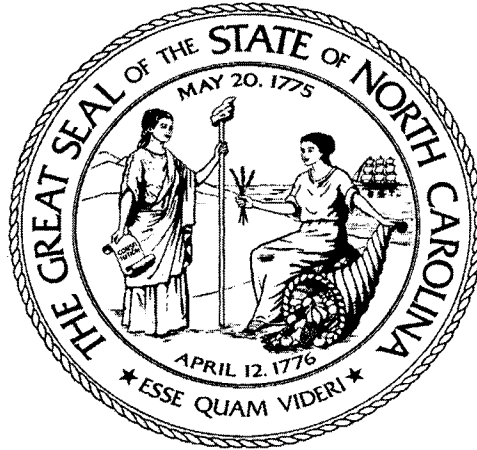


NORTH CAROLINA GENERAL ASSEMBLY



HOUSE SELECT COMMITTEE ON STATE- OWNED ASSETS

REPORT TO THE 2012 SESSION of the 2011 GENERAL ASSEMBLY OF NORTH CAROLINA

APRIL 23, 2012

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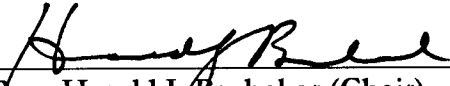
TRANSMITTAL LETTER

April 23, 2011

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TO THE MEMBERS OF THE 2012 REGULAR SESSION
OF THE 2011 GENERAL ASSEMBLY

The HOUSE SELECT COMMITTEE ON STATE-OWNED ASSETS, respectfully
submits the following report to the 2012 Regular Session of the 2011 General Assembly.


Rep. Harold J. Brubaker (Chair)

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COMMITTEE PROCEEDINGS

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The House Select Committee on State-Owned Assets (Committee) met 8 times after the 2011 Regular Session. It took up a number of topics, heard numerous presentations, and received large amounts of information. Because the Committee's work on several topics carried over to multiple meetings, the Committee's proceedings set out below are arranged topically rather than chronologically. The minutes and other information from each Committee meeting are available in the Legislative Library.

1. State-Owned Unused/Underused Real Property

S.L. 2011-145, Sec. 6.15 directed the Department of Administration (DOA) to implement a system for the sale of State-owned disposable assets and to examine current State law to determine amendments to allow for the most efficient and effective disposition of assets. A State-owned "disposable asset" was defined as land, buildings, and other assets that are unused, underused, or do not involve a core function of government. DOA was required to report by March 31, 2012, to the Joint Legislative Commission on Governmental Operations on all asset sales. (See Appendix D, Exhibit 1)

DOA appeared before the Committee on the following dates: September 22, 2011, December 12, 2011, March 15, 2011, and April 10, 2012. During its first appearance, DOA explained the process by which it was implementing the directives of S.L. 2011-145, Sec. 6.15. It had contacted each State department and agency and provided directions for updating its records related to State-owned real property. In addition to having the agency update its information, DOA also directed the agencies to identify any property that was unused, underused or did not involve the agencies' core function. DOA provided the following definitions for these terms:

- Unused – indicates that a property (or a portion of a property) is currently not being used for agency functions and no future use is anticipated by the agency.
- Underused – refers to property that is not used on a fulltime basis throughout the year or only used through a peak season of agency activities. It also includes occasional use that challenges the justification for extraordinary carrying costs or agency usage that could be transferred to other locations or satisfied by a portion of the property.
- Does Not Involve a Core Function of Your Agency – refers to a specific location that is not required for an agency's program needs. It does not refer to the operations being critical but to the specific property not being critical to the fulfillment of the agency's operations.

DOA returned to the Committee at its December 12, 2011 meeting to provide an update on the implementation of S.L. 2011-145, Sec. 6.15. DOA reported that five agencies had identified 21 parcels of real property in 19 counties that were unused or underused. While these properties had not been placed on the market, it was anticipated that they would be.

DOA returned to the Committee at its March 15, 2012 meeting and again when it presented its final report at the Committee's April 10, 2012 meeting. The report shows that there are currently 3 parcels of State-owned land that are for sale (See Appendix D, Exhibit 2). Two have been on the market since before the enactment of S.L. 2011-145, Sec. 6.15. One was put on the market in February of 2012. The report updated the information provided at the December meeting. It identified 25 potential parcels in 21 counties and allocated to 6 agencies. Id.

The Committee took no action on these matters during this reporting period.

2. Department of Transportation Right of Way Property

The Department of Transportation (DOT) appeared before the committee on the following dates: September 22, 2011, and November 18, 2011. During its first appearance, DOT provided the committee with an overview of right of way residue property, environmental mitigation property, DOT facilities, and equipment fleet assets. During its second appearance, DOT focused its presentation on the procedures for sale and disposition of surplus and residue right of way property.

Right of way residue property is real property acquired as part of a condemnation action. Although the property is not part of the original limits of a proposed right of way, acquisition of the land for the right of way has caused an adjacent parcel to have limited economic value. In general, the parcels are oddly shaped and may have limited or no access. There are currently 3,031 residue properties totaling 4,094.8 acres. The total estimated value based on the price of each parcel as of the date of acquisition is \$28,533,420 (See Appendix D, Exhibit 3). DOT did not have current appraisals for these properties. Residue properties may be sold via public sale using sealed bids or auction. Offers may be rejected if the bids are not consistent with DOT's appraised value. If the residue property is landlocked on controlled access projects, it may be sold to an adjacent landowner for a negotiated price that is not less than the appraised value. The same applies if the residue property is ½ acre or less in size and worth \$1,000 or less in value. All sales of residue property must be approved by the Board of Transportation and the Council of State.

Surplus right of way property is land acquired by DOT that is within the original right of way limit and all of the following occurs: (i) DOT receives an offer to purchase the parcel, (ii) DOT determines through a formal review that the right of way area is no longer needed for departmental purposes, (iii) DOT designates the property as surplus and negotiates a sale. Some of the factors that are considered in the formal review are whether the area may be needed for future highway purposes, is being used for environmental mitigation and is environmentally contaminated, or would be suitable for public recreational purposes. DOT also reviews whether release of the parcel would adversely affect highway operation, safety and maintenance. Once an area is determined to be surplus, the party seeking the property pays for an appraisal and DOT will convey the property for the enhanced appraised value.

DOT also provided information regarding actions it planned to take to facilitate the sale of residue property. These included expanding its marketing methods through radio advertisements, placing signs on the property and conducting live auctions. DOT also planned to begin screening residue properties to identify those that can be sold. It was also continuing its current practice of providing internet display of all residue properties that have been screened and deemed available for sale.

After the November 18th presentation and subsequent committee discussion, the Chair appointed an ad hoc subcommittee and charged it with (i) developing a proposal for a more expeditious process to dispose of DOT residue and surplus right of way property, and (ii) determining whether some property owners with "underwater" mortgages are having to convey their property to DOT in condemnation actions and receiving less than the amount owed.

The ad hoc subcommittee met repeatedly with representatives of DOT and committee staff. As a result, on March 15, 2012, the subcommittee made a preliminary report and provided two pieces of draft legislation for the Committee's review: Protect Homeowners with Underwater Mortgages and Streamline DOT Sale of Unused Properties. The Committee adopted both bill drafts (summarized below) with some modifications at its April 10, 2012 meeting. The bill drafts are contained in this report and submitted to the House of Representatives as recommended legislation. (See Appendix C)

Protect Homeowners with Underwater Mortgages (2011-MDz-103) – In situations where the value of property is less than the amount owed by the owner, DOT would be authorized to pay property owners in a condemnation action an amount that is sufficient to satisfy the entire balance of the mortgage. This relief is available only if all of the following apply:

- The property owner proves by a preponderance of the evidence that the decline in the property's value is based solely on a decline in the market for real property.
- The mortgage or deed of trust was executed prior to July 1, 2008.
- The mortgage or deed of trust was executed in order to obtain money for the purchase of the property being condemned, i.e., this relief would not be available for home equity lines of credit or refinances.

The authority to provide this type of relief expires on July 1, 2014.

Streamline DOT Sale of Unused Properties (2011-MDz-115) - DOT must continuously identify unused property and classify each parcel according to the potential economic uses of the parcel. DOT must also attempt to sell all unused property. These classifications and sales procedures are as follows:

- **Class A** – Property whose size and road access are sufficient to allow development of one or more standalone projects on the property without requiring the acquisition of additional real property. Sale must be by public sale following advertisement. Contingent bids are authorized and may require earnest money deposits. Upset bids are authorized and DOT must actively solicit upset bids if an offer exceeds \$10,000.
- **Class B** – Property that does not meet the requirements of Class A property, but that would enhance the value of adjacent land by allowing larger or more extensive uses when joined to the adjacent land. The property must be offered to adjacent land owners and be sold to the adjacent landowner who makes the highest offer, provided that offer exceeds 40% of the property's value. Upset bids are authorized as long as the highest offered price is less than 80% of the value of the property.
- **Class C** – Property that does not meet the definition of Class A or Class B property. These are small properties with little or no potential economic use. The property must be offered to adjacent land owners and be sold to the adjacent landowner that makes the highest offer, so long as that offer exceeds 40% of the property's value.

Unused property that remains unsold after a year must be sold by auction. Properties that do not sell at auction must periodically be offered for sale to adjacent landowners with no reserve and put up for auction again if still unsold.

DOT is instructed to treat the Rodney Orr Bypass surplus right of way as unused property and sell according to the procedures outlined in the bill.

DOT must also report on the implementation of these procedures to the Joint Legislative Commission on Governmental Operations by January 1, 2013.

3. The University of North Carolina Health Care System

The Committee received information related to the University of North Carolina Health Care System (UNCHCS) at the following meetings: September 22, 2011, October 25, 2011, January 23, 2012, and March 15, 2012. Dr. Roper, Dean of the UNC School of Medicine and CEO of UNCHCS appeared twice, Mr. Bill Atkinson, CEO of WakeMed Health & Hospitals appeared once, and representatives of the State Auditor's Office appeared once. UNCHCS responded to several requests for information, much of which is available on the Committee web site at: <http://www.ncleg.net/gascripts/DocumentSites/browseDocSite.asp?nID=192>

In a 1998 budget provision (S.L. 1998-212, Sec. 11.8), the General Assembly repealed the statutes related to the UNC Hospitals at Chapel Hill and created the UNC Health Care System. (See Appendix D, Exhibit 4 for a copy of the current UNCHCS statutory provisions.)

UNCHCS is designated as an "affiliated enterprise" of The University of North Carolina (UNC System) that is governed by a board of directors that can range in size from 15 to 27 members. The UNCHCS submits candidates for board membership to The University of North Carolina Board of Governors (UNC BOG) and the President of the UNC System makes the appointments. Pursuant to a 2009 statutory change, the UNCHCS board is no longer required to provide the UNC BOG with twice the number of candidates as there are vacancies to fill.

The purpose of the UNCHCS is to "provide patient care, facilitate the education of physicians and other health care providers, conduct research . . . and render other services designed to promote the health and well-being of the citizens of North Carolina." G.S. 116-37(a)(1). Employees of UNCHCS are State employees, but are exempt from much of the State Personnel Act. UNCHCS is able to adopt policies regarding terms and condition of employment, fix pay schedules, adopt policies regarding annual and sick leave. It is exempt from the State's purchase and contract laws, the procedures for acquisition of property, and the State procedures for design, construction and renovation of buildings.

In a series of Opinions issued in 2000, the Attorney General determined that UNCHCS could expend public funds to acquire sole corporate control of Rex Healthcare, Inc. (Rex) without the approval of the General Assembly. The Attorney General also determined that the employees of Rex Hospital, Inc. (Rex Hospital) would not be State employees and that neither Rex nor Rex Hospital would become State agencies as a result of the acquisition. (See Appendix D, Exhibits 5 and 6) Relying on these Opinions, UNCHCS transferred \$100 million dollars to the John Rex Endowment and received sole membership of Rex Healthcare, Inc. in return.

As of the date of this report, the UNCHCS is the 4th largest health care system in the State. It is comprised of all of the following:

- The University of North Carolina Hospitals at Chapel Hill (UNC Hospitals) which operates North Carolina Memorial Hospital, North Carolina Women's Hospital, North Carolina Children's Hospital, North Carolina Neurosciences Hospital and North Carolina Cancer Hospital, as well as Carolina Dialysis, LLC (which are joint-venture dialysis clinics with Renal Research Institute, LLC), and NC Healthcare Innovations, LLC (which is a joint venture clinic with Blue Cross Blue Shield of North Carolina).
- The clinical patient care programs (UNC Physicians & Associates or UNC P&A) maintained by 18 Clinical Departments of the School of Medicine of the University of North Carolina at Chapel Hill (School of Medicine). UNC Physicians & Associates operates clinical practices throughout the Triangle region.
- Rex Healthcare, Inc., a nonprofit corporation (Rex) which is the holding company for the Rex Healthcare system which includes Rex Hospital, Inc., a 433-bed hospital providing services primarily in Wake County as well as Rex Home Services, Inc., Rex Surgery Center of Cary, LLC, Smithfield Radiation Oncology, LLC and JRH Ventures, LLC.
- Health Systems Properties, LLC created to acquire property and pay appropriate property taxes, and which holds the UNC Wellness Center and the UNC Spine Center.
- First Health, UNCHCS, LLC which operates as a joint venture medical oncology clinic with FirstHealth of the Carolinas in Sanford, North Carolina.
- Chatham Hospital, Inc. which provides inpatient, outpatient, and emergency hospital services in Siler City, North Carolina; and
- The Triangle Physician Network (TPN) which absorbed the community-based clinics of UNC P&A in 2010, and the Rex primary clinics in 2011.

(See also Appendix D, Exhibit 7)

Both UNC Hospitals and the UNC School of Medicine are audited by the State Auditor. Rex Healthcare, Inc., Triangle Physicians Network, and Chatham Hospital are not publicly audited.

An annual audit for UNCHCS does not exist due to the overlapping authority between the UNC P&A (which consists of the clinical departments of the UNC-Chapel Hill School of Medicine) and the UNCHCS (which manages UNC P&A and provides most of the non-physician employees). Since Fiscal Year 2005, UNCHCS has produced a consolidated financial statement in its Annual Report. According to the 2010 UNCHCS Annual Report, it had \$108,196,003 in net assets (\$162,584,884 in total assets and \$54,388,881 in total liabilities). Its Net Operating Revenue was \$276,562,226, but its Total Operating Expenses were \$309,299,122, which resulted in an Operating Loss of \$32,736,906. However, its Net Income was \$5,721,030, primarily because of \$43,872,590 in transfers from the HCS Enterprise Fund.

The HCS Enterprise Fund (System Fund) functions as a centralized financial clearinghouse for the UNCHCS. It assesses, holds and allocates funds across the entities that comprise the UNCHCS. Prior to 2012, the System Fund had not been audited. In October of 2011, the UNCHCS requested that the State Auditor conduct a financial statement audit of the System Fund. The Auditor issued her report in February of 2012 and found that the UNCHCS financial statements are presented fairly in all material respects and their tests did not disclose any deficiencies in internal control over financial reporting. The Auditor found that for the year ending June 30, 2011, the System Fund held \$73.4 million in assets. UNC Hospitals paid \$115,281,596 in assessments, mission support and shared administrative services. It received \$43,911,130 from the System Fund in the form of shared administrative services reimbursement. The UNC School of Medicine paid \$300,000 in assessments to the System Fund and received \$30,511,185 in program support. UNC P&A paid \$16,092,403 and received \$47,914,516 for program support, missions support and shared administrative services reimbursement. Rex paid \$6,438,606 in assessments and shared administrative services and received \$3,608 in shared administrative services reimbursement. Chatham Hospital did not contribute to the System Fund, but received \$5,500,000 in program support. Triangle Physician Network, LLC did not contribute to the System Fund, but received \$11,370,311 in program support. Piedmont Health Services, Inc. did not contribute to the System Fund, but received \$750,000 in Program Support. A copy of the Auditor's Report can be found at the Committee's web site.

In his presentation to the Committee on January 23, 2012, Mr. Atkinson argued that because Rex is part of the UNCHCS, it has an unfair advantage. He expressed concerns that Rex is not providing sufficient amounts of charity care, either through provision of services to Medicaid recipients or uncompensated care. He noted that Rex receives a higher Medicaid reimbursement rate. He requested that the General Assembly act to create a level playing field.

In his presentation to the Committee on March 15, 2012, Dr. Roper reviewed the benefits UNCHCS provides to the State in terms of patient care, educating physicians and other health care providers, conducting research and promoting the health and well-being of the citizens of this State. He noted that UNCHCS has invested \$561 million in infrastructure since 2008, supports UNC-CH with \$80 million annually, supports the UNC-CH School of Medicine with more than \$100 million annually, and has created over 5,000 new jobs since 2004. He argued that if the General Assembly restricted UNCHCS ability to grow and removed its administrative flexibilities, it would not be able to provide these benefits to the State.

At its April 10, 2012 meeting, the Committee reviewed and adopted a bill draft: UNCHCS Changes. It is summarized below. The bill draft is included in this report and submitted to the House of Representatives as recommended legislation. (See Appendix C.)

UNCHCS Changes (2011-RCz-8) – The bill draft revises the mission of the UNCHCS. It would prohibit the UNCHCS from unduly competing with non-State owned health care systems and narrows the scope of its mission to education, research, patient care and community service. The bill draft reduces the number of members on the UNCHCS board of directors from up to 27 to 12, nine of which are at-large members appointed by the UNC BOG. The board of directors must submit a list of candidates to the UNC BOG which must contain at least twice the number of candidates as there are seats to be filled. It also places the authority to adopt personnel policies and employee salaries with the UNC BOG, which may delegate those responsibilities back to the board of directors. The UNCHCS would be required to provide a proportionate share of indigent care, as compared to non-State owned health care systems, in each county where it provides services. It removes certain exemptions UNCHCS has related to the purchase of supplies and services, for acquiring and disposing of real property, and for construction contracts. It is also prohibited from expanding the geographic areas where it provides services without the specific approval of the General Assembly.

