTION 3.1.** G.S. 115D-58.6 reads as rewritten:

48 **"§ 115D-58.6. Investment of idle cash.**

49 (a) Definitions. – As used in this section the following definitions apply:

50 (1) "Cash balance" means the amount equal to all moneys received into
51 institutional fund accounts minus all expenses and withdrawals from those

1 accounts in an official depository of the institution as designated by the local
2 board of trustees consistent with G.S. 115D-58.7.

3 (2) "Official depository" means one or more banks, savings and loan
4 associations, or trust companies in North Carolina that a community college
5 board of trustees has designated consistent with G.S. 115D-58.7.

6 (a1) Deposits. – The institution may deposit at interest ~~or invest~~ all or part of the cash
7 balance of any fund in an official depository of the institution. ~~The institution shall manage~~
8 investments subject to whatever restrictions and directions the board of trustees may impose.
9 The institution shall have the power to purchase, sell, and exchange securities on behalf of the
10 board of trustees. The investment program shall be so managed that investments and deposits
11 can be converted into cash when needed. Moneys may be deposited at interest in any official
12 depository of the institution in the form of certificates of deposit or such other forms of time
13 deposits as may be approved for county governments. In addition, moneys may be deposited in
14 the form of certificates of deposit as provided for a local government or public authority in
15 G.S. 159-30(b1). Investment deposits shall be secured as provided in G.S. 159-31(b).

16 (b) Moneys may be deposited at interest in any bank, savings and loan association or
17 trust company in this State in the form of certificates of deposit or such other forms of time
18 deposits as may be approved for county governments. In addition, moneys may be deposited in
19 the form of certificates of deposit as provided for a local government or public authority in
20 G.S. 159-30(b1). Investment deposits shall be secured as provided in G.S. 159-31(b).

21 (e)(b) Investments. – The institution may invest all or part of the cash balance of any fund
22 in an official depository of the institution. The institution shall manage investments subject to
23 whatever restrictions and directions the board of trustees may impose. The institution shall have
24 the power to purchase, sell, and exchange securities on behalf of the board of trustees. The
25 investment program shall be so managed that investments and deposits can be converted into
26 cash when needed.

27 (1) Moneys ~~may~~ shall only be invested in the form of investments pursuant to
28 G.S. 159-30(c) to county governments ~~and no others~~ or in any form of
29 investment established or managed by an investment advisor who is
30 registered and in good standing with either the Securities and Exchange
31 Commission or the North Carolina Secretary of State, Securities Division,
32 and is a member of the Securities Investor Protection Corporation. Money in
33 endowment funds may be invested pursuant to G.S. 147-69.2. Provided,
34 however, the institution may elect to deposit at interest any local funds with
35 the State Treasurer for investment as special trust funds pursuant to the
36 provisions of G.S. 147-69.3, and the interest thereon shall accrue to the
37 institution as local funds.

38 (d) **Investment**

39 (2) The investment securities listed in G.S. 159-30(c) may be bought, sold, and
40 traded by private negotiation, and the institutions may pay all incidental
41 costs thereof and all reasonable costs of administering the investment and
42 deposit program from local funds. The institution shall be responsible for
43 their safekeeping and for keeping accurate investment accounts and records.

44 (e)(c) Interest earned on deposits and investments shall be credited to the fund whose cash
45 is deposited or invested. Cash of several funds may be combined for deposit or investment if
46 not otherwise prohibited by law; and when such joint deposits or investments are made, interest
47 earned shall be prorated and credited to the various funds on the basis of the amounts thereof
48 invested, figured according to an average periodic balance or some other sound accounting
49 principle. Interest earned on the deposit or investment of bond funds shall be deemed a part of
50 the bond proceeds.

1 ~~(d)~~ Registered securities acquired for investment may be released from registration and
2 transferred by signature of the official designated by the board of ~~trustees.~~"trustees.

3 (e) The Board of Trustees shall appoint an Investment Committee which shall consist of
4 a minimum of three people who have sufficient financial background to review and evaluate
5 investment options. These individuals should have experience in institutional or retail
6 investment management with knowledge of fixed income and public equities. This committee
7 shall make recommendations to the Board on those investment options, as well as monitor the
8 performance of investments once made.

9 (f) The Board of Trustees shall discharge their duties with respect to the management
10 and investment of college funds as follows:

11 (1) Investment decisions shall be solely in the interest of the college, and the
12 students, faculty, and staff of the college.

13 (2) The investments shall be for the exclusive purpose of providing an adequate
14 return to the college.

15 (3) Investments shall be made with the care, skill, and caution under the
16 circumstances then prevailing which a prudent person acting in a like
17 capacity and familiar with those matters would use in the conduct of an
18 activity of like character and purpose.

19 (4) Investment decisions shall be made impartially, taking into account the best
20 interest of the college, with special attention to conflicts of interest or
21 potential conflicts of interest.

22 (5) Investments shall incur only costs that are appropriate and reasonable."

23 **SECTION 3.2.** G.S. 147-69.2 is amended by adding a new subdivision to read:

24 "(20) Institutional funds of the colleges of the North Carolina Community College
25 System."

26 **SECTION 3.3.** This Part becomes effective July 1, 2011.

27
28 PART 4. INCREASE THE LIMIT ON CONSTRUCTION PROJECTS THAT THE
29 UNIVERSITY OF NORTH CAROLINA AND THE NORTH CAROLINA COMMUNITY
30 COLLEGE SYSTEM MAY USE ITS EMPLOYEES TO COMPLETE

31 **SECTION 4.1.** G.S. 143-135 reads as rewritten:

32 "**§ 143-135. Limitation of application of Article.**

33 Except for the provisions of G.S. 143-129 requiring bids for the purchase of apparatus,
34 supplies, materials or equipment, this Article shall not apply to construction or repair work
35 undertaken by the State or by subdivisions of the State of North Carolina (i) when the work is
36 performed by duly elected officers or agents using force account qualified labor on the
37 permanent payroll of the agency concerned and (ii) when either the total cost of the project,
38 including without limitation all direct and indirect costs of labor, services, materials, supplies
39 and equipment, does not exceed one hundred twenty-five thousand dollars (\$125,000) or the
40 total cost of labor on the project does not exceed fifty thousand dollars (\$50,000); provided
41 that, for The University of North Carolina and its constituent institutions and for the North
42 Carolina Community College System and its institutions, force account qualified labor may be
43 used (i) when the work is performed by duly elected officers or agents using force account
44 qualified labor on the permanent payroll of the university and (ii) when either the total cost of
45 the project, including, without limitation, all direct and indirect costs of labor, services,
46 materials, supplies, and equipment, does not exceed ~~two hundred thousand dollars (\$200,000)~~
47 five hundred thousand dollars (\$500,000) or the total cost of labor on the project does not
48 exceed ~~one hundred thousand dollars (\$100,000)~~ three hundred thousand dollars (\$300,000).
49 This force account work shall be subject to the approval of the Director of the Budget in the
50 case of State agencies, of the responsible commission, council, or board in the case of
51 subdivisions of the State. Complete and accurate records of the entire cost of such work,

1 including without limitation, all direct and indirect costs of labor, services, materials, supplies
2 and equipment performed and furnished in the prosecution and completion thereof, shall be
3 maintained by such agency, commission, council or board for the inspection by the general
4 public. Construction or repair work undertaken pursuant to this section shall not be divided for
5 the purposes of evading the provisions of this Article."

6 **SECTION 4.2.** This Part is effective when it becomes law.
7

8 PART 5. ALLOW THE UNIVERSITY OF NORTH CAROLINA BOARD OF GOVERNORS
9 TO APPROVE THE PLANNING, AUTHORIZATION, AND FUNDING OF CAPITAL
10 PROJECTS FROM NON-GENERAL FUND SOURCES

11 **SECTION 5.1.** G.S. 143C-8-12 reads as rewritten:

12 "**§ 143C-8-12. University system capital improvement projects from sources that are not**
13 **General Fund sources: approval of new project or change in scope of existing**
14 **project.**

15 Notwithstanding any other provision of this Chapter, ~~the Director of the Budget may, upon~~
16 ~~request of the Board of Governors of The University of North Carolina and after consultation~~
17 ~~with the Joint Legislative Commission on Governmental Operations, may approve:~~ (i)
18 expenditures to plan a capital improvement project of The University of North Carolina the
19 planning for which is to be funded entirely with non-General Fund money, (ii) expenditures for
20 a capital improvement project of The University of North Carolina that is to be funded and
21 operated entirely with non-General Fund money, or (iii) a change in the scope of any
22 previously approved capital improvement project of The University of North Carolina provided
23 that both the project and change in scope are funded entirely with non-General Fund money.
24 The Board of Governors shall report any expenditure made pursuant to this section to the
25 Office of State Budget and Management and to the Joint Legislative Commission on
26 Governmental Operations."

