

GENERAL ASSEMBLY OF NORTH CAROLINA
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SENATE DRS35192-LH-79 (02/10)

Short Title: UNC Omnibus Bill.

(Public)

Sponsors: Senators Tarte and Stein (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE THAT THE BOARD OF GOVERNORS OR THE PRESIDENT OF
3 THE UNIVERSITY OF NORTH CAROLINA MAY ENGAGE PRIVATE LEGAL
4 COUNSEL AND RESOLVE LITIGATION CONCERNING THE UNIVERSITY
5 SYSTEM WITH THE CONCURRENCE OF THE ATTORNEY GENERAL, TO
6 AUTHORIZE THE PRESIDENT OF THE UNIVERSITY SYSTEM TO CREATE
7 SELF-INSURANCE TRUSTS OR A COMBINATION OF INSURANCE AND
8 SELF-INSURANCE TRUSTS FOR THE UNIVERSITY SYSTEM, AND TO MAKE
9 VARIOUS BUDGETARY AMENDMENTS THAT PROVIDE THE UNIVERSITY
10 SYSTEM GREATER FLEXIBILITY REGARDING THE USE OF ITS STATE FUNDS.

11 The General Assembly of North Carolina enacts:

12
13 **PART I. LEGAL SERVICES AUTHORITY**

14 **SECTION 1.** G.S. 116-11 is amended by adding a new subdivision to read:

15 "(13b) Notwithstanding G.S. 114-2.3, G.S. 147-17, or any other provision of law,
16 the Board of Governors or the President, consistent with policies established
17 by the Board, may engage the services of and fix the compensation for
18 private counsel with pertinent expertise in any matter in which The
19 University of North Carolina or one or more of the constituent institutions is
20 interested, including any case or proceeding in or before any court or agency
21 of this State or any other state or the United States, provided the Attorney
22 General concurs that the University would benefit from the assistance of
23 private counsel. The President may enter into such agreements with the
24 Attorney General as may be necessary or appropriate to the representation of
25 the University's interests in litigation, including agreements that grant
26 authority to resolve that litigation. Consistent with policies established by
27 the Board of Governors, private counsel engaged under this provision shall
28 be paid from the existing resources of The University of North Carolina, and
29 the President shall annually report the costs of engagements of private
30 counsel authorized by this section to the Board."

31
32 **PART II. AUTHORIZE BOARD OF GOVERNORS TO APPROVE EXPENDITURES**
33 **FOR CERTAIN REPAIRS AND RENOVATIONS PROJECTS**

34 **SECTION 2.** G.S. 116-13.1 reads as rewritten:

35 **"§ 116-13.1. Capital facilities; Board of Governors may authorize certain projects;**
36 **reports.**



1 ...
2 (d) Approval of Certain Repair and Maintenance Projects. - Notwithstanding
3 G.S. 143C-8-7, the Board of Governors may approve the expenditure of available operating
4 funds for projects that are of a type listed in G.S. 143C-4-3(b) and that are for State facilities
5 and related infrastructure that are supported from the General Fund. Funds contractually
6 obligated to an approved project shall not revert at the end of the fiscal year and will remain
7 available to fund the completion of the project. Projects approved pursuant to this subsection
8 shall in all other respects comply with applicable laws governing capital improvement projects.
9 The Board of Governors shall report the approval of an expenditure under this subsection in
10 accordance with G.S. 143C-4-3(d) and the thresholds established therein."

11
12 **PART III. INCREASE PERCENTAGE OF REVERSIONS CARRIED FORWARD BY**
13 **THE UNIVERSITY OF NORTH CAROLINA FROM TWO AND ONE-HALF**
14 **PERCENT TO FIVE PERCENT OF GENERAL FUND APPROPRIATION/DEPOSIT**
15 **REVERSIONS CARRIED FORWARD BY THE UNIVERSITY SYSTEM INTO**
16 **INSTITUTIONAL TRUST FUND ACCOUNTS RATHER THAN THE GENERAL**
17 **FUND**