4. The North Carolina Railroad Company

The North Carolina Railroad (NCR) appeared before the Committee on October 10, 2011 and December 12, 2011. During these presentations, NCR provided information about its history, current operations and property holdings.

The NCR is a corporation that was chartered by the State in 1849. At that time, it had both private and State stock owners. The State acquired all remaining private shares in 1998. It is governed by a 13 member board of directors. Seven of the members are appointed by the Governor, 6 are appointed by the General Assembly (3 upon the recommendation of the President Pro Tempore of the Senate and 3 upon the recommendation of the Speaker of the House of Representatives).

The NCR holds 3 categories of property: the original railroad corridor which consists of 7,662 acres (See Appendix D, Exhibit 8), corridor additions totaling 189.5 acres (*Id.*), and 25 other parcels totaling 203.2 acres (See Appendix D, Exhibit 9). Its primary holding is the 317-mile rail corridor extending from Morehead City, North Carolina to Charlotte, North Carolina. (See Appendix D, Exhibit 10). The railroad carries 50-60 freight trains offered by the Norfolk Southern Railroad and 10 Amtrak passenger trains daily. NCR does not own or operate any rolling stock, but manages capital investment in the railroad, financed primarily through railway lease income. The NCR receives no State appropriations.

NC Railroad, Inc., (NCRRI), is a wholly owned subsidiary of the NCR, formed in 2006. The NCRRI conducts certain taxable activities, such as leasing commercial real estate, while NCR conducts all tax exempt activities, such as leasing of railroad facilities and corridor management.

The Committee took no action on this matter during this reporting period.

5. Jennette's Pier

On December 12, 2011, the Department of Environment and Natural Resources (DENR) appeared before the Committee and provided information regarding the construction, financing, and operations of Jennette's Pier. Pursuant to S.L. 2009-14, the General Assembly authorized the expenditure of up to \$25,000,000 for capital projects related to the construction of the North Carolina Aquarium Pier at Nags Head by the Aquariums Division of DENR. A more detailed breakdown of the funding is provided in Appendix D, Exhibit 11. In addition to being a fishing pier, the facility provides public beach access, a public bath house, a meeting/seminar/conference room and other programs. The projected total operational costs for Fiscal Year 2011-2012 are \$1,017,000. The revenue for that same time period is projected to be \$793,000.

The Committee took no action on this matter during this reporting period.

6. The North Carolina Zoo

On January 23, 2012, the North Carolina Zoo presented the final draft of its "Governance Plan Report" to the Committee. The report proposed a public/private partnership management structure with a not-for profit institution governing the North Carolina Zoo under a management agreement with the State. This issue was subsequently studied in more detail by the House Select Committee on Public-Private Partnerships and therefore is not addressed in detail in this report.

7. Western Executive Residence

On April 10, 2012, the Committee received information regarding the Western Executive Residence. Located in Asheville, it was built in 1939 as a private residence. The house contains 6,000 square feet of living space and is surrounded by 18 acres of land. It was donated to the State by the Asheville Chamber of Commerce in 1964. The budget for the Western Residence has been approximately \$10,000 annually for the last 7 years. Building and grounds maintenance as well as staffing support are provided by the Department of Correction, the Department of Transportation, and the Department of Cultural Resources.

The Western Residence provides a secondary residence for the First Family and a vacation residence for former first families. It is used for official State and local functions and is available for use by civic and cultural groups and non-profit organizations. Private parties, weddings, political campaign events and fundraising event are strictly prohibited.

The Committee took no action on this matter during this reporting period.

RECOMMENDATIONS

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The House Select Committee on State-Owned Assets recommends the legislative proposals contained in Appendix C of this report to the 2012 Regular Session of the 2011 General Assembly.

COMMITTEE MEMBERSHIP

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[2011-2012](#)

Speaker of the House of Representatives Appointments:

Rep. Harold J. Brubaker (Chair)

Rep. Marilyn Avila

Rep. Marcus Brandon

Rep. William Brawley

Rep. William D. Brisson

Rep. Becky Carney

Rep. James W. Crawford, Jr.

Rep. Dale R. Folwell

Rep. Mike Hager

Rep. Julia C. Howard

Rep. David R. Lewis

Rep. Tim D. Moffitt

Rep. Bill Owens

Rep. Larry G. Pittman

Rep. Mitchell S. Setzer

Rep. Timothy L. Spear

Rep. Edgar V. Starnes

Rep. Roger West

Rep. Michael H. Wray

COMMITTEE CHARGE

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Office of Speaker Thom Tillis
North Carolina House of Representatives
Raleigh, North Carolina 27601-1096

HOUSE SELECT COMMITTEE ON STATE-OWNED ASSETS.

TO THE HONORABLE MEMBERS OF THE NORTH CAROLINA HOUSE OF REPRESENTATIVES

Section 1. The House Select Committee on State-Owned Assets (hereinafter "Committee") is established by the Speaker of the House of Representatives pursuant to G.S. 120-19.6(a1) and Rule 26 of the Rules of the House of Representatives of the 2011 General Assembly.

Section 2. The Committee consists of the 18 members listed below, appointed by the Speaker of the House of Representatives. Members serve at the pleasure of the Speaker of the House of Representatives. The Speaker of the House of Representatives may dissolve the Committee at any time.

Representative Harold J. Brubaker, Chair
Representative Marcus Brandon
Representative William Brawley
Representative William D. Brisson
Representative Becky Carney
Representative James W. Crawford, Jr.
Representative Dale R. Folwell
Representative Mike Hager
Representative Julia C. Howard
Representative David R. Lewis
Representative Tim D. Moffitt
Representative Bill Owens
Representative Mitchell S. Setzer
Representative Timothy L. Spear
Representative Edgar V. Starnes
Representative Roger West

Section 3. The Committee may study the assets that are owned or controlled by the State of North Carolina that are unused, underused or do not involve a core function of State government. Additionally the Committee may study whether the sale of such assets could provide the State with a better return on its investment. "Assets" include, but are not limited to, land, buildings, hospitals, railroads, aircraft, and vehicles.

Section 4. The Committee shall meet upon the call of its Chair. A quorum of the Committee shall be a majority of its members. The Committee is authorized to meet in the interim period between sessions.

Section 5. The Committee, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and Article 5A of Chapter 120 of the General Statutes.

Section 6. Members of the Committee shall receive per diem, subsistence, and travel allowance as provided in G.S. 120-3.1.

Section 7. The expenses of the Committee including per diem, subsistence, travel allowances for Committee members, and contracts for professional or consultant services shall be paid upon the written approval of the Speaker of the House of Representatives pursuant to G.S. 120-32.02(c) and G.S. 120-35 from funds available to the House of Representatives for its operations.

Section 8. The Legislative Services Officer shall assign professional and clerical staff to assist the Committee in its work. The Director of Legislative Assistants of the House of Representatives shall assign clerical support staff to the Committee.

Section 9. The Committee may submit an interim report on the results of the study, including any proposed legislation, on or before May 1, 2012, by filing a copy of the report with the Office of the Speaker of the House of Representatives, the House Principal Clerk, and the Legislative Library. The Committee shall submit a final report on the results of its study, including any proposed legislation, to the members of the House of Representatives by December 31, 2012 by filing the final report with the Office of the Speaker of the House of Representatives, the House Principal Clerk, and the Legislative Library. The Committee terminates upon the convening of the 2013 General Assembly or upon the filing of its final report, whichever occurs first.

Effective this the 7th day of June,-2011.

Thom Tillis, Speaker of the House of Representatives

LEGISLATIVE PROPOSALS

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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

H

D

BILL DRAFT 2011-MDz-103 [v.10] (01/23)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

4/10/2012 9:03:10 AM

Short Title: Protect Homeowners with Underwater Mortgages. (Public)

Sponsors: Representatives Moffitt and Brawley (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ENSURE PAYMENT OF JUST COMPENSATION TO PROPERTY OWNERS WITH MORTGAGE DEBT EXCEEDING THE FAIR MARKET VALUE OF THE PROPERTY BY AUTHORIZING THE CONSIDERATION OF OUTSTANDING MORTGAGE DEBT WHEN DETERMINING DAMAGES IN A CONDEMNATION ACTION, AS RECOMMENDED BY THE HOUSE SELECT COMMITTEE ON STATE OWNED ASSETS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-112 reads as rewritten:

"§ 136-112. Measure of damages.

(a) Generally. – The following shall be the measure of damages to be followed by the commissioners, jury or judge who determines the issue of damages:

(1) Where only a part of a tract is taken, the measure of damages for said taking shall be the difference between the fair market value of the entire tract immediately prior to said taking and the fair market value of the remainder immediately after said taking, with consideration being given to any special or general benefits resulting from the utilization of the part taken for highway purposes.

(2) Where the entire tract is taken the measure of damages for said taking shall be the fair market value of the property at the time of taking.

(b) When Condemned Property Has Mortgage Debt Exceeding Fair Market Value. – Notwithstanding any other provision of law, the commissioners, jury, or judge who determines the issue of damages may add to the amount determined pursuant to subsection (a) of this section an amount equal to the difference between the outstanding

1 balance of any eligible mortgage and the amount determined pursuant to subsection (a)
2 of this section, but only if the property owner proves by a preponderance of the
3 evidence that the fair market value of the property has declined since the property was
4 purchased solely due to a decline in the market for real property.

5 (c) Eligible Mortgage Defined. – For purposes of this section, the term 'eligible
6 mortgage' includes only a debt secured by a mortgage or deed of trust executed prior to
7 July 1, 2008, to obtain money for the purchase of the property being condemned."

8 **SECTION 2.** This act is effective when it becomes law and shall expire on
9 July 1, 2014.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

H

D

BILL DRAFT 2011-MDz-115 [v.11] (03/14)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
4/11/2012 10:45:08 AM

Short Title: Streamline DOT Sale of Unused Properties. (Public)

Sponsors: Representatives Brawley and Moffitt (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO FACILITATE THE TRANSFER OF UNUSED DEPARTMENT OF
3 TRANSPORTATION LAND TO THE PRIVATE SECTOR BY STREAMLINING
4 THE PROCESS OF SELLING THAT LAND, AS RECOMMENDED BY THE
5 HOUSE SELECT COMMITTEE ON STATE OWNED ASSETS.

6 The General Assembly of North Carolina enacts:

7 SECTION 1. Chapter 136 of the General Statutes is amended by adding a
8 new Article to read:

9 "Article 2F.

10 "Identification and Sale of Unused Property.

11 "§ 136-44.70. Definitions.

12 The following definitions apply in this Article:

13 (1) Contingent bid. – A bid for the purchase of a Class A property that is
14 made contingent on the elapsing of a due diligence period or on
15 particular action being taken with respect to a rezoning application.
16 Subject to the provisions of G.S. 136-44.73(c), the bidder shall
17 determine the duration of the contingency period.

18 (2) Department. – The Department of Transportation.

19 (3) Due diligence period. – A period of time during which the potential
20 purchaser of a Class A property may conduct inspections, appraisals,
21 and related activities whose purpose is to determine the desirability of
22 purchasing the property at issue.

23 (4) Earnest money. – Funds required to accompany a contingent bid in
24 accordance with G.S. 136-44.73(c).

25 (5) Unused property. – Real property owned by or allocated to the
26 Department that is not needed for current or future transportation
27 purposes, including residue properties, uneconomic remnant
28 properties, and property identified pursuant to G.S. 136-44.77(1).

29 (6) Upset bid. – A bid to purchase unused property that is at least 5%
30 higher than the highest bid for the property thus far received.

31 "§ 136-44.71. Classification of unused property.

1 The Department shall continuously identify unused property and shall classify each
2 lot, block, or tract of unused property as one of the following types:

- 3 (1) Class A. – A property (i) whose size and road access are sufficient to
4 allow commercial or residential development of one or more
5 standalone projects without requiring the acquisition of additional real
6 property; and (ii) whose size and shape are sufficient to allow
7 compliance with zoning and development standards for parking,
8 setbacks, side and front yard requirements, and access.
- 9 (2) Class B. – A property (i) that does not meet the definition of a Class A
10 property; and (ii) that would enhance the value of adjacent land by
11 allowing larger or more extensive uses when joined to the adjacent
12 land.
- 13 (3) Class C. – A property that does not meet the definition of a Class A or
14 Class B property.

15 **"§ 136-44.72. Prompt sale of unused property.**

16 The Department shall attempt to promptly sell all unused property in accordance
17 with G.S. 136-44.73 through 136-44.75.

18 **"§ 136-44.73. Sale of Class A property.**

19 (a) Public Sale. – Class A property shall be sold by public sale to the highest
20 bidder following advertisement.

21 (b) Advertisement. – The Department shall take all of the following steps to
22 advertise the sale of a Class A property:

- 23 (1) Advertise the sale by publication in a newspaper having general
24 circulation in the county in which the property is situated.
- 25 (2) Make the following information about the property being sold
26 available to the public both on its website and by mail:
27 a. Current zoning information.
28 b. Adjacent uses.
29 c. Land use plans of the local jurisdiction, if known.
30 d. Any other relevant information.
- 31 (3) Solicit upset bids from the public for any bid received that exceeds ten
32 thousand dollars (\$10,000).

33 (c) Contingent Bids. – A bidder may make a contingent bid to purchase Class A
34 property. However, a contingent bid shall be accompanied by earnest money in an
35 amount determined pursuant to the following requirements:

- 36 (1) For contingency periods that last 60 days or less, no earnest money is
37 required.
- 38 (2) For contingency periods that will last beyond 60 days, 1% of the bid
39 price is required for each calendar month that the contingency period
40 will extend beyond the initial 60 day period. For purposes of this
41 subdivision, any fraction of a calendar month shall be considered a full
42 calendar month. Additional contingency periods may be granted on a
43 monthly basis in exchange for additional earnest money of 1% per
44 month requested.

1 (d) Upset Bids. – The Department shall consider any upset bid received during
2 the ten business days following the conclusion of bidding on a particular property. The
3 receipt of an upset bid shall restart the ten day period for consideration of upset bids.

4 (e) Disposition of Earnest Money. – Earnest money shall be applied to the
5 purchase price of real property when sold to the bidder tendering the funds but it shall
6 be returned to the bidder in the event that the bidder's bid is superseded by an upset bid.
7 Earnest money shall not be returned to a bidder in the event that the bidder elects not to
8 purchase the property.

9 **"§ 136-44.74. Sale of Class B property.**

10 (a) Negotiated Sale to Adjacent Owner. – Class B property shall be offered for
11 sale to the owner or owners of all real property that is adjacent to the property.

12 (b) Acceptable Price. – If only one adjacent landowner offers to purchase the
13 property, the property shall be sold to that adjacent landowner so long as the offered
14 price is at least 40% of the appraised value of the property. If more than one adjacent
15 owner offers to purchase the property, then the property shall be sold to the owner
16 offering the highest purchase price.

17 (c) Upset Bids. – If the highest purchase price offered for a particular property is
18 80% or more of the appraised value of the property, then upset bids shall not be
19 considered. However, if the highest purchase price offered is less than 80% of the
20 property's appraised value, then the Department shall consider any upset bid received
21 during the 40 calendar days following receipt of the highest offer. Additionally, if the
22 highest bid thus far received exceeds \$10,000 the Department shall by publication in a
23 newspaper having general circulation in the county in which the property is situated
24 notify the public that upset bids for purchase of the property will be considered during
25 this period. Receipt of an upset bid shall restart the 40 day period for consideration of
26 upset bids.

27 **"§ 136-44.75. Sale of Class C property.**

28 (a) Negotiated Sale to Adjacent Owner. – Class C property shall be offered for
29 sale to the owner or owners of all real property that is adjacent to the property.

30 (b) Acceptable Price. – If only one adjacent owner offers to purchase the
31 property, the property shall be sold to that adjacent landowner so long as the offered
32 price is at least 40% of the appraised value of the property. If more than one adjacent
33 owner offers to purchase the property, then the property shall be sold to the landowner
34 offering the highest purchase price. Upset bids shall not be considered.

35 **"§ 136-44.76. Auction of unsold unused property.**

36 (a) Unsold Property Shall Be Auctioned. – If any unused property remains
37 unsold after one year, the property shall be sold at public auction. For purposes of this
38 requirement, the one year period begins when the sale of the property is first publically
39 advertised or when the property is first offered for sale to adjacent landowners, as
40 appropriate.

41 (b) Reserve. – Unused property auctioned pursuant to this section shall be sold
42 with reserve according to the following schedule:

43 (1) Class A Property. – 40% of appraised value.

44 (2) Class B Property. – 30% of appraised value.

45 (3) Class C Property. – No reserve.

1 (c) Properties That Do Not Sell at Auction. – The Department shall periodically
2 do all of the following with respect to any property that initially fails to sell at an
3 auction undertaken pursuant to this section:

- 4 (1) Offer the property for sale to the owner or owners of all real property
5 that is adjacent to the property. If only one adjacent landowner offers
6 to purchase the property, the property shall be sold to that adjacent
7 landowner at the negotiated price with no reserve. If more than one
8 adjacent owner offers to purchase the property, then the property shall
9 be sold to the landowner offering the highest purchase price. Upset
10 bids shall not be considered.
- 11 (2) Make an additional attempt to auction the property in accordance with
12 this section, if an adjacent owner does not purchase the property
13 pursuant to Subdivision (1) of this subsection.

14 **"§ 136-44.77. Identification of unused property.**

15 Whenever the Department completes a project and there is associated real property
16 that was not used for the project, the Department shall examine whether or not that
17 property is either:

- 18 (1) Unused property that can be sold. Any property identified as unused
19 property pursuant to this subdivision shall be classified and sold in the
20 manner prescribed by this Article.
- 21 (2) Property that cannot be sold either because (i) it does not constitute
22 unused property; (ii) it is not owned in fee simple by the State; or (iii)
23 it is environmentally contaminated. The Department shall document
24 the reason that a property cannot be sold pursuant to this subdivision
25 and shall review this determination at least every ten years.
- 26 (3) Property that cannot be sold because it is unknown whether or not the
27 property is needed for future transportation purposes. The Department
28 shall document when it determines that a property cannot be sold
29 pursuant to this subdivision and shall review this determination at least
30 every five years.