27 **SECTION 5.2.** This Part is effective when it becomes law.
28

29 PART 6. AUTHORIZE THE UNIVERSITY OF NORTH CAROLINA BOARD OF
30 GOVERNORS TO ALLOCATE OR REALLOCATE FUNDS TO REPAIRS AND
31 RENOVATIONS PROJECTS; AND TO REQUIRE THAT ANY ALLOCATION OR
32 REALLOCATION BE REPORTED TO THE JOINT LEGISLATIVE COMMISSION ON
33 GOVERNMENTAL OPERATIONS WITHIN SIXTY DAYS

34 **SECTION 6.1.** G.S. 143C-4-3 is amended by adding a new subsection to read:

35 "(d) Board of Governors May Allocate Funds to Particular Projects. – Any funds in the
36 Reserve for Repairs and Renovations that are allocated to the Board of Governors of The
37 University of North Carolina may be allocated or reallocated by the Board for repairs and
38 renovations projects so long as (i) any project that receives an allocation or reallocation
39 satisfies the requirements of subsection (b) of this section unless the Board determines that
40 sufficient funds are not available from other sources and that conditions warrant General Fund
41 assistance and (ii) the allocation or reallocation is in accordance with guidelines developed in
42 The University of North Carolina Funding Allocation Model for Reserve for Repairs and
43 Renovations, as approved by the Board of Governors of The University of North Carolina. The
44 Board of Governors shall report to the Joint Legislative Commission on Governmental
45 Operations on the allocation or reallocation of funds pursuant to this section within 60 days of
46 any allocation or reallocation under this subsection."

47 **SECTION 6.2.** This Part becomes effective July 1, 2011.
48

49 PART 7. WAIVE THE REQUIREMENT FOR A CAPITAL PROJECT FEASIBILITY
50 DETERMINATION FOR CAPITAL PROJECTS OF THE UNIVERSITY OF NORTH
51 CAROLINA FOR WHICH ADVANCE PLANNING HAS NOT BEEN UNDERTAKEN

1 **SECTION 7.1.** G.S. 143C-3-3 reads as rewritten:

2 "**§ 143C-3-3. Budget requests from State agencies in the executive branch.**

3 ...

4 (c) Repairs and Renovations Funds Request. – In addition to any other information
5 requested by the Director, any State agency proposing to repair or renovate an existing facility
6 shall accompany that request with all of the following:

- 7 (1) A description of current deficiencies and proposed corrections with a review
8 and evaluation of that proposal prepared by the Department of
9 Administration.
- 10 (2) An estimate of project costs approved by the Department of Administration.
- 11 (3) A certification of project feasibility as described in
12 G.S. 143-341.G.S. 143-341, except that in the case of a project of The
13 University of North Carolina for which advance planning has not been
14 completed, the request may be submitted without this certification.
- 15 (4) An explanation of the method by which the repair or renovation is to be
16 financed.

17 (d) Capital Funds Request. – In addition to any other information requested by the
18 Director, any State agency proposing to (i) acquire real property, (ii) construct a new facility,
19 (iii) expand the building area (sq. ft.) of an existing facility, or (iv) rehabilitate an existing
20 facility to accommodate new or expanded uses shall accompany that request with all of the
21 following:

- 22 (1) An estimate of its space needs and other physical requirements, together
23 with a review and evaluation of that estimate prepared by the Department of
24 ~~Administration.~~Administration, except that in the case of a project of The
25 University of North Carolina for which advance planning has not been
26 completed, the estimate of space needs may be a preliminary estimate.
- 27 (2) An estimate of project costs and cash flow requirements approved by the
28 Department of Administration.
- 29 (3) A certification of project feasibility as described in
30 G.S. 143-341.G.S. 143-341, except that in the case of a project of The
31 University of North Carolina for which advance planning has not been
32 completed, the request may be submitted without this certification.
- 33 (4) An explanation of the method by which the acquisition, construction, or
34 rehabilitation is to be financed.
- 35 (5) An estimate of maintenance and operating costs, including personnel, for the
36 project, covering the first five years of operation.
- 37 (6) An estimate of revenues, if any, to be derived from the project, covering the
38 first five years of operation.

39 This subsection does not apply to requests for State resources for railroad, highway, or
40 bridge construction or renovation.

41 (e) Information Technology Request. – In addition to any other information requested
42 by the Director, any State agency requesting significant State resources, as defined by the
43 Director, for the purpose of acquiring or maintaining information technology shall accompany
44 that request with all of the following:

- 45 (1) A statement of its needs for information technology and related resources,
46 including expected improvements to programmatic or business operations,
47 together with a review and evaluation of that statement prepared by the State
48 Chief Information Officer.
- 49 (2) A statement setting forth the requirements for State resources, together with
50 an evaluation of those requirements by the State Chief Information Officer
51 that takes into consideration the State's current technology, the opportunities

1 for technology sharing, the requirements of Article 3D of Chapter 147 of the
2 General Statutes, and any other factors relevant to the analysis.

3 (3) A statement by the State Chief Information Officer that sets forth viable
4 alternatives, if any, for meeting the agency needs in an economical and
5 efficient manner.

6 (4) In the case of an acquisition, an explanation of the method by which the
7 acquisition is to be financed.

8 This subsection shall not apply to requests submitted by the General Assembly, the
9 Administrative Office of the Courts, or The University of North Carolina."

10 **SECTION 7.2.** G.S. 143-341(3)b1. reads as rewritten:

11 "**§ 143-341. Powers and duties of Department.**

12 The Department of Administration has the following powers and duties:

13 ...

14 (3) Architecture and Engineering:

15 ...

16 b1. To certify that a statement of needs pursuant to ~~G.S. 143C-3-3~~
17 G.S. 143C-3-3, other than for a project of The University of North
18 Carolina for which advance planning has not been completed, is
19 feasible. For purposes of this sub-subdivision, "feasible" means that
20 the proposed project is sufficiently defined in overall scope; building
21 program; site development; detailed design, construction, and
22 equipment budgets; and comprehensive project scheduling so as to
23 reasonably ensure that it may be completed with the amount of funds
24 requested. At the discretion of the General Assembly, advanced
25 planning funds may be appropriated in support of this certification.
26 This sub-subdivision shall not apply to requests for appropriations of
27 less than one hundred thousand dollars (\$100,000)."

28 **SECTION 7.3.** This Part becomes effective July 1, 2011.

29
30 PART 8. ALLOW CHANCELLORS OF CONSTITUENT INSTITUTIONS OF THE
31 UNIVERSITY OF NORTH CAROLINA TO APPROVE CERTAIN REPAIR AND
32 MAINTENANCE PROJECTS AND TO FUND THOSE PROJECTS WITH AVAILABLE
33 OPERATING FUNDS

34 **SECTION 8.1.** G.S. 116-13.1 reads as rewritten:

35 "**§ 116-13.1. Capital facilities; ~~reports; reports; chancellors may authorize certain repair~~**
36 **and maintenance projects.**

37 (a) The General Assembly finds that although The University of North Carolina is one
38 of the State's most valuable assets, the current facilities of the University have been allowed to
39 deteriorate due to decades of neglect and have unfortunately fallen into a state of disrepair
40 because of inadequate attention to maintenance. It is the intent of the General Assembly to
41 reverse this trend and to provide a mechanism to assure that the University's capital assets are
42 adequately maintained. The General Assembly commits to responsible stewardship of these
43 assets to protect their value over the years, as follows:

44 (1) The Board of Governors of The University of North Carolina shall require
45 each constituent and affiliated institution to monitor the condition of its
46 facilities and their needs or repair and renovation, and to assure that all
47 necessary maintenance is carried out within funds available.

48 (2) The Board of Governors shall report annually to the Joint Legislative
49 Commission on Governmental Operations and the Joint Legislative
50 Education Oversight Committee on the condition of the University's capital

1 facilities, the repair, renovation, and maintenance projects being undertaken,
2 and all needs for additional funding to maintain the facilities.

- 3 (3) It is the intent of the General Assembly to assure that adequate oversight,
4 funding, and accountability are continually provided so that the capital
5 facilities of the University are properly maintained to preserve the level of
6 excellence the citizens of this State deserve. To this end, the Joint
7 Legislative Education Oversight Committee shall report to the General
8 Assembly annually its recommendations for legislative changes to
9 implement this policy.

10 (b) Equity in University Improvements. – The Board of Governors of The University of
11 North Carolina shall continue to study and monitor any inequities in funding for capital
12 improvements and facilities needs which may still exist on North Carolina's Public Historically
13 Black Colleges and Universities and North Carolina's Historically American Indian University,
14 the University of North Carolina at Pembroke, beyond the funding of the projects provided for
15 in this act, and shall report annually to the Joint Legislative Commission on Governmental
16 Operations on any remaining inequities found, including recommendations as to how those
17 inequities should be addressed.

18 (c) Approval of Certain Repair and Maintenance Projects. – Notwithstanding
19 G.S. 143C-8-7, the chancellor of a constituent institution may approve the expenditure of
20 available operating funds in an amount not to exceed one million dollars (\$1,000,000) per
21 project for repairs to institution facilities, maintenance of those facilities, and related equipment
22 purchases. Funds contractually obligated to an approved project shall not revert at the end of
23 the fiscal year and will remain available to fund the completion of the project. Projects
24 approved pursuant to this subsection shall in all other respects accord with applicable laws
25 governing capital improvement projects."