18 SECTION 3.(a) G.S. 116-30.3(a) reads as rewritten:

19 "**§ 116-30.3. Reversions.Savings Incentive Program.**

20 (a) Of the General Fund current operations appropriations credit balance remaining at
21 the end of each fiscal year in each of the budget codes listed in this subsection, any amount of
22 the General Fund appropriation for that budget code for that fiscal year (i) may be carried
23 forward to the next fiscal year in that budget code, (ii) is appropriated in that budget code, and
24 (iii) may be used for any of the purposes set out in subsection (f) of this section. However, the
25 amount carried forward in each budget code under this subsection shall not exceed ~~two and~~
26 ~~one-half percent (2.5%)~~ five percent (5%) of the General Fund appropriation in that budget
27 code. The Director of the Budget, under the authority set forth in G.S. 143C-6-2, shall establish
28 the General Fund current operations credit balance remaining in each budget code.

29 The budget codes that may carry forward a General Fund current operations appropriations
30 credit balance remaining at the end of each fiscal year pursuant to this section are the budget
31 codes for each of the following:

- 32 (1) Each special responsibility constituent institution.
33 (2) The Area Health Education Centers of the University of North Carolina at
34 Chapel Hill.
35 (3) General Administration Budget Code 16010.

36 ...
37 (f) Funds carried forward pursuant to subsection (a) of this section shall be receipted to
38 an institutional trust fund as authorized by G.S. 116-36.1. Any funds carried forward above two
39 and one-half percent (2.5%) may be used ~~for to support~~ one-time-expenditures, expenditures for
40 building repairs and renovations, computer and other equipment upgrades, matching and
41 leveraging private funds to support the Distinguished Professorship program, and the
42 implementation of energy savings projects and other management efficiency initiatives;
43 provided, however, that the expenditures shall not impose additional financial obligations on
44 the State and shall not be used to support positions."

45 SECTION 3.(b) G.S. 116-36.1(g) is amended by adding the following new
46 subdivision to read:

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

- 48 ...
49 (13) Moneys received pursuant to the Savings Incentive Program authorized by
50 G.S. 116-30.3."
51

1 **PART IV. RETAIN SUMMER SCHOOL AND OTHER NONCREDIT PROGRAM**
2 **FUNDS**

3 **SECTION 4.** G.S. 116-36.1(g) is amended by adding the following new
4 subdivision to read:

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

6 ...

7 (14) Moneys collected by an institution as tuition for self-supporting instructional
8 programs previously approved by the Board of Governors."

9
10 **PART V. STATE AID INTERCEPT**

11 **SECTION 5.** Article 3 of Chapter 116D is amended by adding a new section to
12 read:

13 **"§ 116D-26.1. Timely payment of special obligation bonds.**

14 (a) This section applies only to the special obligation bonds issued by the Board where
15 (i) in the bond resolution or trust agreement authorizing or securing such bonds and at the time
16 of issuance of the bonds, the Board has expressly and irrevocably elected to have the provisions
17 of this section apply and (ii) the debt service schedule for such bonds has been received by the
18 Director of the Budget.

19 (b) Whenever the paying agent for the bonds has not received payment of principal of
20 or interest on bonds to which this section applies 15 days immediately before the date on which
21 the payment is due, the paying agent shall notify the Director of the Budget and the Board by
22 telephone, facsimile, or other similar communication, followed by written verification, of the
23 payment status. The Director of the Budget shall immediately contact the Board and determine
24 whether the Board will make the payment by the date on which it is due.

25 (c) If the Board indicates that the institution will not make the payment by the date on
26 which it was due, the Director of the Budget shall forward the amount in immediately available
27 funds necessary to make the payment of principal of or interest on the bonds to the paying
28 agent and shall withhold that amount, in the following order of priority, from:

29 (1) The next succeeding appropriations payment designated for the continuing
30 operation of the institution or institutions for whose benefit the Board issued
31 the bonds pursuant to an appropriation under G.S. 116-11(9)(b) of this
32 Chapter, which appropriation was based upon a budget recommendation
33 described in G.S. 116-11(9)(a)(i) of this Chapter;

34 (2) The next succeeding appropriations payment allocated by the Board to the
35 institution or institutions for whose benefit the Board issued the bonds
36 pursuant to an appropriation to the Board under G.S. 116-11(9)(b) of this
37 Chapter, which appropriation was based upon a budget recommendation
38 described in G.S. 116-11(9)(a)(iii) of this Chapter; and

39 (3) The next succeeding appropriations payment of any other amounts
40 appropriated to the Board and payable to or otherwise designated for the
41 continuing operation of all institutions equally.