31 **"§ 136-44.78. Disapproval of Certain Sales by Governor and Council of State.**

32 (a) Notification Required. – The Department shall notify the Governor and
33 Council of State of any proposed sale under this Article of land with an appraised value
34 of at least twenty-five thousand dollars (\$25,000).

35 (b) Approval Not Required. – Notwithstanding Article 7 of Chapter 146 of the
36 General Statutes, Governor and Council of State approval of a sale under this Article is
37 not required.

38 (c) Disapproval of Certain Sales Authorized. – If the Governor and Council of
39 State disapprove of a proposed sale of land with an appraised value of at least twenty-
40 five thousand dollars (\$25,000) within thirty days of being notified of it then the sale
41 shall not be completed.

42 **"§ 136-44.79. Sale of condemned property to its previous owner.**

43 Nothing in this Article shall preclude the sale of condemned property to its former
44 owner pursuant to G.S. 136-19(b)."

45 **SECTION 2.** The Department of Transportation shall conduct the same
46 review for projects completed prior to the effective date of this act that is required

1 prospectively by G.S. 136-44.77, as enacted by Section 1 of this act. Properties shall be
2 disposed of in the manner provided by G.S. 136-44.77.

3 **SECTION 3.** No later than January 1, 2013, the Department of
4 Transportation shall report to the Joint Legislative Commission on Governmental
5 Operations on the classification and sale of properties pursuant to Article 21 of Chapter
6 136 of the General Statutes, as enacted by this act. At a minimum, this report shall
7 include information on the following:

8 (1) The number and type of properties classified.

9 (2) The number and type of properties sold, including information about
10 the manner of sale, the type of purchaser, the per-sale average and total
11 dollar sales figures, and the average ratio of sale price to appraised
12 value of the properties sold.

13 **SECTION 4.** G.S. 136-19 reads as rewritten:

14 "**§ 136-19. Acquisition of land and deposits of materials; condemnation**
15 **proceedings; federal parkways.**

16 (a) The Department of Transportation is vested with the power to acquire either
17 in the nature of an appropriate easement or in fee simple such rights-of-way and title to
18 such land, gravel, gravel beds or bars, sand, sand beds or bars, rock, stone, boulders,
19 quarries, or quarry beds, lime or other earth or mineral deposits or formations, and such
20 standing timber as it may deem necessary and suitable for transportation infrastructure
21 construction, including road construction, maintenance, and repair, and the necessary
22 approaches and ways through, and a sufficient amount of land surrounding and adjacent
23 thereto, as it may determine to enable it to properly prosecute the work, by purchase,
24 donation, or condemnation, in the manner hereinafter set out. ~~If the Department of~~
25 ~~Transportation acquires by purchase, donation, or condemnation part of a tract of land~~
26 ~~in fee simple for highway right-of-way as authorized by this section and the Department~~
27 ~~of Transportation later determines that the property acquired for transportation~~
28 ~~infrastructure, including highway right-of-way, or a part of that property, is no longer~~
29 ~~needed for infrastructure right-of-way, then the Department shall give first~~
30 ~~consideration to any offer to purchase the property made by the former owner. The~~
31 ~~Department may refuse any offer that is less than the current market value of the~~
32 ~~property, as determined by the Department. Unless the Department acquired an entire~~
33 ~~lot, block, or tract of land belonging to the former owner, the former owner must own~~
34 ~~the remainder of the lot, block, or tract of land from which the property was acquired to~~
35 ~~receive first consideration by the Department of their offer to purchase the property.~~

36 (b) ~~Notwithstanding the provisions of subsection (a), if~~ If the Department acquires
37 the property by condemnation and determines that the property or a part of that property
38 is no longer needed for highway right-of-way or other transportation projects, the
39 Department of Transportation may reconvey the property to the former owner upon
40 payment by the former owner of the full price paid to the owner when the property was
41 taken, the cost of any improvements, together with interest at the legal rate to the date
42 when the decision was made to offer the return of the property. Unless the Department
43 acquired an entire lot, block, or tract of land belonging to the former owner, the former
44 owner must own the remainder of the lot, block, or tract of land from which the property
45 was acquired to purchase the property pursuant to this subsection.

1 ~~(e) The requirements of this section for reconveying property to the former~~
2 ~~owner, regardless of whether such property was acquired by purchase, donation, or~~
3 ~~condemnation, shall not apply to property acquired outside the right-of-way as an~~
4 ~~"uneconomic remnant" or "residue".~~

5 (d) The Department of Transportation is also vested with the power to acquire
6 such additional land alongside of the rights-of-way for transportation projects, including
7 roads as in its opinion may be necessary and proper for the protection of the
8 transportation projects, including roads and roadways, and such additional area as may
9 be necessary as by it determined for approaches to and from such material and other
10 requisite area as may be desired by it for working purposes. The Department of
11 Transportation may, in its discretion, with the consent of the landowner, acquire in fee
12 simple an entire lot, block or tract of land, if by so doing, the interest of the public will
13 be best served, even though said entire lot, block or tract is not immediately needed for
14 right-of-way purposes.

15 (e) Notwithstanding any other provisions of law or eminent domain powers of
16 utility companies, utility membership corporations, municipalities, counties, entities
17 created by political subdivisions, or any combination thereof, and in order to prevent
18 undue delay of highway projects because of utility conflicts, the Department of
19 Transportation may condemn or acquire property in fee or appropriate easements
20 necessary to provide transportation project rights-of-way for the relocation of utilities
21 when required in the construction, reconstruction, or rehabilitation of a State
22 transportation project. The Department of Transportation shall also have the authority,
23 subject to the provisions of G.S. 136-19.5(a) and (b), to, in its discretion, acquire
24 rights-of-way necessary for the present or future placement of utilities as described in
25 G.S. 136-18(2).

26 (f) Whenever the Department of Transportation and the owner or owners of the
27 lands, materials, and timber required by the Department of Transportation to carry on
28 the work as herein provided for, are unable to agree as to the price thereof, the
29 Department of Transportation is hereby vested with the power to condemn the lands,
30 materials, and timber and in so doing the ways, means, methods, and procedure of
31 Article 9 of this Chapter shall be used by it exclusively.

32 (g) The Department of Transportation shall have the same authority, under the
33 same provisions of law provided for construction of State transportation projects, for
34 acquirement of all rights-of-way and easements necessary to comply with the rules and
35 regulations of the United States government for the construction of federal parkways
36 and entrance roads to federal parks in the State of North Carolina. The acquirement of a
37 total of 125 acres per mile of said parkways, including roadway and recreational, and
38 scenic areas on either side thereof, shall be deemed a reasonable area for said purpose.
39 The right-of-way acquired or appropriated may, at the option of the Department of
40 Transportation, be a fee-simple title. The said Department of Transportation is hereby
41 authorized to convey such title so acquired to the United States government, or its
42 appropriate agency, free and clear of all claims for compensation. All compensation
43 contracted to be paid or legally assessed shall be a valid claim against the Department of
44 Transportation, payable out of the State Highway Fund. Any conveyance to the United
45 States Department of Interior of land acquired as provided by this section shall contain a
46 provision whereby the State of North Carolina shall retain concurrent jurisdiction over

1 the areas conveyed. The Governor is further authorized to grant concurrent jurisdiction
2 to lands already conveyed to the United States Department of Interior for parkways and
3 entrances to parkways.

4 (h) The action of the Department of Transportation heretofore taken in the
5 acquirement of areas for the Blue Ridge Parkway in accordance with the rules and
6 regulations of the United States government is hereby ratified and approved and
7 declared to be a reasonable exercise of the discretion vested in the said Department of
8 Transportation in furtherance of the public interest.

9 (i) When areas have been tentatively designated by the United States
10 government to be included within a parkway, but the final survey necessary for the
11 filing of maps as provided in this section has not yet been made, no person shall cut or
12 remove any timber from said areas pending the filing of said maps after receiving notice
13 from the Department of Transportation that such area is under investigation; and any
14 property owner who suffers loss by reason of the restraint upon his right to use the said
15 timber pending such investigation shall be entitled to recover compensation from the
16 Department of Transportation for the temporary appropriation of his property, in the
17 event the same is not finally included within the appropriated area, and the provisions of
18 this section may be enforced under the same law now applicable for the adjustment of
19 compensation in the acquirement of rights-of-way on other property by the Department
20 of Transportation."

21 **SECTION 5.** The Department of Transportation shall treat the Rodney Orr
22 Bypass surplus right of way property as unused property and shall sell it in accordance
23 with Article 2F of Chapter 136 of the General Statutes, as enacted by Section 1 of this
24 act.

25 **SECTION 6.** This act becomes effective October 1, 2012.
26

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

H

D

BILL DRAFT 2011-RCz-8 [v.2] (04/06)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
4/9/2012 1:23:59 PM

Short Title: UNCHCS Changes.

(Public)

Sponsors: Representative Moffitt.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE PURPOSE OF THE UNIVERSITY OF NORTH CAROLINA HEALTH CARE SYSTEM, TO INCREASE THE AUTHORITY OF THE UNIVERSITY OF NORTH CAROLINA BOARD OF GOVERNORS TO GOVERN THE HEALTH CARE SYSTEM, TO REDUCE THE NUMBER AND CHANGE THE COMPOSITION OF THE MEMBERS OF THE BOARD OF DIRECTORS OF THE HEALTH CARE SYSTEM, TO INCREASE THE SYSTEM'S ACCOUNTABILITY AND TRANSPARENCY, TO CLARIFY ITS STATUS AS A STATE AGENCY AND TO LIMIT FUTURE EXPANSION, AS RECOMMENDED BY THE HOUSE SELECT COMMITTEE ON STATE-OWNED ASSETS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 116-37 reads as rewritten:

"§ 116-37. University of North Carolina Health Care System.

(a) Creation of System. –

(1) There is hereby established the University of North Carolina Health Care System, effective November 1, 1998, which shall be ~~governed and administered as an affiliated enterprise of The University of North Carolina governed by the Board of Governors and administered by the~~ board of directors created in subsection (b) of this section. Consistent with State statutes and policy and without unduly competing with non-State owned health care systems, the purpose of the University of North Carolina Health Care System is to in accordance with the provisions of this section, to provide patient care, facilitate the education of physicians and other health care providers, conduct research collaboratively with the health sciences schools of the University of North Carolina at Chapel Hill, and render other services designed to promote the health and well-being of the citizens of North Carolina. meet the goals of education, research, patient care, and community service.

- 1 (2) As of November 1, 1998, all of the rights, privileges, liabilities, and
2 obligations of the board of directors of the University of North
3 Carolina Hospitals at Chapel Hill, not inconsistent with the provisions
4 of this section, shall be transferred to and assumed by the board of
5 directors of the University of North Carolina Health Care System.
- 6 (3) The University of North Carolina Hospitals at Chapel Hill and the
7 clinical patient care programs established or maintained by the School
8 of Medicine of the University of North Carolina at Chapel Hill shall be
9 governed by the Board of Governors and administered by the board of
10 directors of the University of North Carolina Health Care System.
- 11 (4) With respect to the provisions of subsections (d), (e), (f), ~~(h)~~, ~~(i)~~, ~~(j)~~,
12 and (k) of this section, the ~~board of directors~~ Board of Governors may
13 adopt or may delegate to the board of directors the authority to adopt
14 policies that make the authorities and responsibilities established by
15 one or more of said subsections applicable to the University of North
16 Carolina Hospitals at Chapel Hill, to the clinical patient care programs
17 of the School of Medicine of the University of North Carolina at
18 Chapel Hill, to both, or to other persons or entities affiliated with or
19 under the control of the University of North Carolina Health Care
20 System.
- 21 (5) To effect an orderly transition, the policies and procedures of the
22 clinical patient care programs of the School of Medicine of the
23 University of North Carolina at Chapel Hill and of the University of
24 North Carolina Hospitals at Chapel Hill effective as of October 31,
25 1998, shall remain effective in accordance with their terms until
26 changed by the Board of Directors of the University of North Carolina
27 Health Care System.

28 (b) Board of Directors. — ~~There is hereby established a board of directors of the~~
29 ~~University of North Carolina Health Care System, effective November 1, 1998. The~~
30 Board of Governors of the University of North Carolina is directed to reconstitute the
31 board of directors for the University of North Carolina Health Care System, effective
32 November 1, 2012.

- 33 (1) The reconstituted board of directors shall be composed of 12 members
34 as follows:

35 a. ~~A minimum of six~~ Three members ex officio of said board shall
36 be the ~~President of The University of North Carolina (or the~~
37 ~~President's designee);~~ the State Treasurer or the Treasurer's
38 designee, the Chief Executive Officer of the University of
39 North Carolina Health Care System; ~~the Chancellor of the~~
40 ~~University of North Carolina at Chapel Hill and one additional~~
41 ~~administrative officer of the University of North Carolina at~~
42 ~~Chapel Hill designated by the Chancellor; and two members of~~
43 ~~the faculty of the~~ and the Dean of the School of Medicine of the
44 University of North Carolina at Chapel Hill designated by the
45 Dean of the School of Medicine; Hill; provided, that if the
46 Dean is already not such a member ex officio by virtue of

1 holding one or more of the offices aforementioned, ~~additional~~
2 ~~ex officio~~ memberships shall be held by the President of the
3 University of North Carolina Hospitals at Chapel Hill, the
4 faculty member responsible for leading the clinical patient care
5 programs of the School of Medicine, and the Dean of the
6 School of Medicine of the University of North Carolina at
7 Chapel Hill. Medicine shall serve as the third member ex officio.

- 8 b. ~~No less than nine and no more than 21~~Nine members at large,
9 ~~which number shall be determined by the board of directors,~~
10 large who shall be appointed by the Board of Governors for
11 four-year terms, commencing on November 1 of the year of
12 appointment; provided, that appointment. In order to effectuate
13 staggered terms and to provide continuity of board membership,
14 a minimum of five members of the initial class of at-large
15 members of the reconstituted board shall include be selected by
16 the Board of Governors from the persons who hold the
17 appointed memberships on the board of directors of the
18 University of North Carolina Hospitals at Chapel HillHealth
19 Care System incumbent as of October 31, 1998, 2012, whose
20 terms shall expire on October 31, 2014, with their terms of
21 membership on the board of directors of the University of North
22 Carolina Health Care System to expire on the last day of
23 October of the year in which their term as a member of the
24 board of directors of the University of North Carolina Hospitals
25 at Chapel Hill would have expired. The Board of Governors
26 shall appoint individuals to the remaining at-large positions of
27 the reconstituted board whose terms shall expire on October 31,
28 2016. Vacant As the terms of the initial at large members of the
29 reconstituted board expire, the Board of Governors shall
30 appoint individuals to fill the vacant at-large positions shall be
31 filled by the appointment of persons from the business and
32 professional public at large who have special competence in
33 business management, hospital administration, health care
34 delivery, or medical practice or who otherwise have
35 demonstrated dedication to the improvement of health care in
36 North Carolina, and who are neither members of the Board of
37 Governors, members of the board of trustees of a constituent
38 institution of The University of North Carolina, nor officers or
39 employees of the State. Members shall be appointed by the
40 President of the University, and ratified by the Board of
41 Governors, from among a slate of nominations made by the
42 board of directors of the University of North Carolina Health
43 Care System. No member may be appointed to more than two
44 full four-year terms in succession; provided, that persons
45 holding appointed memberships on November 1, 1998, 2012, by
46 virtue of their previous membership on the board of directors of

1 the University of North Carolina Hospitals at Chapel Hill,
2 Health Care System on October 31, 2012, shall not be eligible,
3 for a period of one year following expiration of their term,
4 eligible to be reappointed to the board of directors of the
5 University of North Carolina Health Care System. Any vacancy
6 in an unexpired term shall be filled by an appointment made by
7 ~~the President, and ratified by the Board of Governors, upon the~~
8 ~~nomination of the board of directors, Governors~~ for the balance
9 of the term remaining.

10 (2) The board of directors, with each ex officio and at-large member
11 having a vote, shall elect a chairman only from among the at-large
12 members, for a term of two years. ~~Notwithstanding the foregoing~~
13 ~~limitation, the Chancellor of the University of North Carolina at~~
14 ~~Chapel Hill may serve as Chairman.~~ No person shall be eligible to
15 serve as chairman for more than three terms in succession.

16 (3) The board of directors of the University of North Carolina Health Care
17 System shall meet at least every 60 days and may hold special
18 meetings at any time and place within the State at the call of the
19 chairman. Board members, other than ex officio members, shall
20 receive the same per diem and reimbursement for travel expenses as
21 members of the State boards and commissions generally.

22 (4) In meeting the patient-care, educational, research, and public-service
23 goals of the University of North Carolina Health Care System, the
24 Board of Governors board of directors is authorized or may delegate to
25 the board of directors the authority to exercise such authority and
26 responsibility to adopt policies, rules, and regulations that are as it
27 ~~deems~~ necessary and appropriate, not inconsistent with the provisions
28 of this section or the policies of the Board of Governors or, to the
29 extent the board's actions affect employees of the University of North
30 Carolina at Chapel Hill, not inconsistent with the policies of the
31 University of North Carolina at Chapel Hill. The Board of Governors
32 ~~board~~ may authorize or may delegate to the board of directors the
33 authority to authorize any component of the University of North
34 Carolina Health Care System, including the University of North
35 Carolina Hospitals at Chapel Hill, to contract in its individual capacity,
36 subject to such policies and procedures as the board of directors may
37 direct. The board of directors may enter into formal agreements with
38 the University of North Carolina at Chapel Hill with respect to the
39 provision of clinical experience for students and for the provision of
40 maintenance and supporting services. The board's action on matters
41 within its jurisdiction is final, except that appeals may be made, in
42 writing, to the Board of Governors with a copy of the appeal to the
43 Chancellor of the University of North Carolina at Chapel Hill. The
44 board of directors shall keep the Board of Governors and the board of
45 trustees of the University of North Carolina at Chapel Hill fully
46 informed about health care policy and recommend changes necessary

1 to maintain adequate health care delivery, education, and research for
2 improvement of the health of the citizens of North Carolina.