26 **SECTION 8.2.** This Part is effective when it becomes law.

27
28 PART 9. AUTHORIZE THE BOARD OF GOVERNORS OF THE UNIVERSITY OF
29 NORTH CAROLINA TO PERMIT CONSTITUENT INSTITUTIONS OF THE
30 UNIVERSITY TO SELF-PERFORM ENERGY CONSERVATION MEASURES; AND TO
31 AUTHORIZE ENERGY SAVINGS TO BE USED AS SECURITY FOR AND A SOURCE
32 OF REPAYMENT FOR DEBT ISSUED PURSUANT TO ARTICLE 3 OF CHAPTER 116D
33 OF THE GENERAL STATUTES

34 **SECTION 9.1.** Article 3B of Chapter 143 of the General Statutes is amended by
35 adding a new section to read:

36 **"§ 143-64.17L. Board of Governors may authorize energy conservation measures at**
37 **constituent institutions.**

38 (a) Authority. – Notwithstanding the provisions of this Part to the contrary, the Board
39 of Governors of The University of North Carolina may authorize a constituent institution to
40 implement an energy conservation measure without entering into a guaranteed energy savings
41 contract if both of the following are true:

- 42 (1) The Board of Governors finds that the energy savings resulting from the
43 implementation of the energy conservation measure will, according to the
44 energy savings analysis received pursuant to G.S. 143-64.17M(a), equal or
45 exceed the total cost of implementing the measure. If the proposed
46 implementation will be financed with debt, then the energy savings analysis
47 must project sufficient energy savings to pay the debt service on any bonds
48 to be issued. As used in this subdivision, the term 'total cost' shall have the
49 same meaning as it does in G.S. 143-64.17B(d).

- 50 (2) The energy conservation measure is for an existing building or utility
51 system.

1 (b) Scope of Authority. – In implementing an energy conservation measure pursuant to
2 subsection (a) of this section, the Board of Governors may undertake or authorize a constituent
3 institution to undertake any action that (i) could be required of a qualified provider under a
4 guaranteed energy savings contract or (ii) is otherwise permissible under this Part.

5 (c) Projects Consisting of Multiple Energy Conservation Measures. – The Board of
6 Governors may authorize the implementation of multiple energy conservation measures
7 simultaneously as part of a single project. When doing so, the findings required by subsection
8 (a) of this section may be made with respect to the project as a whole and need not be made
9 with respect to individual energy conservation measures. Similarly, the analyses required by
10 G.S. 143-64.17M may be conducted for the project as a whole instead of for individual energy
11 conservation measures.

12 (d) Continuing Applicability of Part to Contracts. – If the Board of Governors or a
13 constituent institution implements an energy conservation measure through a guaranteed energy
14 savings contract, that contract shall accord in all respects with the requirements of this Part.

15 **SECTION 9.2.** Article 3B of Chapter 143 of the General Statutes is amended by
16 adding a new section to read:

17 **"§ 143-64.17M. Energy savings analysis required prior to implementation;**
18 **post-implementation analyses required.**

19 (a) Energy Savings Analysis Required Prior to Implementation. – Prior to
20 implementing an energy conservation measure pursuant to G.S. 143-64.17L, an energy savings
21 analysis shall be performed to validate the economic assumptions that purportedly support the
22 implementation of the measure. This analysis shall be performed by a third party selected by
23 the constituent institution and shall include an energy consumption analysis to develop a
24 baseline of previous costs of all utilities' energy consumption for the institution on the
25 assumption that the energy conservation measure was not undertaken. The completed analysis
26 shall be submitted to The University of North Carolina General Administration and to the State
27 Energy Office.

28 (b) Post-Implementation Analyses Required. – A constituent institution that implements
29 an energy conservation measure pursuant to G.S. 143-64.17L shall retain a third party to
30 perform an annual measurement and verification of energy savings resulting from the energy
31 conservation measure as compared to the baseline of previous costs set forth in the energy
32 savings analysis required by subsection (a) of this section. The third party shall annually
33 provide a reconciliation statement based upon the results of a preagreed upon measurement,
34 monitoring, and verification protocol which shall disclose any shortfall or surplus between the
35 estimated energy usage and operational savings set forth in the energy savings analysis required
36 by subsection (a) of this section and actual, not stipulated, energy usage and operational savings
37 incurred during a given year.

38 If a reconciliation statement reveals a shortfall in energy savings for a particular year, the
39 constituent institution shall be responsible for and shall pay the shortfall. However, the
40 institution shall not be held responsible for losses due to natural disasters or other emergencies.
41 Any surplus shall be retained by the institution and may be used in the same manner as any
42 other energy savings.

43 **SECTION 9.3.** G.S. 116-30.3B(b) reads as rewritten:

44 "(b) It is the intent of the General Assembly that appropriations to the Board of
45 Governors on behalf of a constituent institution not be reduced as a result of the institution's
46 realization of energy savings. Instead, the General Assembly intends that the amount of
47 appropriations be determined as if no energy savings had been realized. The Director of the
48 Budget shall not decrease the recommended continuation budget requirements for utilities for
49 constituent institutions by the amount of energy savings realized from implementing energy
50 conservation measures, including savings achieved through a guaranteed energy savings
51 contract."

1 **SECTION 9.4.** G.S. 143-64.17F(b) reads as rewritten:

2 "(b) The Department of Administration, in consultation with the Department of
3 Commerce through the State Energy Office, shall adopt rules for: (i) agency evaluation of
4 guaranteed energy savings contracts; (ii) establishing time periods for consideration of
5 guaranteed energy savings contracts by the Office of State Budget and Management, the Office
6 of the State Treasurer, and the Council of State, and (iii) setting measurements and verification
7 criteria, including review, audit, and precertification. Prior to adopting any rules pursuant to
8 this section, the Department shall consult with and obtain approval of those rules from the State
9 Treasurer. The rules adopted pursuant to this subsection shall not apply to energy conservation
10 measures implemented pursuant to G.S. 143-64.17L."

11 **SECTION 9.5.** G.S. 143-64.17H reads as rewritten:

12 "**§ 143-64.17H. Report on guaranteed energy savings contracts entered into by State**
13 **governmental units.**

14 A State governmental unit that enters into a guaranteed energy savings contract or
15 implements an energy conservation measure pursuant to G.S. 143-64.17L must report either (i)
16 the contract and the terms of the contract or (ii) the implementation of the measure to
17 the State Energy Office of the Department of Commerce within 30 days of the date the contract
18 is entered into or the measure is implemented. In addition, within 60 days after each
19 annual anniversary date of a guaranteed energy savings contract, the State governmental unit
20 must report the status of the contract to the State Energy Office, including any details required
21 by the State Energy Office. The State Energy Office shall compile the information for each
22 fiscal year and report it to the Joint Legislative Commission on Governmental Operations and
23 to the Local Government Commission annually by December 1. In compiling the information,
24 the State Energy Office shall include information on the energy savings expected to be realized
25 from a contract or implementation and shall evaluate whether expected savings have in fact
26 been realized."

27 **SECTION 9.6.** G.S. 142-63 reads as rewritten:

28 "**§ 142-63. Authorization of financing contract.**

29 Subject to the terms and conditions set forth in this Article, (i) a State governmental unit
30 that is implementing an energy conservation measure pursuant to G.S. 143-64.17L and
31 financing it pursuant to this Article, (ii) a State governmental unit that has solicited a
32 guaranteed energy conservation measure pursuant to G.S. 143-64.17A or ~~G.S. 143-64.17B~~ or
33 G.S. 143-64.17B, or (iii) the State Treasurer, as designated by the Council of State, is
34 authorized to execute and deliver, for and on behalf of the State of North Carolina, a financing
35 contract to finance the costs of the energy conservation measure. The aggregate outstanding
36 amount payable by the State under financing contracts entered pursuant to this Article shall not
37 exceed five hundred million dollars (\$500,000,000) at any one time."

38 **SECTION 9.7.** G.S. 142-64(a) reads as rewritten:

39 "**§ 142-64. Procedure for incurrence or issuance of financing contract.**

40 (a) When a State governmental unit (i) is implementing an energy conservation
41 measure pursuant to G.S. 143-64.17L and financing it pursuant to this Article, or (ii) has
42 solicited a guaranteed energy conservation measure, the State governmental unit shall request
43 that the State Treasurer approve the State governmental unit's entering into a financing contract
44 to finance the cost of the energy conservation measure. In connection with the request, the State
45 governmental unit shall provide to the State Treasurer any information the State Treasurer
46 requests in order to evaluate the request. In the event that the State Treasurer determines that
47 financing efficiencies will be realized through the combining of financing contracts, then the
48 State Treasurer is authorized to execute and deliver, for and on behalf of the State of North
49 Carolina, subject to the terms and conditions set forth in this Article, a financing contract for
50 the purpose of financing the cost of the multiple energy conservation measures."