42 If the amount of all appropriations payments in subdivisions (1) through (3) of this
43 subsection is insufficient to pay the amount necessary, the Director of the Budget shall
44 withhold amounts from each succeeding appropriations payment in the order set forth in this
45 subsection, including not more than 12 months of payments, until the total payment of principal
46 and interest has been withheld.

47 (d) The amounts forwarded to the paying agent by the Director of the Budget shall be
48 applied by the paying agent solely to the payment of the principal of and interest on the bonds
49 of the Board for which the amounts were forwarded. The Director of the Budget shall notify the
50 Board, the chief financial officer, or officers of the institution or institutions whose
51 appropriations have been withheld and payments made pursuant to this section.

1 (e) The Board shall, for bonds to which this section applies, file with the Director of the
2 Budget a notice that sets forth the name and amount of the bonds, the institution for whose
3 benefit the Board issued the bonds, the scheduled debt service for the bonds and the name,
4 address, and telephone number of the paying agent for the bonds. The Board shall provide to
5 the Director of the Budget, upon request, updated information regarding the bonds. The failure
6 of the Board to file such notice and information shall not affect the obligation of the Director of
7 the Budget to pay the appropriation payments as set forth in subsection (c) of this section.

8 (f) The State hereby covenants with the purchasers and beneficial owners of bonds
9 issued by the Board that the provisions of this section will not be repealed, revoked, rescinded,
10 modified, or amended so as to limit or impair the rights and remedies granted by this section for
11 so long as the bonds covered by this section are outstanding. Nothing in this subsection shall be
12 deemed or construed to require the State to continue the payment of State appropriations to the
13 Board or any institution or the manner of payment or timing thereof. Nothing in this section
14 shall be deemed or construed to create a debt of the State with respect to such bonds within the
15 meaning of any State constitutional provision or to create any liability except to the extent
16 provided in this section.

17 (g) Whenever the Director of the Budget is required by this section to make a payment
18 of principal of or interest on bonds on behalf of the Board, the Director of the budget shall
19 request the Office of State Auditor to conduct an audit of the institution or institutions, if
20 necessary, in developing and implementing measures to assure that future payments will be
21 made when due.

22 (h) To the extent permitted by the bond resolution or trust agreement to which this
23 section applies, whenever the Director of the Budget is required by this section to make a
24 payment of principal of or interest on bonds on behalf of the Board from appropriations to the
25 Board and the institution or institutions and the debt service deficiency resulted because of a
26 failure to collect revenues, the Board may, upon collection of the delinquent revenues, transfer
27 such delinquent revenues later out of the revenue fund created under the bond resolution or
28 trust agreement to the constituent institution."

30 **PART VI. INSURANCE ACQUISITION AUTHORITY**

31 **SECTION 6.(a)** G.S. 116-11(13a) reads as rewritten:

32 "(13a) The Board of Governors may authorize the President to purchase
33 commercial insurance of any ~~kind-kind~~ or to create self-insurance trusts, or a
34 combination of insurance and self-insurance trusts, to cover all risks or
35 potential liability of the University, the Board of Governors, boards of
36 trustees, other administrative or oversight boards, the President, the
37 University benefit plan administrators, and employees of the University
38 relating to the management, direction, and administration of University
39 employee benefit plans, including University, including, but not limited to,
40 the risks and potential liability related to benefit ~~plan-plans and plan~~
41 investments managed by the University.

42 Members of the Board of Governors, boards of trustees, other
43 administrative and oversight boards, and employees of the University shall
44 be considered State employees for purposes of Articles 31 and 31A of
45 Chapter 143 of the General Statutes. To the extent that the President
46 purchases commercial liability insurance coverage or creates a self-insurance
47 trust in excess of one hundred fifty thousand dollars (\$150,000) per claim for
48 liability arising under Article 31 or 31A of Chapter 143 of the General
49 Statutes, the provisions of G.S. 143-299.4 shall not apply. To the extent that
50 the President purchases commercial insurance coverage for liability arising

1 under Article 31 or 31A of Chapter 143 of the General Statutes, the
2 provisions of G.S. 143-300.6(a) shall not apply.