3 (c) Officers. –

4 (1) The executive and administrative head of the University of North
5 Carolina Health Care System shall have the title of "Chief Executive
6 Officer." The board of directors, the board of trustees, and the
7 Chancellor of the University of North Carolina at Chapel Hill,
8 following such search process as the boards and the Chancellor deem
9 appropriate, shall identify two or more persons as candidates for the
10 office, who, pursuant to criteria agreed upon by the boards and the
11 Chancellor, have the qualifications for both the positions of Chief
12 Executive Officer of the University of North Carolina Health Care
13 System and Vice-Chancellor for Medical Affairs of the University of
14 North Carolina at Chapel Hill. The names of the candidates so
15 identified, once approved by the board of directors and the board of
16 trustees, shall be forwarded by the Chancellor to the President of The
17 University of North Carolina, who if satisfied with the quality of one
18 or more of the candidates, will nominate one as Chief Executive
19 Officer, subject to selection by the Board of Governors. The individual
20 serving as Chief Executive Officer shall have complete executive and
21 administrative authority to formulate proposals for, recommend the
22 adoption of, and implement policies governing the programs and
23 activities of the University of North Carolina Health Care System,
24 subject to all requirements of the board of directors. That same
25 individual, when serving as Vice-Chancellor for Medical Affairs, shall
26 have all authorities, rights, and responsibilities of a vice-chancellor of
27 the University of North Carolina at Chapel Hill.

28 (2) The executive and administrative head of the University of North
29 Carolina Hospitals at Chapel Hill shall have the title of "President of
30 the University of North Carolina Hospitals at Chapel Hill."

31 (3) The board of directors shall elect, on nomination of the Chief
32 Executive Officer, the President of the University of North Carolina
33 Hospitals at Chapel Hill, and such additional administrative and
34 professional staff employees of the University of North Carolina
35 Health Care System as may be deemed necessary to assist in fulfilling
36 the duties of the office of the Chief Executive Officer, all of whom
37 shall serve at the pleasure of the Chief Executive Officer.

38 (d) Personnel. – Employees of the University of North Carolina Health Care
39 System shall be deemed to be employees of the State and shall be subject to all
40 provisions of State law relevant thereto; provided, however, that except as to the
41 provisions of Articles 5, 6, 7, and 14 of Chapter 126 of the General Statutes, the
42 provisions of Chapter 126 shall not apply to employees of the University of North
43 Carolina Health Care System, and the policies and procedures governing the terms and
44 conditions of employment of such employees shall be adopted by the board of directors;
45 provided, that with respect to such employees as may be members of the faculty of the
46 University of North Carolina at Chapel Hill, no such policies and procedures may be

1 inconsistent with policies established by, or adopted pursuant to delegation from, the
2 Board of Governors of The University of North Carolina.

3 (1) ~~The board of directors~~ Board of Governors shall fix or approve or may
4 delegate to the board of directors the authority to fix or approve the
5 schedules of pay, expense allowances, and other compensation and
6 adopt position classification plans for employees of the University of
7 North Carolina Health Care System.

8 (2) ~~The board of directors~~ Board of Governors may adopt or provide or
9 may delegate to the board of directors the authority to adopt or
10 prorvide for rules and regulations concerning, but not limited to,
11 annual leave, sick leave, special leave with full pay or with partial pay
12 supplementing workers' compensation payments for employees injured
13 in accidents arising out of and in the course of employment, working
14 conditions, service awards and incentive award programs, grounds for
15 dismissal, demotion, or discipline, other personnel policies, and any
16 other measures that promote the hiring and retention of capable,
17 diligent, and effective career employees. However, an employee who
18 has achieved career State employee status as defined by G.S. 126-1.1
19 by October 31, 1998, shall not have his or her compensation reduced
20 as a result of this subdivision. Further, an employee who has achieved
21 career State employee status as defined by G.S. 126-1.1 by October 31,
22 1998, shall be subject to the rules regarding discipline or discharge that
23 were effective on October 31, 1998, and shall not be subject to the
24 rules regarding discipline or discharge adopted after October 31, 1998.

25 (3) ~~The board of directors~~ Board of Governors may prescribe or may
26 delegate to the board of directors the authority to prescribe the office
27 hours, workdays, and holidays to be observed by the various offices
28 and departments of the University of North Carolina Health Care
29 System.

30 (4) ~~The board of directors~~ Board of Governors may establish or may
31 delegate to the board of directors the authority to establish boards,
32 committees, or councils to conduct hearings upon the appeal of
33 employees who have been suspended, demoted, otherwise disciplined,
34 or discharged, to hear employee grievances, or to undertake any other
35 duties relating to personnel administration that the board of directors
36 may direct.

37 The board of directors shall submit all initial classification and pay plans and other
38 rules and regulations adopted pursuant to subdivisions (1) through (4) of this subsection
39 to the Office of State Personnel for review upon adoption by the board. Any subsequent
40 changes to these plans, rules, and policies ~~adopted by the board~~ shall be submitted to the
41 Office of State Personnel for review. Any comments by the Office of State Personnel
42 shall be submitted to the Chief Executive Officer and to the President of The University
43 of North Carolina.

44 (e) Finances. – The University of North Carolina Health Care System shall be
45 subject to the provisions of the State Budget Act, ~~except for trust funds as provided in~~
46 ~~G.S. 116-36.1 and G.S. 116-37.2. Act.~~ The Chief Executive Officer, subject to the board

1 of ~~directors,~~ Board of Governors, shall be responsible for all aspects of budget
2 preparation, budget execution, and expenditure reporting. All operating funds of the
3 University of North Carolina Health Care System may be budgeted and disbursed
4 through special fund codes, maintaining separate auditable accounts for the University
5 of North Carolina Hospitals at Chapel Hill and the clinical patient care programs of the
6 School of Medicine of the University of North Carolina at Chapel Hill. All receipts of
7 the University of North Carolina Health Care System may be deposited directly to the
8 special fund codes, and except for General Fund appropriations, all receipts of the
9 University of North Carolina Hospitals at Chapel Hill may be invested pursuant to G.S.
10 116-37.2(h). General Fund appropriations for support of the University of North
11 Carolina Hospitals at Chapel Hill shall be budgeted in a General Fund code under a
12 single purpose, "Contribution to University of North Carolina Hospitals at Chapel Hill
13 Operations" and be transferable to a special fund operating code as receipts.

14 (f) Finances – Patient/Health Care System Benefit. – The Chief Executive
15 Officer of the University of North Carolina Health Care System, or the Chief Executive
16 Officer's designee, may expend operating budget funds, including State funds, of the
17 University of North Carolina Health Care System for the direct benefit of a patient,
18 when, in the judgment of the Chief Executive Officer or the Chief Executive Officer's
19 designee, the expenditure of these funds would result in a financial benefit to the
20 University of North Carolina Health Care System. Any such expenditures are declared
21 to result in the provision of medical services and create charges of the University of
22 North Carolina Health Care System for which the health care system may bill and
23 pursue recovery in the same way as allowed by law for recovery of other health care
24 systems' charges for services that are unpaid.

25 These expenditures shall be restricted (i) to situations in which a patient is
26 financially unable to afford ambulance or other transportation for discharge; (ii) to
27 afford placement in an after-care facility; (iii) to assure availability of a bed in an
28 after-care facility after discharge from the hospitals; (iv) to secure equipment or other
29 medically appropriate services after discharge; or (v) to pay health insurance premiums.
30 The Chief Executive Officer or the Chief Executive Officer's designee shall reevaluate
31 at least once a month the cost-effectiveness of any continuing payment on behalf of a
32 patient.

33 To the extent that the University of North Carolina Health Care System advances
34 anticipated government entitlement benefits for a patient's benefit, for which the patient
35 later receives a lump-sum "back-pay" award from an agency of the State, whether for
36 the current admission or subsequent admission, the State agency shall withhold from
37 this back pay an amount equal to the sum advanced on the patient's behalf by the
38 University of North Carolina Health Care System, if, prior to the disbursement of the
39 back pay, the applicable State program has received notice from the University of North
40 Carolina Health Care System of the advancement.

41 (f1) Provision of Indigent Care. – The University of North Carolina Health Care
42 System shall provide a proportionate share of the indigent care, as compared with non-
43 State owned health care systems, in each county where it provides medical services. By
44 July 1, 2013, the Board of Governors in conjunction with the North Carolina Hospital
45 Association shall develop methods to measure the provision of indigent care services
46 that allow for direct and accurate comparison between health care systems.

1 (g) Reports. – The Chief Executive Officer and the President of The University
2 of North Carolina jointly shall report by September 30 of each year on the operations
3 and financial affairs of the University of North Carolina Health Care System to the
4 Board of Governors. The Board of Governovors shall report by November 30 of each
5 year on the operations and financial affairs of the University of North Carolina Health
6 Care System to the Joint Legislative Commission on Governmental Operations. The
7 report shall include the actions taken by the Board of Governors or the board of
8 directors under the authority granted in subsections (d), (h), (i), and (j) subsection (d) of
9 this section.

10 All nonprofit corporations that are part of the University of North Carolina Health
11 Care System must complete an Internal Revenue Service Form 990 annually and submit
12 a copy to the Board of Governors.

13 ~~(h) Purchases. — Notwithstanding the provisions of Articles 3, 3A, and 3C of~~
14 ~~Chapter 143 of the General Statutes to the contrary, the board of directors shall establish~~
15 ~~policies and regulations governing the purchasing requirements of the University of~~
16 ~~North Carolina Health Care System. These policies and regulations shall provide for~~
17 ~~requests for proposals, competitive bidding, or purchasing by means other than~~
18 ~~competitive bidding, contract negotiations, and contract awards for purchasing supplies,~~
19 ~~materials, equipment, and services which are necessary and appropriate to fulfill the~~
20 ~~clinical, educational, research, and community service missions of the University of~~
21 ~~North Carolina Health Care System. The board of directors shall submit all initial~~
22 ~~policies and regulations adopted pursuant to this subsection to the Division of Purchase~~
23 ~~and Contract for review upon adoption by the board. Any subsequent changes to these~~
24 ~~policies and regulations adopted by the board shall be submitted to the Division of~~
25 ~~Purchase and Contract for review. Any comments by the Division of Purchase and~~
26 ~~Contract shall be submitted to the Chief Executive Officer and to the President of The~~
27 ~~University of North Carolina.~~

28 (i) Property. — The board of directors shall establish rules and regulations for
29 acquiring or disposing of any interest in real property for the use of the University of
30 North Carolina Health Care System. These rules and regulations shall include
31 provisions for development of specifications, advertisement, and negotiations with
32 owners for acquisition by purchase, gift, lease, or rental, but not by condemnation or
33 exercise of eminent domain, on behalf of the University of North Carolina Health Care
34 System. This section does not authorize the board of directors to encumber real
35 property. The board of directors shall submit all initial policies and regulations adopted
36 pursuant to this subsection to the State Property Office for review upon adoption by the
37 board. Any subsequent changes to these policies and regulations adopted by the board
38 shall be submitted to the State Property Office for review. Any comments by the State
39 Property Office shall be submitted to the Chief Executive Officer and to the President of
40 The University of North Carolina. After review by the Attorney General as to form and
41 after the consummation of any such acquisition, the University of North Carolina Health
42 Care System shall promptly file a report concerning the acquisition or disposition with
43 the Governor and Council of State. Acquisitions and dispositions of any interest in real
44 property pursuant to this section shall not be subject to the provisions of Article 36 of
45 Chapter 143 of the General Statutes or the provisions of Chapter 146 of the General
46 Statutes.

1 (j) ~~Property Construction. Notwithstanding G.S. 143-341(3) and G.S.~~
2 ~~143-135.1, the board of directors shall adopt policies and procedures with respect to the~~
3 ~~design, construction, and renovation of buildings, utilities, and other property~~
4 ~~developments of the University of North Carolina Health Care System requiring the~~
5 ~~expenditure of public money for:~~

6 (1) ~~Conducting the fee negotiations for all design contracts and~~
7 ~~supervising the letting of all construction and design contracts.~~

8 (2) ~~Performing the duties of the Department of Administration, the Office~~
9 ~~of State Construction, and the State Building Commission under G.S.~~
10 ~~133-1.1(d), Article 8 of Chapter 143 of the General Statutes, and G.S.~~
11 ~~143-341(3).~~

12 (3) ~~Using open-end design agreements.~~

13 (4) ~~As appropriate, submitting construction documents for review and~~
14 ~~approval by the Department of Insurance and the Division of Health~~
15 ~~Service Regulation of the Department of Health and Human Services.~~

16 (5) ~~Using the standard contracts for design and construction currently in~~
17 ~~use for State capital improvement projects by the Office of State~~
18 ~~Construction of the Department of Administration.~~

19 The board of directors shall submit all initial policies and procedures adopted under
20 this subsection to the Office of State Construction for review upon adoption by the
21 board. Any subsequent changes to these policies and procedures adopted by the board
22 shall be submitted to the Office of State Construction for review. Any comments by the
23 Office of State Construction shall be submitted to the Chief Executive Officer and to the
24 President of The University of North Carolina.

25 (k) Patient Information. – The University of North Carolina Health Care System
26 shall, at the earliest possible opportunity, specifically make a verbal and written request
27 to each patient to disclose the patient's social security number, if any. If the patient does
28 not disclose that number, the University of North Carolina Health Care System shall
29 deny benefits, rights, and privileges of the University of North Carolina Health Care
30 System to the patient as soon as practical, to the maximum extent permitted by federal
31 law or federal regulations. The University of North Carolina Health Care System shall
32 make the disclosure to the patient required by Section 7(b) of P.L. 93-579. This
33 subsection is supplementary to G.S. 105A-3(c).

34 (l) Expansion. – The University of North Carolina Health Care System shall not
35 use any funds available to it, whether fees for provision of services, reserves, or
36 assessments of entities affiliated with the system, to expand the geographic areas where
37 it provides services without the specific authorization of the General Assembly. "

38 **SECTION 2.** G.S. 116-37.2(b) reads as written:

39 "(b) The Board of Directors-Governors is responsible or may delegate the
40 responsibility to the board of directors of the University of North Carolina Health Care
41 System, as established in G.S. 116-37(b), is responsible for the custody and
42 management of the funds of the University of North Carolina Hospitals at Chapel Hill.
43 The Board of Governors shall adopt or may delegate the authority to the board of
44 directors to adopt uniform policies and procedures applicable to the deposit, investment,
45 and administration of these funds, which shall assure that the receipt and expenditure of
46 such funds is properly authorized and that the funds are appropriately accounted for.

1 The Board of Governors may delegate authority, through the Chief Executive Officer of
2 the University of North Carolina Health Care System to the President of the University
3 of North Carolina Hospitals at Chapel Hill, when such delegation is necessary or
4 prudent to enable the University of North Carolina Hospitals at Chapel Hill to function
5 in a proper and expeditious manner."

6 **SECTION 3.** G.S. 116-37.2(h) reads as rewritten:

7 "(h) The Board of Governors may deposit or invest, or may delegate to the board
8 of directors the authority to deposit or invest ~~Directors of the University of North~~
9 ~~Carolina Health Care System may deposit or invest~~ the funds under this section in
10 interest-bearing accounts and other investments in the exercise of its sound discretion,
11 without regard to any statute or rule of law relating to the investment of funds by
12 fiduciaries."

13 **SECTION 4.** G.S. 143-56 reads as rewritten:

14 **"§ 143-56. Certain purchases excepted from provisions of Article.**

15 Unless as may otherwise be ordered by the Secretary of Administration, the
16 purchase of supplies, materials and equipment through the Secretary of Administration
17 shall be mandatory in the following cases:

18 (1) Published books, manuscripts, maps, pamphlets and periodicals.

19 (2) Perishable articles such as fresh vegetables, fresh fish, fresh meat,
20 eggs, and others as may be classified by the Secretary of
21 Administration.

22 Purchase through the Secretary of Administration shall not be mandatory for
23 information technology purchased in accordance with Article 3D of Chapter 147 of the
24 General Statutes, for a purchase of supplies, materials or equipment for the General
25 Assembly if the total expenditures is less than the expenditure benchmark established
26 under the provisions of G.S. 143-53.1, for group purchases made by hospitals,
27 developmental centers, neuromedical treatment centers, and alcohol and drug abuse
28 treatment centers through a competitive bidding purchasing program, as defined in G.S.
29 143-129, ~~by the University of North Carolina Health Care System pursuant to G.S.~~
30 ~~116-37(h), by the University of North Carolina Hospitals at Chapel Hill pursuant to G.S.~~
31 ~~116-37(a)(4), by the University of North Carolina at Chapel Hill on behalf of the~~
32 ~~clinical patient care programs of the School of Medicine of the University of North~~
33 ~~Carolina at Chapel Hill pursuant to G.S. 116-37(a)(4), or by East Carolina University on~~
34 ~~behalf of the Medical Faculty Practice Plan pursuant to G.S. 116-40.6(c).~~

35 All purchases of the above articles made directly by the departments, institutions and
36 agencies of the State government shall, whenever possible, be based on competitive
37 bids. Whenever an order is placed or contract awarded for such articles by any of the
38 departments, institutions and agencies of the State government, a copy of such order or
39 contract shall be forwarded to the Secretary of Administration and a record of the
40 competitive bids upon which it was based shall be retained for inspection and review.