51 **SECTION 9.8.** G.S. 116D-22(3) reads as rewritten:

- 1 "(3) Obligated resources. – Any sources of income or receipts of the Board of
2 Governors or the institution at which a special obligation bond project is or
3 will be located that are designated by the Board as the security and source of
4 payment for bonds issued under this Article to finance a special obligation
5 bond project, including, without limitation, any of the following:
- 6 a. Rents, charges, or fees to be derived by the Board of Governors or
7 the institution from any activities conducted at the institution.
 - 8 b. Earnings on the investment of the endowment fund of the institution
9 at which a special obligation project will be located, to the extent that
10 the use of the earnings will not violate any lawful condition placed
11 by the donor upon the part of the endowment fund that generates the
12 investment earnings.
 - 13 c. Funds to be received under a contract or a grant agreement, including
14 "overhead costs reimbursement" under a grant agreement, entered
15 into by the Board of Governors or the institution to the extent the use
16 of the funds is not restricted by the terms of the contract or grant
17 agreement or the use of the funds as provided in this Article does not
18 violate the restriction.
 - 19 d. Funds appropriated from the General Fund to the Board of Governors
20 on behalf of a constituent institution for utilities of the institution that
21 constitute energy savings as that term is defined in G.S. 143-64.17.
22 ~~Obligated~~ Except as provided in Sub-subdivision d. of this subdivision,
23 obligated resources do not include funds appropriated to the Board of
24 Governors or the institution from the General Fund by the General Assembly
25 from funds derived from general tax and other revenues of the State, and
26 obligated resources do not include tuition payment by students."

27 **SECTION 9.9.** This Part is effective when it becomes law.

28
29 PART 10. INSTITUTIONAL EXPENDITURE BENCHMARKS

30 **SECTION 10.1.(a)** G.S. 116-31.10 reads as rewritten:

31 "**§ 116-31.10. Powers of Board regarding certain purchasing contracts.**

32 (a) Notwithstanding G.S. 143-53.1 or G.S. 143-53(a)(2), the expenditure benchmark for
33 a special responsibility constituent institution with regard to competitive bid procedures and the
34 bid value benchmark shall be an amount not greater than five hundred thousand dollars
35 (\$500,000). The Board shall set the benchmark for each institution from time to time. In setting
36 an institution's benchmark in accordance with this section, the Board shall consider the
37 institution's overall capabilities including staff resources, purchasing compliance reviews, and
38 audit reports. The Board shall also consult with the Director of the Division of Purchase and
39 Contract and the Director of the Budget prior to setting the benchmark.

40 (b) Each institution with an expenditure benchmark greater than two hundred fifty
41 thousand dollars (\$250,000) shall comply with this subsection for any purchase greater than
42 ~~two hundred fifty thousand dollars (\$250,000)~~ the institution's benchmark set by the Board but
43 not greater than five hundred thousand dollars (\$500,000). This institution shall submit to the
44 Division of Purchase and Contract for that Division's approval or other action deemed
45 necessary by the Division a copy of all offers received and the institution's recommendation of
46 award or other action. Notice of the Division's decision shall be sent to that institution. The
47 institution shall then proceed with the award of contract or other action recommended by the
48 Division."

49 **SECTION 10.2.(b)** This Part becomes effective October 1, 2011.

1 PART 11. IN THE PROCESS OF BIDDING COMMODITY CONTRACTS, ALLOW
2 COMPETITORS TO BID OPTIONAL ONE-YEAR CONTRACT RENEWALS FOR UP TO
3 TEN YEARS

4 **SECTION 11.1.(a)** G.S. 143-53(d) reads as rewritten:

5 "(d) Notwithstanding the provisions of this section or any rule adopted pursuant to this
6 Article, The University of North Carolina may solicit bids for service contracts and commodity
7 contracts with a term of 10 years or less, including extensions and renewals, without the prior
8 approval of the State Purchasing Officer."

9 **SECTION 11.2.(b)** This Part is effective when it becomes law.

10
11 PART 12. ALLOW UNC TO ASSUME RESPONSIBILITY FOR THE QUALITY
12 ACCEPTANCE INSPECTION PROCESS

13 **SECTION 12.1.(a)** G.S. 143-60 reads as rewritten:

14 "**§ 143-60. Rules covering certain purposes.**

15 The Secretary of Administration may adopt, modify, or abrogate rules covering the
16 following purposes, in addition to those authorized elsewhere in this Article:

- 17 (1) Requiring reports by State departments, institutions, or agencies of stocks of
18 supplies and materials and equipment on hand and prescribing the form of
19 such reports.
- 20 (2) Prescribing the manner in which supplies, materials and equipment shall be
21 delivered, stored and distributed.
- 22 (3) Prescribing the manner of inspecting deliveries of supplies, materials and
23 equipment and making chemical and/or physical tests of samples submitted
24 with bids and samples of deliveries to determine whether deliveries have
25 been made in compliance with specifications. However, the provisions of
26 this subdivision shall not apply to the constituent institutions of The
27 University of North Carolina. The President of The University of North
28 Carolina shall issue regulations or guidelines for the conducting of quality
29 inspections by constituent institutions to ensure that deliveries have been
30 made in compliance with specifications.
- 31 (4) Prescribing the manner in which purchases shall be made in emergencies.
- 32 (5) Providing for such other matters as may be necessary to give effect to
33 foregoing rules and provisions of this Article.
- 34 (6) Prescribing the manner in which passenger vehicles shall be purchased.

35 Further, the Secretary of Administration may prescribe appropriate procedures necessary to
36 enable the State, its institutions and agencies, to obtain materials surplus or otherwise available
37 from federal, State or local governments or their disposal agencies."

38 **SECTION 12.2.(b)** This Part becomes effective October 1, 2011.

39
40 PART 13. ALLOW CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH
41 CAROLINA TO ESTABLISH BRAND NAME SPECIFICATIONS FOR BUILDING
42 COMPONENTS TO BE USED IN UNIVERSITY WORKS UNDER CERTAIN
43 CIRCUMSTANCES

44 **SECTION 13.1.** G.S. 133-3 reads as rewritten:

45 "**§ 133-3. Specifications to carry competitive items; substitution of materials.**

46 ~~All~~-(a) Generally. – Except as provided in subsection (b) of this section, architects,
47 engineers, designers, or draftsmen, when providing design services, or writing specifications,
48 directly or indirectly, for materials to be used in any city, county or State work, shall specify in
49 their plans the required performance and design characteristics of such materials. However,
50 when it is impossible or impractical to specify the required performance and design
51 characteristics for such materials, then the architect, engineer, designer or draftsman may use a

1 brand name specification so long as they cite three or more examples of items of equal design
2 or equivalent design, which would establish an acceptable range for items of equal or
3 equivalent design. The specifications shall state clearly that the cited examples are used only to
4 denote the quality standard of product desired and that they do not restrict bidders to a specific
5 brand, make, manufacturer or specific name; that they are used only to set forth and convey to
6 bidders the general style, type, character and quality of product desired; and that equivalent
7 products will be acceptable. Where it is impossible to specify performance and design
8 characteristics for such materials and impossible to cite three or more items due to the fact that
9 there are not that many items of similar or equivalent design in competition, then as many items
10 as are available shall be cited. On all city, county or State works, the maximum
11 interchangeability and compatibility of cited items shall be required. The brand of product used
12 on a city, county or State work shall not limit competitive bidding on future works.
13 Specifications may list one or more preferred brands as an alternate to the base bid in limited
14 circumstances. Specifications containing a preferred brand alternate under this section must
15 identify the performance standards that support the preference. Performance standards for the
16 preference must be approved in advance by the owner in an open meeting. Any alternate
17 approved by the owner shall be approved only where (i) the preferred alternate will provide
18 cost savings, maintain or improve the functioning of any process or system affected by the
19 preferred item or items, or both, and (ii) a justification identifying these criteria is made
20 available in writing to the public. Substitution of materials, items, or equipment of equal or
21 equivalent design shall be submitted to the architect or engineer for approval or disapproval;
22 such approval or disapproval shall be made by the architect or engineer prior to the opening of
23 bids. The purpose of this statute is to mandate and encourage free and open competition on
24 public contracts.

25 (b) Notwithstanding subsection (a) of this section, a constituent institution of The
26 University of North Carolina may establish brand-name specifications for building control
27 systems, fire alarm systems, building security systems, elevators, and critical utility systems if
28 it first does all of the following:

- 29 (1) Sets forth in writing and makes publicly available the performance and
30 design characteristics required of the building component.
- 31 (2) Sets forth in writing and makes publicly available the manner in which
32 adoption of the brand name specification will further efficiency in the
33 operation, maintenance, or upkeep of buildings.
- 34 (3) Provides all interested suppliers an opportunity to propose one or more
35 products which will meet the performance and design characteristics set
36 forth. The constituent institution shall make its selection based on initial and
37 life cycle costs as well as quality and suitability for the designated use.