3 The purchase of insurance by the President under this section shall not be
4 construed to waive sovereign immunity or any other defense available to the
5 University, the Board of Governors, boards of trustees, other administrative
6 and oversight boards, the President, University benefit plan administrators,
7 and employees of the University in an action or contested matter in any
8 court, agency, or tribunal. The purchase of insurance or the creation of a
9 self-insurance trust by the President shall not be construed to alter or expand
10 the limitations on claims or payments established in G.S. 143-299.2 or limit
11 the right of the University, the Board of Governors, boards of trustees, other
12 administrative or oversight boards, the President, University benefit plan
13 administrators, and employees of the University to defense by the State as
14 provided by G.S. 143-300.3."

15 **SECTION 6.(b)** G.S. 58-31-55 reads as rewritten:

16 "**§ 58-31-55. Insurance and official fidelity bonds for State agencies to be placed by**
17 **Department; ~~exception; exceptions; costs of placement.~~**

18 Except as provided in ~~G.S. 58-32-15~~, G.S. 58-32-15 and G.S. 116-11(13a), all insurance
19 and all official fidelity and surety bonds authorized for State departments, institutions, and
20 agencies shall be effected and placed by the Department, and the cost of such placement shall
21 be paid by the State department, institution, or agency involved upon bills rendered to and
22 approved by the Commissioner."

23 **SECTION 6.(c)** This section applies to purchases of insurance by the University on
24 or after July 1, 2015.

25 **PART VII. AMEND STATE BUDGET ACT**

26 **SECTION 7.(a)** G.S. 143C-1-5 is repealed.

27 **SECTION 7.(b)** G.S. 143C-3-3 reads as rewritten:

28 "**§ 143C-3-3. Budget requests from State agencies in the executive branch.**

29 ...
30
31 (b) University of North Carolina System Request. – ~~Notwithstanding the requirement in~~
32 ~~G.S. 116-11 that~~ Notwithstanding subsections (c), (d), and (e) of this section, pursuant to
33 G.S. 116-11 the Board of Governors shall prepare a unified budget request for all of the
34 constituent institutions of The University of North Carolina, including repairs and renovations,
35 capital fund requests, and information technology ~~requests shall comply with subsections (c),~~
36 ~~(d), and (e) of this section.~~ requests.

37 ...
38 (e) Information Technology Request. – In addition to any other information requested
39 by the Director, any State agency requesting significant State resources, as defined by the
40 Director, for the purpose of acquiring or maintaining information technology shall accompany
41 that request with all of the following:

- 42 (1) A statement of its needs for information technology and related resources,
43 including expected improvements to programmatic or business operations,
44 together with a review and evaluation of that statement prepared by the State
45 Chief Information Officer.
- 46 (2) A statement setting forth the requirements for State resources, together with
47 an evaluation of those requirements by the State Chief Information Officer
48 that takes into consideration the State's current technology, the opportunities
49 for technology sharing, the requirements of Article 3D of Chapter 147 of the
50 General Statutes, and any other factors relevant to the analysis.

- 1 (3) A statement by the State Chief Information Officer that sets forth viable
- 2 alternatives, if any, for meeting the agency needs in an economical and
- 3 efficient manner.
- 4 (4) In the case of an acquisition, an explanation of the method by which the
- 5 acquisition is to be financed.

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

8 **SECTION 7.(c)** G.S. 143C-3-5(d) reads as rewritten:

9 "**§ 143C-3-5. Budget recommendations and budget message.**

10 ...

11 (d) Funds Included in Budget. – Consistent with requirements of the North Carolina
12 Constitution, Article 5, Section 7(1), the Governor's Recommended State Budget, together with
13 the Budget Support Document, shall include recommended expenditures of State funds from all
14 Governmental and Proprietary Funds, as those funds are described in ~~G.S. 143C-1-3, and all~~
15 ~~funds established for The University of North Carolina and its constituent institutions that are~~
16 ~~subject to this Chapter. G.S. 143C-1-3.~~ Except where provided otherwise by federal law, funds
17 received from the federal government become State funds when deposited in the State treasury
18 and shall be classified and accounted for in the Governor's budget recommendations no
19 differently than funds from other sources."

20 **SECTION 8.** This act becomes effective July 1, 2015.