41 **SECTION 5.** G.S. 146-22(c) reads as rewritten:

42 "(c) ~~Acquisitions on behalf of the University of North Carolina Health Care~~
43 ~~System shall be made in accordance with G.S. 116-37(i), acquisitions on behalf of the~~
44 ~~University of North Carolina Hospitals at Chapel Hill shall be made in accordance with~~
45 ~~G.S. 116-37(a)(4), acquisitions on behalf of the clinical patient care programs of the~~
46 ~~School of Medicine of The University of North Carolina at Chapel Hill shall be made in~~

1 ~~accordance with G.S. 116-37(a)(4), and acquisitions on behalf of the Medical Faculty~~
2 Practice Plan of the East Carolina University School of Medicine shall be made in
3 accordance with G.S. 116-40.6(d)."

4 **SECTION 6.** This act becomes effective October 1, 2012.
5

SUPPORTING DOCUMENTATION

[\[Back to Top\]](#)

Exhibit 1

S.L. 2011-145 (CURRENT OPERATIONS AND CAPITAL IMPROVEMENTS APPROPRIATIONS ACT OF 2011)

STATE-OWNED DISPOSABLE ASSETS

SECTION 6.15.(a) Definition. – For purposes of this section, the term "State-owned disposable assets" or "assets" means State-owned land, buildings, and other assets that are unused, underused, or do not involve a core function of government.

SECTION 6.15.(b) By September 1, 2011, the Department of Administration, in consultation with all other affected State departments, agencies, and institutions, shall do all of the following:

- (1) Implement a system for the sale of State-owned disposable assets, considering the following:
 - a. The condition of the asset.
 - b. The extent to which the asset meets the purpose for which it was intended.
 - c. The future needs of the State to perform the service intended at the location.
 - d. The best and most cost-effective manner in which these future needs can be serviced.
 - e. The practicability of moving the function of the services performed at a location to another area that might reduce acquisition, construction, and labor costs without diminishing the quality of service.
 - f. The manner in which an asset should be (i) sold or retained, (ii) renovated, (iii) expanded for future use, or (iv) sold with a leaseback.
 - g. Other factors regarding use of the asset.
- (2) Examine current State law to determine amendments to allow for the most efficient and effective disposition of assets.

SECTION 6.15.(c) The Department of Administration shall take the action necessary to effectuate the sale of State-owned disposable assets in accordance with Section 2.2(a) of this act.

SECTION 6.15.(d) By March 31, 2012, the Department of Administration shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on all asset sales made pursuant to this section.

House Select Committee on State Owned Assets
September 22, 2011

North Carolina
Department of Administration

Beverly Eaves Perdue, Governor

Moses Carey, Secretary

March 31, 2012

To: Chairs, Joint Legislative Commission on Governmental Operations
Mark Bondo, Fiscal Research Division

From: Speros Fleggas, Senior Deputy Secretary
Department of Administration

Re: Report on S.L.2011-145, Section 6.15

This report covers the activities of the Department of Administration, as required per S.L.2011-145, Section 6.15 (a-d). The Department has taken the actions requested to effectuate the sale of state-owned land assets in accordance with Section 2.2(a) of this S.L. 2011-145. The report is submitted to comply with subsection (d) which requires a report on land asset sales made pursuant to this section by March 31, 2012.

Please contact my office with any questions at 919-807-2425.

Attachment

cc: Secretary Moses Carey
Anne Bander, Chief Operating Officer
Zeke Creech, Legal Counsel
Tim Walton, State Property Office
Christy Agner, Legislative Liaison

Mailing Address:
1301 Mail Service Center
Raleigh, N.C. 27699-1301

Telephone (919) 807-2425
Fax (919) 733-9571
State Courier #51-01-00
e-mail: moses.carey@doa.nc.gov
An Equal Opportunity/Affirmative Action Employer

Location:
116 West Jones Street
Raleigh, North Carolina

Report on S.L.2011-145, Section 6.15
March 31, 2012

Pursuant to Session Law 2011-145, the State Property Office of the Department of Administration developed a system to assist our office, in consultation with the respective agencies and institutions, to determine the utilization of real property allocated to each one. Each agency and institution received a package that included maps and a building asset list for each property allocated to them, as well as necessary instructions and forms for feedback. The deadline for responses was September 15, 2011. Each agency and institution's response was reviewed complex by complex.

At the conclusion of the review, State Property Office staff met with the appropriate person at each agency and institution to better understand their programmatic requirements and to convey what the State Property Office perceived from a real estate perspective. Items included in the meeting discussion included review of the current purpose of the asset and the future needs to perform the service intended at the location. Additionally, the 2007 State Master Plan guided conversations related to real property allocated to state agencies in Wake County.

In consultation with the agencies and institutions, a determination was made if a property is unused, underused or critical for their core mission. This process was detailed in a presentation to the House Select Committee on State Assets on September 22, 2011. Potentially unused or underused state-owned properties were provided at the House Select Committee on State Assets on December 12, 2011. The State Property Office proceeded to research deeds and the source of funds used to acquire those specific properties to determine if deed or funding restriction prohibited disposition, if that was determined to be the appropriate course of action.

Properties available for sale were discussed with the House Select Committee on State Assets on March 15, 2012. The properties, identified for sale as a result of this ongoing review and prior assessment, as of this report's date, are:

- ±95 acres located on Cary Towne Boulevard at I-40, Cary, Wake County
This site was made available in February 2012
- ±13.78 acres located at 1 Station Road, Wilmington, New Hanover County
Available since 2006
- ±3.98 acres located at 801 East Highland Avenue, Kinston, Lenoir County
Available since 2010

For further information regarding these properties, please visit the State Property Office website at www.ncspo.com.

The Department of Administration has taken the above actions requested to effectuate the sale of state-owned real property assets in accordance with Section 2.2(a) of this S.L 2011-145. No asset sales of real property pursuant to Section 6.15 (d) have been finalized as of March 31, 2012.

**REPORT TO HOUSE SELECT COMMITTEE ON STATE ASSETS--IN COMPLIANCE WITH S.L. 2011-145, SEC. 16.5
POTENTIAL LIST OF PROPERTIES**

County	Agency/Complex	Approx. Acreage	Buildings on Selected Parcel?
Preliminary List of Properties, As Reported at 12/12/11 Meeting			
Duplin	Agriculture-Animal Disease Lab	5.09	Yes
Guilford	Agriculture-Piedmont Farmers' Market	6.36	No
Iredell	Agriculture-Livestock Show and Sale Facility	46.25	No
New Hanover	Agriculture-Fuel Calibration Station	0.40	Yes
Anson	Correction-Anson Correctional Center	2.93	No
Carteret	Correction-Carteret Correctional Center	45.48	No
Gates	Correction-Gates Correctional Center	22.86	Yes
Granville	Correction-Umstead Correctional Center	34.00	Yes
Hoke	Correction-South Central Regional Office	6.91	No
Mecklenburg	Correction-Charlotte Correctional Center	27.98	No
Moore	Correction-Moore Correctional Center	6.93	No
Moore	Correction-Moore Correctional Center	3.51	No
Northampton	Correction-Odom Correctional Center	149.56	No
Scotland	Correction-Scotland Correctional Center	96.24	No
Warren	Correction-Warren Correctional Center	34.66	Yes
Lenoir	Crime Control & Public Safety-NCNG Armory	3.92	Yes
Edgecombe	DOT-Tarboro Maintenance Yard	15.01	No
Franklin	DOT-Bunn Maintenance Yard	52.24	Yes
Mecklenburg	DOT-Huntersville-Maintenance Unit	47.50	No
New Hanover	DOT/DMV Wilmington District Office	13.78	Yes
Johnston	Wildlife Resources Commission-Micro Boat Access	2.00	No
2012 Addendum, Being Added for April 10, 2012 Meeting			
Cabarrus	Correction-Cabarrus Correctional Center	49.46	Yes
Guilford	Correction-Guilford Correctional Center	175.83	Yes
Haywood	Correction-Haywood Correctional Center	2.41	Yes
Wake	Administration-undeveloped tract (Cary Towne Blvd.)	+/-95	No

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Prior to any potential disposition, any state-owned property determined surplus to the allocated agency's current and future needs is reviewed by the State Property Office per G.S. 146-28.

G.S. 146-28. Agency must file application with Department; Department must investigate.
Any State agency desiring to sell, lease, or rent any land owned by the State or by any State agency shall file with the Department of Administration an application setting forth the facts relating to the proposed transaction, and shall furnish the Department with such additional information as the Department may request relating thereto. Upon receipt of such application, the Department of Administration shall promptly investigate all aspects of the proposed transaction, including particularly present and future State need for the land proposed to be conveyed, leased, or rented. (1957, c. 584, s. 6; G.S., s. 146-109; 1959, c. 683, s. 1.)

§ 146-29. Procedure for sale, lease, or rental.

If, after investigation, the Department of Administration determines that it is in the best interest of the State that land be sold, leased, or rented, the Department shall proceed with its sale, lease, or rental, as the case may be, in accordance with rules adopted by the Governor and approved by the Council of State. If an agreement of sale, lease, or rental is reached, the proposed transaction shall then be submitted to the Governor and Council of State for their approval or disapproval. Every conveyance in fee of land owned by the State or by any State agency shall be made and executed in the manner prescribed in G.S. 146-74 through 146-78. (1957, c. 584, s. 6; G.S., s. 146-110; 1959, c. 683, s. 1.)

Additionally, per S.L. 2011-145, Section 18.3, closed prison facilities the Department of Public Safety must provide consultation to various entities.

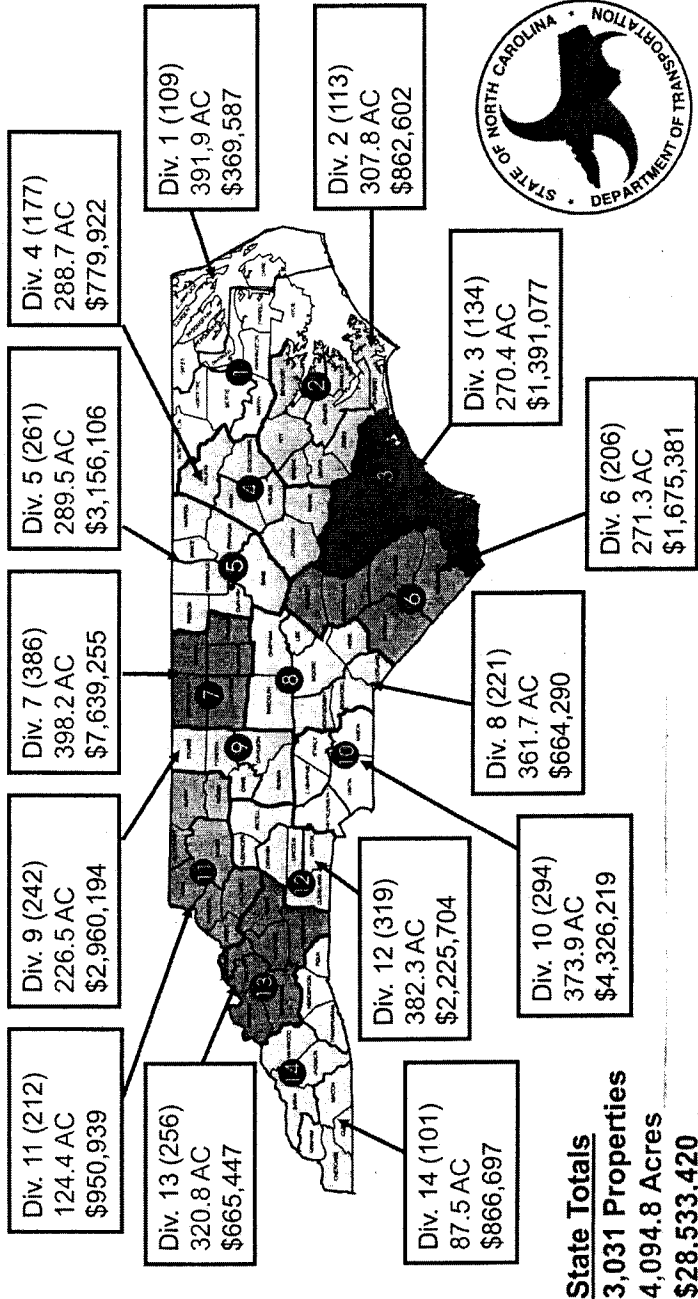
Session Law 2011-145 Section 18.3 Use of Closed Prison Facilities

In conjunction with the closing of prison facilities, including small expensive prison units recommended for consolidation by the Government Performance Audit Committee, the Department of Correction shall consult with the county or municipality in which the unit is located, with the elected State and local officials, and with State and federal agencies about the possibility of converting that unit to other use. The Department may also consult with any private for-profit or nonprofit firm about the possibility of converting the unit to other use. In developing a proposal for future use of each unit, the Department shall give priority to converting the unit to other criminal justice use. Consistent with existing law and the future needs of the Department of Correction, the State may provide for the transfer or the lease of any of these units to counties, municipalities, State agencies, federal agencies, or private firms wishing to convert them to other use.

State Property Office, NC Department of Administration



Right of Way Residue Property



State Totals
3,031 Properties
4,094.8 Acres
\$28,533,420

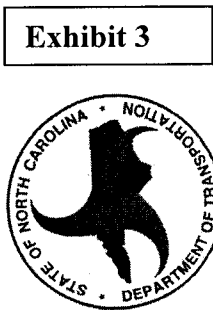


Exhibit 3

7

§ 116-37. University of North Carolina Health Care System.

(a) Creation of System. -

- (1) There is hereby established the University of North Carolina Health Care System, effective November 1, 1998, which shall be governed and administered as an affiliated enterprise of The University of North Carolina in accordance with the provisions of this section, to provide patient care, facilitate the education of physicians and other health care providers, conduct research collaboratively with the health sciences schools of the University of North Carolina at Chapel Hill, and render other services designed to promote the health and well-being of the citizens of North Carolina.
- (2) As of November 1, 1998, all of the rights, privileges, liabilities, and obligations of the board of directors of the University of North Carolina Hospitals at Chapel Hill, not inconsistent with the provisions of this section, shall be transferred to and assumed by the board of directors of the University of North Carolina Health Care System.
- (3) The University of North Carolina Hospitals at Chapel Hill and the clinical patient care programs established or maintained by the School of Medicine of the University of North Carolina at Chapel Hill shall be governed by the board of directors of the University of North Carolina Health Care System.
- (4) With respect to the provisions of subsections (d), (e), (f), (h), (i), (j), and (k) of this section, the board of directors may adopt policies that make the authorities and responsibilities established by one or more of said subsections applicable to the University of North Carolina Hospitals at Chapel Hill, to the clinical patient care programs of the School of Medicine of the University of North Carolina at Chapel Hill, to both, or to other persons or entities affiliated with or under the control of the University of North Carolina Health Care System.
- (5) To effect an orderly transition, the policies and procedures of the clinical patient care programs of the School of Medicine of the University of North Carolina at Chapel Hill and of the University of North Carolina Hospitals at Chapel Hill effective as of October 31, 1998, shall remain effective in accordance with their terms until changed by the Board of Directors of the University of North Carolina Health Care System.

(b) Board of Directors. - There is hereby established a board of directors of the University of North Carolina Health Care System, effective November 1, 1998.

(1) The board of directors shall be composed as follows:

- a. A minimum of six members ex officio of said board shall be the President of The University of North Carolina (or the President's designee); the Chief Executive Officer of the University of North Carolina Health Care System; the Chancellor of the University of North Carolina at Chapel Hill and one additional administrative officer of the University of North Carolina at Chapel Hill designated by the Chancellor; and two members of the faculty of the School of Medicine of the University of North Carolina at Chapel Hill designated by the Dean of the School of Medicine; provided, that if not such a member ex officio by virtue of holding one or more of the offices aforementioned, additional ex officio memberships shall be held by the President of the University of North Carolina Hospitals at

Chapel Hill, the faculty member responsible for leading the clinical patient care programs of the School of Medicine, and the Dean of the School of Medicine of the University of North Carolina at Chapel Hill.

- b. No less than nine and no more than 21 members at large, which number shall be determined by the board of directors, shall be appointed for four-year terms, commencing on November 1 of the year of appointment; provided, that the initial class of at-large members shall include the persons who hold the appointed memberships on the board of directors of the University of North Carolina Hospitals at Chapel Hill incumbent as of October 31, 1998, with their terms of membership on the board of directors of the University of North Carolina Health Care System to expire on the last day of October of the year in which their term as a member of the board of directors of the University of North Carolina Hospitals at Chapel Hill would have expired. Vacant at-large positions shall be filled by the appointment of persons from the business and professional public at large who have special competence in business management, hospital administration, health care delivery, or medical practice or who otherwise have demonstrated dedication to the improvement of health care in North Carolina, and who are neither members of the Board of Governors, members of the board of trustees of a constituent institution of The University of North Carolina, nor officers or employees of the State. Members shall be appointed by the President of the University, and ratified by the Board of Governors, from among a slate of nominations made by the board of directors of the University of North Carolina Health Care System. No member may be appointed to more than two full four-year terms in succession; provided, that persons holding appointed memberships on November 1, 1998, by virtue of their previous membership on the board of directors of the University of North Carolina Hospitals at Chapel Hill, shall not be eligible, for a period of one year following expiration of their term, to be reappointed to the board of directors of the University of North Carolina Health Care System. Any vacancy in an unexpired term shall be filled by an appointment made by the President, and ratified by the Board of Governors, upon the nomination of the board of directors, for the balance of the term remaining.
- (2) The board of directors, with each ex officio and at-large member having a vote, shall elect a chairman only from among the at-large members, for a term of two years. Notwithstanding the foregoing limitation, the Chancellor of the University of North Carolina at Chapel Hill may serve as Chairman. No person shall be eligible to serve as chairman for more than three terms in succession.
- (3) The board of directors of the University of North Carolina Health Care System shall meet at least every 60 days and may hold special meetings at any time and place within the State at the call of the chairman. Board members, other than ex officio members, shall receive the same per diem

and reimbursement for travel expenses as members of the State boards and commissions generally.