38 (c) Once a constituent institution establishes a brand-name specification pursuant to
39 subsection (b) of this section, the constituent institution may, without repeating the process set
40 forth in that subsection, use the brand-name specification in construction bid documents when
41 doing so will further efficiency in the operation, maintenance, or upkeep of buildings."

42 **SECTION 13.2.** This Part is effective when it becomes law.
43

44 PART 14. ALLOW CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH
45 CAROLINA TO SELL OR TRANSFER SURPLUS PERSONAL PROPERTY OTHER
46 THAN MOTOR VEHICLES

47 **SECTION 14.1.** The title of Part 3 of Article 3A of Chapter 143 of the General
48 Statutes reads as rewritten:

49 "Part 3. ~~Public Agencies-Miscellaneous Provisions.~~"

50 **SECTION 14.2.** Article 3A of Chapter 143 of the General Statutes is amended by
51 adding a new section to read:

1 **"§ 143-64.7. University of North Carolina exempted from application of Article.**

2 (a) Authority. – Notwithstanding any other provision of this Article, a constituent
3 institution of The University of North Carolina may transfer or sell all supplies, materials, and
4 equipment of the constituent institution that are surplus, obsolete, or unused. The Board of
5 Governors of The University of North Carolina may adopt rules to implement this authority.

6 (b) No Service Charge. – Notwithstanding any other provision of this Article, a
7 constituent institution of The University of North Carolina shall not be charged any service
8 charge or surcharge for any transfer or sale pursuant to this section.

9 (c) Use of Receipts. – All receipts from transfers or sales under this section of supplies,
10 materials, or equipment that were acquired with, or supported by, General Fund appropriations
11 shall, minus the actual costs of the sale, be remitted to the State Treasurer and credited to the
12 General Fund as nontax revenue.

13 (d) Exception. – This section does not apply to the sale or transfer of surplus motor
14 vehicles."

15 **SECTION 14.3.** This Part is effective when it becomes law.

16
17 **PART 15. ALLOW NORTH CAROLINA STATE UNIVERSITY TO SELL TIMBER**

18 **SECTION 15.1.** Part 1 of Article 3A of Chapter 143 of the General Statutes is
19 amended by adding a new section to read:

20 **"§ 143-64.06. North Carolina State University may sell timber.**

21 Notwithstanding any provision of this Part or Chapter 146 of the General Statutes to the
22 contrary, North Carolina State University is authorized and empowered to sell or transfer
23 timber without involvement by the State Surplus Property Agency and without being required
24 to pay any service charge or surcharge to the State Surplus Property Agency. The proceeds of
25 any sales or transfers under this section shall be used to support the management of, and
26 programming costs associated with, forest properties owned, allocated, or managed by North
27 Carolina State University."

28 **SECTION 15.2.** This Part is effective when it becomes law.

29
30 **PART 16. ALLOW UNC CAMPUSES TO PURCHASE MOTOR VEHICLES**
31 **INDEPENDENT OF MOTOR FLEET MANAGEMENT**

32 **SECTION 16.1.** G.S. 143-341(8)i. is amended by adding a new
33 sub-sub-subdivision to read:

34 **"§ 143-341. Powers and duties of Department.**

35 The Department of Administration has the following powers and duties:

36 ...

37 (8) General Services:

38 ...

39 i. To establish and operate a central motor pool and such subsidiary
40 related facilities as the Secretary may deem necessary, and to that
41 end:

42 ...

43 12. Notwithstanding the provisions of this subdivision, or any
44 rules adopted pursuant to this subdivision or Chapter, the
45 constituent institutions of The University of North Carolina
46 may, without the prior approval of the Department of
47 Administration, purchase motor vehicles to be used by
48 campus safety officers. The purchase of campus safety
49 vehicles shall be in accordance with regulations or guidelines
50 issued by the President of The University of North Carolina."

51 **SECTION 16.2.** This Part becomes effective December 1, 2011.

1
2 PART 17. RELATING TO INSTITUTIONAL TRUST FUNDS OF THE UNIVERSITY OF
3 NORTH CAROLINA AND FUNDS OF THE UNIVERSITY OF NORTH CAROLINA
4 HEALTH CARE SYSTEM

5 SECTION 17.1. G.S. 116-36.1 reads as rewritten:

6 "§ 116-36.1. Regulation of institutional trust funds.

7 (a) The Board is responsible for the custody and management of the trust funds of the
8 University of North Carolina and of each institution. The Board shall adopt uniform policies
9 and procedures applicable to the deposit, investment, and administration of these funds which
10 shall assure that the receipt and expenditure of such funds is properly authorized and that the
11 funds are appropriately accounted for. The Board may delegate authority, through the
12 president, to the respective chancellors of the institutions when such delegation is necessary or
13 prudent to enable the institution to function in a proper and expeditious manner.

14 (b) ~~Trust funds shall be deposited with the State Treasurer who shall hold them in trust~~
15 ~~in separate accounts in the name of the University of North Carolina and of each institution.~~
16 ~~The cash balances of these accounts may be pooled for investment purposes, but investment~~
17 ~~earnings shall be credited pro rata to each participating account. For purposes of distribution of~~
18 ~~investment earnings, all trust funds of an institution shall be deemed a single account.~~

19 (c) ~~Moneys deposited with the State Treasurer in trust fund accounts pursuant to this~~
20 ~~section, and investment earnings thereon, are available for expenditure by each institution~~
21 ~~without further authorization from the General Assembly.~~

22 (d) Trust funds are subject to the oversight of the State Auditor pursuant to Article 5A
23 of Chapter 147 of the General Statutes but are not subject to the provisions of the State Budget
24 Act except for capital improvements projects which shall be authorized and executed in
25 accordance with G.S. 143C-8-8 and G.S. 143C-8-9.

26 (e) Each institution shall submit such reports or other information concerning its trust
27 fund accounts as may be required by the ~~Director of the Budget, Board.~~

28 (f) Trust funds or the investment income therefrom shall not take the place of State
29 appropriations or any part thereof, but any portion of these funds available for general
30 institutional purposes is appropriated and shall be used to supplement State appropriations to
31 the end that the institution may improve and increase its functions, may enlarge its areas of
32 service, and may become more useful to a greater number of people.

33 (g) As used in this section, "trust funds" means:

- 34 (1) Moneys, or the proceeds of other forms of property, received by an
35 institution as gifts, devises, or bequests that are neither presumed nor
36 designated to be gifts, devises, or bequests to the endowment fund of the
37 institution;
- 38 (2) Moneys received by an institution pursuant to grants from, or contracts with,
39 the United States government or any agency or instrumentality thereof;
- 40 (3) Moneys received by an institution pursuant to grants from, or contracts with,
41 any State agencies, any political subdivisions of the State, any other states or
42 nations or political subdivisions thereof, or any private entities whereby the
43 institution undertakes, subject to terms and conditions specified by the entity
44 providing the moneys, to conduct research, training or public service
45 programs, or to provide financial aid to students;
- 46 (4) Moneys collected by an institution to support extracurricular activities of
47 students of the institution;
- 48 (5) Moneys received from or for the operation by an institution of activities
49 established for the benefit of scholarship funds or student activity programs;
- 50 (6) Moneys received from or for the operation by an institution of any of its
51 self-supporting auxiliary enterprises, including institutional student auxiliary

1 enterprise funds for the operation of housing, food, health, and laundry
2 services;

3 (7) Moneys received by an institution in respect to fees and other payments for
4 services rendered by medical, dental or other health care professionals under
5 an organized practice plan approved by the institution or under a contractual
6 agreement between the institution and a hospital or other health care
7 provider;

8 (8) The net proceeds from the disposition effected pursuant to Chapter 146,
9 Article 7, of any interest in real property owned by or under the supervision
10 and control of an institution if the interest in real property had first been
11 acquired by gift, devise, or bequest or through expenditure of moneys
12 defined in this subsection ~~(g)~~ as "trust funds," except the net proceeds from
13 the disposition of an interest in real property first acquired by the institution
14 through expenditure of moneys received as a grant from a State agency;

15 (9) Moneys received from the operation and maintenance of institutional forests
16 and forest farmlands, provided, that such moneys shall be used, when used,
17 by the institution for support of forest-related research, teaching, and public
18 service programs;

19 (10) Moneys received from an activity authorized by G.S. 66-58(b)(8)m., n., and
20 o.;

21 (11) Moneys deposited to the State Education Assistance Authority Fund
22 pursuant to G.S. 116-209.3.