- (4) In meeting the patient-care, educational, research, and public-service goals of the University of North Carolina Health Care System, the board of directors is authorized to exercise such authority and responsibility and adopt such policies, rules, and regulations as it deems necessary and appropriate, not inconsistent with the provisions of this section or the policies of the Board of Governors or, to the extent the board's actions affect employees of the University of North Carolina at Chapel Hill, the policies of the University of North Carolina at Chapel Hill. The board may authorize any component of the University of North Carolina Health Care System, including the University of North Carolina Hospitals at Chapel Hill, to contract in its individual capacity, subject to such policies and procedures as the board of directors may direct. The board of directors may enter into formal agreements with the University of North Carolina at Chapel Hill with respect to the provision of clinical experience for students and for the provision of maintenance and supporting services. The board's action on matters within its jurisdiction is final, except that appeals may be made, in writing, to the Board of Governors with a copy of the appeal to the Chancellor of the University of North Carolina at Chapel Hill. The board of directors shall keep the Board of Governors and the board of trustees of the University of North Carolina at Chapel Hill fully informed about health care policy and recommend changes necessary to maintain adequate health care delivery, education, and research for improvement of the health of the citizens of North Carolina.

(c) Officers. -

- (1) The executive and administrative head of the University of North Carolina Health Care System shall have the title of "Chief Executive Officer." The board of directors, the board of trustees, and the Chancellor of the University of North Carolina at Chapel Hill, following such search process as the boards and the Chancellor deem appropriate, shall identify two or more persons as candidates for the office, who, pursuant to criteria agreed upon by the boards and the Chancellor, have the qualifications for both the positions of Chief Executive Officer of the University of North Carolina Health Care System and Vice-Chancellor for Medical Affairs of the University of North Carolina at Chapel Hill. The names of the candidates so identified, once approved by the board of directors and the board of trustees, shall be forwarded by the Chancellor to the President of The University of North Carolina, who if satisfied with the quality of one or more of the candidates, will nominate one as Chief Executive Officer, subject to selection by the Board of Governors. The individual serving as Chief Executive Officer shall have complete executive and administrative authority to formulate proposals for, recommend the adoption of, and implement policies governing the programs and activities of the University of North Carolina Health Care System, subject to all requirements of the board of directors. That same individual, when serving as Vice-Chancellor for Medical Affairs, shall have all authorities, rights, and responsibilities of a vice-chancellor of the University of North Carolina at Chapel Hill.

- (2) The executive and administrative head of the University of North Carolina Hospitals at Chapel Hill shall have the title of "President of the University of North Carolina Hospitals at Chapel Hill."
- (3) The board of directors shall elect, on nomination of the Chief Executive Officer, the President of the University of North Carolina Hospitals at Chapel Hill, and such additional administrative and professional staff employees of the University of North Carolina Health Care System as may be deemed necessary to assist in fulfilling the duties of the office of the Chief Executive Officer, all of whom shall serve at the pleasure of the Chief Executive Officer.

(d) Personnel. – Employees of the University of North Carolina Health Care System shall be deemed to be employees of the State and shall be subject to all provisions of State law relevant thereto; provided, however, that except as to the provisions of Articles 5, 6, 7, and 14 of Chapter 126 of the General Statutes, the provisions of Chapter 126 shall not apply to employees of the University of North Carolina Health Care System, and the policies and procedures governing the terms and conditions of employment of such employees shall be adopted by the board of directors; provided, that with respect to such employees as may be members of the faculty of the University of North Carolina at Chapel Hill, no such policies and procedures may be inconsistent with policies established by, or adopted pursuant to delegation from, the Board of Governors of The University of North Carolina.

- (1) The board of directors shall fix or approve the schedules of pay, expense allowances, and other compensation and adopt position classification plans for employees of the University of North Carolina Health Care System.
- (2) The board of directors may adopt or provide for rules and regulations concerning, but not limited to, annual leave, sick leave, special leave with full pay or with partial pay supplementing workers' compensation payments for employees injured in accidents arising out of and in the course of employment, working conditions, service awards and incentive award programs, grounds for dismissal, demotion, or discipline, other personnel policies, and any other measures that promote the hiring and retention of capable, diligent, and effective career employees. However, an employee who has achieved career State employee status as defined by G.S. 126-1.1 by October 31, 1998, shall not have his or her compensation reduced as a result of this subdivision. Further, an employee who has achieved career State employee status as defined by G.S. 126-1.1 by October 31, 1998, shall be subject to the rules regarding discipline or discharge that were effective on October 31, 1998, and shall not be subject to the rules regarding discipline or discharge adopted after October 31, 1998.
- (3) The board of directors may prescribe the office hours, workdays, and holidays to be observed by the various offices and departments of the University of North Carolina Health Care System.
- (4) The board of directors may establish boards, committees, or councils to conduct hearings upon the appeal of employees who have been suspended, demoted, otherwise disciplined, or discharged, to hear employee grievances, or to undertake any other duties relating to personnel administration that the board of directors may direct.

The board of directors shall submit all initial classification and pay plans and other rules and regulations adopted pursuant to subdivisions (1) through (4) of this subsection to the Office of State Personnel for review upon adoption by the board. Any subsequent changes to these

plans, rules, and policies adopted by the board shall be submitted to the Office of State Personnel for review. Any comments by the Office of State Personnel shall be submitted to the Chief Executive Officer and to the President of The University of North Carolina.

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

(f) Finances – Patient/Health Care System Benefit. – The Chief Executive Officer of the University of North Carolina Health Care System, or the Chief Executive Officer's designee, may expend operating budget funds, including State funds, of the University of North Carolina Health Care System for the direct benefit of a patient, when, in the judgment of the Chief Executive Officer or the Chief Executive Officer's designee, the expenditure of these funds would result in a financial benefit to the University of North Carolina Health Care System. Any such expenditures are declared to result in the provision of medical services and create charges of the University of North Carolina Health Care System for which the health care system may bill and pursue recovery in the same way as allowed by law for recovery of other health care systems' charges for services that are unpaid.

These expenditures shall be restricted (i) to situations in which a patient is financially unable to afford ambulance or other transportation for discharge; (ii) to afford placement in an after-care facility; (iii) to assure availability of a bed in an after-care facility after discharge from the hospitals; (iv) to secure equipment or other medically appropriate services after discharge; or (v) to pay health insurance premiums. The Chief Executive Officer or the Chief Executive Officer's designee shall reevaluate at least once a month the cost-effectiveness of any continuing payment on behalf of a patient.

To the extent that the University of North Carolina Health Care System advances anticipated government entitlement benefits for a patient's benefit, for which the patient later receives a lump-sum "back-pay" award from an agency of the State, whether for the current admission or subsequent admission, the State agency shall withhold from this back pay an amount equal to the sum advanced on the patient's behalf by the University of North Carolina Health Care System, if, prior to the disbursement of the back pay, the applicable State program has received notice from the University of North Carolina Health Care System of the advancement.

(g) Reports. – The Chief Executive Officer and the President of The University of North Carolina jointly shall report by September 30 of each year on the operations and financial affairs of the University of North Carolina Health Care System to the Joint Legislative Commission on Governmental Operations. The report shall include the actions taken by the board of directors under the authority granted in subsections (d), (h), (i), and (j) of this section.

(h) Purchases. – Notwithstanding the provisions of Articles 3, 3A, and 3C of Chapter 143 of the General Statutes to the contrary, the board of directors shall establish policies and regulations governing the purchasing requirements of the University of North Carolina Health Care System. These policies and regulations shall provide for requests for proposals, competitive bidding, or purchasing by means other than competitive bidding, contract negotiations, and contract awards for purchasing supplies, materials, equipment, and services which are necessary and appropriate to fulfill the clinical, educational, research, and community service missions of the University of North Carolina Health Care System. The board of directors shall submit all initial policies and regulations adopted pursuant to this subsection to the Division of Purchase and Contract for review upon adoption by the board. Any subsequent changes to these policies and regulations adopted by the board shall be submitted to the Division of Purchase and Contract for review. Any comments by the Division of Purchase and Contract shall be submitted to the Chief Executive Officer and to the President of The University of North Carolina.

(i) Property. – The board of directors shall establish rules and regulations for acquiring or disposing of any interest in real property for the use of the University of North Carolina Health Care System. These rules and regulations shall include provisions for development of specifications, advertisement, and negotiations with owners for acquisition by purchase, gift, lease, or rental, but not by condemnation or exercise of eminent domain, on behalf of the University of North Carolina Health Care System. This section does not authorize the board of directors to encumber real property. The board of directors shall submit all initial policies and regulations adopted pursuant to this subsection to the State Property Office for review upon adoption by the board. Any subsequent changes to these policies and regulations adopted by the board shall be submitted to the State Property Office for review. Any comments by the State Property Office shall be submitted to the Chief Executive Officer and to the President of The University of North Carolina. After review by the Attorney General as to form and after the consummation of any such acquisition, the University of North Carolina Health Care System shall promptly file a report concerning the acquisition or disposition with the Governor and Council of State. Acquisitions and dispositions of any interest in real property pursuant to this section shall not be subject to the provisions of Article 36 of Chapter 143 of the General Statutes or the provisions of Chapter 146 of the General Statutes.

(j) Property – Construction. – Notwithstanding G.S. 143-341(3) and G.S. 143-135.1, the board of directors shall adopt policies and procedures with respect to the design, construction, and renovation of buildings, utilities, and other property developments of the University of North Carolina Health Care System requiring the expenditure of public money for:

- (1) Conducting the fee negotiations for all design contracts and supervising the letting of all construction and design contracts.
- (2) Performing the duties of the Department of Administration, the Office of State Construction, and the State Building Commission under G.S. 133-1.1(d), Article 8 of Chapter 143 of the General Statutes, and G.S. 143-341(3).
- (3) Using open-end design agreements.
- (4) As appropriate, submitting construction documents for review and approval by the Department of Insurance and the Division of Health Service Regulation of the Department of Health and Human Services.
- (5) Using 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.

The board of directors shall submit all initial policies and procedures adopted under this subsection to the Office of State Construction for review upon adoption by the board. Any subsequent changes to these policies and procedures adopted by the board shall be submitted to the Office of State Construction for review. Any comments by the Office of State Construction shall be submitted to the Chief Executive Officer and to the President of The University of North Carolina.

(k) Patient Information. – The University of North Carolina Health Care System shall, at the earliest possible opportunity, specifically make a verbal and written request to each patient to disclose the patient's social security number, if any. If the patient does not disclose that number, the University of North Carolina Health Care System shall deny benefits, rights, and privileges of the University of North Carolina Health Care System to the patient as soon as practical, to the maximum extent permitted by federal law or federal regulations. The University of North Carolina Health Care System shall make the disclosure to the patient required by Section 7(b) of P.L. 93-579. This subsection is supplementary to G.S. 105A-3(c). (1971, c. 762, s. 1; c. 1244, s. 6; 1981, c. 859, s. 41.5; 1983, c. 717, s. 32; 1985 (Reg. Sess., 1986), c. 955, ss. 30, 31; 1989, c. 141, s. 1; 1991, c. 550, s. 2; c. 689, s. 206.2(d); 1993 (Reg. Sess., 1994), c. 591, s. 10(a); 1998-212, s. 11.8(a); 1999-252, s. 4(a); 2005-417, s. 3; 2006-203, s. 47.2; 2007-182, s. 1; 2007-306, s. 1; 2010-31, s. 9.11.)

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

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

- (1) Monies, or the proceeds of other forms of property, received by the University of North Carolina Hospitals at Chapel Hill as gifts or devises.
- (2) Moneys received by the University of North Carolina Hospitals at Chapel Hill pursuant to grants from, or contracts with, the United States government or any agency or instrumentality thereof.
- (3) Moneys received by the University of North Carolina Hospitals at Chapel Hill pursuant to grants from, or contracts with, any State agencies, any political subdivisions of the State, any other states or nations or political subdivisions thereof, or any private entities whereby the University of North Carolina Hospitals at Chapel Hill undertakes, subject to terms and conditions specified by the entity providing the moneys, to conduct research, training, or public service programs.
- (4) Moneys received from or for the operation by the University of North Carolina Hospitals at Chapel Hill of any of its self-supporting auxiliary enterprises, including the Liability Insurance Trust Fund.
- (5) Moneys received by the University of North Carolina Hospitals at Chapel Hill in respect to fees and other payments for services it renders in its hospital and/or clinical operations.
- (5a) Moneys received by the University of North Carolina Hospitals at Chapel Hill in respect to borrowings for capital equipment or construction projects to further services it renders in either or both of its hospital or clinical operations.
- (6) The net proceeds from the disposition effected pursuant to Article 7 of Chapter 146 of the General Statutes of any interest in real property owned by or under the supervision and control of the University of North Carolina Hospitals at Chapel Hill if the interest in real property had first been acquired by gift or devise or through expenditure of monies defined in this subsection, except the net proceeds from the disposition of an interest in real

property first acquired by the University of North Hospitals at Chapel Hill through expenditure of monies received as a grant from a State agency.

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

(c) Funds under this section and investment earnings thereon are available for expenditure by the University of North Carolina Hospitals at Chapel Hill without further authorization from the General Assembly.

(d) Repealed by Session Laws 2011-145, s. 9.6E(c), effective July 1, 2011.

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

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

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

(h) The Board of Directors of the University of North Carolina Health Care System may deposit or invest the funds under this section in interest-bearing accounts and other investments in the exercise of its sound discretion, without regard to any statute or rule of law relating to the investment of funds by fiduciaries. (2005-417, s. 4; 2011-145, s. 9.6E(c); 2011-284, s. 85.)

Exhibit 5

February 17, 2000

Ms. Susan H. Ehringhaus
Senior University Counsel
103 South Building
Chapel Hill, North Carolina 27599

Re: Advisory Opinion; Authority of University of North Carolina Health Care System to Acquire Control of Rex Healthcare, Inc. Dear Ms. Ehringhaus:

You have requested our opinion concerning certain legal issues related to the proposal of the University of North Carolina Health Care System ("System") to become the sole member of and to acquire one hundred percent (100%) control of Rex Healthcare, Inc. ("Rex"). The details of the proposed transaction are summarized in your letters of November 23, 1999 and February 10, 2000. In responding to your request we have primarily relied on these descriptions of the proposed transaction, as well as a draft Acquisition Agreement dated January 25, 2000, and a draft Endowment Agreement dated January 25, 2000.

It is our understanding that the transaction will involve two principal steps. First, the Articles of Organization and Bylaws of Rex will be amended to make the John Rex Endowment ("Endowment") the sole corporate member of Rex. The Endowment is a not-for-profit corporation organized in 1999. Its initial board of directors consists of the members of the current Rex board. At closing, the Endowment will transfer its membership of Rex to the System. The System will also acquire the power to appoint, directly or indirectly, all members of the Rex board and the boards of its affiliates. Additional powers which will be acquired by the System include the authority of the system's Chief Executive Officer to replace the Chief Executive Officers of Rex and its affiliates. This transaction will vest the System with corporate control over Rex and its affiliates.

As consideration for acquisition of this control, the System will transfer to the Endowment One Hundred Million Dollars (\$100,000,000) at closing. The Endowment will thereafter, over a ten-year period, transfer to Rex Twenty-Five Million Dollars (\$25,000,000) for capital projects approved by the System and Rex. The investment income from the remaining Seventy-Five Million Dollars (\$75,000,000) will be used by the Endowment to support indigent care and community health programs. In addition, the System will transfer directly to Rex, over a ten-year period, Sixty-Three Million Dollars (\$63,000,000) to fund strategic initiatives of Rex approved by the System.

Your first question is whether the System has the requisite legal authority to enter into this proposed transaction. The System was established by Chapter 212, Section 11.8 of the 1998 Session Laws, as an affiliated enterprise of the University of North Carolina. The System is comprised of the University of North Carolina Hospitals at Chapel Hill and the clinical patient care programs established or maintained by the School of Medicine of the University of North Carolina at Chapel Hill. The statutory purpose of the System is ". . . to provide patient care, facilitate the education of physicians and other health care providers, conduct research collaboratively with the health sciences schools of the University of North Carolina at Chapel Hill, and render other services designed to promote the health and well-being of citizens of North Carolina". G.S. § 116-37(a)(1). The statute neither endorses nor restricts the authority of the system to acquire additional health-care facilities in furtherance of its mission. Instead, G.S. § 116-37(b)(4) provides:

In meeting the patient-care, educational, research, and public-service goals of the University of North Carolina Health Care System, the board of directors is authorized to exercise such authority and responsibility and adopt such policies, rules, and regulations as it deems necessary and appropriate, not inconsistent with the provisions of this section or the policies of the Board of Governors.

The System is further authorized to establish, subject to certain limitations, its own policies, rules, regulations and procedures for purchasing requirements, real property transactions, and design, construction and renovation activities. G.S. § 116-37(h),(i) and (j).

It is our understanding of the proposed transaction that the System will not directly acquire the physical facilities, real property or other tangible assets of Rex and its affiliates. The System will instead acquire corporate control through its contractually acquired status as sole corporate member of Rex and its power to control the process of appointing board members. This corporate control, along with certain other provisions of the transaction documents, will vest in the System legal authority to maintain direct or indirect control over most management functions and responsibilities of Rex and its affiliates. Through the application of this control, the System believes it will be able to further its statutory responsibility to enhance the quality of care available to the people of North Carolina, provide greater stability to the System and Rex, and increase support for indigent care and community health programs.