23 ~~(h) Notwithstanding the provisions of subsection (b) of this section, the Board may~~
24 ~~designate as the official depository of the funds identified in subsection (g)(7) of this section~~
25 ~~one or more banks or trust companies in this State. The amount of funds on deposit in an~~
26 ~~official depository shall be fully secured by deposit insurance, surety bonds, or investment~~
27 ~~securities of such nature, in such amounts, and in such manner as is prescribed by the State~~
28 ~~Treasurer for the security of public deposits generally. The available cash balance of funds~~
29 ~~deposited pursuant to this subsection shall be invested in interest-bearing deposits and~~
30 ~~investments so that the rate of return equals that realized from the investment of State funds~~
31 ~~generally. The Board may authorize, through the President, that the chancellors may deposit or~~
32 ~~invest each institution's available trust fund cash balances in interest-bearing accounts and other~~
33 ~~investments as may be authorized by the Board in the exercise of its sound discretion, without~~
34 ~~regard to any statute or rule of law relating to the investment of funds by fiduciaries.~~

35 (i) The cash balances on hand as of June 30, 1978, and all future receipts accruing
36 thereafter, of funds identified in this section are hereby appropriated to the use of the University
37 of North Carolina and its constituent institutions."

38 **SECTION 17.2.** G.S. 116-37(e) reads as rewritten:

39 "(e) Finances. – The University of North Carolina Health Care System shall be subject to
40 the provisions of the State Budget Act, except for trust funds as provided in G.S. 116-36.1 and
41 G.S. 116-37.2. The Chief Executive Officer, subject to the board of directors, shall be
42 responsible for all aspects of budget preparation, budget execution, and expenditure reporting.
43 All operating funds of the University of North Carolina Health Care System may be budgeted
44 and disbursed through special fund codes, maintaining separate auditable accounts for the
45 University of North Carolina Hospitals at Chapel Hill and the clinical patient care programs of
46 the School of Medicine of the University of North Carolina at Chapel Hill. All receipts of the
47 University of North Carolina Health Care System may be deposited directly to the special fund
48 codes, and except for General Fund appropriations, all receipts of the University of North
49 Carolina Hospitals at Chapel Hill may be invested pursuant to ~~G.S. 147-69.2(b3).~~
50 G.S. 116-37.2(h). General Fund appropriations for support of the University of North Carolina
51 Hospitals at Chapel Hill shall be budgeted in a General Fund code under a single purpose,

1 "Contribution to University of North Carolina Hospitals at Chapel Hill Operations" and be
2 transferable to a special fund operating code as receipts."

3 **SECTION 17.3.** G.S. 116-37.2 reads as rewritten:

4 **"§ 116-37.2. Regulation of University of North Carolina Hospitals at Chapel Hill Funds.**

5 (a) As used in this section, "funds" means:

6 (1) Moneys, or the proceeds of other forms of property, received by the
7 University of North Carolina Hospitals at Chapel Hill as gifts, devises, or
8 bequests.

9 (2) Moneys received by the University of North Carolina Hospitals at Chapel
10 Hill pursuant to grants from, or contracts with, the United States government
11 or any agency or instrumentality thereof.

12 (3) Moneys received by the University of North Carolina Hospitals at Chapel
13 Hill pursuant to grants from, or contracts with, any State agencies, any
14 political subdivisions of the State, any other states or nations or political
15 subdivisions thereof, or any private entities whereby the University of North
16 Carolina Hospitals at Chapel Hill undertakes, subject to terms and conditions
17 specified by the entity providing the moneys, to conduct research, training,
18 or public service programs.

19 (4) Moneys received from or for the operation by the University of North
20 Carolina Hospitals at Chapel Hill of any of its self-supporting auxiliary
21 enterprises, including the Liability Insurance Trust Fund.

22 (5) Moneys received by the University of North Carolina Hospitals at Chapel
23 Hill in respect to fees and other payments for services it renders in its
24 hospital and/or clinical operations.

25 (5a) Moneys received by the University of North Carolina Hospitals at Chapel
26 Hill in respect to borrowings for capital equipment or construction projects
27 to further services it renders in either or both of its hospital or clinical
28 operations.

29 (6) The net proceeds from the disposition effected pursuant to Article 7 of
30 Chapter 146 of the General Statutes of any interest in real property owned by
31 or under the supervision and control of the University of North Carolina
32 Hospitals at Chapel Hill if the interest in real property had first been
33 acquired by gift, devise, or bequest or through expenditure of moneys
34 defined in this subsection, except the net proceeds from the disposition of an
35 interest in real property first acquired by the University of North Hospitals at
36 Chapel Hill through expenditure of moneys received as a grant from a State
37 agency.

38 (b) The Board of Directors of the University of North Carolina Health Care System, as
39 established in G.S. 116-37(b), is responsible for the custody and management of the funds of
40 the University of North Carolina Hospitals at Chapel Hill. The Board shall adopt uniform
41 policies and procedures applicable to the deposit, investment, and administration of these
42 funds, which shall assure that the receipt and expenditure of such funds is properly authorized
43 and that the funds are appropriately accounted for. The Board may delegate authority, through
44 the Chief Executive Officer of the University of North Carolina Health Care System to the
45 President of the University of North Carolina Hospitals at Chapel Hill, when such delegation is
46 necessary or prudent to enable the University of North Carolina Hospitals at Chapel Hill to
47 function in a proper and expeditious manner.

48 (c) Funds under this section ~~shall be deposited with the State Treasurer who shall hold~~
49 ~~them in trust in the name of the University of North Carolina Hospitals at Chapel Hill.~~

1 (d) ~~Funds deposited with the State Treasurer in an account pursuant to this section, and~~
2 ~~investment earnings thereon, thereon~~ are available for expenditure by the University of North
3 Carolina Hospitals at Chapel Hill without further authorization from the General Assembly.

4 (e) Funds under this section are subject to the oversight of the State Auditor pursuant to
5 Article 5A of Chapter 147 of the General Statutes but are not subject to the provisions of the
6 ~~Executive State Budget Act~~ except for capital improvements projects, which shall be
7 authorized and executed in accordance with ~~G.S. 143-18.1~~. G.S. 143C-8-8 and G.S. 143C-8-9.

8 (f) The University of North Carolina Hospitals at Chapel Hill shall submit such reports
9 or other information concerning its fund accounts under this section as may be required by the
10 ~~Director of the Budget~~. Board of Directors of the University of North Carolina Health Care
11 System.

12 (g) Funds under this section, or the investment income therefrom, shall not take the
13 place of State appropriations or any part thereof, but any portion of these funds available for
14 general institutional purposes shall be used to supplement State appropriations to the end that
15 the University of North Carolina Hospitals at Chapel Hill may improve and increase their
16 functions, may enlarge their areas of service, and may become more useful to a greater number
17 of people.

18 (h) ~~Notwithstanding the provisions of subsection (c) of this section, the Board may~~
19 ~~designate as the official depository of the funds identified in subdivisions (a)(4), (a)(5), and~~
20 ~~(a)(6) of this section one or more banks or trust companies in this State for any investments~~
21 ~~authorized by G.S. 147-69.2(b3).~~ The Board of Directors of the University of North Carolina
22 Health Care System may deposit or invest the funds under this section in interest-bearing
23 accounts and other investments in the exercise of its sound discretion, without regard to any
24 statute or rule of law relating to the investment of funds by fiduciaries."

25 **SECTION 17.4.** This Part becomes effective July 1, 2011.

26
27 PART 18. ALL EMPLOYEES OF THE UNIVERSITY OF NORTH CAROLINA ARE
28 EXEMPT FROM THE STATE PERSONNEL ACT AND SUBJECT TO THE DIRECT
29 AUTHORITY OF THE BOARD OF GOVERNORS

30 **SECTION 18.1.** G.S. 116-11(5) and (5b) read as rewritten:

31 **"§ 116-11. Powers and duties generally.**

32 The powers and duties of the Board of Governors shall include the following:

33 ...
34 (5) The Board of Governors shall adopt policies concerning the terms and
35 conditions of employment of employees of The University of North
36 Carolina, including employee compensation, benefits, work and office hours,
37 holidays, leave, disability benefits, temporary and supplemental pay for
38 injured employees, position classification, appraisals, service and incentive
39 awards, grievances, discipline, and any other human resources policy the
40 Board deems appropriate to promote the recruitment and retention of
41 capable, diligent, and effective employees. Employees of The University of
42 North Carolina are deemed State employees who are exempt from the State
43 Personnel Act, but subject to the provisions of Articles 6 and 7 of Chapter
44 126 of the General Statutes.

45 ~~The Board of Governors shall, on recommendation of the President and of~~
46 ~~the appropriate institutional chancellor, appoint and fix the compensation of~~
47 ~~all vice chancellors, senior academic and administrative officers and persons~~
48 ~~having permanent tenure.~~

49 ...
50 (5b) ~~The Board of Governors may by resolution provide that, until July 1, 1998,~~
51 ~~every president, vice president, and other administrative officer of the~~

1 University whom it elects and who is not subject to Chapter 126 of the
2 General Statutes, and every chancellor, vice chancellor, senior academic
3 officer, senior administrative officer, and faculty member who serves a
4 constituent institution or agency of the University and who is not subject to
5 Chapter 126 of the General Statutes, shall retire on July 1 coincident with or
6 next following his seventieth birthday, unless continued in service on a
7 year to year basis in accordance with regulations adopted by the Board of
8 Governors.

9"

10 **SECTION 18.2.** G.S. 116-14 reads as rewritten:

11 "**§ 116-14. President and staff.**

12 (a) The Board shall elect a President of the University of North Carolina. The President
13 shall be the chief administrative officer of the University.