The legislation creating the System reflects a clear legislative intent to authorize the System to act with such degree of autonomy and flexibility as may be necessary to achieve these goals within the increasingly competitive health care industry. This intent is evidenced by the language of G.S. § 116-37(b)(4) which authorizes the System's board of directors ". . . to exercise such

authority and responsibility and adopt such policies, rules, and regulations as it deems necessary and appropriate . . ." to achieve these goals. In view of this broad statutory delegation of power, it is our opinion that the System has the legal authority necessary to acquire control of Rex through the proposed transaction as described in the documents provided to this Office.

Your second inquiry is whether, upon consummation of the transaction as described, the employees of Rex will become employees of the State of North Carolina.

It is our opinion that they will not.

The State of North Carolina's system of personnel administration for employees of State government is codified under Chapter 126 of the General Statutes. G.S. § 126-5 defines and categorizes employees of state agencies, institutions and boards who are vested with legal employment rights by virtue of their status as state employees. Chapter 135 of the General Statutes defines the term state "employee" for purposes of entitlement to benefits under the Retirement System and Comprehensive Major Medical Plan. Neither these state statutory programs, nor any other statutory provision of which we are aware, includes within a definition of the term "state employee" individuals who are not directly employed by a state or local governmental entity.

Rex is a tax-exempt, charitable corporation originally established under the 1838 will of John Rex. The corporation was reorganized under Chapter 55A of the General Statutes as directed by action of the 1985 General Assembly. At present, Rex has no corporate members, but is the sole member of Rex Hospital, Inc. and several other affiliate corporations that operate non-acute and community-based health care services. Rex is governed by a Board of Trustees vested with full corporate powers required to manage the business affairs of the corporation. Employees of Rex are private employees with no legal rights or benefits under the state employment system or any other benefit program established for state government employees.

Acquisition of corporate control over Rex by the System will not, in our view, convert Rex from a private, not-for-profit corporation organized under Chapter 55A of the General Statutes into a state government agency, institution or board. Rex's employees will therefore remain employees of a private, not-for-profit corporation and will not, in our opinion, become employees of the State of North Carolina.

Signed by:

Grayson G. Kelley
Senior Deputy Attorney General

[452] March 8, 2000

Representative Daniel T. Blue, Jr. Legislative Building Suite 1227 Raleigh, North Carolina
27601

**: Advisory Opinion; Proposed Acquisition of Rex Healthcare, Inc. by
the University of North Carolina Health Care System**

Dear Representative Blue:

You have requested our opinion concerning a number of legal issues related to the proposed acquisition of Rex Healthcare, Inc. ("Rex") by the University of North Carolina Health Care System ("System"). The proposal involves a three-party transaction between Rex, the System, and the John Rex Endowment ("Endowment"). In responding to your request we have reviewed information provided by the System, including a draft Acquisition Agreement dated January 25, 2000, and a draft Endowment Agreement dated January 25, 2000. We have also reviewed disclosures provided by the System to this office as required by G.S. § 55A-12-02. It is our understanding that final details of the proposed transaction have not been finalized and are subject to continuing negotiations between the parties.

The System was established by Chapter 212, Section 11.8 of the 1998 Session Laws, as an affiliated enterprise of the University of North Carolina. The System is comprised of the University of North Carolina Hospitals at Chapel Hill and the clinical patient care programs established or maintained by the School of Medicine of the University of North Carolina at Chapel Hill. The statutory purpose of the System is ". . . to provide patient care, facilitate the education of physicians and other health care providers, conduct research collaboratively with the health sciences schools of the University of North Carolina at Chapel Hill, and render other services designed to promote the health and well-being of citizens of North Carolina". G.S. § 116-37(a)(1). The System is further authorized to establish, subject to certain limitations, its own policies, rules, regulations and procedures for purchasing requirements, real property transactions, and design, construction and renovation activities. G.S. § 116-37(h),(i) and (j). The System is governed by a board of directors composed of ex officio public official members, and private members nominated by the board, appointed by the President of the University and ratified by the Board of Governors.

Rex has existed as a Chapter 55A nonprofit corporation governed by a board of trustees since its legislatively approved reorganization in 1985. Prior to 1985, Rex operated for over 100 years under the organizational structure dictated by the will of John Rex. The Endowment was incorporated in August, 1999, also as a nonprofit corporation under Chapter 55A. Its board of

directors consists of the current Rex board. Both corporations are operated exclusively for charitable, scientific and educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code. It is our understanding that the System does not contemplate any change in the nonprofit status of these two corporations subsequent to the proposed transaction.

The information provided to us indicates that the proposed transaction will involve two principal steps. First, the Articles of Organization and Bylaws of Rex will be amended to make the Endowment the sole corporate member of Rex. At closing, the Endowment will transfer this control to the System by installing the System as the sole corporate member of Rex. The System will also acquire the power to appoint, directly or indirectly, all members of the Rex board and the boards of its affiliates. In addition, twenty-five percent (25%) of the members of the Endowment's board will be persons appointed directly by the System. Other powers which the System will acquire include the authority of the System's Chief Executive Officer to replace the Chief Executive Officers of Rex and its affiliates. This transaction will vest the System with complete corporate control over Rex, and the corporate affiliates of Rex, as well as substantial influence on the Endowment board.

As consideration for acquisition of this control, the System will transfer to the Endowment One Hundred Million Dollars (\$100,000,000) at closing. The Endowment will thereafter, over a ten-year period, transfer to Rex Twenty-Five Million Dollars (\$25,000,000) for capital projects approved by the System. The investment income from the remaining Seventy-Five Million Dollars (\$75,000,000) will be used by the Endowment to support indigent care and community health programs. In addition, the System will transfer directly to Rex, over a ten-year period, Sixty-Three Million Dollars (\$63,000,000) to fund strategic initiatives approved by the System.

It is our interpretation of the proposed transaction that the System will not directly acquire the physical facilities, real property or other tangible assets of Rex and its affiliates. The System will instead acquire corporate control over Rex and its affiliates through the contractual transfer of power required under the terms of the Acquisition Agreement and Endowment Agreement. As the sole corporate member of Rex, the System will possess the legal authority to control the appointment of board members and maintain direct or indirect control over most management functions and responsibilities of Rex and its affiliates.

We have been advised by the System that the principal purpose of the proposed transaction is to enhance the quality of health care available to residents of the greater triangle area by preserving the financial viability of Rex while providing greater stability, a broader service area and enhanced strength to the System. The specific goals necessary to achieve this purpose

include the maintenance of Rex's identity, preeminence and visibility in its service area; utilization of the respective clinical components of Rex and the System to their best advantage; and enhancement of the ability of Rex and the System to deliver high quality, cost-effective care to patients. The System believes that the proposed transaction will additionally result in operational efficiencies that will produce cost-savings without adversely affecting patient care.

Your first inquiry is whether the System can lawfully expend public funds for the acquisition of corporate control over Rex without specific authorization by the General Assembly. As previously noted, the System was established by the General Assembly as an "affiliated enterprise" of the University of North Carolina in order to ". . . provide patient care, facilitate the education of physicians and other health care providers, conduct research collaboratively with the health sciences schools of the University of North Carolina at Chapel Hill, and render other services designed to promote the health and well-being of the citizens of North Carolina." In furtherance of these goals the legislature has provided the System with management flexibility in a number of areas, including personnel, purchasing, construction, real property acquisition and finances. On a broader scale, G.S. § 116-37(b)(4) specifically states:

In meeting the patient-care, educational, research, and public-service goals of the University of North Carolina Health Care System, the board of directors is authorized to exercise such authority and responsibility and adopt such policies, rules and regulations as it deems necessary and appropriate, not inconsistent with the provisions of this section or the policies of the Board of Governors.

The legislation thus reflects a legislative intent to authorize the System to manage its operations, including decisions concerning capital investments, with such degree of autonomy as it deems necessary to carry out its statutory responsibilities, without further authorization by the General Assembly.

The North Carolina Constitution also sanctions the appropriation of public money to a private corporation for the accomplishment of a public purpose. *North Carolina Constitution*, Article V, § 2(7). Under Article V, § 2(7) direct disbursement of public funds to private entities is a constitutionally permissible means of accomplishing a public purpose provided there is statutory authorization to make such appropriation. *Hughey v. Cloninger*, 297 N.C. 86 (1979). Consistent with that revision, public funds have been appropriated by the General Assembly to the North Carolina Biotechnology Center, The Microelectronics Center of North Carolina, and the Rural

Economic Development Center, Inc. The North Carolina Ports Railway Commission, pursuant to authority granted under G. S. § 143B-469.1, acquired one hundred percent (100%) of the stock, and thereby corporate control, over two private railroad companies between 1990 and 1995. More recently, the 1997 General Assembly authorized the investment of Sixty-One Million Dollars (\$61,000,000) in order to acquire the outstanding private shares, and thereby total control, of the North Carolina Railroad Company. In view of these precedents, it is our opinion that the General Assembly, through the enactment of Chapter 212, Section 11.8 of the 1998 Session Laws, authorized the System to acquire control of Rex through the proposed transaction.

Your second series of questions concerns the legal status of the Endowment, Rex and the employees of each corporation upon closing of the proposed transaction. You have specifically inquired as to whether public funds will be used to capitalize the corporations and secure future financial obligations, while the structure of the transaction circumvents the public accountability required of state agencies and institutions. As previously noted, Rex and the Endowment are each nonprofit corporations organized under Chapter 55A of the General Statutes. We do not believe that the System's acquisition of corporate control over Rex and its affiliates or the power to appoint members of the Endowment board modifies their legal status or transforms them into public entities. The System proposes to acquire corporate control by becoming the sole corporate member of Rex, and by acquiring the power to appoint members of Rex's board of directors. These board members do not, however, possess characteristics of the state, but are required to exercise their fiduciary responsibilities to the corporations in the same manner as other directors of private corporations. As stated by the North Carolina Supreme Court in *Marshall v. Railroad Co.*:

Where the state is a stockholder in a railroad company, it is bound by the provisions of the charter in the same manner as an individual stockholder.

It has no advantage as a stockholder on account of its sovereignty; for by becoming such it lays down its character as a sovereign, and it places itself on a footing of equality with the individual stockholders.

92 N.C. at 322. In *Southern Railway Co. v. North Carolina Railroad Co.*, 81 F. 595

(W.D.N.C. 1897), a federal district court reached a similar conclusion in addressing the issue of whether the North Carolina Railroad was protected from suit by sovereign immunity in view of

the state's ownership of three-fourths of the company's stock. The court concluded that the state's sovereignty did not extend to a corporation which it controlled, stating:

So far as respects the transactions of the corporation, its contracts, or its torts, the state exercises no power, enjoys no privilege, with regard to them, not derived from the charter, or differing in any way with the power or privilege enjoyed by any other stockholder.

81 F. at 599. Based upon these principles, it is clear that the System's acquisition of corporate control over a nonprofit corporation does not alter the legal status of the corporation or vest within it attributes of the State of North Carolina. Furthermore, any operating losses or other liabilities of Rex, its affiliates, or the Endowment will accrue to the corporations and not to the public.

It is equally clear that the employees of Rex, its affiliates, and the Endowment will not become "state employees." The State of North Carolina's system of personnel administration for employees of State government is codified under Chapter 126 of the General Statutes. G.S. § 126-5 defines and categorizes employees of state agencies, institutions and boards who are vested with legal employment rights by virtue of their status as state employees. Chapter 135 of the General Statutes defines the term state "employee" for purposes of entitlement to benefits under the Retirement System and Comprehensive Major Medical Plan. Neither these state statutory programs, nor any other statutory provision of which we are aware, includes within a definition of the term "state employee" individuals who are not directly employed by a state or local governmental entity.

In regard to the issue of accountability, Rex, its affiliates, and the Endowment, as private corporations, will not be directly subject to the same statutory oversight requirements imposed upon the System and other public entities. The corporations will, however, be indirectly subject to a substantial degree of public accountability through the statutory requirements imposed upon the System, which remains subject to the provisions of the Executive Budget Act, including all aspects of budget preparation, budget execution, and expenditure reporting. G.S. § 116-37(e). An annual report by the System to the Joint Legislative Commission on Governmental Operations is required.

G.S. § 116-37(g). Policies, rules, and regulations adopted by the System's board of directors concerning personnel, purchasing, real property and construction require review by appropriate state agencies. G.S. § 116-37(d), (h), (i) and (j). All actions of the System must be consistent

with the policies of the Board of Governors. G.S. § 11637(b)(a). In addition, the System's power to appoint and remove directors will provide a substantial measure of public oversight and control of the activities of Rex, its affiliates, and the Endowment, as will the management control provided by the transaction documents.

You have also inquired as to whether the corporate entities will enjoy any of the immunities of the State of North Carolina. Again, we believe that Rex, its affiliates, and the Endowment will retain the characteristics of private, nonprofit corporations. Acquisition of corporate control by the System will not provide these corporations with any of the immunities possessed by state agencies or institutions. Nor will employees of the corporations be protected by the Tort Claims Act, G.S. § 143-291, *et seq.*, or the Defense of State Employees Act, G.S. § 143-300.2, *et seq.*

In response to your next question, we do not view the proposed transaction as raising legal issues similar to those surrounding the proposed conversion of Blue Cross/Blue Shield from a nonprofit to a for-profit corporation. The Blue Cross conversion raises issues related to the appropriate post-conversion treatment of accumulated monetary reserves arguably the product of the benefits accrued by Blue Cross as a Chapter 55A nonprofit corporation. We are aware of no evidence suggesting that either the Endowment or Rex will be converted into a for-profit corporation subsequent to the proposed transaction. Should such a conversion be proposed in the future, this office will review the transaction as required by G.S. § 55A12-02.

In regard to antitrust issues, this Office has advised the System that the proposed transaction is governed by the doctrine of state action immunity and that we do not plan to contest, under state or federal antitrust law, the acquisition of Rex by the System. As nonprofit corporations, however, Rex and the Endowment will be subject to the same federal and state antitrust considerations in future transactions as other corporations.

Finally, you have inquired as to ". . . the status of a foundation created by the transfer of public revenues". You ask whether the General Assembly retains ongoing administrative and oversight responsibility of such a foundation. Assuming your question refers to the Endowment, we believe the answer is no. It appears that your question is premised upon an assumption that the Endowment is a publicly created and publicly funded entity. It is clear, however, that the Endowment was incorporated as a private, nonprofit corporation under Chapter 55A, to be operated exclusively for charitable, scientific and educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code. The initial incorporator of the Endowment was James

W. Albright, a private citizen. The initial board of directors of the Endowment consists of the directors of Rex, which is also a private, nonprofit corporation.

As we understand the proposed transaction, the Endowment will, through a contractual agreement, receive public funds from the System as primary consideration for the System's acquisition of control over Rex. Those funds will become assets of the Endowment, to be used in accordance with the purposes for which the corporation was created. Public funds transferred to a private corporation within the context of a valid business transaction do not retain their status as public funds. It is therefore our opinion that the General Assembly will not retain ongoing administrative oversight of the Endowment.

I trust this advisory opinion is responsive to your inquiry. The opinions we have offered are, of course, based upon the most recent information provided by the System. Should the continuing negotiations between the parties result in material modifications to the terms of the proposed transaction, a subsequent review of certain legal issues may be required.

Signed by:

Grayson G. Kelley Senior Deputy Attorney General



Organizational Chart

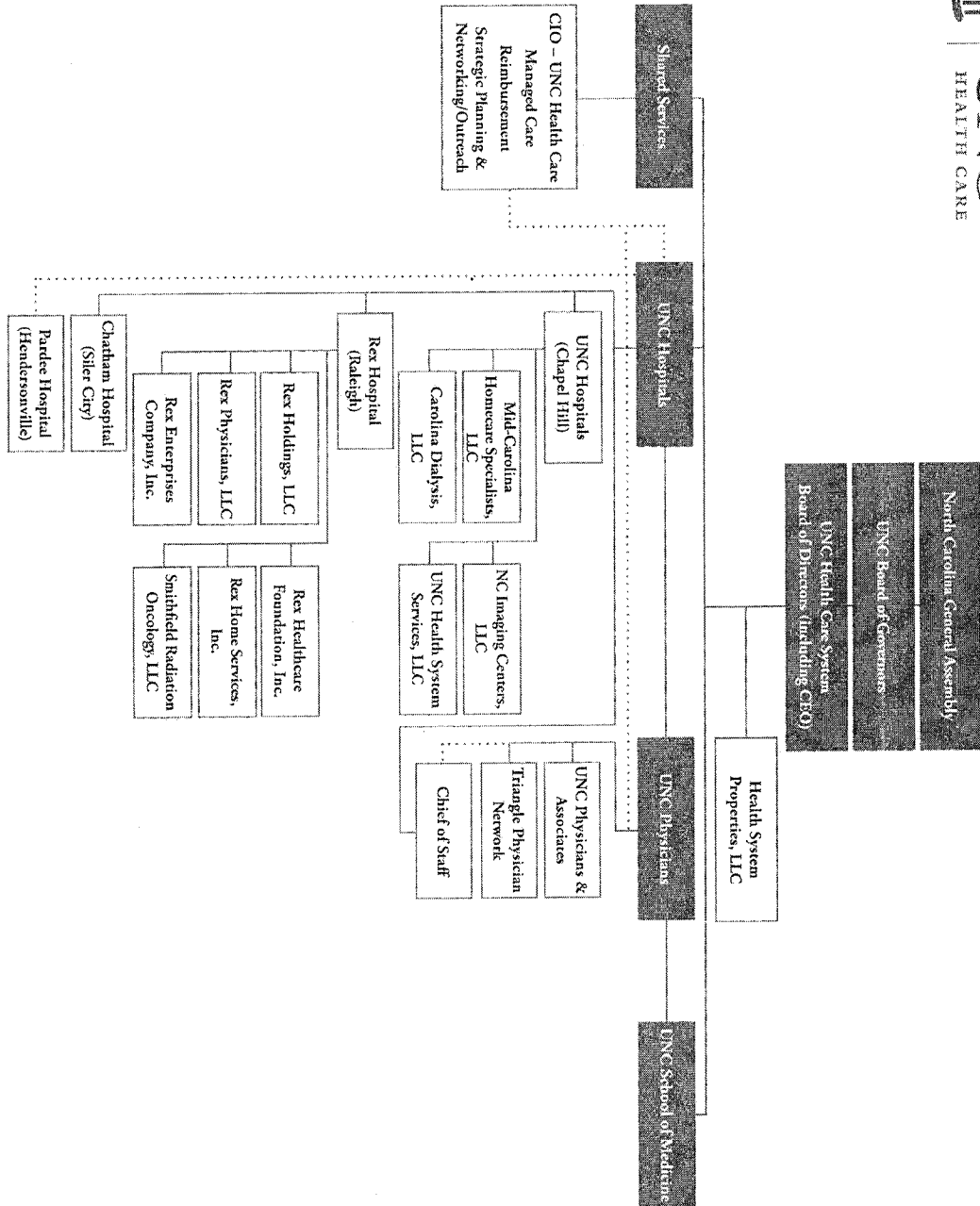


Exhibit 7

Exhibit 8

**North Carolina Railroad Company
Property Summary**

Original Corridor Property

Rail Corridor	County	Land Area Acres	Roadway Area	Net of Roadways	Ad Valorem Taxes
	Alamance	413.0	36.6	376.4	
	Cabarrus	417.0	15.4	401.6	Taxed
	Carteret	361.0	36.4	324.6	
	Craven	1,108.0	64.5	1,043.5	as Part
	Davidson	604.0	22.8	581.2	
	Durham	394.0	30.4	363.6	of
	Gilford	810.0	37.9	772.1	
	Johnston	639.0	45.0	594.0	Norfolk
	Jones	99.0	1.1	97.9	
	Lenoir	456.0	27.9	428.1	Southern
	Mecklenburg	278.0	14.6	263.4	
	Orange	417.0	17.8	399.2	System
	Randolph	15.0	-	15.0	
	Rowan	501.0	30.3	470.7	Property
	Wake	663.0	38.6	624.4	
	Wayne	487.0	40.8	446.2	
Total Corridor Property		7,662.0	460.1	7,201.9	