14 (b) The President shall be assisted by such professional staff members as may be
15 deemed necessary to carry out the provisions of this Article, who shall be elected by the Board
16 on nomination of the President. The Board shall fix the compensation of the staff members it
17 elects. These staff members shall include a senior vice-president and such other vice-presidents
18 and officers as may be deemed desirable. Provision shall be made for persons of high
19 competence and strong professional experience in such areas as academic affairs, public service
20 programs, business and financial affairs, institutional studies and long-range planning, student
21 affairs, research, legal affairs, health affairs and institutional development, and for State and
22 federal programs administered by the Board. ~~In addition, the President shall be assisted by such~~
23 ~~other employees as may be needed to carry out the provisions of this Article, who shall be~~
24 ~~subject to the provisions of Chapter 126 of the General Statutes.~~ The staff complement shall be
25 established by the Board on recommendation of the President to insure that there are persons on
26 the staff who have the professional competence and experience to carry out the duties assigned
27 and to insure that there are persons on the staff who are familiar with the problems and
28 capabilities of all of the principal types of institutions represented in the system. Subject to
29 approval by the Board, the President may establish and abolish employment positions within
30 the staff complement authorized by this subsection in the manner of and under the conditions
31 prescribed by G.S. 116-30.4 for special responsibility constituent institutions.

32 (b1) The President shall receive General Fund appropriations made by the General
33 Assembly for continuing operations of The University of North Carolina that are administered
34 by the President and the President's staff complement established pursuant to G.S. 116-14(b) in
35 the form of a single sum to Budget Code 16010 of The University of North Carolina in the
36 manner and under the conditions prescribed by G.S. 116-30.2. The President, with respect to
37 the foregoing appropriations, shall have the same duties and responsibilities that are prescribed
38 by G.S. 116-30.2 for the Chancellor of a special responsibility constituent institution. The
39 President may establish procedures for transferring funds from Budget Code 16010 to the
40 constituent institutions for nonrecurring expenditures. The President may identify funds for
41 capital improvement projects from Budget Code 16010, and the capital improvement projects
42 may be established following the procedures set out in G.S. 143C-8-8 and G.S. 143C-8-9.

43 (b2) ~~The President, in consultation with the State Auditor and the Director of the Office~~
44 ~~of State Personnel, Auditor, shall ascertain that the management staff and internal financial~~
45 controls are in place and continue in place to successfully administer the additional authority
46 authorized under G.S. 116-14(b1) and G.S. 116-30.3(e). All actions taken by the President
47 pursuant to G.S. 116-14(b1) and G.S. 116-30.3(e) are subject to audit by the State Auditor.

48 (c) The President, with the approval of the Board, shall appoint an advisory committee
49 composed of representative presidents of the private colleges and universities and may appoint
50 such additional advisory committees as are deemed necessary or desirable."

51 **SECTION 18.3.** G.S. 116-30.1 reads as rewritten:

"§ 116-30.1. Special responsibility constituent institutions.

The Board of Governors of The University of North Carolina, acting on recommendation made by the President of The University of North Carolina after consultation by him with the State Auditor, may designate one or more constituent institutions of The University as special responsibility constituent institutions. That designation shall be based on an express finding by the Board of Governors that each institution to be so designated has the management staff and internal financial controls that will enable it to administer competently and responsibly all additional management authority and discretion to be delegated to it. The Board of Governors, on recommendation of the President, shall adopt rules prescribing management staffing standards and internal financial controls and safeguards, including the lack of any significant findings in the annual financial audit by the State Auditor's Office, that must be met by a constituent institution before it may be designated a special responsibility constituent institution and must be maintained in order for it to retain that designation. These rules shall not be designed to prohibit participation by a constituent institution because of its size. These rules shall establish procedures for the President and his staff to review the annual financial audit reports, special reports, electronic data processing reports, performance reports, management letters, or any other report issued by the State Auditor's Office for each special responsibility constituent institution. The President shall take immediate action regarding reported weaknesses in the internal control structure, deficiencies in the accounting records, and noncompliance with rules and regulations. In any instance where significant findings are identified, the President shall notify the Chancellor of the particular special responsibility constituent institution that the institution must make satisfactory progress in resolving the findings, as determined by the President of The University, after consultation with the State Auditor, within a three-month period commencing with the date of receipt of the published financial audit report, any other audit report, or management letter. If satisfactory progress is not made within a three-month period, the President of The University shall recommend to the Board of Governors at its next meeting that the designation of the particular institution as a special responsibility constituent institution be terminated until such time as the exceptions are resolved to the satisfaction of the President of The University of North Carolina, after consultation with the State Auditor. However, once the designation as a special responsibility constituent institution has been withdrawn by the Board of Governors, reinstatement may not be effective until the beginning of the following fiscal year at the earliest. Any actions taken by the Board of Governors with respect to withdrawal or reinstatement of an institution's status as a special responsibility constituent institution shall be reported immediately to the Joint Legislative Education Oversight Committee.

The rules established under this section shall include review by the President, after consultation with the State Auditor, ~~the Director of the Office of State Personnel, Auditor, and the Director of the Division of State Purchasing and Contracts~~ in ascertaining whether or not a constituent institution has the management staff and internal financial controls to administer the additional authorities authorized under G.S. 116-30.2, 116-30.4, and 143-53.1. Such review and consultation must take place no less frequently than once each biennium."

SECTION 18.4. G.S. 116-30.4 reads as rewritten:

"§ 116-30.4. Position management.

The Chancellor of a special responsibility constituent institution, when he finds that to do so would help to maintain and advance the programs and services of the institution, may establish and abolish positions, acting in accordance with policies adopted by the Board of Governors. ~~with:~~

- (1) ~~State Personnel policies and procedures if these positions are subject to the State Personnel Act and if the institution is operating under the terms of a Performance Agreement or a Decentralization Agreement authorized under Chapter 126 of the General Statutes; or~~

1 (2) ~~Policies and procedures of the Board of Governors if these positions are~~
2 ~~exempt from the State Personnel Act.~~

3 ~~The results achieved by establishing and abolishing positions pursuant to the conditions set~~
4 ~~forth in subdivision (1) of this section shall be subject to postauditing by the Office of State~~
5 ~~Personnel. Implementation of personnel actions shall be subject to the availability of funds~~
6 ~~within the institution's current budget to fund the full annualized costs of these actions."~~

7 **SECTION 18.5.** G.S. 126-5(c1)(9) reads as rewritten:

8 "(c1) Except as to the provisions of Articles 6 and 7 of this Chapter, the provisions of this
9 Chapter shall not apply to:

10 ...

11 (9) Employees whose salaries terms and conditions of employment are fixed
12 under the authority vested in the Board of Governors of The University of
13 North Carolina by the provisions of G.S. 116-11(4), 116-11(5), and
14 116-14, under Chapter 116 of the General Statutes."

15 **SECTION 18.6.** G.S. 126-19 reads as rewritten:

16 "**§ 126-19. Equal employment opportunity plans; reports; maintenance of services by**
17 **State Personnel Director.**

18 (a) Each member of the Council of State under G.S. 143A-11, each of the principal
19 departments enumerated in G.S. 143B-6, The University of North Carolina, the judicial branch,
20 and the legislative branch, shall develop and submit an Equal Employment Opportunity plan
21 which shall include goals and programs that provide positive measures to assure equitable and
22 fair representation of North Carolina's citizens. The plans developed by the judicial ~~branch and~~
23 branch, by the Legislative Services Office on behalf of the legislative ~~branch-branch, and by the~~
24 Board of Governors on behalf of The University of North Carolina, shall be submitted to the
25 General Assembly on or before June 1 of each year. All other such plans shall be submitted to
26 the State Personnel Director for review and approval on or before March 1, of each year.

27 (b) The State Personnel Commission shall submit a report to the General Assembly
28 concerning the status of Equal Employment Opportunity plans and programs for all State
29 ~~departments, agencies, universities, departments and agencies~~ which are required by this
30 Chapter to report to the State Personnel Director, on or before June 1 of each year. If any plan
31 has been disapproved, the report shall contain reasons for disapproval. The status report
32 submitted to the General Assembly by the State Personnel Director and the plans submitted to
33 the General Assembly by the judicial branch and the Legislative Services Office on behalf of
34 the legislative branch shall contain the total number of persons employed in each job category,
35 the race, sex, salary, and other demographics relative to persons hired and promoted during the
36 reporting period, analysis of the data, and an indication as to which goals were achieved.

37 (c) The State Personnel Director shall at least maintain current services of Equal
38 Employment Opportunity technical assistance, training, oversight, monitoring, evaluation,
39 support programs, and reporting to assure that State government's work force at all
40 occupational levels reflect North Carolina's population. To the extent reasonably possible, these
41 services shall be provided by qualified personnel who have continuous experience in the field
42 of Equal Employment Opportunity and affirmative action and who are sensitive to
43 circumstances and experiences of individuals from diverse backgrounds and cultures, and
44 recognize that efficient and effective government requires the talents, skills, and abilities of all
45 available human resources."

46 **SECTION 18.7.** This Part becomes effective January 1, 2012.

47
48 PART 19. PERMANENTLY EXEMPT PARTICIPANTS IN THE UNIVERSITY OF NORTH
49 CAROLINA PHASED RETIREMENT PROGRAM FROM THE RESTRICTIONS ON
50 RETURNING TO WORK

1 **SECTION 19.1.** Section 29.28(f) of S.L. 2005-276, as amended by Section 22.21
2 of S.L. 2006-66 and by Section 26.22 of S.L. 2009-451, reads as rewritten:

3 **"SECTION 29.28.(f)** Subsections (a) and (b) of this section become effective August 1,
4 2005. Subsection (e) of this section becomes effective November 1, 2005, but does not apply to
5 participants in The University of North Carolina Phased Retirement Program ~~until the earlier of~~
6 ~~August 31, 2013, or 12 months after the issuance of final phased retirement regulations by the~~
7 ~~Internal Revenue Service. Program.~~ The remainder of this section becomes effective June 30,
8 2005."

9 **SECTION 19.2.** G.S. 135-1(20) reads as rewritten:

10 "(20) "Retirement" ~~means~~ means, for members who are not participants in The
11 University of North Carolina Phased Retirement Program, the termination of
12 employment and the complete separation from active service with no intent
13 or agreement, express or implied, to return to service. A retirement
14 allowance under the provisions of this Chapter may only be granted upon
15 retirement of a member. In order for a member's retirement to become
16 effective in any month, the member must render no service, including
17 part-time, temporary, substitute, or contractor service, at any time during the
18 six months immediately following the effective date of retirement. For
19 purposes of this subdivision, service as a member of a school board or as an
20 unpaid bona fide volunteer in a local school administrative unit shall not be
21 considered service. Notwithstanding the foregoing, for members who are
22 participants in The University of North Carolina Phased Retirement
23 Program, "retirement" means entry into the Phased Retirement Program with
24 a retirement allowance granted under this Chapter."

25 **SECTION 19.3.** This Part becomes effective July 1, 2011.

26
27 **PART 20. REDUCE THE REQUIRED BREAK IN SERVICE FOR RETIREES OF THE**
28 **TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM TO RETURN TO**
29 **WORK WITHOUT LOSING RETIREMENT BENEFITS**

30 **SECTION 20.1.** G.S. 135-1 is amended by adding a new subdivision to read:

31 "(18a) "Qualifying period" means three months as to members who retire with their
32 last 12 months of service as employees of The University of North Carolina
33 or any of its constituent institutions and return to service as employees of
34 The University of North Carolina or any of its constituent institutions, and
35 means six months as to any other member."

36 **SECTION 20.2.** G.S. 135-1(20) reads as rewritten:

37 "(20) "Retirement" means the termination of employment and the complete
38 separation from active service with no intent or agreement, express or
39 implied, to return to service. A retirement allowance under the provisions of
40 this Chapter may only be granted upon retirement of a member. In order for
41 a member's retirement to become effective in any month, the member must
42 render no service, including part-time, temporary, substitute, or contractor
43 service, at any time during the ~~six months~~ qualifying period immediately
44 following the effective date of retirement. For purposes of his subdivision,
45 service as a member of a school board or as an unpaid bona fide volunteer in
46 a local school administrative unit shall not be considered service."

47 **SECTION 20.3.** G.S. 135-3(8)c. reads as rewritten:

48 "c. Should a beneficiary who retired on an early or service retirement
49 allowance under this Chapter be reemployed by, or otherwise
50 engaged to perform services for, an employer participating in the
51 Retirement System on a part time, temporary, interim, or on a fee for

1 service basis, whether contractual or otherwise, and if such
2 beneficiary earns an amount during the 12 month period immediately
3 following the effective date of retirement or in any calendar year
4 which exceeds fifty percent (50%) of the reported compensation,
5 excluding terminal payments, during the 12 months of service
6 preceding the effective date of retirement, or twenty thousand dollars
7 (\$20,000), whichever is greater, as hereinafter indexed, then the
8 retirement allowance shall be suspended as of the first day of the
9 month following the month in which the reemployment earnings
10 exceed the amount above, for the balance of the calendar year, except
11 when the reemployment earnings exceed the amount above in the
12 month of December, in which case the retirement allowance shall not
13 be suspended. The retirement allowance of the beneficiary shall be
14 reinstated as of January 1 of each year following suspension. The
15 amount that may be earned before suspension shall be increased on
16 January 1 of each year by the ratio of the Consumer Price Index to
17 the Index one year earlier, calculated to the nearest tenth of a percent
18 (1/10 of 1%).

19 The computation of postretirement earnings of a beneficiary
20 under this sub-subdivision who retired on or before June 1, 2009,
21 regardless of age or years of creditable service, or who retires on or
22 after July 1, 2009, after attaining (i) the age of at least 65 with five
23 years of creditable service; or (ii) the age of at least 60 with 25 years
24 of creditable service; or (iii) 30 years of service; and who has been
25 retired ~~at least six months for at least as long as the qualifying period~~
26 as defined by G.S. 135-1(18a) and has not been employed in any
27 capacity with a State-supported community college or a
28 State-supported university ~~for at least six months during the~~
29 qualifying period as defined by G.S. 135-1(18a) immediately
30 preceding the effective date of reemployment, shall not include
31 earnings while the beneficiary is employed to teach in a permanent
32 full-time or part-time capacity that exceeds fifty percent (50%) of the
33 applicable workweek as a nursing instructor in a certified nursing
34 program for a maximum period of three years.

35 In order for a retired nursing instructor to be rehired, the
36 community college or university must certify to the Teachers' and
37 State Employees' Retirement System that it has a shortage of
38 qualified nursing instructors, and must:

- 39 1. Make a good faith effort to fill positions with qualified
40 nursing instructors who are not retirees;
- 41 2. Post the vacancy or vacancies for at least two months;
- 42 3. Solicit applications through local newspapers, other media,
43 and nursing education programs; and
- 44 4. Determine that there is an insufficient number of eligible
45 applicants for the advertised position or positions.

46 The North Carolina Community College System and The
47 University of North Carolina shall certify to the Retirement System
48 that a beneficiary is employed to teach as a nursing instructor with a
49 State-supported community college or a State-supported university
50 under the provisions of this sub-subdivision."

51 **SECTION 20.4.** This Part becomes effective July 1, 2011.

1
2 PART 21. PROVIDE FOR VESTING RECIPROCITY BETWEEN THE STATE AND
3 LOCAL EMPLOYEES' RETIREMENT SYSTEMS AND THE OPTIONAL RETIREMENT
4 PROGRAM FOR STATE INSTITUTIONS OF HIGHER LEARNING

5 **SECTION 21.1.** G.S. 135-5.1(b)(5) reads as rewritten:

6 "(5) If any participant in the Optional Retirement Program having less than five
7 years ~~coverage under the Optional Retirement Program~~ of total membership
8 service under any combination of the Teachers' and State Employees'
9 Retirement System, the Local Governmental Employees' Retirement System,
10 the Consolidated Judicial Retirement System, or the Optional Retirement
11 Program leaves the employ of The University of North Carolina and either
12 retires or commences employment with an employer not having a retirement
13 program with the same company underwriting the participant's annuity
14 contract, regardless of whether the annuity contract is held by the
15 participant, a trust, or the Retirement System, the participant's interest in the
16 Optional Retirement Program attributable to contributions of The University
17 of North Carolina shall be forfeited and shall either (i) be refunded to The
18 University of North Carolina and forthwith paid by it to the Retirement
19 System and credited to the pension accumulation fund or (ii) be paid directly
20 to the Retirement System and credited to the pension accumulation fund."

21 **SECTION 21.2.** This Part becomes effective July 1, 2011.
22

23 PART 22. ENABLE THE UNC HEALTH CARE SYSTEM TO OFFER THE OPTIONAL
24 RETIREMENT PROGRAM (ORP) AS A RETIREMENT OPTION

25 **SECTION 22.1.** G.S. 135-5.1(a) reads as rewritten:

26 "(a) An Optional Retirement Program provided for in this section is authorized and
27 established and shall be implemented by the Board of Governors of The University of North
28 Carolina. The Optional Retirement Program shall be underwritten by the purchase of annuity
29 contracts, which may be both fixed and variable contracts or a combination thereof, or financed
30 through the establishment of a trust, for the benefit of participants in the Program. Participation
31 in the Optional Retirement Program shall be limited to University personnel who are eligible
32 for membership in the Teachers' and State Employees' Retirement Program and who are:

33 ...
34 (5) Employees of the University of North Carolina Health Care System, subject
35 to rules for eligibility and participation as may be adopted by the Board of
36 Governors in the Optional Retirement Program plan document."

37 **SECTION 22.2.** This Part becomes effective July 1, 2011.

38 **SECTION 23.** This act is effective as provided herein.