Corridor Additions

Property Description	County	Nearest Town	Land Area Acres	Year Acq.	Land Current Use	Ad Valorem Tax Value
Queen Street Property	Craven	New Bern	9.2	1850s	Land & Warehouse Former Depot Bldg	Corridor/System Property
N. Craven Street (SW)	Craven	New Bern	0.2	1850s	Vacant Lot	Corridor/System Property
National Avenue Property	Craven	New Bern	0.7	1850s	NSR Facility Property	Corridor/System Property
Neuse Lot	Lenoir	Kinston	2.6	1850s	Vacant Land Only	Corridor/System Property
W. Holly Street & N. Center (NW) Goldsboro Yard Area	Wayne	Goldsboro	1.0	1850s	Vacant NSR Facility Property	Corridor/System Property
N. Center between Beech St. & W. Holly S Wayne Goldsboro Yard Area		Goldsboro	2.5	1850s	Vacant NSR Facility Property	Corridor/System Property
N. Center & Beech St. (NE) Goldsboro Yard Area	Wayne	Goldsboro	0.6	1850s	Vacant NSR Facility Property	Corridor/System Property
N. Center between Beech & E. Vine (west) Wayne Goldsboro Yard Area		Goldsboro	4.4	1850s	Vacant NSR Facility Property	Corridor/System Property
N. Center between Beech & E. Vine (east) Wayne Goldsboro Yard Area		Goldsboro	4.1	1850s	Vacant NSR Facility Property	Corridor/System Property

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Property Description	County	Nearest Town	Land Area Acres	Year Acq.	Land Current Use	Ad Valorem Tax Value
W. Vine & N. Center St (SW) Goldsboro Yard Area	Wayne	Goldsboro	0.9	1850s	Vacant NSR Facility Property	Corridor/System Property
Asbury Lot	Wake	Raleigh	0.9	1850s	Land Landlocked	Corridor/System Property
Graham Former Station Lot	Alamance	Graham	1.9	1850s	Licensed Land Only	Corridor/System Property
McLeansville Former Depot Lot	Guilford	McLeansville	0.8	1850s	Vacant Land Only	Corridor/System Property
Greensboro Former Depot Lot	Guilford	Greensboro	1.7	1850s	Licensed Land Only	Corridor/System Property
Greensboro Downtown Property	Guilford	Greensboro	0.1	1850s	NSR Facility Property	Corridor/System Property
Thomasville Former Freight Depot Parcel	Davidson	Thomasville	1.9	1850s	Vacant Landlocked	Corridor/System Property
Lexington Depot	Davidson	Lexington	1.3	1850s	Leased	Corridor/System Property
Davidson Wide Area in Corridor (slope)	Davidson	Lexington	8.4	1850s	Vacant Landlocked	Corridor/System Property
High Point Depot AMTRAK Station	Guilford	High Point	2.5	1850s	Leased Land Only	Corridor/System Property
Kanapolis Former Station	Cabarrus	Kannapolis	-	1850s	NSR Facility Property	Corridor/System Property
Harrisburg Former Depot Site	Cabarrus	Harrisburg	1.9	1850s	Vacant Land Only	Corridor/System Property
Selma Downtown/Station	Johnston	Selma	1.8	1867	Licensed Land Only	Corridor/System Property
Raleigh Amtrak Station	Wake	Raleigh	0.6	1868	Amtrak Station	Corridor/System Property
Wharf Lot	Craven	New Bern	4.0	1899	Vacant Land Only	Corridor/System Property
Hilltop Road Track Relocation	Guilford	Greensboro	5.0	1906	Licensed Land Only	Corridor/System Property
Guilford College Rd Track Relocation	Guilford	Greensboro	2.3	1906	Landlocked Land Only	Corridor/System Property
West Ward Ave. Track Relocation	Guilford	High Point	3.1	1906	Vacant Land Only	Corridor/System Property
W. Market Center Dr. Track Relocation	Guilford	High Point	1.3	1906	Vacant Land Only	Corridor/System Property
Upper Lake Rd Track Relocation	Davidson	Lake	35.2	1906	Vacant Land Only	Corridor/System Property

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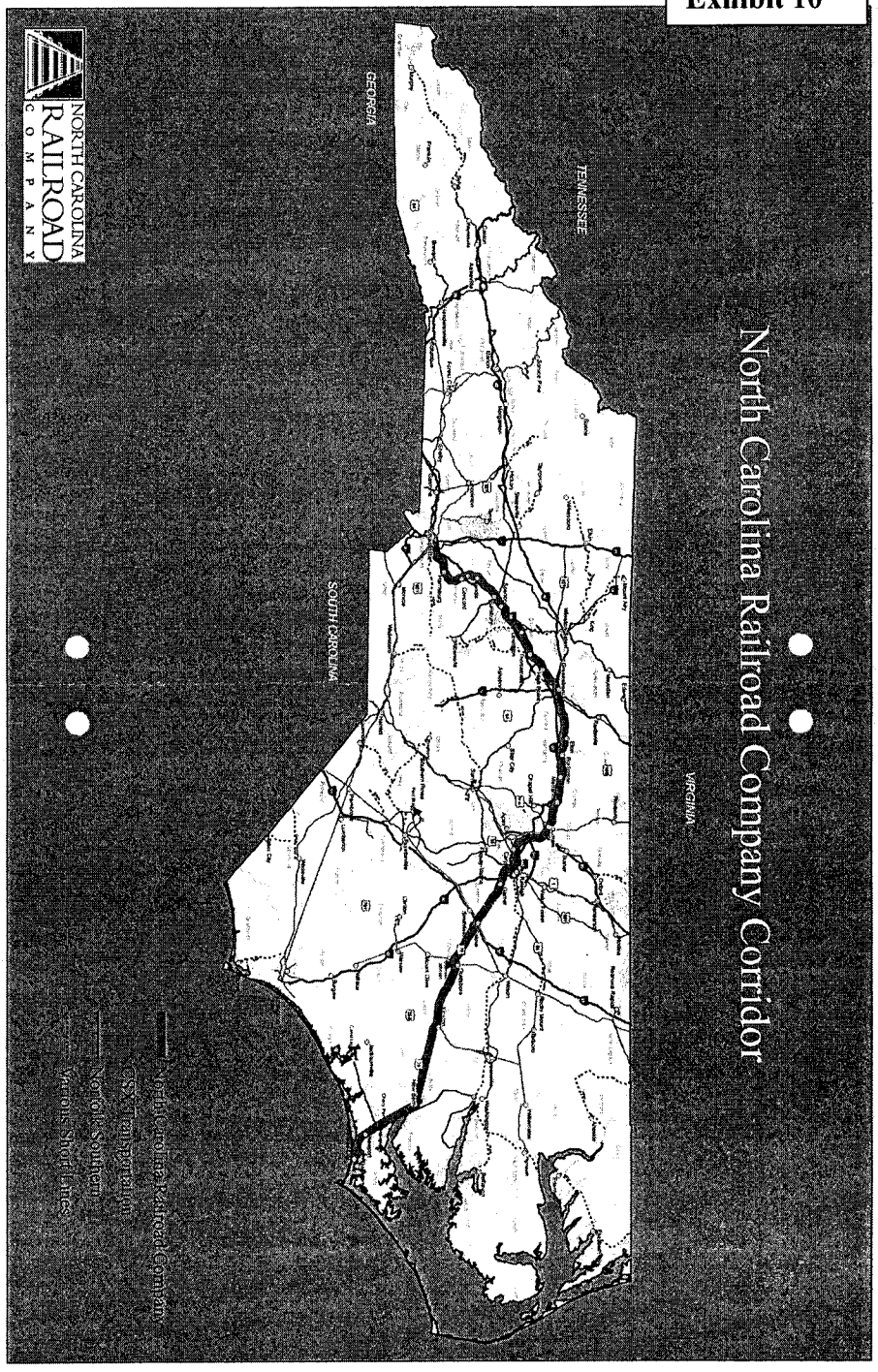
Property Description	County	Nearest Town	Land Area Acres	Year Acq.	Land Current Use	Ad Valorem Tax Value
Lexington Heights Track Relocation	Davidson	Lexington	6.8	1906	Vacant Land Only	Corridor/System Property
I-85 Track Relocation	Davidson	Linwood	27.9	1906	Vacant Landlocked	Corridor/System Property
Albertson Road Track Relocation	Davidson	Thomasville	4.2	1907	Vacant Landlocked	Corridor/System Property
Rock River Road Property (slope)	Cabarrus	Rocky River	31.0	1909	Landlocked Land Only	Corridor/System Property
East 1st Street Property	Cabarrus	Kannapolis	0.1	1916	Vacant Land Only	Corridor/System Property
Gamer Track Relocation	Johnston	Garner	3.2	1985	Landlocked Land Only	Corridor/System Property
Hopson Road Curve & Bridge Property (Acquisition cost of \$2,065,276)	Durham	Morrisville	13.1	2004	Vacant Land for main curve & new bridge	Corridor/System Property
Holt Street Lot	Alamance	Mebane	2.0	2005	Vacant Land Only (industrial spur access)	59,130
Pine Level Property	Johnston	Pine Level	0.7	2006	Vacant Small lot at crossing	Corridor/System Property
Total Corridor Additions Property			<u>189.5</u>			

Exhibit 9

North Carolina Railroad Company - Other Property

Property Description	County	Nearest Town	Estimated Market Value	Annual Revenue	Tenant	Land Area Acres	Year Acq.	Land Current Use	Land	Ad Valorem Tax Assessment Blg./Improv.	Total Value	Relevant Characteristics
Raw Land												
Waynesboro Lot Former Water Station	Wayne	Goldsboro	1,000	0	None	0.7	1850's	Vacant Land Only	1,130	-	1,130	Vacant No Road Frontage
Morrisville Former Depot Former Pass/Freight Depot	Wake	Morrisville	25,000	0	None	0.3	1850's	Vacant Land Only	3,006	-	3,006	Vacant Too small to build on
S. Front & Hancock Sts. Lot Former Yard	Craven	New Bern	250,000	0	None	0.3	1880	Vacant Land Only	333,780	-	333,780	Vacant
Wye Property Former Wye	Carteret	Morehead	1,000,000	3,000	Billboard	4.4	1887	Vacant Land Only	994,500	-	994,500	Langely Vacant (billboard)
N. Craven St. Lot Former Yard/Wair	Craven	New Bern	1,000,000	0	None	4.0	1899	Vacant Land Only	915,390	-	915,390	Vacant - River Frontage
Tiffany & Bright Sts. Property Former Wye	Lenoir	Kinston	200,000	0	None	6.7	1901	Vacant Land Only	31,025	-	31,025	Vacant
Newport Lot Former Freight Warehouse	Carteret	Newport	25,000	0	None	0.6	1903	Vacant Land Only	50,440	-	50,440	Vacant too small to build on
Clarks Lot Former Freight Depot	Craven	Clarks	15,000	0	None	0.4	1911	Vacant Land Only	8,000	-	8,000	Vacant - no road frontage
Union Station Lot Former Pass Station	Lenoir	Kinston	15,000	0	None	0.6	1916	Vacant Land Only	7,421	-	7,421	Vacant too small to build on
Rosedwood Property Industrial Land	Wayne	Rose	250,000	0	None	71.3	1977	Industrial Land I.R.C. 1033 Exchange	216,420	-	216,420	No roadway frontage
Clayton Hwy 42 Industrial Land	Johnston	Clayton	1,800,000	0	None	75.2	1979	Industrial Land I.R.C. 1033 Exchange	1,239,890	-	1,239,890	Vacant
Harrisburg Industrial Park Three Lots - Industrial Land	Cabarrus	Harrisburg	500,000	0	None	9.0	2000	Industrial Land I.R.C. 1033 Exchange	547,190	-	547,190	Vacant
Burke Street Lot Depot Swap	Alamance	Gibsonville	35,000	0	None	1.3	2005	Vacant I.R.C. 1031 Exchange	38,793	-	38,793	Vacant
Total			5,116,000			176.8			4,386,985		4,386,985	

Property Description	County	Nearest Town	Estimated Market Value	Annual Revenue	Tenant	Land Area Acres	Year Acq.	Land Current Use	Land	Ad Valorem Tax Assessment Blg./Improv.	Total Value	Relevant Characteristics
Durham Former Depot Former Pass/Freight Depot	Durham	Durham	500,000	102,420	Blackwell & Mignini Co	2.2	1850's	Leased Land Only	954,691	73,416	1,038,107	Public Parking original passenger station site
Burlington Engine House Lot Airtrek Station	Alamance	Burlington	3,000,000	91,563	City of Burlington & NCDOT	0.6	1850's	Leased	95,967	2,018,628	2,114,595	Passenger Rail Station & Parking
Raleigh Warehouse Redevelopment Project Former Freight Depot	Wake	Raleigh	3,500,000	330,472	Various	2.3	1850's	Building and Parking Leased	2,293,435	1,206,980	3,500,435	Renovated in 2003
Hillsborough Former Depot Lot Former Pass/Freight Depot	Orange	Hillsborough	250,000	4,244	West End Group LLC	5.4	1850's	Licensed Land Only	278,040	-	278,040	Parking
Wye Pkwy Extension	Carteret	Morehead	40,000	700	Becker Builders	1.2	1887	Licensed Land Only	278,472	-	278,472	
Station & Former Industrial Lot Public Parking	Carteret	Morehead	1,300,000	27,243	Town of Morehead City	1.7	1902	Leased Land Only	1,090,172	17,784	1,047,956	Public Parking
Waterfront & Riparian Rights Former Industrial Warehouse	Carteret	Morehead	1,400,000	32,721	Crystal Coast Tournament	0.6	1902	Leased Riparian Only	517,142	494,742	1,011,884	Leased
Bridges St Lot Former Atlantic Hotel	Carteret	Morehead	1,250,000	22,000 5,700	Marine Migrant Kneet Offices	2.0	1903	Leased Public Parking	1,119,081	29,940	1,148,121	Leased
4th Street Lot Former Atlantic Hotel	Carteret	Morehead	350,000	2,700	Dmsharner, LLC	0.2	1903	Leased Land Only	245,000	3,420	248,420	Public Parking
Hillsborough Rd & LaSalle St. Building/Warehouse	Durham	Durham	2,500,000	241,164	Advance Auto Parts	3.2	2000	Leased Building I.R.C. 1033 Exchange	842,600	454,990	1,297,590	Public Parking
Office Building	Wake	Raleigh	2,300,000	0	None	1.7	2000	NCRS Office I.R.C. 1033 Exchange	602,872	2,642,892	3,245,764	Offices
Total			26,621,000	855,927		374.1			17,041,332	6,943,892	23,985,224	
Charlotte (99-Year Lease)												
Charlotte Downtown Property Former Pass/Freight Depot	Mecklenburg	Charlotte	81,000	81,000	Nordfolk Southern Corp.	5.2	1850's	Leased Land Only	32,643,200	-	32,643,200	Leased for 99 years in 1958
Total						5.2			32,643,200		32,643,200	



Construction Cost & Sources

• Aquariums' Admission Fund	\$10,508,790
• DENR Storm Water Fund	\$10,585,757
• NC Clean Water Man. Trust	\$ 1,956,263
• WAMI Fund	\$ 1,500,000
• CRFL Fund	\$ 379,600
• CAMA Grant	\$ 130,000
• Aquarium Society	\$ 400,000
Total	\$25,460,410

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Operational Costs

7/1 to 11/30 Fiscal Year

- Staffing Costs \$382,000 \$762,000
- Operational Costs \$135,000 \$255,000
- Total Operating Costs \$1,017,000

Revenue

	7/1/ to date	Fiscal Year
• Fishing Admissions	\$217,000	\$325,000
• Walk-on Donations	\$176,000	\$235,000
• Facility Rentals	\$ 72,000	\$200,000
• Ed Programs	\$ 24,000	\$ 31,000
• Total Revenue	\$489,000	\$793,000